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Generations Summer 2021 - Making the Move: Roundtable Discussion on What It Is Like to Relocate a Family Office to the Cayman Islands

Peter Bilfield, co-chair of the Investment Management and Private Funds group at Day Pitney, sat down (virtually) to speak with Alberto Beraha, who moved his family enterprise from the United States to the Cayman Islands; Philip Paschalides, who is a partner in the Private Capital & Trusts practice of Walkers in the Cayman Islands; and partner Stephen Ziobrowski, who is one of our U.S. tax partners at Day Pitney, to discuss considerations for U.S. family offices looking to relocate to the Cayman Islands.

Below is an excerpt from the conversation, edited for length and clarity.

Peter J. Bilfield (PJB): I'd like to thank everyone for participating in this interesting panel discussion. Let's dive in. Alberto, as a family office executive who has relocated to the Cayman Islands from the United States by way of Venezuela, what were some of the challenges that you faced with moving your family office operation and your family from the United States to the Cayman Islands, and what have been some of the rewards of making the move?

Alberto Beraha (AB): First of all, thank you both and Day Pitney for inviting me to participate in this roundtable. The story really sets out more as an emotional romantic expedition for everybody who has the ability to decide, or the intention to say okay, how do we relocate for the best of the family and for generations to come? The family was very keen on looking for a new way we could develop and execute the legacy we envisioned for family growth and multigenerational unity. Given that our home country (Venezuela) was not an option due to the political instability–an unfortunate problem that to this day continues to permeate across Latin America–we ventured into this idea of relocation. Very early on in the process, you try to engage as many family members as you can in such a big decision. Then, you start to quickly realize that if there are way too many opinions about moving from one country to the other, even within the United States, moving from one state to the next, at the end of the day, it's going to be a decision that needs to be made like by ripping off a Band-Aid. You can do all this study, you can do all this preparation, you can do everything that on paper and in family meetings makes it seem like the family is working together, but at the end of the day, you have to make the decision, and that's where it can become more challenging. We relocated as an entire family in 2011. The patriarch and the matriarch are still alive, and then, there are three siblings with their families, so you can imagine how that went. At the initial meetings, everybody just threw in a hat the name of a country with certain parameters that were beneficial for the business and the families as well. There were two in particular. First, since we are Hispanic, we were trying to stay on this side of the world, and we also preferred to stay in this time zone. Second, we are a Jewish family, so we were looking for a country where there wouldn't be a detriment to our religious practice.

So it was very interesting, because I would say 75 to 80 percent of the family when they came to visit Cayman fell in love. Initially you come here, and you have this feeling that you found paradise that nobody has ever told you about. You're looking at it through a lens of a honeymoon experience; everything smells amazing, everything sounds amazing, every plan that before never engaged you all of a sudden seems really interesting. But across the board, the best thing that we found was the similarities with the United States, which made the transition very easy for business, for language and for our children. The education was similar, the language was English and it just felt the same. You went to the supermarket and it wasn't a complete shock, and you knew the brands. The way that you obtained your driver's license, the way that you signed up for your cell phone, the way the plans worked on your house–whether it's insurance or TV–everything just seemed very similar

to the United States, with a different name of the company. As far as the office was concerned, it was great. Open arms. The jurisdiction is very well known for catering to high-net-worth individuals, so that everything you needed was here. As far as structuring everything here, it was very, very easy, very modern and very fast.

I would have to say that the difficulty for a family is the realization that comes after the "relocation" period ends. I've read a lot of human resource documents on this matter. Things move on a curve. At first, everything starts very well. They call it the honeymoon period. Then, you have a stagnation. And then, one of the family members, perhaps even the person who asked to be relocated, hits this plateau and they start going down and they can't get out of this quickly enough. Then, they just can't really ever get out of that feeling. In the case of our family operation, we don't have a dedicated human resource team or a human resource person. We're all family so there is a natural inhibition of people to say how they really feel, and they don't want to become a burden if it seems like everybody else is doing well. So I think three to six months into a process like this, you're going to have one of the parts of the family, whether it be key employees or family members, go through this stagnation phase. Those persons really need to have a voice so that they feel that they're part of the move and it wasn't only done for business. At the core of any family office, not the active business, the purpose is to keep the legacy and the family together and generate value for generations to come.

So it's very important that every single family member, including key employees, have the ability to become part of their own network when they move to a new country. They also need to be able to discuss with somebody, "Hey, I'm feeling this way," without feeling guilty or inhibited. Groups, like Walkers, have the experience, staff and human resources connections that give you the ability to do that. If we could do it all over again, I think we would have spent more time on the "soft" side of the business, instead of the "hard" side, which is more focused on "Is it good for business?" Families need to think a little bit about that as well: how members of the team will integrate and feel that they're part of the process. We are now very passionate about this matter, and with our local network we have developed, we encourage and even assist families from the region to understand what it takes to move here and develop family office mandates on the "softer" side of the business to minimize this risk and focus on the lifestyle and growth potential–especially for families from Latin America.

Philip Paschalides (PP): What Alberto said was very interesting. One of the first things I found interesting was to hear about the assessment and decision-making process that a family goes through when they're looking at a jurisdiction to move to, and of course, we see the other side of that. We get the inquiries: should we set up our office here or should we set up there? And we're involved in that process. The key point, as Alberto noted, is that you're not going to the wilderness by coming to the Cayman Islands. It's not a desert island. Major financial institutions have been using the Cayman Islands for 50-plus years, so it really isn't the wilderness at all. As a consequence, the islands have developed a population of professionals, very much a middle-class population, which makes the Cayman Islands quite unique in terms of what it can offer. The community that Alberto talked about has grown out of that historic use by the financial services industry. One thing that I will just mention here is the COVID-19 experience. Quite early on in the pandemic, our premier indicated that we were going to lock down the island, and he said that it didn't matter where in the world you came from, every person on the island would be given an equal chance to survive the threat. That was a very powerful statement about welcoming people into the community in the Cayman Islands and about the Cayman Islands really being a level playing field before the law, the courts and political machinery. I think that's a very important thing to emphasize about the jurisdiction.

PJB: Alberto, you talked about proximity to the United States being a contributing factor. Could you please talk a little bit about that in terms of your decision-making, and why Cayman was a good alternative, versus some other jurisdictions?

AB: Some of the other active businesses are related to the family and some are related to spouses that are not part of the family business. They still have ongoing businesses in North America. At the time that I moved here, I had an ongoing business that I also needed to attend to this day. It's very difficult to leave all that behind and say I'm going to start over. So one of our key considerations was how easily we can move in and out of Cayman. Is it going to be complicated? There's customs, there's immigration. Sometimes when you leave the United States, there's a lot of bureaucratic process with entering and exiting the country. It's not as easy as it is in the United States or Canada. So you start questioning all these things. But moving in and out of Cayman, even in the commercial airliners, is very easy. When we moved here, I think there were six flights a day to Miami. Now between Miami and Fort Lauderdale, I think there're, like, 10 (pre-COVID-19, obviously). There are flights to Fort Lauderdale, Colorado, Dallas, New York and Houston, every day. I believe there are flights four

times a week to the United Kingdom, with a quick layover in the Bahamas. You never feel like you are in the middle of nowhere. When my wife and I first moved here, we had a three-month-old daughter, and we spent the first two years every other weekend on a plane. We would leave Monday and we would come back Friday, or my wife would leave Friday night, go to Miami and come back on Sunday. The most popular flight is the Sunday night flight, because everybody comes with all these things that they went out and bought shopping. The proximity to the United States is incredible, and going into and out of Cayman poses zero issues.

PJB: Steve, maybe you can jump in here after listening to some of the challenges faced by Alberto, who was a U.S. citizen, to touch on some of the U.S. tax issues faced by U.S. citizens who are considering a move to another country.

Stephen Ziobrowski (SZ): The first set of issues you have to consider would be the tax issues that surround expatriation. U.S. citizens and long-term green card holders can face an exit tax or other adverse tax consequences if they renounce citizenship or leave the United States. These rules require very careful planning in advance and coordination with many professionals. Sometimes, these issues can be navigated without too much trouble, but other times they are a very heavy lift. It depends on the circumstances.

Another issue is the need to restructure the portfolio of investments. The assets that someone owns and the way those assets are owned may make perfect sense while someone is in the United States, but may not work very well outside the States. To take a simple example, many U.S. persons own stocks in U.S. companies or U.S. real estate in their own names. We don't think twice about that. But if you're outside the United States, that could expose you to a very significant U.S. estate tax, because outside the United States, taxpayers only have a $60,000 exemption. If you expatriate or move out of the United States, you have to look at all your assets from a tax perspective and see if any changes need to be made.

There can also be domicile issues. Even if you've changed your residence for U.S. federal income tax purposes, there can still be lingering questions about whether you've done enough to sever your domicile. That's an issue for U.S. estate tax, and, depending on what state you're leaving, that can be a big issue for state estate taxes, particularly if you're leaving a Northeast state, like New York, Connecticut or Massachusetts. You really have to pay attention, because the tax authorities may examine very carefully anybody who leaves the state; they usually do a very thorough inquiry of what ties someone may have left behind that could leave them subject to tax in that state.

PJB: Thanks, Steve. Alberto, did you have similar issues when you were leaving the United States?

AB: I can tell you from friends and from our experience, what I tend to see the most when people decide to relocate here from the United States is they make a very conscious decision that it's a lifestyle change and they're doing this for lifestyle, not just the potential of some monetary benefit down the line. So by that, we, as well as a lot of the people who move here and a lot of the friends who I have who come from the United States we did the process very slowly. We move here and we live in Cayman for a few years. But it is very important the reason for moving is more for the lifestyle, the family unity and family development than for anything else. And as you slowly start integrating into the community here and feeling this is the right choice, you start making some of these decisions to prepare yourself for choosing Cayman as your full-time residence. But I think you really need to make sure that when you come here, you are doing it for the lifestyle.

PP: I agree with that. Historically, we haven't had an awful lot of traffic from the United States in terms of people choosing to relocate and settle here, but that has been changing, particularly over the last few years. Whichever pole on the political scale you may be talking about (whether liberal or conservative), it is politics that has motivated many U.S. persons to relocate recently. The other thing I have noticed is that it's partially an age thing, as well. I think younger persons who have traveled more widely and have more of a runway before them may be more enthusiastic about a permanent severance from the United States, and certainly, we've seen some clients who have decided to give up their U.S. citizenship. Some may take interim citizenship in another jurisdiction, with a view to securing long-term permanent citizenship in the Cayman Islands in due course. That creates another realm of issues, all of which need to be considered and managed carefully. But I agree with Alberto's basic premise, which is that you probably want to move slowly and carefully, rather than jump in without thinking things through very carefully.

SZ: If you're serious about cutting yourself off from U.S. taxation and you are a U.S. citizen, you have to give up citizenship, because a U.S. citizen is subject to U.S. income and estate taxation wherever he or she lives. That can be a very emotional subject for people. As Philip pointed out, older people, who have been in the United States all their lives and whose families

have been here, may have had U.S. patriotism drilled into them and might find it very difficult to give up citizenship. Perhaps younger people aren't as deeply tied to America and its history and may find expatriation a bit easier, but I find when I raise the topic of giving up citizenship with clients, that is a very heavy topic.

PJB: Philip, with Walkers' being one of the largest offshore law firms in the world focused on the Cayman Islands, what are some of the key issues that you've seen and had to deal with in terms of U.S. family offices moving their operations over to the Cayman Islands?

PP: In terms of legal challenges, Cayman as a jurisdiction is very efficient at removing challenges; Cayman in fact has always historically seen itself as a jurisdiction that provides commercial solutions. None of the challenges we encounter are insurmountable; there are just things that people need to think about and assess and plan. A move of interests or a move of a legal person is quite an easy thing; we've been doing that as part of international commercial transactions for many years. The move of individuals, along with the relocation and restructuring of their investment holdings, is a little bit more recent, and what we are seeing recently in terms of family office establishments on the island is that they almost invariably involve a move of principals, their family and some support function. The principals will want to have a permanent right to live and remain on the island, and typically that involves some form of investment in local property, which goes back to the comment I made about structuring investments: there are various contingencies and eventualities for which you need to plan. You need to plan how assets will be owned to satisfy the immigration requirements and yet not compromise the multigenerational aspirations of the families that are taking these steps; there are some local tax issues to be aware of in order not to be caught by surprise some years down the line. There's essentially a bit of balancing to do and, again, these are not insurmountable challenges; far from it, they're just things that require thought and planning and knowing what you're trying to achieve as a family now and in the decades to come.

In terms of our service, when we're setting up a family office, we like to get involved at the structuring stage. Typically, we'll set up a corporate vehicle to act as a private office for the family and give them privacy, assist with liability management and act as the central node through which they employ people and provide continuity when they're not on the island (I think it would be fair to say that a lot of high-net-worth families that come to the island are not going to be here 365 days a year, so there is a little bit of structure that one can put together to provide for that). There are some local licensing and related questions that we'll need to think about and cover. Then, on sort of the asset-holding side, picking up on what Steve said, it may well be that an offshore structure is not right perhaps for certain assets that might be sitting in an office. There may be a bit of structuring around those, and invariably, whether someone is setting up an asset holding entity or an asset management entity, there will be a number of regulatory considerations that need to be weighed. Like there's been everywhere else in the world, there has been a considerable increase in regulation in Cayman, so there will also be various regulatory and governance considerations to implement. I would reiterate, though, that the challenges in the Cayman Islands from a legal perspective aren't really challenges. They're really prompts to think about things and plan effectively. Everything in Cayman is more or less achievable if you have clear objectives, clear planning and experienced partners.

PJB: Thank you, Philip. That's very interesting. One last question I have for Alberto is, what recommendations would you offer for U.S. family offices that might be considering a move to the Cayman Islands?

AB: The interesting part here for a family enterprise with a business mentality and looking for generational growth and looking to generate value is how open Cayman is to anybody who wants to come here. A recent report confirmed there's currently 137 nationalities that reside here on the island, so it is a place that has all the resources for people who want to relocate. The majority of those nationalities are Americans, Canadians and Britons. Even as a better sign for American families, they're going to feel very comfortable. They're going to relate very well.

Another thing that's very important is the ability to be part of this new tech ecosystem they're creating here. It's being done with the University of Waterloo in Canada, which is very well known for its tech ecosystems. The amount of talent that is on this island for staffing a family office is robust. There's Ernst & Young, KPMG, major law firms and all the banks, so as far as talent goes, good people are very easy to find and from all over the world. And if a family office is really keen to keep from growing or changing too much, there's always the ability for Cayman to be the home for senior managers and the owners, while the actual operational office can stay in a different jurisdiction. Cayman has no issues with that.

If you're an older patriarch or matriarch of a family office, you may have the mobility that would permit you to live anywhere in the world, especially if you're retired. But if you're second or third generation and thinking about how to create

multigenerational value and growing from inside out, I can tell you that Cayman is the only option. There is no jurisdiction that I have visited, even as a tourist, or analyzed for our family or for other families that compares to Cayman. I'm not going to tell you this is Disney World. Are there some cons? Of course. But for ultrahigh-net-worth families that are looking for a place where their kids can feel good, health is great, infrastructure is first world, and the government understands these families and is looking to grow, the island is the best choice. I've never seen a jurisdiction like this before. To summarize, maybe for the older generation, this might be a fun place to hang out at the beach and drink some piña coladas, but they can do that anywhere in the world. If you're really serious about building and generating multigenerational wealth, I think Cayman is the only option for families who want to stay in the Western Hemisphere.

PJB: Thank you, Alberto. Philip, do you have any parting advice for our readers and other U.S. family offices that might be considering a move to the Cayman Islands?

PP: First of all, I echo everything that Alberto said. I came here 20 years ago. Since then, Cayman has undergone significant change. The government is very interested in the ongoing development of the Cayman Islands and has a target for significant population growth (a 40% increase by 2030). But I believe what we are seeing at the moment is a paradigm shift in the Cayman Islands. Historically, all the financial services activity that Alberto and I mentioned earlier was really activity that was conducted by the Cayman Islands entities but that was happening somewhere else, outside the islands. I feel the flow is now reversing: we are seeing businesses establishing in the Cayman Islands and we're seeing the origination of financial and commercial activity within the Cayman Islands, in the tech sector and elsewhere. And that, of course, presents opportunities for growth within the Cayman Islands and will lead to a continuous improvement in service delivery and diversification of the economy.

I would say if you've made a decision, planning is a really important thing. There are lots of moving parts; there are corporate elements, regulatory elements, investment elements and immigration elements; and there are the softer elements that Alberto referred to earlier. And all those things need to be processed at the same time. It requires quite a lot of organization. The way that we approach all this at the firm is the way we would a cross-border merger or acquisition: we create and work off a steps plan, we have weekly calls to go through it all, and we get all the different work streams underway and happening in tandem.

The other thing I would mention is what Alberto referred to as the "softer" side of the move, really looking at the needs of individual family members as they move out. It's sort of like creating a narrative about what's happening, and, in terms of narratives, it's important also to think about some of the reputational aspects of a move to the Cayman Islands. If your social circle in the United States is more Hollywood than Wall Street, your circle will have a view of what the Cayman Islands is all about, which is likely to be an incorrect view. There may be a little bit of messaging and the creation of a narrative around why the family is moving and what you're hoping to achieve, and actually this may be a very positive thing you're doing, rather than "fleeing." Many of the people who come to the Cayman Islands are coming because they see something interesting and vibrant here and they want to have a modern, global base for their families.

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