



FORENSICS & INVESTIGATIONS, RISK & COMPLIANCE PRACTICE GROUP

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THE FIRM

At CM Advocates LLP, we pride ourselves on being able to provide our clients with consistently timely, high quality, innovative and commercially relevant legal advice. Since technical know-how is not adequate, we constantly seek to build excellent working relationships with our clients and clearly understand their businesses and the realities and imperatives they face. Our strategy is to build teams that are specific to our clients' needs and also combine specialist legal skills, industry experience and practical know-how.

Our focus is getting to the core of our clients' legal needs, creating and adding value to them; by delivering timely, innovative and commercially-sound advice and legal solutions. We have set up robust systems to ensure consistently high quality out-put in every assignment we undertake and we are uncompromising in our quality control. Moreover, we always seek to protect our clients' interests, mitigate their risks and create superior outcomes for them.

Our achievements for clients are made possible by our professional team of technically and commercially brilliant lawyers led by our Managing Partner at the fore front of every transaction, who are singularly focused on their clients' success. In other words, our pride is to make you succeed in your business or project.

We have a culture of professionalism, team work and respect, where talented professionals with different views, experiences and backgrounds can thrive. To remain on the cutting edge, we put extra emphasis on continuous learning, knowledge sharing and peer reviews. This has enabled the Firm to carve a niche for itself in the existing as well as new and emerging branches of law. The Firm's local and international clientele cuts across various sectors of our economy like financial services, real estate development, manufacturing, telecommunication, agribusiness, tourism and hospitality, energy and mining.

OUR PRACTICE AREAS

1. Anti-Bribery & Anti-Corruption
2. Asset Tracing & Recovery
3. Aviation Law
4. Capital Markets
5. Charities and Not-for-Profit Organizations (NPOs)
6. Commercial/Business Law
7. Construction & Infrastructure Law Unit
8. Corporate Law
9. Cyber Security, Privacy & Data Protection
10. Debt Recovery, Restructuring & Insolvency
11. Dispute Resolution
12. Employment, Labour Relations and Immigration Law Advisory
13. Energy & Mining
14. Entertainment & Sports Law
15. Family Law, Estate Planning & Probate Administration
- 16. Forensics & Investigations, Risk & Compliance**
17. IP & TMT (Telecommunications, Media & Technology)
18. Lobbyist & Policy Practice
19. Multi-lateral Organizations. Foreign Embassies & Consultants
20. Non-Compete, Non-Solicit & Trade Secret Practices
21. Private Equity & Venture Capitalist
22. Real Estate, Banking & Finance
23. Shipping, Logistics & Admiralty Law
24. Start-ups & Small & Medium Sized Enterprises
25. Tax Law Advisory

FORENSICS & INVESTIGATIONS, RISK & COMPLIANCE

Forensics, Investigations, Risk and Compliance is a multidisciplinary practice area which is organized into two main practice areas: -

1. Forensics and Investigations; and
2. Risks (Anti-bribery, corruption, money laundering and other financial crimes services) and compliance.

Working together with our associated forensic audit and corporate investigation company, our aim at CM Advocates LLP (hereinafter “CM Advocates”) is to combine our respective skills and provide our clients with a world-class integrated legal, compliance, forensic and investigative service.

Our dynamic and multidisciplinary team is solutions focused and provides invaluable support to clients facing high stakes litigation, arbitration and compliance investigations, and parliamentary or regulatory scrutiny or inquiries.

In addition, we pride ourselves as being able to help our clients secure and protect their enterprise value by quantifying damages and providing expert testimony in fraud cases, insurance fraud, conflict of interest and breach of trust claims, intellectual property infringement claims, professional malpractice, lost profits, valuations, breach of contract, purchase price disagreements, breach of

warranties claims, malicious civil proceedings, business interruption, environmental claims as well as construction claims.

In relation to forensic investigation, our team is able to employ diverse forensic accounting and investigative skills as well as appropriate technologies and modeling expertise to identify, collate and analyze information and data in order to reconstruct the underlying transaction and resolve complex financial transactions. This culminates in the reports of our findings which, inter alia, reconstruct and offer insights on how the impugned transactions or activities were carried out. Moreover, whenever necessary, we are always able to testify on our findings including testifying in court as expert witnesses.

By integrating our team’s forensic and legal expertise, we help identify and manage the extent of commercial, regulatory and reputation risks in your organization, while preserving legal professional privilege.

CM Advocates and its said partner offers a diverse range of forensic and investigative services. These are grouped into three categories: -

1. Preventative Measures

- Professional design and implementation of fraud risk management strategies;

- Reviewing and structuring of pre-emptive compliance programs;
- Fraud risk assessment of internal policies and structures to identify potential weaknesses in risk management;
- Forensic accounting analysis;
- Drafting appropriate anti-corruption policies, codes of conduct and procedures;
- Conducting anti-corruption and awareness training; and
- Developing and implementing corporate governance best practice.

2. Curative Measures

- Dealing with and advising on employment related forensic issues;
- Conducting independent and privileged internal forensic investigations into suspected wrongdoing;
- Managing corruption exposure by giving recommendations on resolving any wrongdoing, and advising on neutralizing concomitant reputational risks;

- Investigating statutory, regulatory and policy breaches (including KRA, DCI, SASRA, IRA, CBK, EACC, KBRs, Parliamentary Committees, Competition Authority of Kenya (CAK), Assets Recovery Agency, Anti-Counterfeiting Authority, Communication Authority of Kenya (CAK); and
- Litigation support, including expert witness testimony.

3. Regulatory Compliance

- Advising on self-reporting obligations and voluntary disclosure regimes;
- Conducting due diligence into compliance with local and international laws and regulations;
- Conducting risks assessment under the Bribery Act, the Anti-corruption and Economic Crimes Acts and the Proceeds of Crimes and Anti- Money Laundering Act;
- Engaging and dealing with industry regulators; and
- Legislative lobbying services.

OUR ANTI-BRIBERY, CORRUPTION, MONEY LAUNDERING & OTHER FINANCIAL CRIMES SERVICES

Regulators around the world, including Kenya, are becoming more aggressive and cooperative in investigating and enforcing anti-bribery and anti-corruption laws and related economic crimes. As the global economy becomes increasingly integrated, investigators, regulators and prosecutors have become more stringent in their enforcement measures. Consequently, apart from being subject to Kenyan anti-bribery and corruption legislation, Kenyan companies and directors (or companies doing business in Kenya) must understand legislation in other jurisdictions. The United States and the United Kingdom have particularly onerous provisions coupled with strong cultures of enforcement and prosecution.

CM Advocates has notable experience and expertise in the field of bribery and corruption including, inter alia, defending allegations of complex fraud, bribery, corruption, money laundering, tax evasion, falsified accounting, insider dealing, abuse of office, extradition proceedings as well as anti-trust and consumer protection related criminal proceedings. Our team regularly advises and consults for corporations and individuals under investigations in such complex and high-profile cases.

The Kenyan Bribery Act 2016, the Anti-Corruption and Economic Crimes Act, 2003 and as well as the Proceeds of Crimes and Anti- Money Laundering Act (Cap 59B) govern the conduct of

companies and individuals in respect of bribery and related corrupt practices such as facilitation payments and improper business or hospitality expenses.

The governing laws have far-reaching effects and the stiffest penalties. For instances, under the Bribery Act, those found guilty of bribery or corruption, inter alia, face unlimited fines, confiscation of any property acquired through such unlawful means and up to 10 years imprisonment for individuals. Moreover, those adjudged guilty of offences under the Act face up to 10 years ban from doing business in the national or county governments. Moreover, convicts are debarred from holding public office or taking up directorship or partnership position in private entities for up to 10 years.

The Bribery Act requires every public and private entity to put in place procedures appropriate to its size, scale and to the nature of its operations, for the prevention of bribery. Moreover, both public and private entities have obligations to report any actual or suspected instances of bribery. Severe penalties – including fines and even terms of imprisonment – can be imposed on individuals and corporations breaching the provisions of the Act or failing to implement robust compliance programs that mitigate such risks.

We regularly act for corporates and individuals

subject to criminal investigations and prosecutions; some of which involve a slew of investigative bodies. We also help corporates and individuals to deal with internal investigations relating to bribery and corruption as well as managing the relationship with enforcement agencies.

Our team is well versed in providing excellent strategic advice, which often results in cases being discontinued or not-guilty verdicts at trial. We also advise on issues relating to drafting and review of anti-corruption and anti-bribery policies, self-reporting, as well as in representing clients in restraint and confiscation proceedings

as well as civil recovery orders by the Assets Recovery Agency. Where applicable, we also help clients negotiate and conclude plea-bargaining agreement with the Office of Director of Public Prosecution.

For corporates who are victims of bribery and corruption, we offer a wide range of services to recover assets, commercial litigation, as well as asset tracing and recovery. We also offer advice on enhancing and remediating corporate compliance programmes to mitigate the risk of further incidents of bribery and corruption within the organisation.