

IN THE GRAND COURT OF THE CAYMAN ISLANDS CAUSE No. <sup>125</sup> of 2010

IN THE MATTER OF the Immigration Law (2007 Revision)

AND IN THE MATTER of an Application by STRATEGIC RISKS SOLUTIONS (CAYMAN) LTD for Judicial Review Pursuant to Order 53 of the Grand Court Rules

AND IN THE MATTER of COURTNEY CHRISTINE FLYNN

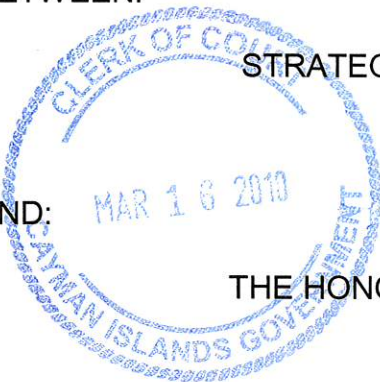
BETWEEN:

STRATEGIC RISK SOLUTIONS (CAYMAN) LTD. Applicant

AND:

THE HONOURABLE ATTORNEY GENERAL

Respondent



**NOTICE OF EXPARTE APPLICATION FOR LEAVE TO  
APPLY FOR JUDICIAL REVIEW**

**To: The Clerk of Courts, Law Courts, George Town, Grand Cayman, Cayman Islands**

**1.0 The Applicant**

1.1 The Applicant, Strategic Risk Solutions (Cayman) Ltd. being a company duly licensed by the Cayman Islands Monetary Authority to carry on the business of Insurance in the Cayman Islands and Courtney Christine Flynn being an Account Executive employed by the Applicant as Employee, and the Applicant having applied to the Work Permit Board for Courtney Catherine Flynn to be nominated as a key Employee pursuant to section 49 (4) of the Immigration Law (2007 Revision);

**2.0 Decision in respect of which relief is sought.**

The decision of the Work Permit Board dated 30<sup>th</sup> September 2009 refusing the Applicants request to nominate Courtney Catherine Flynn as a Key Employee "as the

Board was not satisfied that he/she filled the requirements set out in the relevant section.”

### **3.0 Relief Sought**

3.1 An order of *Certiorari* quashing the said decisions of the Work Permit Board;

3.2 An order of *Mandamus* directing the Work Permit to consider the application of the Applicant to nominate Courtney Catherine Flynn (“ the Employee”) as a Key Employee on the basis that it is apparent from the Curriculum vitae of the Employee, the position the Employee holds with the Applicant and the presumption of Key employee for the position of Account Executive included in the Immigration (Financial Services Sector) Directives that the Board published on February 5<sup>th</sup> 2010 that the Employee should have been nominated as a Key Employee.”

3.3 That leave be granted by this Honourable Court to file the application for judicial review out of time notwithstanding the time that has elapsed since the Boards decision it only being fair and equitable that leave should be granted by the Court noting the special circumstances.

3.3 Such further, consequential, or other relief as to this Honourable Court seems just;

3.4 Costs

### **THE GROUNDS UPON WHICH RELIEF IS SOUGHT:**

4.0 Summary of General Facts.

4.1 The detailed facts are as set out and verified in the Affidavit in Support of Wayne A. M. Cowan, Director of the Applicant sworn on the 9<sup>th</sup> March 2010.

4.2 The Applicant is licensed by the Cayman Islands Monetary Authority as an Insurance Manager and accordingly carries on the business of captive insurance management in the Cayman Islands. The Applicant currently employs 12 persons and manage over 50 captive insurance companies with over 200 million United States Dollars in premium volume under its direct management.

4.3 . The Applicant employed Courtney Flynn C.P.A. on behalf of the Applicant as an Account Executive on behalf of the Applicant in August 2008.

4.4 That immediately prior to her employment with the Applicant the Employee was an Account Manager and Assistant Vice President at Marsh Management Services Cayman Ltd. for over four years, between April 2004 and June 2008.

4.5 That prior to her employment at Marsh Management Services Cayman, Ltd. the Employee was employed by Deloitte Cayman Islands as a Senior Accountant. The Employee is a Certified Public Accountant with over 11 years experience having obtained her CPA in November 1999 and a BS in Accounting in 1997. She is a highly respected member of the Caymanian financial services industry and has specialised in the captive insurance industry in the Cayman Islands for over seven years.

4.6 . That both at the time of her employment and during her employment the Employee has been a key employee to the business and accordingly prior to the end of the seven years fixed term policy for work permit holders which for the Employee would have expired on the 23<sup>rd</sup> October 2009 the Applicant applied to the Work Permit Board to have the Employee designated as a key employee. The application included inter alia a copy of the Employee's formal qualifications, her curriculum vitae and a covering letter stating why the Employee was key to the Applicant. The covering letter highlighted the Employees 11 years of experience in areas such as auditing, financial reporting, and the managing of offshore insurance companies as well as the fact that the Employee was responsible for the management and client relationship of more than ten of the Applicants valued clients. It was further pointed out to the Work Permit Board that the Employee had particular expertise and continually has to liaise with a large member complex group and further had several large US based hospital clients. It was submitted that the loss of the Employee would cause hardship to the Applicants business.

4.7. That it should have been clear from the contents of the application that the Employee fell within Sections 49 (4) (a), (c), (d) and (e) of the Immigration Law 2007 Revision in that she was clearly a professional employee with particular expertise in the field of captive insurance management, such speciality being in short supply, and that her business contacts were critical to the business. In addition her absence would cause serious hardship to the business.

4.8. That by letter dated 30<sup>th</sup> September 2009 the Applicant was advised that the application to designate the Employee as key was refused because the Board was not satisfied that she fulfilled any of the requirements set out in the relevant section of the Law. That the Applicant was further advised that pursuant to sections 49 (7) of the Immigration Law 2009 (Revision) the decision of the Board was final and binding and no appeal lay from the decision of the Board. Further that no new application for the

Employee to be designated as key could be applied for no sooner than three months during the currency of a valid work permit.

4.9. That the time between the decision dated 30<sup>th</sup> September 2009 and the Employees final permit which expired on October 29<sup>th</sup> 2009 was less than three months it was impossible for the Applicant to make further application within three months of the currency of the Employees work permit and the Employee has been forced to leave the Island to the detriment of her Employer, the Cayman Islands and her clients.

4.10. That the Applicant has sought to relocate the Employee to the United States where she continues to service her clients. Unfortunately the arrangement has worked to the detriment of the Applicant and its clients and the Applicant is at serious risk at losing business for itself and its clients should the Employees absence from the Islands continue.

#### **5.0 Grounds for Judicial review**

5.1. The decision of the Work Permit Board was wrong in fact and in law and as such are unreasonable and should be set aside.

5.2 Given the facts as disclosed to the Work Permit Board the Applicant sees no reasonable grounds for refusing their application for nomination of the Employee as a Key Employee.

Dated this 11<sup>th</sup> day of March 2010

  
BODDEN & BODDEN

Attorneys-at-law for the Applicants

**NOTE: Pursuant to Order 53 an oral hearing is requested before this application for leave to apply for judicial review is considered and determined by this Honourable Court**

This ex parte application for leave to apply for judicial review has been filed by Bodden & Bodden on behalf of the Plaintiff whose address for service is 802 Grand Pavilion Commercial Centre, P.O.Box 10335 APO, Grand Cayman Cayman Islands, B.W.I.