

# TRANEN CAPITAL



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Irish Stock Exchange Listing: Sedol B61DB84 | ISIN Number: VGG8993Y1007  
Bloomberg Ticker: TranCap VI | A British Virgin Islands Company

Tranen Capital Newsletter | December, 2010  
Performance Data as of 11/30/2010



For the month of November, the Fund was up by 2.78%, while the S&P 500 remained basically flat, rising 0.01%. Rather than provide even the usual brief comments on the markets and the economy, we are devoting this issue of the Newsletter to a single matter: Perhaps the most important event of the past month was a decision by the highest court in the state of New York, in a case named *Kramer v. Phoenix Life*, which held that under New York insurance law it is legal for somebody to procure a life insurance policy on his own life and immediately transfer the policy to a person who does not have an insurable interest (some connection to the insured), even "if the insured did not ever intend to provide insurance protection in the insured's life."

The *Kramer* case involves a dispute over \$56 million in life insurance taken out by Mr. Kramer, the insured, who sold the right to collect on the policies to investors just after he purchased them. Upon his death, more than 2 years after he bought the policies, his widow sued, claiming that the sales to third party purchasers were illegal under New York state "insurable interest" law, which provides that people cannot procure life insurance on someone they are not related to by family or business connection (an 'insurable interest'). Because Mr. Kramer bought the policies without the intent of providing insurance for himself or anyone having an insurable interest in his life, his widow claimed the law was violated, so the estate should collect the death benefit, not the investors.

In a 5-2 decision, the New York Court of Appeals ruled that New York laws allow a person to take out a policy with the intent of selling it to a stranger. The majority ruled that this did not violate insurable interest laws, which are intended to prohibit transactions that are wagers on a stranger's life. The ruling is technically valid only in New York, but some experts predict that its influence will be broader, especially in other major states, which are likely to rely on the *Kramer* decision, as there are many disputes over alleged "stranger-originated" life insurance (STOLI) policies across the United States. It is believed that the *Kramer* case will be very important in settling the industry and ultimately giving investors greater certainty that they can buy life insurance policies without fear of insurers or family members contesting their legality.

The *Kramer* litigation addressed another matter of interest to the Fund and similar investors. The investors who purchased the policies argued that they were entitled to the proceeds of the policies they paid for, while the insurers contended that they should not have to pay anything because the policies were illegal from the start. The New York court, reinforcing an earlier Federal Court ruling, rejected the insurers claim because more than two years had passed from the time of the issuance of the policies to *Kramer* until the insurers had filed their claims and so the policies had become non-contestable.

The Court in *Kramer* follows the U.S. Fourth Circuit Court of Appeals decision in *First Penn v. Evans* in 2009, which had concluded that "evaluating insurable interest on the basis of the subjective intent of the insured at the time the policy issues...would be unworkable and would inject uncertainty into the secondary market for insurance."

In both *First Penn* and *Kramer* the question was directly addressed of whether an insured violates insurable interest by procuring a policy on his own life with the intent to resell.

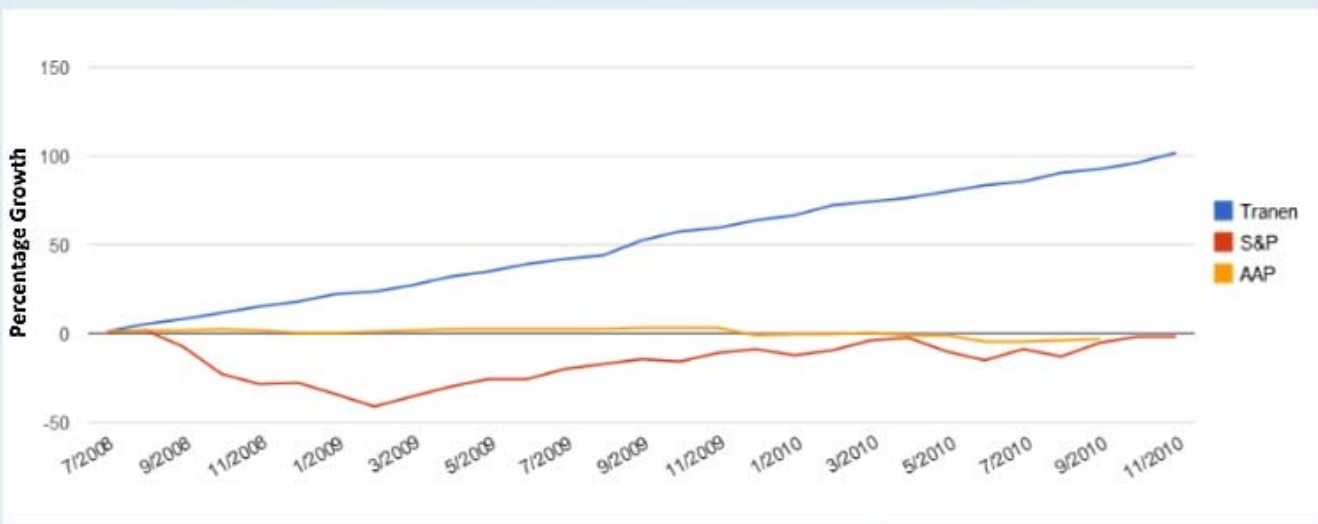
Both Courts have rejected that argument. The cases are very important. Insurance is property.

Insurers simply cannot second guess why a consumer buys a policy on his own life. The insured's reasons for buying a policy including as an investment are his own.

The confidence of all in the insurance market is enhanced with this decision.



## TRANEN FUND PERFORMANCE VS. AAP & S&P SINCE JULY 2008



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Year	
2010	1.8	3.3	1.0	1.3	2.3	1.8	1.1	2.6	1.2	1.8	2.8	-	22.9%	Compounded
2009	4.0	1.3	2.5	3.7	2.5	3.0	2.1	1.6	5.6	3.5	1.2	2.8	39.5%	Compounded
2008	-	-	-	-	-	-	0.7	4.2	2.6	3.0	3.4	2.2	17.4%	Compounded

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A British Virgin Islands Company | TranenCapital.com | Info@TranenCapital.com

Singapore Office	Japan Representative Office	BVI Registered Office	Conference Center	Ireland Office	Zurich Office
Tranen Capital, Ltd. 80 Raffles Place, UOB Plaza1 Level 36-01 Singapore 048624 Phone: 65 6248 4661 Fax: 65 6248 4531	2-2 Roppongi 2-Chome Itophia Building #401 Minato-Ku, Tokyo, 106-0032 Phone: 81-3-3589-0939 Fax: 881-3-5563-2943	Tranen Capital, Ltd #6, Third Floor P.O. Box 875 Qwomar Trading Building Road Town, Tortola British Virgin Islands VG 1110 Phone: 284-494-9082	245 Park Avenue. Suite 3900 New York, NY 10167 Phone: (646) 873-6901 Fax: (212) 372-8798	Pembroke House 28-32 Upper Pembroke St. Dublin 2 Phone: 00353 1-234-2511 Fax: 00353 1-234-2400	Stockerhof Dreieroenigstrasse 31 A 8002 Zurich Switzerland Phone: (00) 1 646-873-6901 Fax: +41 (0)44 208 35 00

To visit our website: [www.TranenCapital.com](http://www.TranenCapital.com)

Please do not hesitate to contact us: [info@tranencapital.com](mailto:info@tranencapital.com)

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**Our mailing address is:**  
Tranen Capital  
30 De Castro Street  
PO Box 971 Road Town  
Tortola, British Virgin Islands VG, 1110

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