

ALPA

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2nd December 2020

1. Introduction

From the outset we would like to underscore that we are in complete agreement with all concerned that there is an urgent need to implement a modernized, fair and balanced legislation to regulate the legal profession. It is long overdue. Our concerns regarding the limitations of the 2020 Bill and which have been aired ad nauseum, with the leadership in this country and by the community (lawyers and layman alike) for almost 20 years now remains the same:

- The absence of any substantial nexus between the non-resident attorney and the jurisdiction; the only nexus being employment by a '*recognised law firm*';
- The lack of relevant and appropriate supervisory/regulatory oversight of persons practicing Cayman Islands law in other jurisdictions;
- The proposal that non-residents who work for '*recognised firms*' in other jurisdictions should be able to obtain practicing certificates with no detailed reasons as to why;
- The implications for future employment of graduates of the CILS (Caymanian and non-Caymanians alike);
- The concern that the overseas firms with non-Cayman Islands attorneys will divert work that otherwise would be done by persons that hold practicing certificates on island;
- The jurisdictional risks to these islands.

We checked the Roll and there are about 900 lawyers with Practicing Certificates resident on Island. They deserve protection during these difficult times impacting our economy and the financial sector in particular caused by the pandemic and the anti-avoidance legislation adopted by the Organisation for Economic Co-operation and Development (**OECD**) countries that are trying to increase their tax revenue. The residents, be they expatriates or Caymanians, contribute to the economy of the Islands by making Cayman their home. This is where they spend their money. Whether they are Caymanians or expatriates we need to protect their livelihoods because if they are made redundant it will have negative effect on the local economy. For every lawyer made redundant,

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especially senior lawyers 2 or more support staff will likely lose their job and think of the impact during these pandemic times.

With "remote" working being the "new normal" and meetings with overseas lawyers and clients taking place online for the foreseeable future (certainly 2021 and 2022) there is no reason why law firms in Cayman could not structure their affairs to be able to work in shifts **from Cayman** to meet the demands of clients and their professional advisors in all time zones instead of having to employ lawyers in offices in jurisdictions outside the Cayman Islands.

2. Background

2.1 On 11th October 2010 (**October 2010 Meeting**) the Hon. Attorney General, Mr. Samuel Bulgin (the "**Attorney General**") organized a meeting with members of the Cayman Islands Law Society (**CILS** or **Law Society**), the Caymanian Bar Association (**CBA** or **Bar Association**) and legislative members of the assembly to discuss the Legal Practitioner's Bill. As with previous meetings of its kind it did not succeed in moving the discussion forward.

At the root of the debate at the time and today, were the complaints by Caymanian lawyers over the years to members of what was then the Legislative Assembly that they have not participated equally in the success of the industry, largely some argue because of discrimination.

The other issue related to the practice of Cayman Islands law by foreign lawyers in overseas jurisdiction without having a local practicing certificate in contravention of the Legal Practitioners Law 2010 Revision and in total disregard to the requirements under the immigration law,

Section 10 of the Legal Practitioners Law 2010 Revision then and under the current Legal Practitioners Law makes it an offense to engage in the practice of Cayman Islands law without a practicing certificate and only Caymanians are eligible to have a practicing certificate.

2.2 Caymanian lawyers felt then and as they do now that if practicing certificates are issued to non-residents, young professionals would have to compete with an unlimited number of foreign attorneys, worsening the existing system skewed by design against

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Caymanian success in the industry. Caymanians by and large felt then and now that allowing attorneys overseas to hold Cayman based certificates is simply a method of keeping a Cayman workforce outside of the Cayman Islands and without the necessary immigration controls.

The Caymanian lawyers we spoke to remain aggrieved in the 2020 Bill continue to mandate where they should work and with whom, given that the bill states that they can only work in another jurisdiction with an 'affiliate' (of a recognised firm).

2.3 This they add is compounded by alleged misconduct by certain partners and non-lawyers in the profession and the fear of reporting that this elicits (being managed out of the firm, blacklisted, no employment, the inability to succeed in one's profession in one's country and being unable to take care of one's family).

There now appears to be a more prevailing view that leaders have taken corporate bribery to new heights and given the nature of local politics and elections due in a few months it would be career suicide to submit any written comments or complaints that they may have regarding the 2020 Bill (notwithstanding whistle blower legislation).

ALPA can attest to the legitimacy of certain of these concerns given conversations members have had with current leadership regarding potential conflicts of interest and the concerns they raised in their letter dated 22 October 2019 to all members of Parliament.

2.4 It was no coincidence why the Hon. Leader of the Opposition, Mr. Arden McLean said on the government's radio talk show, For the Record hosted by Mr. Orrett Connor this past Friday morning that professionals in the industry continue to tell him, rightly or wrongly, that our leaders simply cannot be trusted to adopt fair and measured legislation. That the fear that professionals have in the industry is real.

2.5 But more recently the advent of the Covid 19 pandemic and its likely effect. You will note from the articles attached that major UK and USA law firms have been steadily laying off their lawyers and partners. We believe that it may only be a matter of time before this downsizing and cost cutting becomes our reality and that it will be the Caymanian lawyer, student, corporate assistance that will be adversely affected. We are aware of local firms already downsizing and Caymanian staff being retired or furloughed.

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2.6 Its been brought to our attention that Cabinet agreed to pay the Cayman Islands legal Practitioners Association (**CILPA**) **over CI\$2,000,000 for the years 2020 and 2021** for the CILPA to monitor and supervise its **members with practicing certificates**. There was no requirement on the other hand for CILPA to monitor or supervise its members employed overseas without practicing certificates. It would appear that the reputational risk posed to these islands having unsupervised and unregulated professionals in foreign jurisdictions that claim to be Cayman lawyers was not a priority.

2.8 Our view given the unresolved challenges and tensions evoked by certain provisions of the 2020 Bill is that it would be prudent and pragmatic to steer a safer course (as has been firmly suggested in the past) to adopt the non-contentious provisions of the 2020 Bill, retain the provisions that the court may only grant practicing certificates to Caymanians and persons who intend to reside in the Islands during the term of their work permit as soon as possible.

2.9 Further, given the pandemic times in which we live, let us also conduct a Covid socio-economic impact assessment to evaluate whether the proposed model of overseas legal practice is beneficial to the welfare of the people of these Islands, and only in the event that such evaluation confirm this to be the case that the government contemplate moving forward with the 2020 Bill in its essential format.

2.10 Finally given that these islands are always under international scrutiny it would not bode well that our Parliament is seen to be knowingly, aiding abetting persons committing criminal offences arising under the Legal Practitioners Law and the Penal Code. See the summary relating to Mr. Paul Garlick QC's opinion below.

3. Chronological Summary

Whilst this issue had its genesis in early 2000, on the 2nd June 2003 Law Society provided the Attorney General (who is still the Attorney General for these islands), with a draft copy of the Legal Practitioners Bill, (the "**CILS 2003 Bill**") which included what continues to be the contentious provisions under what is now branded the Legal Services Bill 2020.

The CILS 2003 Bill sought to authorize **non-resident persons** to be admitted as Cayman Islands attorneys at law **provided** that they were employed by a (1) "**recognised firm**" namely a firm with at least **50% 'partners or persons holding equity interests'** are

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Caymanians or resident in the Cayman Islands' or (2) an **"affiliate"** namely any person with at least **50% of which is owned and controlled** by **'recognised firm'** or under **'common ownership with it'**.

Thus the CILS 2003 Bill sought to regularize persons that were not Caymanians, ie persons that were not living in the Cayman Islands and not having a local practicing certificate, to practice Cayman Islands law overseas.

In August 2003 the Attorney-General instructed the Legislative Drafting Department to prepare a draft Legal Practitioners Bill (the **"AG's Bill 2003"**) which was reviewed in 2004 by both the Attorney General and the Hon. Chief Justice, Mr. Anthony Smellie (the **"Chief Justice"**).

4. The Legal Practitioners Bill 2003 and the Law Reform Commission

4.1 The Attorney-General subsequently transferred the CILS 2003 Bill to the Law Reform Commission (the **"Commission"**) in **September 2005** for a more in-depth review.

4.2 At this point some of the unresolved and central concerns held by the Commission were thus:

- the eligibility of persons to practice the laws of the Cayman Islands-should attorneys-at-law who practice Cayman Islands in other jurisdictions be able to obtain practicing certificates;
- whether all attorneys, including government attorneys, should be subject to the same forms of discipline;
- whether all attorneys should be called to the Bar and have practicing certificates;
- the composition of the Complaints Committee;
- whether the Attorney-General should have a veto over the dismissal of a complaint against an attorney by the Complaints Committee; and
- the composition of the Disciplinary Tribunal.

4.3 The Law Society's response to the AG's 2003 Bill was: "The Bill is slanted in favour of Governmental and Judicial control of the legal profession, which is unwarranted and undesirable and constitutionally unacceptable." *James Bergstrom for CILS in letter to the Commission dated November 11, 2005.*

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The Commission's view on the other hand was that the right of individuals to represent themselves is an inalienable right common to all natural persons. But no one has the right to represent another; it is a privilege to be granted and regulated by law for the protection of the public.

4.4 It should be noted that the Commission's role from inception was to promote law reform with a responsibility to study and to keep under constant review the statutes and other laws comprising the law of the Cayman Islands with a view to systematic development and reform.

4.5 After several iterations of the AG's 2003 Bill, taking into account comments from the Judiciary, CILS and the CBA, the bill was revised and circulated on **January 29, 2007** for public consultation. Presidents of the CILS and CBA made oral representations to the Commission **on February 28, 2007**. In **May 2007** the Commission submitted its Final Report No 2 (see attached) to the Attorney General after which time the President of CILS wrote to the Attorney General in **August 2007** suggesting further amendments. This resulted in a Cabinet meeting in **March 2008** with members of the Commission, CILS and CBA in attendance to consider what was ultimately in the best interest of all stakeholders.

4.6 By 2008 the central articulated concerns regarding the AG's 2003 Bill were:

1. **The regulation of the practice of the law of the Cayman Islands by those persons resident in the Islands and those resident in foreign jurisdictions;**
2. The establishment of a complaints Committee to whom members of the public and others may make complaints about alleged misconduct of attorneys-at-law in the private sector;
3. The establishment of a disciplinary tribunal to determine complaints about private sector attorneys;
4. The continued discipline of government attorneys by the Grand court;
5. **The provision of a Code of Conduct.**

The Commission and the Law Society, CBA agreed to points 2, 3 and 4, but not those expressed in points 1 and 5, above.

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4.7 On the question of non-resident lawyers, the Commission did not agree with the CILS and CBA's position as suggested in their letter in August 2007 that the class of persons entitled to be admitted to the Cayman Bar be expanded should include *persons who are not resident in the Islands who are either a partner or employee of a firm trading under the same name as a recognized firm "where a majority of the Cayman resident equity partners have an equity interest (directly or indirectly) in such affiliate."*

Further The Commission did not agree with the Law Society that the Law be enacted *without the Code of Conduct* (which at the time was set out in Schedule 5 of the Bill) and that their draft code be used as a "*starting point*" to be issued by the Legal Advisory Council after the law is enacted.

4.8 The Law Society's response was "We remain strongly of the view that the current draft Code be substituted as suggested" and did not provided comments to Schedule 5 of the draft Bill".

5. The Law Reform Commission and Professional Concerns which remain unchanged by the Legal Services Bill 2020

5.1 By 2008 the Commission's concerns with the proposal as presented by the Law Society and the Bar Association can be summarised as follows-

- The absence of any substantial nexus between the non-resident attorney and the jurisdiction. The only nexus advanced by the Law Society and the Bar Association was the non-resident attorney's employment with a recognised law firm. This position has not changed.
- Under the proposals by the Law Society and the Bar Association the recognised law firm itself didn't have to be substantially established in the Cayman Islands. As mentioned above this would have implications for future employment of graduates of the Cayman Islands Law School whether Caymanian or non-Caymanians or the potential for the development of "brass plate" law firms based in the Cayman Islands. This position has not changed.

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- The lack of supervisory/regulatory oversight. Under the proposals at the time the professional misconduct by non-resident attorneys could go undetected by the local authorities as there were no provisions for cross border reporting by and to the regulatory oversight bodies in the various jurisdictions in which the non-resident attorney may be practicing. This position has not changed.
- While the Law Society and the Bar Association suggested that the partners of the recognised law firm could be subject to discipline under the code of conduct of the associations for allowing the non-resident attorney who is suspended or struck off to continue in the firms' employment, there was no real/express obligation on the partners to report any misconduct or sanctions abroad. Even in circumstances where a potential act of misconduct came to the attention of the Complaints and Disciplinary Committees there would have been significant challenges encountered in gathering and evaluating evidence from abroad. This position has not changed.
- Lack of knowledge of Cayman Islands law. This is an essential tool for protecting the public (clients) as well as the local and international reputation and standing of persons admitted to practice in the Cayman Islands. While there may be some informal training by some of the law firms, there is no indication that this was either mandatory or done across the board for all law firms.
- The Law Society proposed that non-residents who work for recognized firms should be able to obtain practicing certificates but provided no detailed reasons other than if not allowed they would have to close down their overseas practices. This position has not changed.
- The view was that the Bill only benefited major law firms and in August 2007 the associations sought to broaden their proposal to include *any affiliate of a recognized firm* the members of **which did not even have to practice law.**

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- In addition there remains the concern that the overseas firms with non-Cayman Islands attorneys divert that otherwise would be done by persons that hold practicing certificates.

5.2 We understand that at the time there was a general discussion with regard to regulation and admission of overseas lawyers in different jurisdictions. It was confirmed by Mr. Robertson, former president of the Law Society and still a Maples' partner, that lawyers working in the London office are not regulated by any regulatory body. Although the firm is registered with the UK Law Society, the lawyers employed there are not regulated by the UK Law Society and did not have, and are not required to have UK practising certificates. Mr. Robertson confirmed that there were not, other than to register as foreign firms in each jurisdiction. He confirmed that the firms were unregulated in or by their host jurisdictions.

5.3 We further understand that Mr. Paget-Brown (the chairman of the Commission at the time) asked if there were any of the other jurisdiction in which they had satellite offices had liberal rules with regard to the issue of practising certificates and residency. Mr. Robertson and Mr. Panton (former president of the Bar Association) could not confirm that any did have. Mr. Paget-Brown used the example of Jersey where a two year residency is required before a practising certificate could be issued. He pointed out that the proposals by the Law Society and Bar Association would mean that the Cayman Islands would be the only or one of the few jurisdictions with such a liberal regime.

Like the Attorney General, the Cabinet in 2008 was and in 2020 are aware of this position.

5.4 The mounting conflict between Caymanian and non-Caymanian lawyers and the abortive outcome from the October 2010 Meeting led the Premier at the time, the Hon. McKeever Bush along with the Attorney General to establish a small committee led including Mrs. Sherri Bodden, Mrs. Theresa Pitcairn and Mr. Sammy Jackson to 'take all steps to prepare a written report setting out all allegations made by Caymanian professionals about their collective employment experiences' and to 'make a sensible proposals and recommendations to revise the LPB (Legal Practitioners Bill) and Immigration Law and strategies to initiate dialogue to move this issue forward'. The Premier at the time hoped to 'find the right balance to bring about unity and reconciliation within the profession'. Mr. Ian Paget Brown QC as chairman of the Commission was also invited to form part of this committee (together the **2010 Committee**).

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6. The Legal Practitioners Bill and its Impact on local Revenue

6.1 Please find attached a copy of an Excel spreadsheet prepared by the Law Society to show the "New Revenue" that could be expected should the legislature pass its proposed Legal Practitioners Bill to allow non-residents to obtain practicing certificates. The Excel spreadsheet shows that as of August 31, 2009 there were at least 132 "Attorneys in Foreign Offices practicing Cayman Law" with 3 "Caymanian Attorneys in Foreign Offices." The 2010 Committee requested a current spreadsheet from the CILS and the CBA to enable them to provide Premier Bush and the Attorney General with the current numbers.

6.2 The 2010 Committee observed that if average salaries for an associate totaled US\$200,000 (a comparatively modest salary for lawyers in this field) firms would have to at least generate some US\$500,000-US\$ 700,000 in income per annum from one associate. Which meant that if there were 132 associates practicing Cayman Islands law overseas, one would easily be looking at US\$66,000,000- US\$ 92,400,000 being generated annually overseas by the local law firms through the practice of Cayman Islands law.

ALPA is currently updating this Excel record based on information that it has.

However a major concern arising out of the fact that there are foreign partners, senior associates and associates that practice of Cayman Islands law without the requisite practicing certificate alerted senior persons in the profession of the jurisdictional risk posed by this practice. The 2010 Committee asked the CBA and CILS to provide them with a summary of how firms have mitigated this risk and they never responded to the 2010 Committee, Premier Bush nor the Attorney General.

ALPA is currently updating this Excel based on information that it has.

6.3 The 2010 Committee worked for two years drafting legislation with different 'Options' providing the Law Society with varying degrees of flexibility to reach a compromise. The 2010 Committee also reached out to the Chief Justice to secure a measured fair and well-rounded legislation. This exercise after two years turned out to be futile.

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6.4 Please find a copy of Mr. Paget Brown QC's Letter dated 16th January 2013 having been instructed by the Attorney General to address the Grand Court on issues relating to the Legal Practitioners Bill in his capacity as Chairman of the Law Reform Commission which summed up the experience.

7 The Garlick Opinion March 2017 and Criminal Offences under the Legal Practitioners Law and Penal Code

7.1 If partners of a Cayman Islands Law firm (persons A and B) employ a person who is overseas (person C) and who has not been properly admitted to practice as an 'attorney-at-law' in compliance with section 3 of the Legal Practitioners Law (2015 Revision) (the "**LPL 2015**") to provide services as an 'attorney at law' in the Cayman Islands, then persons A and B commit a criminal offence either as a substantive criminal offence under section 10 of the LPL 2015 or a conspiracy to commit such a criminal offence.

This was Mr. Paul Garlick QC's conclusion after a review of the LPL 2015, the Penal Code (2013 Revision) and a number of reported cases which provided insights into common law rules regarding our jurisdiction, set out in his opinion March 2017 (the "**Garlick Opinion**").

7.2 In his penultimate paragraph Mr. Garlick QC advised that the 'conduct which would amount to a violation of section 12(3) of the LPL 2015 is *much wider in scope* than the conduct required to amount to the offence under section 10. The proscribed conduct under section 12(3) extends to *any conduct* which amounts to *practicing or attempting to practice as an attorney at law without being in possession of a current annual practicing certificate*. **Accordingly a conspiracy to prevent or defeat the execution or enforcement of section 12(3) extends to all activities amounting to practicing or attempting to practice as an attorney at law.**

7.3 If the Garlick Opinion is accurate, the 2020 Bill is asking Parliament to sanction all criminal offences arising under the LPL 2015 and the Penal Code, and if Parliament complies it will knowingly absolve persons of the criminal offences. And this does not take into account the amounts that firms may now owe these islands for non-compliance with the Legal Practitioners Law.

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7.4 It should be noted that the Attorney General disagreed with the garlick Opinion. In the Legislative Assembly on 15 March 2017 (see Hansard page 59), stated that "the practice of Cayman Islands Law overseas is not in of itself an offence;" In his contribution to the debate he stated "But, Madam Speaker, I am not the final arbiter of whether criminal offences are committed or not. I am just giving you my opinion on the issue,..." (see Hansard page 60).

8. Some Additional Concerns- The Legal Services Bill 2020

8.1 These are some of reasons why ALPA continues to hold the view that no reasonable and informed government could proceed with any of the provisions in the 2020 Bill relating to:

- The creation of a special class of law firms, namely the "recognized firm" which remains in the 2020 Bill, without being held to a much higher standard of compliance and regulation and a fitness a propriety test, including a requirement that such firms must be Caymanian owned and controlled;
- The creation of a special class of overseas legal practitioner, which presents significant regulatory challenges and without there being proper evaluation processes in place to determine whether these professionals are fit and proper persons;
- The grant of any form of licence to operate as a Cayman legal practitioner overseas, unless such person is a duly licensed Caymanian attorney whose principal place of business is within the Cayman jurisdiction;
- Parliament knowingly sanctioning criminal offences under the Legal Practitioners Law and the Penal Code.

No one has explained why under the new regime firms will only pay CI\$4,000.00 for Overseas Practicing Certificates and not pay the CI\$2,000.00 paid locally plus the work permit fee for non-Caymanians employed in the firms. On its face there is the creation of two standards: one that is in breach of the Immigration Law and the other that it is

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unattractive to do business locally. The attorneys we have spoken to are deeply troubled about this position and concerned about being made redundant.

8.2 What follows is not an exhaustive list but queries in relation to certain aspects of the 2020 Bill:

i. The creation of a 'Board'

The Board will comprise 4 members (and not say 7) namely, the Chief Justice, Attorney General and one person each appointed by the Premier and the Leader of the Opposition. There are a number of anomalies created by the Board in this construct.

For example, the Board is authorised to 'establish committees for the purpose of advising the Board on or performing any of its functions' under the law. However the power granted to the Board in its current form calls into question whether there is an intention to use the Board to 'normalise' the Cayman Islands legal Practitioners Association and its purported 'Cayman Attorneys Regulation Authority' (**CARA**) both entities riddled with constitutional challenges as set out in a matter now before the courts.

Cause No. 116 Of 2020, includes the Attorney General, the Cabinet of the Cayman Islands, CILPA and CARA as Respondents. This matter questions the legitimacy of CILPA to act as a 'supervisory authority' as defined under the Anti-Money Laundering (Designated Non-Financial Business and Professions) (No 1) Regulation 2017 for firms of attorneys as law who are also members of CILPA...financed by a suitably financed supervisory executive'; whether CILPA has authority to supervise 'all' attorneys, including attorneys who are not members. Not to mention whether such a body infringes on the fundamental rights of attorneys protected under the Bill of Rights, Freedoms and Responsibilities, under the 2009 Constitution, to name a few.

It further calls into question whether these islands are fulfilling its obligations to tackle the scourge of organised crime in compliance with Anti-Money Laundering rules/regulations/guidelines regarding the regulation of lawyers.

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The concept of the Board as drafted is also flawed in that it would be inappropriate for any Grand Court Judge, especially person holding the offices of Chief Justice or Attorney General to be subjected to judicial review or any constitutional challenge making the Court of Appeal as the first instance appellate authority. To be frank there are too many seen (and unforeseen) legal and constitutional issues arising with this structure. Further all boards have a fiduciary responsibility and the 2020 Bill would not necessarily relieve either the Chief Justice or the Attorney General of sanctions which may arise, notwithstanding the proposed indemnity under section 16.

ii. Cayman Islands legal Practitioners Association

As mentioned at the outset Cabinet agreed to pay CILPA over CI\$2,000,000 for the years 2020 and 2021 for CILPA to monitor and supervise **CILPA members with practicing certificates** and no requirement to monitor or supervise CILPA members employ overseas without practicing certificates. We have no record of Cabinet mandating that this CI\$2,000,000 be absorbed by their own membership instead of taking money out of the resources that are meant for the welfare of Cayman Islands residents especially in these pandemic times.

The senior lawyers in the major firms are reputed to make over CI\$3-5,000,000.00 a year. Where is the money going to come from to supervise and monitor CILPA's firms, for example their employees in Hong Kong and other foreign jurisdictions if they are to be granted practicing certificates? What about the reputational risk to the jurisdiction to have people in foreign jurisdictions that claim to be Cayman lawyers but are not and not monitored and supervised by regulator?

iii. 'Affiliate' Recognised Law Entity' 'Practicing Certificates'

Definitions including 'affiliate' 'recognised law entities', and 'practicing certificates' should be deleted from the 2020 Bill, retaining the provisions that currently exist in the Legal Practitioners Law until there has been an opportunity to properly evaluate the social and economic repercussion of the legal profession as envisaged by the 2020 Bill and its impact on these Islands given global economic uncertainties brought to bear by Covid 19 and its likely resurgence.

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Besides as mentioned earlier the 2020 Bill continues to mandate that Caymanians cannot work in law firms in other jurisdictions UNLESS they work for an 'affiliate'. The bill continues to take away the Caymanian lawyer's right to work as an attorney in a foreign jurisdiction of choice and with whom.

iv. The practice of law

The definition of the practice of law remains too vague for prosecution due to the widely defined exemptions and does not address the concerns that have been raised by the Commission.

v. Part 7 of the 2020 Bill - Recognised Law Entity

The entire Part 7 (and related sections) of the 2020 Bill, 'Recognised Law Entity' should be deleted until the questions raised by the Commission have been addressed.

vi. Exemption of the Attorney General and the Director of Public Prosecution from Regulation

Section 27 of the 2020 Bill continues to exempt the Attorney General and the Director of Public Prosecution from regulation. This should be deleted and no lawyer exempted or the implementation of similar legislation that regulates these offices.

vii. The need to regulate non-lawyers carrying out the practice of law

Caymanians contend that the 2020 Bill as with its predecessors does not include regulations for non-lawyers, for example persons and entities in the real estate business that operate as lawyers given the provisions under the Anti-Money Laundering regulations/rules. They contend that this industry and others should also be under proper oversight and sanctions.

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9. Conclusion

Each time this bill has come to Parliament for passage containing the provisions we highlighted it has failed miserably. Why, because it is a consequential bill.

As expressed previously now is not the right time to be considering giving practicing certificates to non-residents living Hong Kong and other foreign jurisdictions for an annual fee of CI\$4000.00, which is a pittance, as proposed by the 2020 Bill. That does not benefit the Islands. It is better to rely on getting business from international law firms with duly qualified lawyers in foreign jurisdictions rather than allowing "offshore firms" to compete with those law firms in London, Hong Kong and elsewhere with "pretend Cayman lawyers". To reiterate, the issue can be revisited when the economy has recovered in a few years.

We are often told and may even take it for granted that a fair and independent court system is essential to the administration of justice, just as we may take it for granted that as officers of the court, we have the obligation to promote justice, that our conduct and the impressions we leave with others matter. In most civilised jurisdictions there is a Code of Professional Ethics which demands that we are fair and impartial, that we are alert to situations that give the impression of a conflict of interest or that give the appearance of partiality or impropriety. The point being, in these islands we don't even appear to try.

Yours Sincerely,

ASSOCIATION OF LEGAL PRACTITIONERS AND ADVOCATES (CAYMAN) LTD.

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