



FOCUS

HIGGS & JOHNSON COUNSEL & ATTORNEYS-AT-LAW | VOLUME 67, ISSUE 3/2025

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Higgs & Johnson Secures US\$3 Million Judgment by Successfully Enforcing Written Admission of Liability

N. Leroy Smith



nominee. Central to the application was a June 2021 letter in which the respondent expressly acknowledged having sold the applicant's participation in a listed company, confirmed receipt of the sale proceeds, and undertook to remit those funds to an account designated by the applicant by July 2024.

The applicant sought judgment on admissions under Part 14 of the Supreme Court Civil Procedure Rules 2022 ("CPR"), or alternatively summary judgment under CPR Part 15. The respondent opposed the application, arguing that the dispute could only be determined at trial because it depended on contested facts, principally, whether any trust relationship existed at all. The Defence, filed the previous year, consisted of general denials directed at an earlier pleading that had referred to a formal trust structure. The applicant, however, had amended the claim to include an alternative case based upon a bare or constructive trust arising from the admitted receipt of the proceeds. The respondent never amended his Defence to address that reformulated claim and filed no affidavit evidence to explain the letter, to contest its meaning, or to

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Higgs & Johnson is pleased to report another successful outcome in recent Supreme Court proceedings in which the firm acted for the Applicant, securing judgment for US\$3,000,000.00, together with interest and costs. The Court's ruling represents a significant reaffirmation of the principle that a clear written acknowledgment of liability may suffice to ground judgment on admissions, dispensing with the need for a full trial.

In JSP v FOB, the Applicant, represented by N. Leroy Smith and Kimberleigh Turnquest, brought proceedings to recover the proceeds of sale of a corporate investment which the respondent had sold for US \$3 million and retained. The case arose from a chain of fiduciary and investment relationships in which the respondent had formerly acted as trustee or

advance any legitimate basis for retaining the funds.

Honourable Madam Justice Fitzcharles found the letter to be a clear and unequivocal admission within the meaning of CPR r. 14.1(2). It contained all the essential elements of the applicant's bare-trust case, namely an acknowledgment that the respondent had sold property belonging to the applicant, received the proceeds, and agreed to account for them. The respondent had made no attempt to ascribe a different interpretation to his own words, nor had he raised any credible defence such as lien, set-off, or contractual right of retention. The Court emphasised that under the overriding objective of the CPR, it

would be inconsistent with justice and proportionality to require a trial where the defendant's own written admissions resolved the substance of the dispute.

Accordingly, judgment was entered for the applicant in the amount of US\$3,000,000.00, payable within 21 days, together with statutory interest and costs. Having granted judgment on admissions, the Court considered it unnecessary to analyse the alternative application for summary judgment.

The decision is instructive on several levels. It underscores the potency of contemporaneous correspondence in fiduciary and commercial contexts: a letter written in the ordinary course

of dealings may, if sufficiently clear, amount to a binding admission of liability. (Courts will not countenance speculative re-interpretations of plain language, particularly where a party fails to provide sworn evidence to the contrary.) It also illustrates the procedural importance of ensuring that pleadings keep pace with the case as it evolves.

From a practical standpoint, the ruling also provides a timely reminder to trustees, fiduciaries, and corporate officers of the need for caution in written communications. An apparently conciliatory statement of intent, such as an undertaking to release funds, may be construed as an unequivocal acknowledgment of obligation. 



N. Leroy Smith is a Litigation Partner and leads the Firm's Private Client & Wealth Management practice with a robust traditional chancery practice (covering trusts, probate, and real property disputes) alongside a commercial chancery litigation practice (covering business and finance disputes). lsmith@higgsjohnson.com

Band 1 Ranking for 9th Consecutive Year in Chambers High Net Worth



N. Leroy Smith



Sharmon Y. Ingraham



Philip C. Dunkley, K.C.



Earl A. Cash, Ph.D.

According to the recently released edition of Chambers High Net Worth, Higgs & Johnson is praised as "very strong in both contentious and non-contentious matters," highlighting our team's "deep expertise in trust law and local regulatory frameworks." Our attorneys were further commended for their "extensive experience in trust administration and their ability to deliver practical solutions to complex challenges."

N. Leroy Smith, Partner and Chair of the Private Client & Wealth Management Practice Group, is lauded for his "exceptional technical expertise." Clients noted his "meticulous preparation and consistently thorough advice."

Sharmon Y. Ingraham, Partner and Deputy Chair of the Private Client & Wealth Management Practice Group, earned her first Chambers ranking this year. She is recognized for being "readily available and technically strong in probate matters," with particular praise for her "hands-on approach and solid depth of knowledge."

Consultants, **Philip C. Dunkley, K.C.** and **Earl A. Cash, Ph.D.**, were once again recognized by the Directory with Dunkley praised for his "extensive experience in handling trust disputes and restructuring matters" and Cash continuing to be highly regarded as a "trusts and estates expert."

Banking & Finance Trends and Developments in The Bahamas

Christel Sands-Feaste



Current Perspective

According to the Central Bank of The Bahamas, Quarterly Economic Review, June 2025, the country's economic growth showed signs of moderation. While tourism—The Bahamas' primary economic driver—continued to perform well, its previously strong momentum has eased, particularly in the high-value stopover segment, which faced capacity constraints. Meanwhile, average consumer price inflation trended downward, largely due to reduced cost pressures from imported fuel and other goods and services. Against this background, some of the global downside risks impacting the outlook for the future including, energy prices, public sector debt and borrowing costs, the impact of higher tariffs, elevated geopolitical tensions and the existential threat of climate change, persist. Despite the uncertainty, The Bahamas has continued to reinforce its standing as a leading international financial services jurisdiction through the

refinement of the regulatory framework affecting the sector.

In 2025, two major themes have shaped the legal and regulatory landscape for financial services in The Bahamas. First, the overhaul of legislation governing segregated accounts companies has introduced significant reforms aimed at enhancing operational clarity and investor confidence. Second, the modernization of the data protection regulatory framework reflects a broader commitment to aligning with global standards and strengthening safeguards around personal and corporate data. Together, these developments signal a forward-looking approach to financial regulation, reinforcing The Bahamas' position as a competitive and compliant international financial centre.

Overhaul of the legislation relating to segregated accounts companies

Segregated accounts companies have been a corporate structuring option

available in The Bahamas to entities operating in prescribed regulated sectors for over two decades, under the Segregated Accounts Companies Act, 2004 (the "Prior Act"). This enabled certain regulated corporate entities to incorporate as a single legal entity (a segregated accounts company or "SAC") but establish one or more segregated accounts (referred to in some jurisdictions as segregated cells), where the assets and liabilities of each segregated account are segregated (or ringfenced) from those linked to other segregated accounts, but without each segregated account having separate legal personality. This structuring option has been used extensively in the investment funds sector in The Bahamas to facilitate the pursuit of different investment objectives and strategies, within different segregated accounts of the same investment fund.

The Segregated Accounts Companies Act, 2025 (the "New SAC Act"), an entirely new statute, came into force on 28th August, 2025 and will repeal and replace the Prior Act. While the New SAC Act retains a number of the basic provisions relating to the registration of SACs from the Prior Act, it also introduces a number of exciting features; including (i) enabling a broader range of regulated entities as well as non-regulated entities to opt for registration or incorporation under the New Act, (ii) providing for the incorporation of each segregated account within a SAC as a separate legal entity (referred to in the New SAC Act as an ISAC), (iii) permitting the merger of an ISAC with another ISAC, (iv) permitting the merger of an

incorporated segregated account of an ISAC with another incorporated segregated account of its ISAC or another ISAC, (v) permitting the spin-off of segregated accounts within a SAC by way of demerger into separate legal entities and (vi) permitting foreign companies to register as a SAC or an ISAC upon continuation into The Bahamas. These amendments will strengthen asset protection characteristics of SACs, introduce many of the same legal restructuring options to SACs that are available to stand alone private investment companies and increase the range of product offerings available to clients seeking wealth planning solutions. The New SAC Act is also another example of policy makers working with the private sector to continue to enhance

the regulatory framework in The Bahamas.

Modernization of the data protection regulatory framework in The Bahamas

The current legislative framework relating to data protection in The Bahamas has been in force since 2003. In order to address the significant technological innovations since then, the supersonic speed at which technology continues to evolve, global international standards, the importance of data protection, particularly in the financial services sector, and to modernize the regime overall, this past summer the Data Protection Commissioner circulated a draft new Data Protection Bill, 2025 (the “DPA Bill”) for consultation. This

development is welcomed and represents another step towards reinforcing a fundamental element of the financial services sector and heightened concerns regarding cybersecurity. Further details of the DPA Bill will be provided once the consultation period concludes and the DPA Bill is finalized.

Conclusion

These two pieces of legislation demonstrate the ability of The Bahamas to provide robust product solutions to address client needs and expectations, the constantly changing regulatory changes in the jurisdictions where clients are based and The Bahamas' commitment to adhering to international best practices. 



Christel Sands-Feaste is a Partner who leads the Firms practice groups in financial services, securities, investment funds, and Fintech. She is a highly regarded lawyer for her specialist expertise in advising on financing transactions, securities, securitisations and investment fund structuring.

Recognised as Top Tier in Finance & Corporate by IFLR1000



Vivienne M. Gouthro



Zarina M. Fitzgerald



Christel Sands-Feaste



Alexandra T. Hall

We're proud to share that in the 2025 edition of IFLR1000 Higgs & Johnson has maintained its Tier 1 ranking, reflecting our exceptional transactional expertise and leadership in complex legal matters. Congratulations to Partners, **Vivienne M. Gouthro**, **Zarina M. Fitzgerald**, and **Christel Sands-Feaste** on once again being named Highly Regarded—an accolade that speaks to their strong transactional records and the respect they command among peers. **Alexandra T. Hall** continues to shine as a Rising Star Partner, and both Vivienne and Christel retain their prestigious recognition as Women Leaders, a distinction reserved for the most prominent women lawyers globally. These achievements underscore the Firm's continued excellence and commitment to legal distinction.

The Legal Profession Bill, 2025: Pending Changes to the Legal Industry in The Bahamas

Glenn M. Curry



The Legal Profession Bill, 2025 (the “Bill”) is poised to repeal and replace the Legal Profession Act, 1993, and will effect significant changes to the existing legal professional regime. This article will focus on some of the most significant changes on the horizon.

The Bahamas Bar Association

Under the Bill, the Bahamas Bar Association (“BBA”) will become a legal entity rather than the unincorporated association that it currently is. This will give the BBA capacity to, inter alia, sue and be sued, enter into legal contracts, and purchase, own and sell assets, including real property, in its own name. With such a change, the BBA will have all the legal rights and protections that corporate bodies enjoy.

Practising Certificate

Another significant change under the Bill is that all legal professionals (members of the Bahamas Bar (the “Bar”), Registered Associates and Legal Executives) will be required to possess a Practising Certificate, a brand-new concept within the Bar. According to Section 12 of the Bill, the Practising Certificate is a document which permits a member

of the Bar, Registered Associate and Legal Executive to practice law in The Bahamas.

Existing members of the Bar must apply to the BBA for a Practising Certificate within one month after the Bill is enacted and brought into force. An application for a new (renewal) Practising Certificate must be made on or before the 1st May of each succeeding calendar year and the Practising Certificate will expire on 29th June of the following year.

Each new attorney must also apply to the Bahamas Bar Association within one month of being added to the Roll (i.e. the list of attorneys admitted to practice law in The Bahamas) and will not be permitted to practice law unless and until a Practising Certificate is received.

Although new to The Bahamas, the Practising Certificate is not a novel concept as it is already utilized in many jurisdictions such as the UK, Canada, and other Commonwealth Nations (such as Jamaica, Barbados and Trinidad and Tobago). It will enable the Bahamian Bar to better monitor standards within the legal profession in order to bolster the public trust and confidence in members of the legal profession.

In addition to meeting existing qualifications for legal professionals, the following requirements must be satisfied in order for a Practising Certificate to be granted:

- Completion of continuing professional education;
- Participation in a legal aid program;
- Payment of annual fees to the Bar; and
- Adequate professional indemnity insurance coverage.

The requirement to participate in legal aid is one of the more controversial aspects of the Bill. Though all agree on the positive nature of “giving back” to society, some attorneys with highly specialized legal knowledge and practice areas may find that their skills set is not very appropriate for legal aid. This includes attorneys who specialize in aviation law, M&A’s, complex corporate structures and/or securitizations.

The requirement to obtain professional indemnity insurance may also be financially onerous for some practitioners, who would be barred from legal practice without such insurance.

There are also criminal sanctions for failure to obtain a Practising Certificate and the punishment for non-compliance is quite severe.

An Attorney/Registered Associate who practises law without a Practising Certificate may be fined \$20,000.00 and be subject to imprisonment not exceeding 18

months. A Legal Executive who practises without a Practising Certificate may be subject to a fine of up to \$10,000.00 and imprisonment not exceeding 6 months. A legal professional would therefore be well advised to ensure strict adherence to the new requirements.

A legal professional may appeal any refusal to issue a Practising Certificate to the Bahamas' Court of Appeal within 28 days being notified of the refusal.

Complaints to the Disciplinary Tribunal

Much like the Legal Profession Act, 1993, the Bill establishes a Disciplinary Tribunal responsible for imposing punishment on legal professionals who fail to comply with the legislation and rules of conduct governing the practice of law. Under the Bill, any person may make a complaint to the BBA where an attorney is suspected or accused of professional misconduct. This is a revolutionary step, as under the current regime, only aggrieved clients of attorneys are permitted to make

complaints.

Unlawful Practice as an Attorney-at-law

The Bill also addresses situations where an unqualified person purports to act as Counsel and Attorney-at-law in The Bahamas. Such persons will be liable to a fine not exceeding \$15,000.00 or imprisonment of up to 18 months. This is a significant change as, under the Legal Profession Act, 1993, unqualified persons pretending to be counsel and/or drafting legal documents are liable to a fine ranging between \$500 to \$1,000.00 or imprisonment not exceeding 6 months.

The BBA and the Bahamian Courts have long sought to protect the integrity of the Bahamian legal profession, and have not hesitated to impose administrative and criminal sanctions on those who violate it. In the Bahamian case, *Reverend James Sands et al v Reverend Vernal Hanna et al* – CLE/gen/0029 at paragraph 32, Senior Justice Fraser made the following observations:

"The Courts must protect the administration of justice, the legal profession and, the public at large. We must ensure the integrity of the legal system is upheld and that rules of court and the law are adhered to in every respect. Protection and preservation of our legal processes and ensuring the public's confidence of our legal system are paramount. Only members of the Bar (and those granted special admission) are trained, skilled and permitted to bring/defend claims/matters before the Courts – this is done to ensure that legal procedure is adhered to and to ensure the smooth administration of justice."

The Bill advances that aim of ensuring that society is protected and that the administration of justice proceeds in a regulated and consistent manner.

The Bill was projected to come into force in the first quarter of 2025. However, it is likely that revisions will be made after the current consultations with stakeholders have been completed. 📧



Glenn M. Curry is a Senior Associate in the Firm's Litigation practice with considerable experience navigating, interacting, and liaising with governmental agencies, private lending institutions and fellow counsel on behalf of clients for litigation matters and commercial transactions.

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Gloria Bastian Excel Award (Summer 2025)



Ms. Gwen Sawyer, Legal Assistant to Lori C. Nelson, was the recipient of the Gloria Bastian Excel Award (Summer 2025).

As a valuable part of our Lyford Cay team since joining in 2022, she has showcased exceptional work ethic, dedication, and resourcefulness. Her professionalism and positive attitude have made her an invaluable team member.

Gwen's friendly demeanor, strong work ethic, and unwavering commitment truly exemplify excellence.

Legal 500 Caribbean 2026 Launched



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Sterling H. Cooke



Vivienne M. Gouthro



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Renai B. Martin



Dennise Newton-Briggs

Higgs & Johnson has once again reaffirmed its standing as a premier law firm in The Bahamas, earning a Band 1 ranking in the newly released Legal 500 Caribbean directory. The Firm also attained top tier recognition in all three practice areas assessed – Corporate Law (including Banking, Finance and M&A), Dispute Resolution and Real Estate.

According to the Directory, Higgs & Johnson is widely recognized for its extensive experience in cross-border transactions, with clients praising the Firm as **“the go-to in The Bahamas for legal advice...offering the best all-around practice.”** In the area of Dispute Resolution, the Firm is commended for its **“international outlook and deep knowledge of banking and finance, trust and tax mandates,”** as well as its specialization in intellectual property, admiralty, and trust disputes. Clients consistently describe the team as **“impressive, talented, and a pleasure to deal with,”** adding that **“you always want them on your side.”** The Real Estate team also received high praise for its **“strong capabilities in real estate transactions and frequent involvement in property developments and investment matters.”**

The Firm has earned Band 1 rankings across seven distinct practice areas including Dispute Resolution, Real Estate and Development, Commercial Transactions, Financial Services, Securities, Investment Funds & Fintech, Tax and Private Client and Wealth Management Practice Groups, showcasing the unparalleled expertise and depth of talent within the Firm.

In total, twenty-two (22) Higgs & Johnson Attorneys achieved individual recognition in this year's Guide on their remarkable performance. Several Partners also maintained high distinctions, including Hall of Fame and Leading Partner accolades.

International Bar Association



Higgs & Johnson proudly participated in the International Bar Association (IBA) Conference, a leading global forum for legal professionals. **Zarina M. Fitzgerald**, Partner & Chair of Commercial Transactions, and **Tara Archer-Glasgow**, Partner & Chair of Litigation, represented the Firm during a week of impactful discussions and networking.

Tara Archer-Glasgow served as a panelist in “Public Recovery: Private Partners?”, sharing insights on asset recovery strategies. She also acted as defence counsel in a criminal mock trial addressing allegations of greenwashing, bribery, and corruption within the framework of ESG accountability—a critical issue for today’s business landscape.

Higgs & Johnson was also proud to sponsor the Litigation Committee Luncheon, reinforcing our commitment to advancing dialogue in the international legal community.

Global Wealth Luncheon: Brazil



Higgs & Johnson proudly participated in the high-level roundtable discussion in São Paulo spearheaded by The Bahamas Financial Services Board, reinforcing our commitment to delivering innovative solutions for international clients. Representing the Firm on the panel discussion was **Christel Sands-Feaste**, Partner and Chair of the Firm’s Financial Services, Securities, Investment Funds and FinTech practice groups. She shared insights from her recent work on The Bahamas’ Segregated Accounts Companies legislation and her extensive experience in the funds and securities sectors, which spans over 25 years. Of Counsel, **Julia Koga**, who is also a Brazilian native, joined the delegation supporting this initiative which strengthened connections between The Bahamas and the Brazilian financial services community. The luncheon brought together key stakeholders from Brazil’s financial services industry to explore cross-border collaboration and highlight how The Bahamas’ evolving legislative framework supports sophisticated international structuring solutions.

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