

The Metropolitan Corporate Counsel®

www.metrocorpcounsel.com

Volume 18, No. 5

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May 2010

Persian Gulf – Law Firms

Abu Dhabi – World Of Tomorrow

The Editor interviews Natasha Kohne, Partner in Charge of the Abu Dhabi office, and Bob Griffin, Partner and advisor on hedge funds and other alternative investment funds, including private equity and emerging markets, at Akin Gump Strauss Hauer & Feld LLP.

Editor: Please tell us about your backgrounds.

Griffin: I am a partner in the Investment Funds and Private Equity group. As the name implies, we specialize in investment funds, both private equity and hedge funds. I moved to Abu Dhabi about eight months ago to launch our practice in the region. We have a solid group of existing clients that Natasha has built up over the past several years in the UAE that have given us a starting point.

Editor: How long has Akin had the office in Abu Dhabi?

Kohne: The Abu Dhabi office officially opened in October of 2008. I arrived in April 2008 to open the office. I also have been working with clients in Abu Dhabi for the past five years out of the New York office, particularly on their outbound investments into the U.S. and related activities.

Editor: How are you staffed now in terms of your professionals?

Kohne: We have in our office about 12 lawyers and a number of practice groups, which includes Bob's practice group, investment funds and private equity, as well as the corporate, dispute resolution, policy, real estate and energy groups. Our corporate group extends over various sectors, including media and entertainment, defense



Natasha Kohne



Bob Griffin

and education, and includes M&A and joint venture work.

Griffin: We regularly rely on other offices. We are an integrated and collegiate firm. This is my third Akin Gump office; I practiced in Dallas and London before this, and we always work with lawyers in other offices.

Kohne: Last year we had over 150 lawyers work on matters involving Abu Dhabi clients - 20 percent of the law firm. Ten of our offices worked on Abu Dhabi matters. We thought that was significant and demonstrates that Abu Dhabi is a global competitor.

Editor: Bob, tell us about your practice. Do you have mainly the equity portion coming from sources within Abu Dhabi or the Middle East?

Griffin: A large part of our practice here is representing local government entities with respect to their investments globally, both in private equity funds and hedge funds. As in most of the world, there has been a significant slowdown in fund formation, especially from private entities rather than government entities. We're bullish on this region, and we hope that by the fourth quarter of 2010 the regional markets will start opening up.

Editor: When did activity start slowing down?

Griffin: In 2008 – the same as everywhere else. The markets here were not as well developed as those in the U.S. and Europe. There are not as many private funds managers and there traditionally wasn't quite as much interest in investing in alternative funds compared to the markets in Europe and the U.S. The funds market here was just starting to grow when the markets turned bad, which was unfortunate. We took a big step back, and we're going to need to work on that over the next few years.

Editor: I would think with the increased price of oil there would be much more cash flow in your part of the world.

Griffin: There absolutely is. Historically, there hasn't been an interest here from high-net-worth individuals in investing in private equity funds and hedge funds, at least not at the levels we see elsewhere. So it's been a lot of government money, but that's going to change. In particular, before the markets worsened, there was a definite trend of focusing on inbound investments and funds that are going to invest regionally. That helps in raising money here, and we expect to see that trend continue in the coming years. There has also been an increased focus on Shari'ah-compliant funds.

Editor: Do you have someone in the office who is a specialist in Shari'ah law?

Griffin: We have several people in the firm who can help us structure Shari'ah products, but it is important to note that when you're forming an investment fund that is going to have Shari'ah compliance as a goal, you have to hire Shari'ah scholars or a Shari'ah board, who will help to design the Shari'ah-

compliant aspects of the fund. In a fund, what they'll do is give an initial certification when the fund launches that it is set up to operate within Shari'ah law, and then they'll give annual compliance certificates to investors. In addition, there will be certain covenants in the fund documents to ensure that you operate within the prescribed guidelines.

Editor: Would you have different branches in the fund say for the Shari'ah investors as opposed to the U.S. investors who are Western style?

Griffin: What you will typically see, although this isn't necessary, is one fund for U.S. investors, and another fund for investors who are interested in Shari'ah compliance.

Editor: Natasha, tell us more about your practice as it relates to government policy work as well as other areas of your practice. We always think of oil as being the magnet that draws people to the Middle East but you are engaged in a practice not strictly oil-related.

Kohne: I came out of the litigation department in the New York office, where I was involved with civil and criminal litigation as well as government investigation work – a bit more narrow than my practice here. When I came to Abu Dhabi, where the market is smaller, I expanded my practice into several areas. I still do quite a bit of dispute resolution work but less litigation work since I do not appear before the local courts. If one of my clients became involved in a litigation matter in Abu Dhabi, usually a local would represent that client in front of the local courts. Also, I am not fluent in Arabic, the language of the court. However, we certainly would stay involved in terms of strategy, and ensure that the claim is defended vigorously. Because the market is not as developed as in New York or London, there is some legal reform work, or government policy work. The government consistently tries to improve its legal framework, in part to continue to attract investors to the country.

Editor: Tell me about your client base.

Kohne: My client base is primarily Middle Eastern governments or their entities. We do have clients, mainly firm clients, who are making investments here. We spend a decent amount of time helping some of the firm's clients navigate the region – whether it's making introductions, educating them

about the legal framework or otherwise.

Editor: Tell our readers about the training program you conducted for judges on commercial law topics.

Kohne: That's related to the legal reform work that we do. There is not only an emphasis on just basically revising or amending some of the commercial laws in the country but also a focus on implementation of these reforms and how those reforms are being enforced in the local court system. This is a civil law jurisdiction where reliance on precedent is less of a practice. In these training sessions we worked to present international best practices. When the global financial crisis erupted and the real estate market really took a downward turn, it had an impact on large real estate development projects. Many projects had been stalled and the number of construction disputes increased. One of the training sessions that we presented informed judges about international best practices in jurisdictions that had been developed over many years to give them some notion of how these disputes have been handled outside of Abu Dhabi. We have to remember that this country is very young and that a great deal has happened in such a short period of time, so sometimes it is necessary to understand what other countries have done in similar situations in the past.

Editor: How has the local economy fared over the past two years in the light of the economic downturn?

Kohne: Abu Dhabi has fared very well compared to different economies throughout the region and beyond. Abu Dhabi was more conservative in its investments and has tremendous oil reserves. When the global financial crisis hit, the leaders of Abu Dhabi started looking inward, focusing more on what can be done inside the country. Abu Dhabi was more interested in waiting to see what was going to happen in the rest of the world before rushing to make further investments. Now I think that we're starting to move back steadily to the pace of the last couple years with an emergence of interest in reentering different markets.

Editor: What advances are you seeing in the development of infrastructure, education and healthcare? Is there a giant leap forward here?

Kohne: Abu Dhabi has certain priorities, and two of its major priorities are education and healthcare. For some of our clients their

main goal is to build the infrastructure of Abu Dhabi, whether that's in healthcare, education or defense, or other sectors. Abu Dhabi is interested in having world-class healthcare and educational facilities. For example, Abu Dhabi has partnered with the Cleveland Clinic. It has partnered with some of the best educational institutions, such as NYU. Abu Dhabi has ambitious plans, which are being carried out as we speak.

Editor: Do you see rule of law reforms and greater transparency on the part of governing bodies?

Kohne: The Santiago Principles are a good example. I think ADIA was one of the entities that took the lead in discussing transparency. We are also seeing for the first time some government entities publishing annual reports.

Editor: To what extent is an understanding of the culture and language of the area necessary in order to have a successful practice?

Kohne: It is very important to understand the culture. Things work differently here; relationships are very important here. Clients like to meet face to face with their lawyers, take time with their lawyers and take time to make decisions. While English is the language of business, it's definitely beneficial to know Arabic. Documents dealing with litigation have to be translated into Arabic when they are submitted to the court, so knowing the language does help, but overall you don't need to know Arabic to practice here.

Editor: In looking at the future do you foresee that the Middle East will continue its upward course as a rich area for investment as well as a rich cultural area?

Kohne: Absolutely. I think the Middle East is an essential region – strategically, economically, culturally. It's definitely an area where people should be spending time and investing. Abu Dhabi plans to become the cultural and media center of the Middle East, with world-class healthcare centers and first-rate educational institutions. Today we have the Saadiyat Island, home to the Guggenheim, the Louvre and the Cultural District; we will see unbelievable, mind-boggling development in the next five to ten years. It's a place that I think everyone should try to visit during his or her lifetime.