

ART COLUMN FOR JUNE

Out west, is it art or is it ART?

Continuing an occasional series profiling U.S. captive domiciles

By Dick Goff

For great Western art check out the work of masters such as Frederic Remington or Charlie Russell. And businesses looking for great western ART shouldn't overlook the Montana captive domicile.

The ART world is learning that a domicile doesn't have to offer palm trees and beaches to lure captive insurance companies from far and wide – and even Vermont will admit that Montana has much better skiing.

After the state established the domicile in 2001 it grew to 15 captives in five years and accelerated to 68 licensed companies early this year, with a few more in the pipeline. Brenda Olson, chair of the Montana Captive Insurance Association (MCIA), points out that the state is home to captives insuring the expected industries of manufacturing and health care, but also western-style ranching and trucking.

Full disclosure: I have been a member of the MCIA board since its inception and a big fan of Montana since my son Jon went off to study at Rocky Mountain College in Billings – at least that's what he said he was going to do. He has long since graduated but I'm the one who keeps returning to the state.

Captives located in Montana are a combination of homegrown businesses and those who have relocated from elsewhere. TPA Employee Benefit Management Services, Inc., moved to Montana from the Cayman Islands just last year. EBMS manages self-funded health benefit programs and started its captive to provide stop-loss insurance for the plans.

From my viewpoint, Montana offers a special atmosphere where people are encouraged to succeed without the edginess of some higher-density states. Even in the Montana Office of the Commissioner of Securities and Insurance, the traditional insurance regulators play nice with the captive folks – my, how that can help business move ahead.

“MCIA has been a great partner of the regulators,” says John Jones, partner of Moulton Bellingham PC of Billings, whose legal practice has long involved captives and who now serves as vice president-operations and board member of SIIA.

Jones says that the spirit of Big Sky cooperation has included the state legislature which quickly recognized ART’s economic development opportunities. That also apparently extends to the insurance industry in general: “Any lobbying against captives by the ‘traditionals’ has gone away – they’re not pushing back,” he observes.

This year Montana became one of just a few U.S. captive domiciles to pass legislation allowing incorporated protected cell captives. Brenda Olson of MCIA told Montana legislators that allowing captive cells to be incorporated as separate legal entities “would give owners/insureds greater regulatory and legal certainty.”

Apparently the lawmakers were listening when she said, “Montana competes with over 25 states as a domicile for captives and risk retention groups. Montana laws must be kept current and offer flexibility in accommodating a variety of captive business plans to address changing business needs.”

Montana’s economic impact of the captive industry includes nearly \$2 million in annual tax revenues and millions more for Montana firms that provide management services, audit, legal and actuarial work. Captive tourism is another revenue source as companies convene their annual meetings and as MCIA stages two annual industry conferences.

In my view Securities and Insurance Commissioner Monica Lindeen has embraced the captive industry while also delegating operational authority to key professional staff including captive coordinator Steve Matthews, who she recruited from another U.S. domicile.

As the U.S. ART industry has evolved in recent decades, it has become apparent that it is easier for a state to start up captive business than to maintain it into maturity, as political environments and economic development strategies are caught in the winds of change.

Montana, now nearing maturity as a seat of captive business, is a good example of how to start a domicile and keep it running right. In the ART world, it could become a masterpiece.

Dick Goff is managing member of The Taft Companies LLC, a captive insurance management firm and Bermuda broker at dick@taftcos.com.