

# Holland & Knight

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November 3, 2011

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Internet Address:  
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VIA FEDERAL EXPRESS

David Marchant  
Offshore Alert  
123 S.E. 3<sup>rd</sup> Avenue, #173  
Miami, FL 33131

Dear Mr. Marchant:

I am writing as counsel for Bancroft Life & Casualty ICC, LTD ("Bancroft") to provide you personally and Offshore Alert (collectively referred to simply as "you") with the notice required by Section 770.01, Florida Statutes, prior to filing suit for defamation. In some instances, you appear to be trying to hide behind a privilege to report filings in a judicial proceeding, but such a report, to be privileged, must be fair and accurate, and in no case was your report fair, much less accurate. All of the false statements result from your intent to defame Bancroft and hurt its business and your conscious avoidance of any information that contradicts the false statements of fact, detailed below, that you published about Bancroft. Just one example of that is the way you "gathered" your information, by deliberately seeking information only from sources hostile to Bancroft, with credibility problems, and deliberately avoiding contact with Bancroft and its information and documents. In accordance with the statute, the following are the false and defamatory statements of fact you have published about Bancroft on which suit will be filed:

On March 24, 2011, you published the following false statements:

**"[Scolari] borrowed \$5.3 million of his own money from an offshore insurer in an elaborate tax avoidance scheme only to be sued by the insurer for defaulting on loan repayments has filed his own action against the insurer."**

Scolari did not borrow his own money; he borrowed Bancroft's money. There was no scheme, much less a tax avoidance scheme, and he only made a claim after being sued for defaulting on his loan.

On June 24, 2011, you published the following two false statements:

**"Bancroft Life sues insured in tax scheme gone bad."**

**"Troubled offshore insurer Bancroft Life & Casualty ICC, Ltd., which appears to have operated a bogus tax avoidance scheme aimed at U.S. taxpayers ..."**

There was no scheme, tax scheme, no bogus tax avoidance scheme, much less one aimed at U.S. taxpayers. Bancroft is not troubled and none of its assets are offshore. Bancroft is a legitimate insurance company whose business model has been vetted by the Internal Revenue Service. Bancroft files U.S. tax returns. To its knowledge, and I am sure yours, borrowers who have reported the interest payments on loans from Bancroft as business expenses have never had them disallowed by the Internal Revenue Service.

**"Although the FFD group did not go into detail about the alleged scam, a similar allegation against Bancroft was made by another insured controlled by Seattle, Washington resident Cesar Scolari in a lawsuit in which he claimed that he sent more than \$7 million to Bancroft under the guise of premium payments and then received most of it back under the guise of "loans" which he claimed to have stopped servicing do to concerns about alleged overbilling and fraud by Bancroft."**

There was no detail about the "alleged scam," because, as you know, there was no scam, and the repetition of the Scolari allegations is further evidence of your intent to harm Bancroft by publishing statements you know are false. As noted above, the premium payments and the loans were all legitimate. There was no overbilling or fraud by Bancroft.

On August 27, 2011, you published the following false statements:

**"Bancroft Life accused of tax shelter fraud by former managers and advisors."**

As noted above, there was no tax shelter fraud. And here, you fail to report that had there been any such fraud, the people making the accusations were the people who perpetrated it, and their circumstances make them simply not credible sources for anything truthful about Bancroft.

**"IRS allegedly defrauded of millions of dollars";**

As noted above, Bancroft and its customers filed returns with the Internal Revenue Service, which has never even disallowed a deduction, much less claimed it was defrauded. Assuming you did not actually know this was untrue, your failure to do anything - a conscious avoidance of the truth - was reckless behavior and is the only reason why you did not learn that this was untrue. Thus, for

example, if Bancroft was not charging legitimate premiums at realistic levels, the IRS never would have allowed deductions.

**"U.S. insureds also allegedly scammed."**

There was no scam, and you knew it.

**"Bancroft was alleged spinoff from scandal plagued BVI insurer Boston Life & Annuity."**

Bancroft was not a spinoff of Boston Life & Annuity, and you knew that.

**"Offshore insurer Bancroft Life & Casualty ICC, Ltd. and its principals, Miami tax attorney Phillip Sigel and Delaware insurance advisor, Bradley Barros, have been accused of perpetrating a massive tax shelter fraud against its customers, the IRS, and regulators in St. Lucia."**

Again, you report false, baseless, scurrilous allegations without any basis for believing they are true or that your report of them is fair. (This applies to every statement of yours identified in this letter.) There was no fraud of any kind, and no one has ever made a credible allegation to the contrary.

**U.S. taxpayers were induced to send millions of dollars offshore, much of which they immediately borrowed back in the belief that the payments were "premiums" for "true" insurance coverage and contain tax benefits, it was claimed. However, the Bancroft program was a "game" and "no client could file a claim or claims and get more money than they had paid in," meaning there was no genuine transfer of risk and amounted to tax fraud against the U.S. government, it is alleged.**

No one was induced to send millions of dollars anywhere and Bancroft maintains all of its reserves in the United States. None of its principals has been accused of any wrongdoing except in frivolous court papers, which frivolous nature you are aware of. Regulators in St. Lucia have never said there is a fraud. Bancroft is heavily regulated. Bancroft has to file audited financial statements each year in St. Lucia. The payments were for premiums for insurance coverage and customers' premiums were set in accordance with ordinary principles applying to insurance premiums. There was nothing that was not genuine and no fraud.

**"Bancroft Life insiders also defrauded its own clients by charging assessments, commissions and fees, it was claimed. For example, an insured that filed claims exceeding 20 percent of the insured's funds that Bancroft held on deposit was assessed charges, it was stated. 'Bancroft used assessments and the threat of assessments as a tool to prevent claims,' it was alleged."**

Bancroft did not defraud any customers in any way, including in the ways you have asserted. Nor did it use assessments or the threat thereof to prevent claims or for any other unlawful or inappropriate purpose. Bancroft at all times conducted its business lawfully. And Bancroft has paid millions of dollars in insurance claims.

**"As a result of Bancroft's problems, some insureds in the United States have stopped making payments on loans - of their own money - that they received from the insurer causing Bancroft to sue them at Federal courts in the U.S."**

Bancroft had no "problems," and no insureds stopped making payments on loans because of these nonexistent problems. This false statement reflects an incorrect description of Bancroft's loan program which is part of its larger investment program. The money was not the insureds'; it was Bancroft's. Bancroft does not make loans from an insured's own premiums. Once premiums are paid to the pool, those premium dollars become the property of Bancroft. Bancroft uses its own reserves to fund its loans.

On October 3, 2011, in publishing the "program" for a conference you intend to hold in April 2012, you published the following false statement:

**"Tax Avoidance Schemes Gone Bad; Boston Life & Annuity and Bancroft Life & Casualty."**

Bancroft does not and has never operated a tax avoidance scheme, much less operated one that went bad. It is a legitimate insurance company. To lump Bancroft and Boston Life together implies they are similar, when in fact they are not. Boston Life, which was headquartered in the British Virgin Islands in the early part of the last decade, was buried in legal problems which eventually resulted in it being placed in a receivership in 2005. Bancroft, on the other hand, defrauded no one out of anything, is 100% legitimate, has never been and will never be placed in a receivership. Your statement implies Bancroft is or has been guilty of fraudulent conduct, defrauded insureds, and should be placed in a receivership. All of that is untrue.

On October 27, 2011, you published the following false statements:

**"Texas-based drilling rig manufacturer, HongHua America LLC has become the latest insured to sue troubled offshore insurer Bancroft Life & Casualty, whose policies appear to have been designed to help U.S. companies avoid or defer taxes."**

**"HongHua stated that it bought insurance with Bancroft Life in 2006, paying premiums totaling \$3 million, of which it received \$2.1 million back under the guise of loans."**

**[In the "Highlights" section] "Insiders accused of siphoning assets."**

**"[Bancroft] had overstated its net worth by approximately \$15 million as of early 2010."**

**"Bancroft was forced to move from the BVI to St. Lucia after regulators refused to allow \$20 million of questionable assets."**

**"BVI regulators disallowed at least \$20 million of questionable assets that were 'sold to Bancroft by one of its principals, Phil Sigel.'"**

Once again, Bancroft is not troubled, but instead is a legitimate insurance company and not an abusive tax shelter. Bancroft does not offer tax advice. All potential Certificate Holders are advised to seek their own attorney, tax advisors or financial professionals concerning the tax consequences of acquiring Bancroft Casualty insurance.

Again, the loans that Bancroft makes are part of its investment program and are legitimate loan transactions. All reserve dollars belong to Bancroft. Bancroft is not giving back premiums paid in by Certificate Holders.

The statement from the "Highlights" section of your publication says "insiders accused of siphoning assets," but no such allegation appears in the complaint you purportedly were reporting about. And of course, as you well know, no Bancroft insider has "siphoned off" any assets.

The assertion that Bancroft's net worth was overstated is not just false, but in your situation as in so many instances referred to in this letter, known to be false by you. As you know, Bancroft's financial statements are audited each year prior to submission to the Ministry of Finance in St. Lucia. Certainly an audit would have uncovered an overstatement of net worth of \$15 million.

Bancroft was not forced to move from the BVI for any reason. Bancroft made a business decision to move to St. Lucia primarily so it could take advantage of a difference between the law in BVI and the law in St. Lucia.

Phil Sigel has never sold any assets at any time to Bancroft, much less questionable ones that regulators disallowed.

You republished all of these baseless false statements of fact without making any effort to contact Bancroft. You either knew the statements were false or recklessly and consciously avoided learning the truth, but either way, your conduct subjects you to both compensatory and punitive damages under Florida law.

Should it turn out that you have been working with adversaries of Bancroft's to assist them in their unfounded attacks on Bancroft, you should expect the lawsuit to include claims arising from that conduct as well.

Preserve all documents and information you have relating to Bancroft. This includes all communications with the parties in litigation with Bancroft and all attorneys or other representatives of those parties, emails and all information electronically stored in phones, computers, iPads and similar devices and includes all such information and documents regardless of the format or medium in which it is stored. Should you fail to do so, you should be aware that serious consequences may follow in the lawsuit.

Sincerely,



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