

# Fraud, Asset Recovery & Enforcement

The economic downturn caused by the pandemic and the large-scale business disruption being exploited by fraudsters has led to many economic forecasters predicting a large increase in the incidence of fraud. The consequences of this surge could be felt for the next decade.

Fraud does not discriminate. It can be simple or complex. It can be a one-off event or a systematic programme spanning years. It does not respect geographical boundaries, it can be perpetrated by an individual or by a group of conspirators, and it can be as damaging to reputation as it can to a company's asset base or an individual's personal property.

Combatting fraud requires a team that is both specialist in its expertise and diverse in its experience. Our international team has extensive experience at all levels in jurisdictions worldwide; and a depth and breadth of expertise across various legal disciplines including insolvency and restructuring, trusts, funds and offshore structures, and banking and financial services.

Victims of fraud want to find out what happened and to repair the damage caused as quickly as possible. We recognise, however, that each case is different and what "success" ultimately looks like can be multi-faceted and will depend on your strategic and business goals.

Fraud cases almost invariably involve applications for urgent interim relief as the first step in the recovery process. From asset disclosure orders and freezing and other injunctions through to more draconian intervention measures such as search and seizure orders and the appointment of receivers or provisional liquidators, we are equally adept at seeking or challenging them on your behalf. We can also advise you on internal risk management policies and procedures to adopt to help protect against the occurrence and/or impact of dishonest business practices.

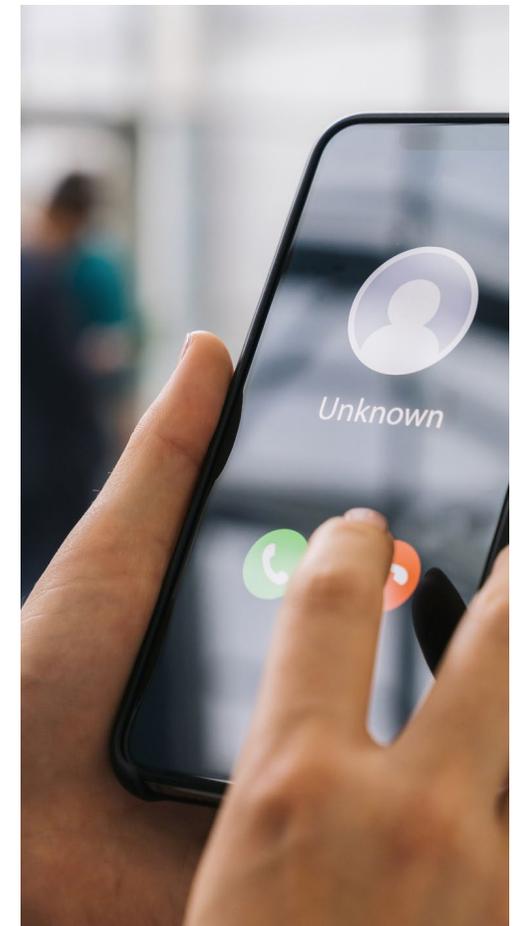
We have a proven track record in cross-border tracing and recovery of assets - particularly into and out of complex global financial structures and trust arrangements. Calling upon our lawyers based in the UK, Europe, the Middle East and Hong Kong (a number of whom are Caribbean-admitted), we can assemble and deploy specialised international teams at very short notice.

For jurisdictions in which we do not practise, we work with personally known or peer-recommended local lawyers and law firms

selected according to the requirements of your matter and, wherever possible, your preference. We also have long-standing relationships with law firms in all major jurisdictions through our membership of the Association of European Lawyers (AEL) and ALFA International.

In addition to legal expertise, cross-border asset-tracing and recovery requires a complementary range of financial, technical and other professional expertise, such as forensic accounting and IT. For this, we have an established global network of experts and advisers to draw upon. We also have our own customised e-document review platform established and operated in collaboration with a leading specialist in this field.

By tailoring our internal and external resources to fit the bespoke requirements of any given case, we are able to provide a seamless service in and across many of the key onshore and offshore legal and financial centres around the world.



# Strategy

Whatever your objectives, we will help you to realise them by understanding and implementing your priorities, utilising our experience and leveraging our resources. The core objective is always to identify and shut down the mechanics of the fraud and to ensure the successful location, preservation and recovery of misappropriated assets.



## Location and Preservation

Locating and preserving assets before they are transferred beyond reach and recovery is critical. Whether you are seeking a proprietary remedy or compensatory damages, you need adequate assurance that any eventual judgment you obtain will be worth enforcing. Swiftly locating and preserving assets at an early stage can make the difference between litigating on the back foot or controlling the agenda.

Locating and preserving evidence is just as important, whether at the investigation stage or in the course of proceedings. In the right circumstances, we can also use domestic and/or international insolvency procedures to obtain critical evidence, often leading to better recoveries.



## Asserting Priority

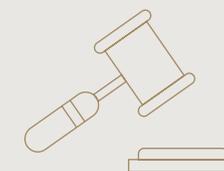
Where the company or individual holding your assets is insolvent, you need to ensure that your claim to an asset is recognised and accepted prior to any realisation and distribution of proceeds.

Our excellent relationships with leading Insolvency Practitioners and forensic investigation partners will help us engage with them constructively and productively from the outset in order to streamline issues, minimise conflict and achieve a successful outcome for you.



## Unique property

We recognise that each of the foregoing tasks - locating, preserving and establishing priority to a misappropriated asset, becomes a much greater imperative where the asset is unique in terms of its artistic, historic and/or sentimental value. For such irreplaceable assets, damages would clearly not be an adequate remedy.



## Criminal Law

Although criminal convictions do not automatically result in compensation for victims of fraud, the scope and powers of the criminal law in certain jurisdictions mean that criminal prosecutors can often provide invaluable investigative assistance and apply an additional level of pressure to fraudsters, which often contribute to a successful resolution of civil claims. For this reason, we have good relationships and often work closely with the prosecuting authorities in such jurisdictions.

## Our relevant experience

### Fraud: Civil



Successfully represented the liquidators of six defendant companies in the SAAD fraud trial, the Cayman Islands' longest ever trial and one of the largest fraud trials ever litigated worldwide (the Ponzi scheme generated approximately USD 330bn), with multi-billions of US dollars in damages claimed.

Pursuing a BVI action in conversion for the unauthorised completion and submission of pre-signed undated share transfer instruments whereby the entire shareholding of a BVI company holding high-value Asian assets was fraudulently transferred to a third party.

Conducting a complicated investigation into a fraud committed against a high profile data centre entrepreneur, including tracing assets purchased with his monies, obtaining freezing injunctions over those monies and representing the individual on large scale and complex Commercial Court proceedings brought by the Serious Fraud Office and related LCIA arbitration proceedings.

Conducting an investigation, jointly with Kroll, into a USD 800 million fraud allegedly committed by a previous board of directors against Kabul bank.

Acting successfully for Gulf Air, state owned airline of Bahrain, in respect of a multi-million dollar fraud perpetrated by former employees in relation to the improper award of an inflight entertainment contract.

Acting for an individual in respect of a worldwide freezing order obtained against him in the DIFC Court arising from allegations of fraud and mismanagement of the UAE's largest healthcare provider.

Instructed by a UK based entrepreneur in connection with a fraud involving competing claims in excess of £1billion. This profoundly complicated and convoluted dispute, which spans 15 years and involves a twice convicted fraudster, claims by the Serious Fraud Office and a corporate and trust structure of over 100 separate companies, has already encompassed freezing injunctions and arbitral proceedings, as well as proceedings before the Commercial and Family courts in London and hearings in the Isle of Man and the British Virgin Islands.

Acting for the liquidators of a company used as a vehicle to defraud HMRC. We successfully obtained a freezing order against several individuals involved in the fraud and went on to obtain summary judgment against two individuals who had directly benefited from the fraud (one of whom has been convicted for breach of trust by the criminal courts in Dubai).

Represented foreign liquidators in Norway's largest bankruptcy. Applied for and obtained the sequestration of bank assets deposited in Switzerland and their subsequent confiscation following conviction of the perpetrators for money laundering.

Supervised a UAE insurers defence, before the local Dubai Courts, of an AED 300 million claim brought by a Dubai-based money exchange against insurers under a Bankers Blanket Bond Policy for losses arising from the fraudulent / dishonest activity of its employees in which the insured may have been complicit.

Obtained, with the assistance of Hong Kong corresponding lawyers, banking information of shell structures having received hidden commissions in the context of the sale of artworks which made it possible to uncover and denounce the existence of a significant fraud of several hundreds of millions of francs. Several properties were seized in Italy, France and the United Kingdom, which secured a significant part of the damage under criminal investigation.

# Our relevant experience

## Preservation of Assets



Successfully secured an offshore freezing injunction under the Chabra jurisdiction (believed to be the first of its kind in that jurisdiction) on behalf of a private individual. The assets of a purportedly ultra-high net worth individual were frozen in support of claims that the individual was allegedly involved in the misappropriation of assets to defraud creditors.

Acted for an individual to establish his ultimate beneficial ownership and control of substantial real estate interests in PRC and elsewhere. These interests were held via a multi-tiered structure of BVI and PRC companies, the legal ownership of which had been transferred to family members as his nominees, pursuant to a 'home-made' written declaration of trust. The nominees subsequently reneged and began to dissipate the assets.

Obtained the criminal seizure of assets in Switzerland of fugitive Lebanese directors of a Swiss gold trading company, which could be realised and allocated to the private claimants in the framework of an agreement negotiated with the authors, in agreement with the Geneva Public Prosecutor's Office.

## Tracing



As part of the defence to the claims advanced in the Cayman Islands case, the team, working with specialists in the fields of forensic accountancy and data analytics, built a bespoke tracing tool, capable of reverse tracing through billions of transactions, across multiple bank accounts, for many different parties, in different jurisdictions, and over a period of two decades. Prior to the invention of this innovative tool, tracing on such a grand scale would be nearly impossible.

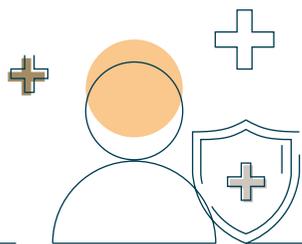
**"One of the top civil fraud outfits"**

LEGAL 500, 2021



## Our relevant experience

### Recovery & Enforcement



Acted for liquidators of a claims company involving circa €90million of creditor claims. The team successfully recovered substantial sums via various claims against multiple respondents.

Acting for the Special Administrator of Advalorem Value Asset Fund Limited (a collective investment scheme in Gibraltar). Advalorem was used as a vehicle to defraud overseas investors who had acquired participating shares in the company. Following a detailed investigation with the Special Administrator, we successfully brought claims against the company's former advisors and obtained a bankruptcy order in Gibraltar against the individual believed to be behind the fraud, who resided in Spain and Scotland.

Acting to recover funds into the insolvent estate of a UK company through recognition in the DIFC Courts of a USD 35 million English Court judgment of conspiracy to defraud for onward enforcement in the local Dubai Courts against a UAE resident under the Enforcement Protocol. The judgment arises from the individual's participation in a Missing Trading Intra Currency ("MTIC") fraudulent scheme perpetrated by various individuals across the UAE, the UK and Curacao.

Advised a UAE Islamic bank on its strategy to re-focus, as well as 9-year long litigation and recovery proceedings in the UAE related to a sophisticated fraudulent scheme. The scheme was implemented by various UAE and foreign entities and individuals against the bank to secure the restructuring of a debt in excess of AED250 million through a series of sale and purchase, option and management agreements.

Acted for a major Middle Eastern bank in a multi-billion dollar insolvency in the region. This has included proceedings in England, subsequent enforcement proceedings in New York and the DIFC, management of recovery proceedings in the UAE, Jordan, Kuwait, Lebanon and Saudi Arabia, and oversight of the bank's creditor claims in ongoing bankruptcy proceedings in KSA.

Represented US individuals who were victims of churning by an independent asset manager with assets deposited with a Swiss bank, causing a loss of several million US dollars. The private assets held by the unscrupulous manager were seized in the Middle East through an independent civil proceeding conducted in parallel with Swiss criminal proceedings, which subsequently led to indemnification of clients by both the Swiss bank as custodian and the independent asset manager.

Acting for a spouse claiming an equal share of high-value matrimonial assets in competing PRC law-governed divorce proceedings brought by one spouse in Canada and by the other in PRC. The matrimonial assets were held via BVI companies owned and/or controlled by one spouse; and the shares in one of the BVI companies had been transferred to a Cayman Islands trust in breach of PRC law. There were also bank accounts in Hong Kong holding and continuing to receive significant cash deposits.

Acted for the BVI liquidators of a PRC-owned shipping company with profitable shipping operations but overwhelmingly greater FFA liabilities. Shipping operations, ships and cash had been hived off to new Singapore entities via conduit BVI companies and then dissolved. As part of the asset recovery process, which ultimately resulted in an acceptable settlement, we obtained interim discovery and restraining orders against New York branches of PRC banks, pursued BVI clawback claims which involved restoration of each dissolved conduit company and appointments of liquidators over them, and tracked and arrested a ship when it docked in New Orleans.

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