



Opalesque Roundtable Series '17

BAHAMAS

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Editor's Note

With a long standing history and track record in financial services, The Bahamas has a first class legislation and judicial system as it relates to private client wealth planning, was the first non-civil law jurisdiction to introduce foundations, and its Trustee Act (1998) has been celebrated as an excellent example of modern legislation in the fiduciary services industry. The jurisdiction is also fully on board on CRS and on top of other international regulatory developments such as transparency and the OECD's BEPS initiative.

But foremost, The Bahamas is in the most beautiful location, with a very vibrant cosmopolitan community in New Providence and an extraordinary marine and boating environment. With just 184 miles or a 30 minutes flight from Miami, and in the same time zone as New York, ready access into Europe as well as Latin America, it's an efficient jurisdiction where people can set up their family offices in a relatively short period of time.

In fact, the growth of family offices in The Bahamas has been remarkable as many of them are going from jurisdictional diversification, and 'as complex as it gets', to streamlined simplicity for easier reporting, operations, and compliance in a global headquarter. The Bahamas can facilitate all of a family's asset structuring, management and administration, based on an extensive advisory network, excellent private client lawyers, accountants, etc., while also creating a *true residency nexus* for family members.

The Adi Dassler International Family Office is a good reflection of this. Here, the oldest daughter of Adi Dassler moved to The Bahamas in the early 1990s as a lifestyle choice. Today, two out of her three sons also live in the Bahamas, and while the third son lives in Switzerland, his son, who is now **fourth generation Dassler**, is working in the family office in Nassau. The CIO says that *sitting in Nassau and managing a fund and other investments has been no different from when he was sitting in London doing the same function.*

Family Governance, Legacy and Dynastic Vision

Taking the growth numbers of billionaires as a proxy, the explosion of private wealth is unabated and unprecedented. The Hurun Rich List counted 647 Billionaires in Mainland China, and Forbes lists 565 in the US (up from "just" 42 in 1987). Forbes also said the 233-person increase in their count of global billionaires from 2016 to 2017 was the highest jump in the 31 years it has been compiling this list. The total net worth of billionaires increased 18% to \$7.67 trillion, which is higher than the GDP in more than 60 countries.

Creating, managing and administering large amounts of wealth comes with its own set of challenges, and so we find that in today's world, parents and grandparents are much more likely to be proactive with their children regarding the family wealth. They also start much earlier educating and involving their children, and working on aspects such as:

- Family Governance, Legacy and Dynastic Vision: How to tap into and maintain the human and intellectual capital of a family (page 17)
- Family Culture and Freedom of Testamentary Disposition: The way in which the founder provides for heirs can determine the entire future of the family (page 18)
- How to establish a family constitution and a living legacy (pages 19-21)

The Opalesque Bahamas Roundtable also discussed:

- How social media affects families (page 18-19)
- What will be the OECD's next step after CRS? (page 7)
- What role will artificial intelligence play in the delivery of legal and private wealth advisory services? (page 7) How do family offices view the ascent of AI in finance? (page 15)
- Trust litigation: The Pugatchev case and its significance (page 14)
- Why some family offices go 'back to basics' in terms of strategic and tactical asset allocation (page 15)
- New opportunities for The Bahamas following its overhaul of the Investment Funds Act and Financial and Corporate Services Act (page 4, 12-13)

The Bahamas Roundtable took place in Nassau, The Bahamas, with:

1. Christina R. Rolle, **Executive Director, Securities Commission of The Bahamas**
2. Antoinette Russell, **Chairman, Bahamas Financial Services Board**
3. Katie Booth, **Managing Director, Katie Booth Limited**
4. Kevin Burrows, **Chief Investment Officer, Adi Dassler International Family Office**
5. Bryan Glinton, **Partner, Glinton Sweeting O'Brien**
6. Andrew Law, **CEO & Founder, IPG Family Office.**

Enjoy!

Matthias Knab
Knab@Opalesque.com

Participant Profiles



(LEFT TO RIGHT):

Matthias Knab, Kevin Burrows, Andrew Law, Bryan Glinton
Christina Rolle, Antoinette Russell, Katie Booth

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Introduction

Christina Rolle
Securities Commission of
The Bahamas

My name is Christina Rolle, I am the executive director of the Securities Commission of The Bahamas. At the moment, we are about to finalize the development of two new pieces of legislation that will fundamentally overhaul the regulation of financial services in The Bahamas – the Investment Funds Act, as well as the Financial and Corporate Services Providers Act. Both of those areas have potential to be new sources of business for The Bahamas.

Andrew Law
IPG Family Office

My name is Andrew Law, I am the CEO and founder of IPG Family Office, an Estate and Inheritance Planning consultancy assisting professional intermediaries in the structuring of their clients' affairs. We specialize in providing both virtual and on the ground services to family offices. We are a leading provider of services to Bahamian Private Trust Company. The IPG Team has considerable multi-jurisdictional experience in the global estate and inheritance planning industry; we are independent of any institution, ruling out potential conflicts of interest. We don't provide tax, legal or and investment advice.

Kevin Burrows
Adi Dassler International
Family Office

My name is Kevin Burrows. I'm the Chief Investment Officer of the Adi Dassler International Family Office. We are originally a single-family office that has transitioned into a multi-family office. Our company was founded by the grandchildren of the founder of Adidas and I manage the investment side of the business. Along with my investment duties, I am also involved with the build-out of our operations and we are currently looking to setup an onshore U.S. presence as well, probably in Miami.

Antoinette Russell
Bahamas Financial Services Board

My name is Antoinette Russell. I'm here in my capacity as chairman of The Bahamas Financial Services Board. The Bahamas Financial Services Board was founded in 1998 as an expression of the commitment between the financial services industry and the government to partner and create an all inclusive environment for financial services.

We represent a broad range of industry participants from banks and trust companies, wealth managers, family offices and other service providers up to real estate lawyers.

Katie Booth
Katie Booth Limited

My name is Katie Booth, I'm the Managing Director of Katie Booth Limited which is a private wealth consultancy focused on international asset structuring for private entrepreneurs. I offer advice on succession planning, family governance and the establishment and operation of single and multi-family offices. This includes giving advice to families across different jurisdictions with respect to the sustainability of their legacy.

Bryan Glinton
Glinton Sweeting O'Brien

My name is Bryan Glinton. I am a founding partner of the law firm of Glinton Sweeting O'Brien. Glinton Sweeting O'Brien is a full service boutique law firm specializing in offshore financial services, including private wealth management structures and estate planning. We also provide legal services in real estate and resort development and commercial litigation. The firm's clientele consist mostly of high net worth individuals, multinational law and accounting firms and domestic and international financial institutions based in Europe, North America and Brazil.

Matthias Knab

Let's start with a brief review about the history of the Bahamas as a financial center, and then we'll look at your current initiatives and developments.

Antoinette Russell:

I think The Bahamas can boast an 80 year history track record in financial services. I think few jurisdictions can offer that type of boasting. Our heritage is based on our strong legal framework. I think that we have cultivated our financial services industry based on this.

Katie Booth: I think that The Bahamas, as an offshore financial center, was originally focused on all of the traditional services that a typical 'OFC' provided.

Over the last decade, there have been many changes and today we consider The Bahamas more as an international financial center versus an 'OFC'. Our previous reliance on banking services has contracted and we have broadened the scope of our service offering into a modern, client centric suite of services focused on fiduciary asset structuring, fund administration and the administration of vehicles for the efficient ownership of different asset classes, including the private equity and direct investments that our clients are currently interested in.

I think that we will continue to position ourselves as a center of excellence for trustee services. The Bahamas has an exceedingly strong heritage both from a legislative perspective and in terms of our legal infrastructure and the quality of our judicial system. I believe that as we move forward, we will draw on that history and that expertise in our repositioning – as many of the international financial centers are doing now – with respect to what the future needs and requirements of our clients will be.



Andrew Law: I arrived in The Bahamas in 2000, at that time it was pretty easy to set up a financial services business in the jurisdiction. This was also the beginning of the period of most change within financial service companies with many for the first time having to define what they would be offering going forward. It was accompanied by dramatic changes in the legal and regulatory environment.

I agree with Katie's comment that pure banking has contracted considerably and will probably continue to do so. Another sector I see contracting is traditional investment management provided by investment managers as we see our families doing much more of this for themselves.

On the upside we have seen **significant growth in the opening of Family Offices.**



Andrew Law: Firstly The Bahamas is in the most beautiful location. This is important because if you are suggesting to families to set up a Family Office here it is somewhere they are going to have to come from time to time. In addition they will want to ask specialist senior staff to move here.

As has already been mentioned The Bahamas has a **first class legislation as it relates to private client wealth planning**. This legislation is the result of a close relationship between the all the stake holders i.e. Government, Regulators, Professional Associations and industry. Because of this The Bahamas has emerged as a very successful center for HNWI.

It's unfortunate that we are in an industry that does not advertise its clients. Because if we could publish the list of say the owners of private islands I think it would surprise people who has chosen to have a significant base in the jurisdiction.



Christina Rolle: Katie and Andrew brought up the contraction in the banking industry. What's interesting is that while the banking industry is contracting and we see visible signs of that with banks physically leaving the jurisdiction, interestingly enough, within the scope of the Securities Commission, we are seeing a growth in our licensees which is primarily driven by family offices who are coming here.

There are a couple of aspects to this development. We see family offices coming to the jurisdiction, and some are choosing to be licensed here, mainly as an investment management and advisor firm or they choose to be licensed under the Financial and Corporate Service Providers Act as an administrator.

We also see entities who are providing niche services to family offices, so broker dealers and sometimes investment advisors. Trends indicate that these stand-alone supporting entities continue to see an advantage to being in The Bahamas. Since 2014, we have seen an 8% net increase in the number of licenses under the SIA and a 3% increase in the number of investment fund administrators. We have also an 8% **net increase in the number of licenses** under the Financial and Corporate Service Providers Act. And again, the vast majority of these new entrants are either family offices that are choosing to be licensed or they are providing niche services, mainly to family offices and other types of entities.



Bryan Glinton: It is my view that the global financial services sector is evolving, particularly in international financial centers such as The Bahamas. I believe that private wealth management and advisory services will continue to play an important role in our future, for a number of reasons, namely:

One, **location, location, location.** The Bahamas have a great location. We are located 30 minutes off the coast of the world's largest economy. We are in the same time zone as New York, and there is ready access into Europe as well as Latin American.

Secondly, The Bahamas has been very nimble in the development of innovative financial products to address the unique needs of our international clients.

Third, we are all aware of what has happened since 2000 beginning with the OECD's anti-money laundering initiatives, the pressure for jurisdictions to enter into tax information exchange agreements and the current imposition of common reporting standards to facilitate the exchange of tax information. While The Bahamas has signed on and demonstrated its commitment to this heightened level of transparency, it still remains an attractive international financial center for those seeking to re-domicile in a tax efficient jurisdiction with a high standard of living and a great lifestyle. Unlike some of our competitors, we have a very vibrant cosmopolitan community in New Providence and an extraordinary marine and boating environment, which have attracted many of the world's wealthiest families.

Let me also reflect a bit on what I believe will be the **OECD's next step after CRS.** For those families who wish to re-domicile, they will be required to clearly establish that they have re-domiciled to another jurisdiction.

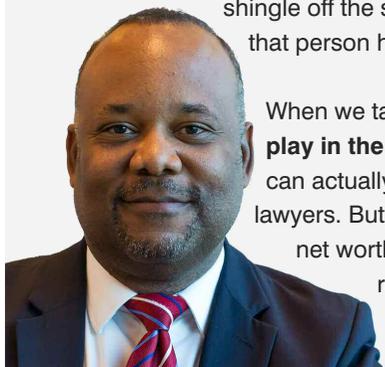
International families will be required to purchase a home, operate their businesses, register their children in a local school, possess a form of resident status for immigration purposes and obtain a local driver's license and national insurance (equivalent to a social security) identification, thereby establishing a clear and strong nexus to their jurisdiction of residence. We believe there are some promising opportunities for The Bahamas.



Matthias Knab

The OECD and other international bodies are looking more and more into what they call "substance," which is probably a big part people will need to consider going forward, right?

Bryan Glinton: Correct. Substance is going to be very important. I think the days are gone where someone can simply hang a shingle off the side of a building and claim that he is resident or operating from The Bahamas when in fact that person has no physical presence in the jurisdiction.



When we talk about the future, we also need to ask the question **what role artificial intelligence will play in the delivery of legal and private wealth advisory services.** I understand that the IBM Watson can actually give legal advice on any number of areas with a higher level of accuracy than human lawyers. But where I don't see artificial intelligence making a significant in road is when it comes to high net worth individuals. I think such individuals are going to be looking to individuals they have relationships with and who understand the human element that goes into private wealth management planning.

Katie Booth: I want to pick up on a couple of points that Bryan made which I think are hugely important. This question of residence and determining where you are in fact resident and domiciled for tax purposes obviously goes beyond the private individual. One of the reasons that Family Offices are actively seeking to be licensed here is because given the breadth of administrative functions that a single Family Offices performs, it is increasingly important from a tax perspective that the Family office can demonstrate residence in The Bahamas. They must be able to evidence the performance of key functions in *The Bahamas particularly with respect to company administration and company decision making*. A license creates an 'anchor' for the Family Office to support its contention that it is conducting its affairs here and that it is making investment decisions and managing its companies from The Bahamas.

And most importantly, a lot of Family Offices run PTCs (private trust companies) for the families they represent. It is critically important that they are able to demonstrate that they are making trustee decisions in The Bahamas. They need to hold PTC board meetings here. It is helpful for them to have a local 'technical' director to sit on the Board of the PTC and a registered representative to demonstrate a meaningful connection to The Bahamas.

I have also observed some significant changes regarding the establishment and operation of single family offices. Once upon a time, clients would come to me and they would say, "We want diversification, in all of our arrangements. We have beneficiaries living in different jurisdictions. We have a Family Office in London, trustees in the Channel Islands, companies registered in a myriad of different offshore centres, fund administrators in Cayman, banking relationships with ten different financial institutions etc. We also have private equity investments across the globe and directors in four different countries. We all correspond virtually, so everything is fine."

In this era of increased regulation and reporting, it is no longer helpful for the clients' business and personal interests to be so fragmented, to be structured and administered across so many different jurisdictions. It raises all sorts of challenges for the family from a reporting and compliance perspective. Where 10 years ago, families would have been saying to me, "We want the most complex multi-jurisdictional structure available" they are now saying, "We need to consolidate and streamline everything. We need to make this simple. We need our single Family Office to be able to report accurately on this structure, on our investments, and on our personal tax affairs."

We have gone from jurisdictional diversification, and 'as complex as it gets', to streamlined simplicity. And what's exciting for The Bahamas is that we can facilitate all of the family's asset structuring and administration here. We have an amazing advisory network, excellent private client lawyers, accountants, the full suite of services available such that we can allow a very successful international family to use The Bahamas as their global HQ. And with residential developments like Albany with its state of the art offices, residential property, concierge services and amenities, they can relocate here on a personal and business basis should they choose to do so with all the associated advantages that residence in The Bahamas offers.



Antoinette Russell: I just wanted to reiterate and confirm that we have a very strong presence of trust and estate practitioners here. We have the chartered accountants and the compliance professionals. You find that most of the trust and estate practitioners end up completing the compliance certification because it goes hand in hand in what they do, and also the CFA society with a good number of certified financial analysts as well.

I think one of the other things I want to mention is the fact that BFSB has been really pushing our value proposition. And for us, we talk about regulation which everyone has spoken to as well as expertise. We also have a commitment to innovation and a unique geographic location.



Let me see toward innovation. I think we want to talk about the way we do business and the ease of doing business here in The Bahamas. We do still have some challenges for that and we've been working together with the government to find a way to really put in place our process that would make it more attractive. For persons wanting to do business in The Bahamas about immigration setting, the Family Office, working with the regulator central bank, securities commission, the process is straight forward. It's standard and it's simple.

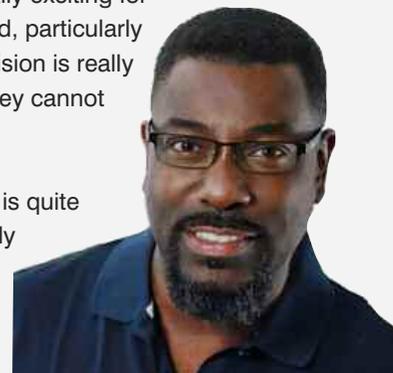
Kevin Burrows: I think my family office is a good reflection of what you have been discussing so far about family offices in The Bahamas. In our case, the oldest daughter of Adi Dassler actually moved to The Bahamas in the early 1990's. That decision was purely a **lifestyle choice**, so she wasn't choosing the jurisdiction because of tax purposes or anything like that. She relocated herself from Germany to Lyford Cay, another very nice gated community similar to Albany where we are meeting today. Two out of her three sons also live here in The Bahamas, and while the third son lives in Switzerland, and his son, who is now fourth generation Dassler, is working in the family office here in Nassau.

So here you have a good example of a very prominent family that clearly has a true residency nexus for family members, and it wasn't just a structuring or a tax-driven decision that they made. Of course, all management and investment decisions are genuinely performed out of the office here in Nassau.

In running a small operation, we outsource whatever services we can't perform internally, and as you said, The Bahamas has a lot of really talented practitioners. So we outsource locally in the first instance when possible but if we need talent that we can't find here we will go out into the international market and get it.

As the former President of the **CFA Society** The Bahamas, the growth of Family Offices is really exciting for me, because I think a lot of CFAs on this island are not being properly challenged or stretched, particularly in the private banks. While they may have the title of portfolio manager, every investment decision is really driven out of New York, London, or out of Switzerland. They may get to pick from a list, but they cannot deviate too much.

The rise of the family office and the growth of open architecture and true investment freedom is quite exciting as it will strengthen and develop the asset management and investment sector. I really welcome the development of family offices to expand and bolster that aspect of our offering here in The Bahamas.



Christina Rolle: I wanted to touch on a point that Antoinette raised on the ease of doing business. Of course everyone is familiar with the World Bank's famous report, and we sometimes see the statistics and we think that all is a bleak picture with respect to the ease of doing business in The Bahamas.



I want to say that I do not believe the picture is bleak all around. There are some bright spots and we are working on others. For example, with respect to an entity that wants to be regulated in The Bahamas, once an application is fully completed and all documentation received, the Commission has an average process time of three weeks to license that entity. I think that's a good story and I think that it is a story which can show that The Bahamas perhaps has a little bit of an advantage over other jurisdictions. At the same time, we're not losing quality in terms of the due diligence we perform. In fact, we've increased the due diligence we perform on our end.

Also, we've heard from many licensees or prospect licensees who want to come to the jurisdiction that they are really appreciative of the fact that they can come and have a conversation with the regulator. I think that is also something which may be unique to The Bahamas. As the regulator, we try not to set ourselves up as being in a battle against or opposed to business. We see ourselves as having a role to ensure the integrity of the industry and the reason we perform this role is to enable businesses to thrive and to grow. When we have that perspective, then we can see that it's okay to sit down with the prospect and have a conversation about what it is they want to do in The Bahamas.

We do see, though, that there are areas for us to improve. I talked about the completed application but, the truth is our application process is probably tedious. At the Securities Commission, we are right now rationalizing our applications process, trying to sift out what documentation is truly necessary from what is not. I will give an example. The other day something came across my desk, and we ended up talking about the merits of character references. I asked the questions "Have we ever gotten a bad character reference on anyone? Is this really necessary? What value is this really adding?" It is my view that in a jurisdiction like ours, we have the ability to be nimble and to rationalize these processes and to improve upon them in a very quick and responsive way.

Bryan Glinton: As you may be aware, we elected a new government in May of 2017. One of the important initiatives the new Prime Minister has undertaken is the appointment of an **ease of doing business committee**. It was a demonstration of his commitment to create a more efficient business climate.

I think Christina Rolle has mentioned the efforts that the Securities Commission is undertaking to be more responsive despite their ability to turn around an application in three-weeks time. But there are some other opportunities to improve the efficiency of the Government, which are being pursued.

I will add that the ease of doing business committee has definitely made progress in this effort. We expect new legislative changes in the next 60 days that's really going to have a significant impact on the way some of the businesses are operating in The Bahamas, all as a part of an effort to facilitate the ease of doing business in The Bahamas, or to improve the ease of doing business.

If we can demonstrate that we are an efficient jurisdiction where people can set up their family offices in a relatively short period of time; and our systems are modernized – when you add that to the professionals that you've heard mention by many of the speakers here at this roundtable, it represents an enormous opportunity for the jurisdiction. I believe that these factors will place The Bahamas at a significant competitive advantage as compared to other IFCs.



Matthias Knab

As you know, I do quite a bit of travel, also to a lot of the island jurisdictions where sometimes infrastructure can pose a challenge – things like internet connectivity, traffic, or simply limited space for office and residential developments. One thing I have noted in my hotel is that the internet speed was outstanding. But I wonder, from your perspective, how would you describe the situation here on The Bahamas regarding infrastructure?

Kevin Burrows: One caveat, I am really more on the investment than on the operations side. But what I can say specific to my particular duties as is how easy it is to function in my role in Nassau versus sitting in New York or sitting in London. I was similarly the CIO of an investment firm in London for four years and like you mentioned, the speed of the internet, the connectivity and the dedicated fiber network that we have here is on par with anything we can find internationally.

So, again, this is a lifestyle choice for a number of single family offices who come here, and part of that choice is also based on the amenities and the infrastructure that you can enjoy being in The Bahamas. For an investment purpose, I can hop on a plane and pretty much get anywhere I need to be pretty quickly. There are flights to New York, to London, and many other destinations in the US and Europe and fairly easy connections when I need to actually meet the managers. So compared to doing a similar role evaluating managers in London, there is no disadvantage for me sitting in Nassau or anywhere in The Bahamas focusing on that investment function, but doing it in a much nicer climate and in a much more favorable tax jurisdiction rather than having Inland Revenue take more than 40% of my salary.



On the operations side, we have outsourced our middle and back office functions to local service providers. In terms of trading, that setup works quite well and we can also do direct trading with some of our counterparts if needed. I can input trades directly into an account with a New York broker or into our account with a Swiss broker, depending on where I need to trade. I can also use a local broker, and we have a Bahamian custodian for a separate mutual fund that is licensed by the Securities Commission which we manage as well. So from my prospective, sitting in Nassau and managing a fund and other investments has been no different from when I was sitting in London doing the same function.

Andrew Law: The regulatory authorities in The Bahamas are doing a good job. But we mustn't elude ourselves that there are areas that could improve. This is not a big ask and would benefit all stakeholders. We need to cut red tape, and the result in my view would be very positive.

So whilst I'm very happy that we are blessed with the most beautiful location which clients want to come to, there is a great deal more we could do to attract clients if we could just tweak these things and make them a little more user friendly.



Bryan Glinton: Let me add here that during its short existence, the ease of doing business committee I mentioned earlier has made at least two sets of recommendations to the government. The first set pertains to taxes, whether it's value added taxes, stamp duty or business license fees, and the second set of recommendations seek to address the ease of starting a business in The Bahamas.

So these are definitely some of the pressure points that we are looking at resolving because we recognize that they pose challenges that sometimes can be road blocks in businesses getting up and going. As a jurisdiction, we appreciate the need to start meeting the expectations of high net worth individuals coming from onshore jurisdictions.



Christina Rolle: I mentioned earlier that the Securities Commission is in the process of overhauling two pieces of legislation. We actually administered three pieces of legislation, and these overhauls are significant for us.

The first is the **overhaul of the Investment Funds Act** where we address deficiencies that came out of the last Financial Stability assessment program examination that was done here in 2012.

While we were seeking to address those gaps, we thought that at the same time to also overhaul the infrastructure so that The Bahamas can be competitive from a regulatory perspective as well. To start, we did quite a bit of benchmarking. The benchmarking was across the entire globe and we looked at many fund jurisdictions. We also had quite a bit of consultation with the industry. We even hired some consultants who looked at some of the industry specific issues. We are now on the cusp of proposing to the Government a new piece of legislation that will fundamentally change the way funds are administered in The Bahamas.

So for example, one thing we are doing is we are rationalizing what a Bahamas based fund is or should be versus a non-Bahamas based fund. As it stands now, that can become quite a complex issue. In the new legislation, it will be very simple. A Bahamas based fund will be a fund that is either licensed in the Bahamas or incorporated in The Bahamas. That's it. The definition of a non-Bahamas based fund will be simplified over three criteria. For example, it could be a fund with an investment manager who is licensed in The Bahamas or an administrator that is licensed in the Bahamas, or it could be offered and sold to accredited investors in the Bahamas. Such a fund would only require simplified registration and so, we no longer have a fund operator, by virtue of the fact that the operator is licensed in The Bahamas, creating a nexus for the purpose of licensing a fund as a Bahamas based fund.

A big stumbling block for The Bahamas and perhaps one of the most significant things we are trying to accomplish with this new bill is to remove burdensome fiduciary responsibility from the administrator. We see this as a huge disadvantage that The Bahamas currently has compared to other jurisdictions. We do not see this level of fiduciary responsibility in the leading jurisdictions and if The Bahamas wants to enter institutional space, the role of the administrator has to be aligned so as not to price The Bahamas out of the market entirely.

We also want to open the jurisdiction and propose that administration of a Bahamian fund can really take place from anywhere in the world. This can potentially be a game changer for The Bahamas in its ability to attract big retail funds to the jurisdiction. And of course, that creates opportunities for lawyers and accountants and other experts on the ground. The idea with this piece of legislation is to show the world that The Bahamas is an open jurisdiction. We are not trying to protect niche pockets but want businesses to be attracted to this jurisdiction because it's a healthy environment.

The second piece of legislation is the **"Financial and Corporate Services Act"** where we are also rationalizing all of the activities that are regulated under the Act.

With this overhaul, we are moving away from one broad category of financial and corporate services to defining financial and corporate services per activity. This will allow the regulator to be much more flexible in the way we regulate each activity. Instead of trying to regulate as a one size fit all scenario, which we are under now, we can regulate corporate services activities differently from money lending activities. We then don't have to force a corporate service provider to have an MLRO, for example. It is this type of rationalization that we are doing throughout the Act.



Andrew Law: I would like to talk a little bit about past developments. One thing that all of us know, but that is not well known internationally is that The Bahamas has been at the cutting edge of legislative development. We were probably the **first non-civil law jurisdiction to introduce foundations**, and since we passed the legislation many other jurisdictions have followed suit. Many would argue that their legislation is more user friendly and thus more successful, but it was The Bahamas that made the quantum leap first because we listen to our clients and their advisors.

It was not a simple task as we have a long tradition of trusts, we wanted to design the framework so that it doesn't conflict with our trust or company legislation.

But now we have to wait and see if The Bahamas foundation will become a valuable vehicle. This does not just require well drafted legislation but also litigation.



So how The Bahamas foundation fairs in a litigious environment versus other jurisdictions will over a period prove whether if it turns out to be one of the more successful foundations in a common law jurisdiction.

Similarly, we also created a vehicle called the "executive entity". The executive entity is a fascinating piece of legislation, and again, I'm sure it's being used by people but we won't really see the value of the executive entity until we have to go to court. As a result I sense among the stakeholders there's less of an appetite to bring in more and more products.

So that's the issue in our industry as it takes quite a long time for the lifecycle of the vehicle to prove if it works to everyone's satisfaction. Unfortunately to date there has not been much litigation on these innovative pieces of legislation.

Katie Booth: Just following up on Andrew's extremely important point with respect to the testing of legislation. In the context of trusts, I think that the **Trustee Act of The Bahamas (1998)** has been celebrated as an excellent example of modern legislation in the fiduciary services industry.

I know from conversations I have had with barristers in the UK that it is regarded as a very important and sophisticated piece of legislation. I think it has supported our industry well from a trust services perspective.

I would be surprised if going forward, we ended up producing a lot of what we referred to earlier as 'designer legislation'. I think the Executive Entity is a very flexible and useful vehicle. However, It has not been widely used and, to Andrew's point, I think this is because it has not been tested. From a holistic perspective, I think that we are probably better off doing what the Securities Commission is currently doing: re-exploring our existing legislative landscape in order to determine how to improve upon it, how to bolster it, how to make it more client-friendly from an ease of doing business and regulatory perspective rather than pumping out new vehicles and 'products'; whether it's in financial services, investments or otherwise.

And the reason that I say that goes back to something we talked about at the very beginning of the Roundtable: the way in which we are evolving as a financial center, from an 'offshore' financial center to an 'international' financial center, and given the impact of all the initiatives that are coming from the EU and the OECD as regards global transparency, whether it's through the implementation of CRS or otherwise, I think we have to recognize that it's not about introducing new legislation that will make us stand out from the crowd. Instead, I believe it is about bolstering what we currently have, making it easier to establish and do business here, making sure that our court system upholds, recognizes, properly interprets and supports our existing legislation.



And so I am always pleased to learn that our financial services legislation is being tested in court here, and then considered elsewhere, whether it's in the UK High Court, the Court of Appeal or wherever. It's very important to have that body of case precedent to interpret, delineate and explore our legislation and the scope of it; particularly, in the context of **trust litigation**.

There is a very interesting case, the case of Pugachev, I don't know if you have read about it? This is a Russian individual who fled Moscow in 2011 after Mezhprom went into liquidation. He was a partner in the bank, fled to London, set up five New Zealand trusts which have recently been tested in the UK High Court. The decision in that matter is fascinating in terms of its construction of the doctrine of the sham trust which emanated from the original case of Rahman in the UK and has now been explored in a number of subsequent court decisions. The UK High Court judge in his interpretation of the Pugachev asset structuring arrangements, explored and broadened the criteria that give rise to what we call a '**sham**' trust. I think that these are the areas that we as a jurisdiction need to focus upon because I am certain that the advisors in New Zealand are looking very carefully now at how the Pugachev trusts were constructed and administered and what gave rise to those trusts being set aside by the UK high court.

I think it's about **being smart, not clever**. Does that make sense? As a jurisdiction, let's be really smart. Let's not try to be too clever.

Tanya McCartney: In this context, BSFB, as the interface between industry and the government, has been engaging as to what type of image that we want to project internationally. And certainly The Bahamas wants to be seen as smart, not clever, and this includes to demonstrate that we are truly committed to things such as transparency, tax cooperation, and such things.

As it relates to CRS, The Bahamas is fully on board. We have made application to sign on the multi-lateral convention and we continue with our good faith efforts and to demonstrate our commitment to tax cooperation through the negotiation of bilateral agreements until such time as we actually sign on to the convention.



We recently signed a bilateral agreements with Finland, Japan, Jersey, and other countries are lined up. So before we sign the convention, we continue to enter into bilateral agreements that will facilitate the automatic exchange of information.

The Bahamas is also taking a close look at BEPS (Base Erosion and Profit Shifting) to see what the implications are for The Bahamas to see what level of commitment we have to make as a responsible jurisdiction. So in terms of the operating environment, we are committed to best practice and International standards as it relates to global regulation. This is important when we are talking about what The Bahamas value proposition is because people want to be in a reputable jurisdiction.

Andrew Law: I was just going to say something about commitment. Many other jurisdictions had emerged over the last 20 years. The theft and release of confidential information has tested their resolve., with the result that some jurisdictions are now reassessing if this is what they want to support. I think the result is that we will see a decline in the number of jurisdictions that are servicing the international HNWI community.

And so when we talk about the commitment of The Bahamas, this is not an industry we have entered into recently. But as we said earlier, we have been focused on this for many years.



Matthias Knab

We talked about The Bahamas having a client centric character. How important is this to the family office business? How does that make The Bahamas more attractive? Could that be helpful or attractive to family offices relocating here?

Bryan Glinton: Well, one thing I have alluded too earlier is the AI theme, which is already happening with the use of artificial intelligence in the legal and financial services sectors. Big banks such as JPMorgan are running AI intelligence to generate some of the contracts that they are using to enter into different types of financial transactions.

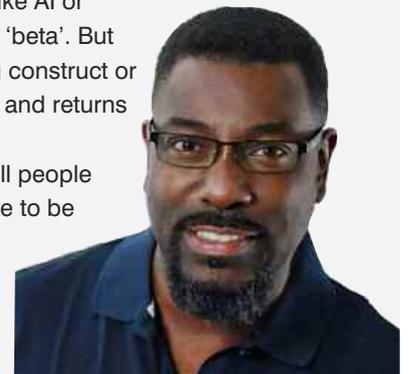


Again, I do not believe that high-net-worth individuals and families will rely on artificial intelligence for investment advisory and legal services. They expect to meet and deal with human advisors who provide customized services to meet their needs, and this is exactly where The Bahamas could play a significant role. As a jurisdiction, we get it, and this is why I would say The Bahamas is considered a world leader in private wealth management services.

Our clientele definitely expects one-on-one relationships; they expect you to know the family members. They expect you to understand and appreciate the family dynamics. And sometimes it is also about helping them to formulate their vision for their family and identifying products and services that would help them to realize their vision or long-term planning.

Kevin Burrows: I'd like to go back for a moment to our discussion about being smart not clever, which I really like. What I have seen in the investment area is a move back towards focusing on efficiency, focusing on costs; a kind of **'back to basics' in terms of strategic and tactical asset allocation**. These were the fundamentals that were considered smart investing 20 / 25 years ago and were taught to investment professionals and CFAs, before everything got too clever with the hedge funds, the leverage, the arbitrage and everything else which just added a lot of complexity, added a lot of costs, and ultimately did not outperform but rather underperformed dramatically.

And to Bryan's point about artificial intelligence, in the investment arena we welcome things like AI or anything that makes the market more efficient because all that means is I get a more efficient 'beta'. But there's still skill in how you build a portfolio, how you build your risk parameters and how you construct or combine those betas. So in the investment arena, I see us going back to focusing on the risk and returns of a portfolio rather than seeing how fancy I can get to outperform. I believe that in the wealth management arena, the 'smart, not clever' mantra is really starting to play through. I like to tell people that investing a portfolio globally is really more like playing jazz than classical music; you have to be technically proficient but you have to know when to improvise and when to use your judgment and go off the script.



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Katie Booth: I think that one of the things that we haven't explored yet in this conversation, which I believe is very important to the issue of being 'client-centric', is the whole question of **governance**. Governance is essential to the sustainability of one's legacy and I think that if The Bahamas wants to further differentiate itself in the market and demonstrate its client-centric approach then offering advisory services specifically in the area of governance is another way in which we can stand out from the crowd.

And when I talk about governance, I am not just talking about legal asset holding vehicles for personal and business wealth; I'm talking about governance in the sense of *family governance*. This includes the drafting of family constitutions and the creation of governance vehicles that enable a family to organize themselves in such a way that they can truly achieve their dynastic multigenerational vision.

A lot of people misinterpret the word 'governance'. And a lot of people claim to be governance advisors in the broadest sense. However, they are often drawn back to giving advice on the legal and tax aspects of the asset structuring, focusing on the legal ownership of the assets, tax reporting et cetera. Yes, that is all central to legal governance but the governance I am talking about here involves a careful analysis of the *human and intellectual capital of the family*; looking at the interpersonal relationships, understanding the vision of the patriarch or matriarch and how the rest of the family relate to that vision. Governance is about finding consensus within the family, identifying those aspects of the succession plan where there is a lack of consensus or clarity and determining how to ensure that the family become productive stewards of the wealth and the family's legacy such that it can support and be enjoyed by successive generations. It is about creating a platform from which the family can evolve and which supports their ambition of becoming a successful legacy family.



It's rather like putting pieces of tracing paper over the family's existing or proposed succession plan and then tracing where there is agreement (and shared vision) and determining where there is a lack of consensus or potential for dispute, or for a breakdown in interpersonal relationships. Therefore, when we look at a succession plan, I think we need to take a much more holistic and comprehensive approach. Many advisors promise a truly dynastic plan and then they take a one-dimensional approach to the advice that they give with respect to that plan.

Andrew Law: I think we all agree that in the world that we live in today, parents, grandparents are much more likely to be proactive with their children regarding the family wealth. Gone are the days when it was sort of all hidden and no one else knew about it. Families have realized that if they don't educate children to value the philosophy of the family, value where the money came from, value why we still have that privately-owned business and why we didn't take it public, value all of these things that are going on, then obviously it's to be expected that, one, children might become quite surprised when they learn these facts, and two, they might even go off and do something which is perhaps not the culture of the family that they come from.

And so we find that today people are much more proactive. Most believe that it's a good idea to have your children working in some aspect of the family business. That could be the family office or in some parts of the business itself, but generally people that are much more proactive. And so they also start much earlier educating and involving their children. This is a deeply human affair as every family is different.



There are also moments and periods when you can address issues and moments when you can't address issues. The Bahamas has quite a good history of dealing with wealthy people and as a result of that, I think that the practitioners in The Bahamas, they know when is the right moment to address a complicated topic or whether it's a good idea to bring in a specialist advisor on that complicated topic. I would say that the culture of the Bahamas' financial services industry actually lends itself quite well to this.

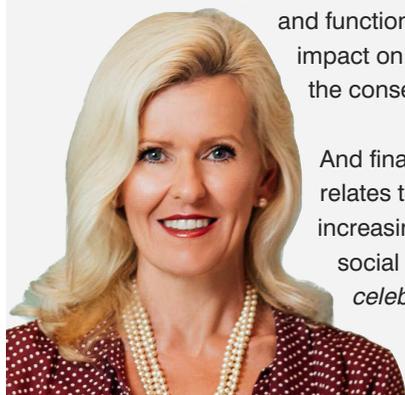
Katie Booth: I really like Andrew's comment about a 'family culture', and let me explore this a little bit. Culture is very important when it comes to freedom of testamentary disposition. The Bahamas is a common law jurisdiction with an Anglo-Saxon approach to succession planning which means that culturally those of us that live, work and practice in The Bahamas understand freedom of testamentary disposition. I would argue that it's very difficult as advisors to talk about succession planning and a multi-generational dynastic vision if you come from a jurisdiction which doesn't have that culture and that background from a legal and succession perspective.

So, I think we are all well-placed to understand the needs of these families purely from a cultural perspective. In particular, we recognize that with the right to freedom of testamentary disposition comes an enormous responsibility because we are not subject to forced heirship in The Bahamas (which dictates what our children and our relatives will receive from our estate).

If you die without a will, then you are intestate, and there is legislation that supports the distribution of the estate in the event of intestacy. However when it comes to proactive succession planning, the freedom to choose how and to whom your estate is left and on what terms is a great responsibility.

The way in which you provide for your heirs can determine the entire future of your family, it can change the nature of how siblings treat one another, it affects people's personal identity, how they value themselves and thus there is a resulting 'psychological' as well as 'financial' legacy.

The family may associate themselves very closely with the estate. Take for example, the Adi Dassler family. The Adidas sports brand is a good example of how family members associate themselves with a business and its branding, particularly where the brand is closely associated with the name of the family. The business, the specific industry in which the business operates and the future of the business will change over successive generations, but the legacy is still there. Rothschild is another fascinating example of how a banking dynasty has succeeded over multiple generations and across numerous different jurisdictions. It is a clear example of how the family are closely associated with the brand. Even members of the family who have nothing to do with any of the Rothschild financial services businesses still feel closely connected to the brand. As advisors, we shouldn't underestimate the psychology around the succession of wealth. Those of us that practice in the field of private wealth (in whatever capacity) should be conscious of the responsibility that comes with the advice and functions that we perform for these families. The consequences of such advice can have a real impact on the family. Just look at some of the litigation that has emerged in the field of family trusts and the consequences the planning has had on the interpersonal relationships of beneficiaries.



And finally on the topic of a family's 'culture and values', another very interesting trend I am seeing relates to the use of **social media** and the fact that what happens inside a wealthy family is increasingly thrown into the public domain (often unintentionally) as a result of the widespread use of social media. I call it the 'Big Brother' effect whereby *wealthy families have become virtual celebrities purely as a result of their personal success*. This has gone way beyond the old days of the paparazzi, where there was usually sufficient time to seek an injunction to prevent

the publication of unwanted press coverage. We are fascinated by the Kardashians, by wealth and what wealth and success does to people. The public are 'voyeurs', they are interested in how wealthy people live, and with the growth of social media, beneficiaries and family members are now much more exposed than they used to be.

So once again, as advisors, we need to take this into consideration. We should think holistically about what these families are facing, their **reputation management**, how they view the family business, what they view as their legacy and how they wish to achieve it. *Do they have a sense of entitlement or do they feel as though they are the 'stewards' and 'caretakers' of the family's wealth, Do they feel empowered or burdened by it?* How do we help them bridge the gap between being purely beneficiaries of the wealth and seeing it as a platform from which to grow and evolve as individuals.....to be productive contributors to the family legacy.....

Andrew Law: And deal with their spouses.

Katie Booth: Yes, which is another huge subject but I need to pass over the microphone!!!

Matthias Knab Katie, you mentioned earlier the holistic level of governance within family offices AND that this so important, you talked about having a family constitution, a legacy and a truly dynastic vision, but these things obviously don't come off the shelf, right? Can you share with us more details about the process how this is achieved?

Katie Booth: I can point to a number of things but let me start out by saying that I see this as a great opportunity for the Bahamas to attract more people who are **leaders in the field of governance**. I am expanding upon this as part of my own core practice area and it's something I'm clearly very passionate about. But I think we need more people giving advice in this arena in our respective businesses, whether it's in legal practice or family office advisory, even the regulators can all be alert to these issues. You are right, it's not something we can sell off the shelf and there is certainly no 'one size fits all' when it comes to governance planning. Advice on governance is not something that you can commoditize, that you can write a two-page brochure on.

I say to families that the governance process and the resulting succession plan is a journey and often involves an orchestra of advisors. My role is to populate that orchestra, to facilitate the dialog, to document the wishes and the vision of the family and then to bolster the succession plan with any other specific advice that is required so that it becomes a living vehicle, a dynamic 'mission statement' that evolves with successive generations.

I see myself as the 'conductor of the orchestra'. I think The Bahamas has a number of advisory firms here that can populate that orchestra. I think that there are some very interesting experienced people here who can lend their experience to this exercise. As I said before, it's not a commoditized product, it's not something we can legislate for. I don't think the BFSB will be doing tours around the globe focused exclusively on how The Bahamas sets itself up as a center for advice on governance. But I have raised the issue because I think



we all need to be aware of it. It is one of those elements in our financial services repertoire that I think we can explore and enhance and talk about.

Christina Rolle: I agree with Katie that family governance is not a topic which is appropriately covered within a regulatory scope. It's quite different from corporate governance wherein you have a regulator setting standards and rules for how a corporation should act with respect to its oversight.

In this scope of family governance, you should first have a family sitting with a team, and it's more than likely a team of various professional advisors, getting to understand who they are as a family, what it is that they stand for and most importantly, what it is that they want their legacy to be as a family.

When they start to understand what their core values are and they start to document that, then they must start to implement structures that will enable that legacy and their values to show through and for their legacy to continue. I agree that The Bahamas has a big advantage when it comes to services on this level. This is a new and growing area and it is very bespoke.



Personally, I happen to have a background in private wealth management and trusts, and what I can say having worked in another jurisdiction is that The Bahamas truly has very experienced professionals in this space. And not only are they experienced, but also experienced in the right fields that enables them to manage complex structures that makes us quite unique in the world. Having this history in managing complex structures and complex families, we understand some of the pitfalls that happen with wastrel beneficiaries and other issues that can happen in families, including divorces, rogue spouses and other issues. We understand these issues very well. And so when a family is sitting down to start to understand itself and to understand its values, The Bahamas has many professionals who can contribute to that in a very meaningful way.

Kevin Burrows: Just adding a bit to our discussion around legacy and family governance, the family office of the Adi Dassler family is actually one of three initiatives that the family has in place. Apart from the family office, the family has established an explicit, dedicated legacy component to what they are doing, creating an archive where amongst other things they have interviewed people who knew Adi Dassler intimately. There is also a Hollywood movie in the works - as some of you know, there is a fascinating story about him and his brother and their 'big split' which resulted in the creation of the Adidas and Puma brands, and how it split the German town of Herzogenaurach where they were born right down the middle. The plot of course has all the ingredients of a good movie – there is a lot of intrigue, there's World War II and the Nazis, and so on. So there is an explicit legacy aspect to the family and to the family office.

Another initiative in keeping with the legacy of the initial wealth creator is the creation of a sports technology accelerator that incubates and mentors young, up-and-coming entrepreneurs.

Called leAD (which stands for **Legacy of Adi Dassler**), it is led by Adi Dassler's grandsons, Horst and Klaus Bente, and is backed by an exclusive circle of international top investors from different areas that all have a strong foothold in the sports industry. They posed the question that *if their grandfather was still alive, what would he be doing and how would he continue to push the envelope?* Adi Dassler was always the technical guru who created the shoes and the new



technology while his brother was more of the marketing guy. They believe he would be a pioneer in the intersection of sports and technology.

LeAD has recently completed its first program in Berlin, with others to follow in London and the United States. So rather than just focusing their efforts on the family office and wealth management, the calling to keep and extend the legacy of Adi Dassler is well ingrained in them and their families.



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