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## Justin Higgo KC

Year of Silk: 2020 Year of Call: 1995

*"An outstanding, brilliant lawyer - very much a team player. He is extremely collaborative, and not easily intimidated by problems"*

Chambers&Partners

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## Practice Overview

Justin Higgo KC has a broad commercial chancery practice with substantial expertise in litigating and arbitrating domestic and international commercial fraud disputes. His recent practice has involved both large scale long running and high profile proceedings in conjunction with established leaders (Sovcomflot, the BTA Bank litigation, Aeroflot v Berezovsky), and smaller scale proceedings in which he is most often instructed on his own or as the lead barrister. His recent work has included acting for and advising major multinational firms, UK and Jersey companies and a number of individuals in a wide range of legal disputes encompassing international and domestic fraud, jurisdiction disputes, breach of trust (domestic and offshore), shareholder disputes, misuse of confidential information, breach of contract predominantly in the commercial context and in the art world. Justin has considerable offshore experience and has acted in disputes in many offshore jurisdictions, including Jersey, Guernsey and the Cayman Islands, where he has also appeared.

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## Areas of Expertise

### Civil Fraud

Justin has extensive experience in litigating and advising on all aspects of commercial fraud, including the grant and maintenance of pre-emptive remedies. He has acted in numerous international cases involving jurisdictional and foreign law issues. Examples include:

*CCE Limited -v- Corry & Ors* instructed by Peters & Peters in bribery and misappropriation claims against a senior employee of a major multinational corporation alleged to have engaged in a ten year conspiracy with various commercial counterparties

*Aeroflot -v- Forus Group* [2013] EWCA Civ 784 [2013] 2 Lloyds Rep 242 jurisdictional challenge in proceedings to recover misappropriated overflight revenues

*Aeroflot -v- Berezovsky & Ors* [2012] EWHC 3017 (Ch) instructed by Pinsent Masons at first instance and in the Court of Appeal in proceedings to enforce a Russian judgment against the estate of the deceased oligarch

*Bau Panel Systems -v- Broomfield*: instructed by Hamblins LLP in proceedings for breach of fiduciary duty and misuse of confidential information relating to a joint venture in St Lucia

*Picardy Limited -v- Patni*: instructed by Peters & Peters in claims seeking to challenge enforceability of guarantees on grounds of undue influence and breach of fiduciary duty

*Spencer-Churchill -v- Faggionato Fine Art Ltd & Ors* instructed by Mischo de Reya in agency/secret commission claim relating to US\$6m sale of modern art painting by Basquiat

*Secretary of State for Health -v- Anderson* instructed by Finers Stephens Innocent for the former chief executive of the Commercial Directorate within the NHS in breach of fiduciary duty claims

*JTA Bank -v- Ablyazov & Ors*: instructed by Peters & Peters in various substantial proceedings in the Commercial Court alleging breaches of duty against former principal officers of leading Kazakh bank

*Waterway Petroleum -v- Forsby Management* (2012) instructed by Ince & Co in the Commercial Court in claim for delivery of oil in Latvia; application made for freezing injunction under s.44 of the Arbitration Act 1996 in support of ad hoc arbitration (with no convened panel)

*Fiona Trust & Holding Company -v- Privalov & Ors*: [2013] EWCA 275. Instructed by Ince & Co in very substantial

conspiracy, fraud and bribery proceedings arising out of the operations of the Russian state commercial shipping enterprise. Six month trial before Andrew Smith J in Commercial Court [2010] EWHC 3119 (Comm). Reported on various issues relating to remedies, account of profits, interest, costs, use of illegally obtained evidence, non-disclosure, freezing injunctions [2011] EWHC 715 (Comm); [2011] EWHC 664 (Comm); [2008] EWHC 1748 (Comm); [2007] EWHC 1217 (Comm); [2007] EWHC 39 (Comm); [2006] EWHC 758 (Comm).

*Bonsanco Technologies -v- Tsvetkov*: instructed by Peters & Peters in proceedings by Swiss nanotechnology company against former chief executive officer for breach of duty and failure to account.

*Uddington Business Limited -v- Browne & Ors*: instructed by Hamblins defending fraud and conspiracy proceedings brought against directors of property investment company

*Ocean Trawlers -v- Ramus & Ors*: instructed by FFW in \$7m claim against a former employee involved in misappropriating substantial volumes of frozen fish

*Tarpon Engineering -v- Lloyds Bank*: instructed by Peters & Peters in \$3m advanced fee fraud

*Wahr-Hansen -v- Compass*: [2007] CILR 55 substantial proceedings (\$250m +) in the Cayman Islands to recover assets misappropriated from the Estate of a Norwegian national and a charitable trust. Instructed by BAHN, Norway

*Zakharov & Ors -v- White* [2003] EWHC 2463 (Ch): instructed by Peters & Peters in action to recover assets misappropriated in various jurisdictions. Reported on jurisdiction of the High Court to issue bench warrant as a consequence of a failure to comply with a Passport Order

*Trustee of the Estate of Diana Omar -v- Omar & Ors* [2000] BCC 434: instructed by Farrer & Co in long running fraud and tracing claim to recover assets of Egyptian estate (bearer shares) held as nominee for deceased

*Dooley -v- the Law Society*: instructed by Farrer & Co in intervention in a solicitors practice as a consequence of alleged involvement in Bank Instrument fraud

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## Commercial Litigation

Commercial litigation and dispute resolution forms a substantial part of Justin's practice. He regularly appears in the Commercial Court. His recent practice includes various of the BTA Bank claims and continued involvement in the Fiona Trust litigation:

*CCE Limited -v- Corry & Ors* instructed by Peters & Peters in substantial bribery/breach of fiduciary duty claims against a senior employee of a major multinational corporation alleged to have engaged in a ten year conspiracy with various commercial counterparties

*JTA Bank -v- Ablyazov & Ors*: instructed by Peters & Peters in various substantial proceedings in the Commercial Court alleging breaches of duty against former principal officers of leading Kazakh bank

*Waterway Petroleum -v- Forsby Management* (2012) instructed by Ince & Co in the Commercial Court in claim for delivery of oil in Latvia; application made for freezing injunction under s.44 of the Arbitration Act 1996 in support of ad hoc arbitration (with no convened panel)

*Fiona Trust & Holding Company -v- Privalov & Ors*: [2013] EWCA 275. Instructed by Ince & Co in very substantial conspiracy, fraud and bribery proceedings arising out of the operations of the Russian state commercial shipping enterprise. Six month trial before Andrew Smith J in Commercial Court [2010] EWHC 3119 (Comm). Reported on various issues relating to remedies, account of profits, interest, costs, use of illegally obtained evidence, non-

disclosure, freezing injunctions [2011] EWHC 715 (Comm); [2011] EWHC 664 (Comm); [2008] EWHC 1748 (Comm); [2007] EWHC 1217 (Comm); [2007] EWHC 39 (Comm); [2006] EWHC 758 (Comm).

*Lintec Trading & Ors -v- Caden Limited & Ors*: instructed by Ince & Co in proceedings arising out of the separation of two shipping businesses

*Bank of St Petersburg & Or -v- Arkhangelsky & Ors* instructed by Baker & McKenzie in proceedings to recover under bank guarantees alleged to be forgeries. Reported at [2013] EWHC 3674(Ch) and [2013] EWHC 3259 (Ch) on application of section 2(2) of the Foreign Limitation Periods Act 1984

*“India Steamship” -v- Trafigura Maritime Ventures & Ors* instructed by Ince & Co for French Bank issuer of L/C in respect of cargo of oil expropriated from Southern Sudan by Northern Sudan

*Aylwen -v- Taylor Joynson Garret* [2002] PNLR 1 instructed by Barlow Lyde & Gilbert in proceedings for professional negligence against solicitors; reported on date for assessment of damages

*Lulu-Briggs -v- Moni-Pulo*: instructed by Olswangs in proceedings under s.25 of the CJA to appoint a receiver over the London accounts of a Nigerian oil company ancillary to substantive fraud, duress and company law proceedings in Nigeria

*Interros Oil -v- Kantupan*: interim injunctions to prevent transfer of shares in Russian oil company in breach of pre-emption provisions in shareholders’ agreement (Lord Neill KC and Justin Higgs)

*Chisholm -v-The Football Association Premier League*: breach of contract, contractual certainty.

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## Arbitration

Justin is regularly involved in arbitration proceedings and in Court applications related to arbitration proceedings. Recent cases include:

*Aeroflot -v- Forus Group* [2013] EWCA Civ 784 [2013] 2 Lloyds Rep 242 application of the correct legal tests under s.9 of the Arbitration Act 1996 in context of arbitration agreements in contracts governed by Swiss law.

*M International -v- K Ltd and DG Ltd* (2013) an ongoing LCIA reference in respect of share sale and management agreements relating to a Zimbabwean Gold Mine

*IM -v- AM* (2013) an ad hoc arbitration arising out of a disputed settlement agreement and raising issues on true interpretation of Heads of Terms

*Waterway Petroleum -v- Forsby Management* (2012) in the Commercial Court: application for freezing injunction under s.44 of the Arbitration Act 1996 in support of ad hoc arbitration (with no convened panel)

*ILCL -v- N & M* (2012) instructed by Peters & Peters in LCIA arbitration to enforce a contract between a BVI service provider and a Russian national

*Fiona Trust & Holding Company -v- Privalov & Ors*: LMAA arbitration clauses culminating in HL decision on kompetenz-kompetenz and scope of arbitrations clauses [2007] UKHL 40

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## Private Client Trusts and Probate

Justin has acted in and advised in relation to many offshore and domestic trust disputes. He regularly advises on traditional chancery disputes, including wills and probate, and cases involving the Court of Protection. Recent major cases include:

*Re the Jack Walker Settlement* instructed by Collas Crill in substantial proceedings for breach of trust in Jersey

*Labrousche -v- Frey & Ors*: instructed by Carter Perry Bailey in substantial proceedings in Chancery Division for breaches of trust arising out of an English Will trust. Acted in CA [2012] EWCA 881; [2012] 1 WLR 3160 on appeal for serious procedural irregularity

*Church Street Trustees Limited -v- Capita Trustees Limited & Ors*: instructed by Bedell Cristin in complex proceedings alleging breaches of a Jersey law trust

*Re Nemni*: instructed by Collas Crill in relation to jurisdiction to make claims against protector of Guernsey law trust

*Wahr-Hansen -v- Compass*: [2007] CILR 55 substantial proceedings (\$250m +) in the Cayman Islands to recover assets misappropriated from the Estate of a Norwegian national and a charitable trust. Instructed by BAHN, Norway

*Re W deceased*: action to set aside will for want of knowledge and approval in circumstances where testatrix altered will to appoint the draftsman both executor and residuary beneficiary

*Re the X Trust*: application for directions by trustee of English trust in relation to the validity of the exercise of a power of appointment and distribution of trust fund in circumstances of alleged forfeiture

*Re Clough Taylor, Coutts & Co -v- Banks & Ors* [2003] WTLR 15: Beddoe application by executor seeking directions on its duty to bring proceedings to recover a misappropriated specifically bequeathed asset

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## Banking and Financial Services

Justin regularly advises on domestic and international banking issues and has acted in a number of disputes, including the BTA bank litigation, relating to banking practice in Russia and former CIS countries. Recent cases include:

*Bank of St Petersburg & Or -v- Arkhangelsky & Ors* instructed by Baker & McKenzie in proceedings to recover under bank guarantees alleged to be forgeries. Reported at [2013] EWHC 3674(Ch) and [2013] EWHC 3259 (Ch) on application of section 2(2) of the Foreign Limitation Periods Act 1984

*"India Steamship" -v- Trafigura Maritime Ventures & Ors* instructed by Ince & Co for French Bank issuer of L/C in respect of cargo of oil expropriated from Southern Sudan by Northern Sudan

*JTA Bank -v- Ablyazov & Ors*: instructed by Peters & Peters in various substantial proceedings in the Commercial Court alleging breaches of duty against former principal officers of leading Kazakh bank

*Re Jindal*: instructed by Fladgate Fielder to advise on payments under a demand guarantee

*Marchmont Limited -v- BFO SA* [2007] EWCA Civ 677 instructed by Watson Farley Williams in account proceedings challenging a bank's entitlement to default interest under a loan. Reported at [2006] EWHC 1990

*Redwood Master Fund -v- TD Bank Europe* [2002] EWHC 2703 (Ch): instructed by White & Case in claim relating to the majority control provision in a syndicated loan facility

*United Overseas Bank -v- Iwuanyanwu* [2001] EWHC: instructed by Watson Farley & Williams. in claim that to recover substantial bank lending

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## Company

Shareholder disputes, claims against company directors and have been a regular feature of Justin's practice and he regularly advises on company law issues.

*Westbrook Dolphin Square Ltd -v- Friends Provident*: instructed by Maples Teasdale on corporate issues relative to proceedings for the collective enfranchisement of Dolphin Square

*Lexi Holdings plc -v- Luqman & Ors*: instructed by DLA Piper with Philip Marshall Q.C. in proceedings by company administrators against the former officers to recover assets which were misappropriated or transferred in breach of the Companies Act

*Re Connaught Engineering*: instructed by Barlow Lyde and Gilbert on dispute arising out of proposed sale of a company

*Cora SA -v- Casino SA*: French arbitral proceedings requiring expert evidence on creation of equitable interest in shares in a private English Company by rights of pre-emption.

*Neptune -v- Fitzgerald ((No.2))* [1995] BCC 1505: conduct of directors meetings

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## Chancery

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## International and Offshore

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## Recommendations

**Chancery: Commercial** Chambers & Partners

**Commercial Dispute Resolution/Commercial Litigation** Chambers & Partners, The Legal 500 and Chambers Global

**Dispute Resolution (Commercial Chancery) and Dispute Resolution (Commercial)** Chambers Global

**Fraud: Civil** Chambers & Partners, The Legal 500, Best Lawyers

**Fraud/Asset Recovery** Legal Experts

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## Quotes

"He is a level-headed, commercially astute barrister." "An outstanding, brilliant lawyer - very much a team player. He is extremely collaborative, and not easily intimidated by problems." **(Chambers & Partners, 2020)**

*"He's proactive, very nice to work with and ready to fight his client's corner."* **(Chambers & Partners, 2020)**

*"He has the impressive power to assimilate masses of material, order it and distil it down to core issues. He's also a great communicator."* **(Chambers & Partners, 2020)**

*"Fabulously bright, hardworking and client friendly – top rate".* **(The Legal 500, 2020)**

*"He is tenacious, gets stuck in and provided fantastic support in a very difficult case."* **(The Legal 500, 2020)**

*"Assimilates masses of material and distils it down to core issues." "An extremely intelligent and clear-thinking individual who follows his instincts."* **(Chambers Global, 2019)**

*"Has a very good ability to simplify and distil the important stuff. He gets right down to the answer in a very good, straightforward, direct manner. Added to this, he is good at handling solicitors and his drafting is top-notch."* **(Chambers Global, 2019)**

*"Has the power to assimilate masses of material and distil things down to the core issues of a case." "He's very personable and very engaging with the clients."* **(Chambers & Partners 2019)**

*"Very responsive and can really be relied upon to provide pragmatic and sensible commercial advice." "He's a good man, who rolls his sleeves up and is user-friendly."* **(Chambers & Partners 2019)**

*"A safe pair of hands, you can feel confident when he is on your team."* **(The Legal 500 2019)**

*"Rolls his sleeves up and is a great team player."* **(The Legal 500 2019)**

*Very responsive and can really be relied upon to provide pragmatic and sensible commercial advice." "He's a good man, who rolls his sleeves up and is user-friendly" "Has the power to assimilate masses of material and distil things down to the core issues of a case". "He's very personable and engaging with the clients." "Extremely intelligent and clear-thinking individual who follows his instincts." "Great communicator."* **(Chambers & Partners 2018)**

*"An excellent all-round practitioner and a pleasure to know." "Demonstrates exactly the calm confidence you want from an experienced senior junior."* **(The Legal 500 2017)**

*"Has the power to assimilate masses of material and distil things down to the core issues of a case." "He's very personable and very engaging with the clients." "Very responsive and can really be relied upon to provide pragmatic and sensible commercial advice." "He's a good man, who rolls his sleeves up and is user-friendly."* **(Chambers Global 2018)**

*"Excellent" "A really feisty advocate."* **(The Legal 500 2016)**

*"He is confident and can pick out points that are going to win cases." "He has an excellent client manner and provides clear and unambiguous advice." "Extremely bright, he instinctively knows when to aggressively take the fight to the other side." "He has an impressive reputation."* **(Chambers & Partners 2017)**

*He is bright and easy to deal with. He is a quality operator."* **(Chambers & Partners 2016)**

*"A wonderful man to instruct. He is intelligent, charming and a total team player." "Incredibly smart and a wonderful team player with a great sense of humour."* **(Chambers & Partners 2016)**

*"Has encyclopaedic knowledge of the law, is impressive in front of clients and is particularly good at advising on fraud issues."* **(Chambers & Partners 2016)**

*"Very practical and positive and fun."* **(The Legal 500 2015)**

*"User-friendly and a good man in a scrap."* **(The Legal 500 2015)**

*"widely respected"* **(Chambers & Partners 2015)**

*"He is very bright, a real team player and a good thinker." "He is robust in court and doesn't throw punches."* **(Chambers & Partners 2015)**

*"Extraordinarily focused and talented, as well as great fun to work with." "He's scarily clever."* **(Chambers & Partners 2015)**

*"He has noteworthy technical knowledge and a good grasp of the relevant areas of law."* **(Chambers & Partners 2015)**

*"An impressive advocate, who is very hardworking and always liked by clients."* **(The Legal 500 2014)**

*"You can trust him to meet tight deadlines and provide incredibly skilfully drafted pleadings."* **(The Legal 500 2014)**

*"He is extremely bright and instinctively knows when to aggressively take the fight to the other side"* **(Chambers & Partners 2014)**

*"An excellent man to have on your side in battle. He's extremely hard-working and very user-friendly."* **(Chambers & Partners 2014)**

*"Very good indeed"* **(Chambers & Partners 2014)**

*"his advocacy is second to none, ..he will battle to get a judge to change their mind"* **(Chambers & Partners 2013)**

*"First class"* **(The Legal 500 2013)**

*"one of the hardest-working juniors at the Chancery Bar," according to one source, and "incredibly enthusiastic and a dream to work with," according to another. He has spent much of the last year litigating high-value disputes with breach of duty and civil fraud aspects to them. Another with an impressive pedigree in fraud"* **(Chambers & Partners 2012)**

*"one to have on your side," as he produces "expertly written and powerful, effective arguments."* **(Chambers & Partners 2012)**

*'a charming and robust advocate'* **(The Legal 500 2012)**

## **In the Press**

*Sir Owen Glenn KNZM ONZM and Kea Investments Limited v Eric Watson, Novatrust Limited and others [2018] EWHC 2016 (Ch), The Barrister, 5 October*

*Glenn v Watson Trust Dispute, STEP Journal, 2nd August 2018*

*Property Investor Gets OK To Drop £129m Deal in Fraud Case, Law 360, 1st August 2018*

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## **Education & Qualifications**

BA (First Class) Christ Church, Oxford

Dip Law, City University, London

## **Memberships**

Chancery Bar Association

Commercial Bar Association

Commercial Fraud Lawyers Association

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