



CORPORATE & WHITE COLLAR INVESTIGATIONS

CDH
INCORPORATED



PRACTICE OVERVIEW

Our Corporate and White Collar Investigations practice brings internationally aligned standard corporate investigations advisory services to Africa, helping to shape this area of the law. We have deep cross-border experience in this field and a strong working knowledge of corporate investigations legislation and regulation in jurisdictions across the continent and globe, including the US and the UK. Our skills are popular with clients on a range of matters that often stem from single jurisdictions, and flow across multiple jurisdictions.

Where necessary, the firm is also able to source additional resources to provide the depth necessary for large-scale investigations. Our team's longevity of service and work, stretching back more than two decades, is a significant commercial advantage for clients. In this field in particular, the ability to access senior, highly experienced practitioners who can advise on a strategic level can make all the difference in reaching a successful outcome.

We offer a time- and cost-efficient approach to managing adverse attention from a regulator. We help preserve market reputation and shareholder confidence, maintain internal stability and contain media scrutiny.

OUR PROFILE

We are proud to offer a team of exceptional professionals who execute every engagement with quality, integrity, professionalism, excellence, impartiality and independence. Our multidisciplinary team, which includes legal and forensic practitioners, accountants, former law enforcement agents and digital professionals, is purposefully constituted and includes holders of the global Certified Fraud Examiner (CFE) and the South African Forensic Practitioner FP (SA) designations.

Our team members have experience in conducting high profile and complex investigations both in the private and public sectors, and have testified in disciplinary enquiries, arbitrations and courts.

By combining our team's expertise, we help identify and manage financial, regulatory and reputational risks facing our clients while maintaining legal professional privilege.

The Corporate and White Collar Investigations team is supported by our Employment, Litigation and Dispute Resolution practices. These complementary legal services are engaged seamlessly when there is need to institute disciplinary action or litigation to recover money or property lost through fraudulent activities.

We provide the assurance that

- We have a deep understanding of legal privilege and effectively advise our clients on all aspects relating to privilege. Our reports are protected by legal privilege.
- Our services are provided by experienced specialists who are admitted legal practitioners, certified forensic experts, former law enforcement agents, digital specialists and accountants.
- We benchmark our services against international best practice and tailor our them to suit local legislative requirements and organisational policy standards.

OUR SERVICES

1. Investigations



Corporate and white collar

We offer a tailored service based on our expertise in fraud, regulatory investigations and reporting, and government relations. We undertake high-profile forensic investigations and high-value criminal defence work for a range of individuals and corporations, advising on all criminal and corporate fraud matters – from corruption and cartel cases to regulatory issues, crisis management and risk gap analysis. In an area of law that is increasingly characterised by cross-border elements, our team offers unique global capabilities.

We provide innovative, commercial and cost-effective solutions for our clients through efficiency in investigations, achieving civil recovery resolutions and avoiding criminal prosecutions.



Forensics

We have extensive experience in conducting high-value, complex forensic investigations for both public and private sector clients. We include forensic accounting and auditing services as part of our investigation service offering.

The investigations we carry out aim for resolution of the wrongdoing, while identifying the perpetrators and ensuring that all evidence that is collected is admissible in a court of law.

We uphold regulatory and policy standards, ensuring that our clients receive the best in quality deliverables, while maintaining objectivity and integrity during the process.



Employment and workplace

CDH is a market leader in South Africa in the employment and workplace investigations field. We have handled a significant volume of matters involving employees at the highest levels. Our ground-breaking approach to matters in this field has won strong praise from clients and brought a steady stream of repeat business for the firm in this area.

We are equipped to assist employers protect their company, shareholders and employees by conducting full spectrum workplace investigations and fact-finding exercises with the appropriate tools and resources.



1. Investigations



Tax fraud

Tax & Exchange Control is a highly regulated area, carefully monitored and strictly enforced by the authorities. In this environment, planning, implementing and reporting on significant business transactions is best undertaken with a clear understanding of the tax consequences and under the protection of legal professional privilege.



Competition

We support our Competition practice and clients in competition investigations. The services our team provides include:

- Analysis of documents
- Due diligence procedures
- Procedures and training for dawn raids



Data breaches

Through media coverage and publicity, breaches of confidential information can result in financial losses, legal liability and damage to a person's reputation.

Our team of experts understands the importance of beginning investigations as soon as possible in order to limit access to leaked information and respond to potential threats.

Our objective is to clarify the circumstances surrounding the breach, evaluate the damage it caused, and devise a strategy based on the findings of the investigation.



Ethics

Ethics investigations can be complex and pose significant reputational and business risks. We have extensive experience conducting ethics investigations involving senior directors, officers and management of global institutions. These investigations have involved highly sensitive issues, including insider trading and the sharing of confidential information, white collar offences, secret profiteering, inappropriate behaviour, misconduct and mismanagement. We provide advisory services to proactively manage the risk of ethical breaches.

"I rate the team's ability to handle complex and sophisticated matters very highly. Their responsiveness and legal acumen are just a couple of the reasons why I hold them in such high regard."

1. Investigations



Digital

Digital forensics and forensic data analytics services

We are equipped to perform data identification, extraction and analysis services as required. Our team includes digital forensic investigators who have vast experience in locating and detecting fraudulent activities conducted on digital devices.

We use current technology and tools to detect the occurrence of events in electronic devices, irrespective of the complexity in the concealment of the fraudulent activities that took place on the devices.



eDiscovery

eDiscovery is a type of digital investigation that aims to establish information that might be relevant to a legal dispute or criminal investigation in email communications and other data on work devices.

Data from email accounts, instant messages, social media profiles, online documents, databases, internal applications, digital images, website content and any other electronic information that could be used in civil and criminal litigation could be included in the evidence from eDiscovery.

Our team of specialists has experience in digital analysis and eDiscovery, and we use the latest software tools to give our clients automated solutions that incorporate artificial intelligence.



2. Business intelligence



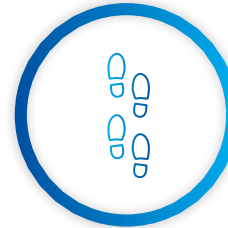
Forensic due diligence

We provide in-depth investigation of specialised actions to manage the risk of potential future loss by authenticating and analysing pertinent information and practices before an organisation implements them.

This helps to distinguish future potential dangers due to improper or untrustworthy business exercises and incorporates any dangers that are financial in nature as well as reputational and other non-money related risks.

Our services include:

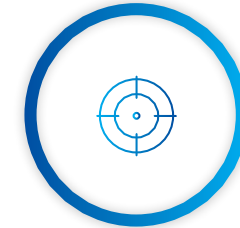
- Identifying potential and existing corruption, reputational and business risks
- Verifications of reputation and integrity for both individuals and businesses
- Pre- and post-transactional analysis for the purpose of managing fraud risk
- Background searches and checking



Lifestyle audits

Lifestyle audits are an excellent tool for identifying potential conflicts of interest caused by employees doing business with customers or suppliers. Through our customised lifestyle audit processes, which may identify trends of material concern, we can assist our clients in protecting their company's assets and reputation.

Our lifestyle auditing procedures include the analyses of assets versus liabilities, income versus expenditure, and declared information versus information from public platforms and databases.



Asset tracing and recovery

Asset tracing and recovery is a service that is in demand as a result of the expansion of e-commerce, the growth of local and international trade, and the demands on economic activities.

Asset tracing is highly specialised work that requires legal and financial specialists to unravel webs of transactions and determine the transactions' initial and ultimate destinations.

To ensure the secure recovery of a client's assets, we offer specialised advice and adhere to the proper legislative procedures.

"Their attention to detail and ability to think critically allows them to provide effective solutions in even the most challenging situations."

3. Disciplinary processes and litigation support



We are supported by our industry-recognised Employment and Dispute Resolution practices. At the end of our forensic investigations and at the client's instruction, we are able to provide our clients with advice on how to proceed during disciplinary and litigation processes. We act as witnesses as required in these proceedings.

4. Law enforcement and regulatory agency liaison



We understand the importance of having external relationships with law enforcement and regulatory agencies as this can strengthen our clients' cases.

If a client needs to register a case with the South African Police Service (SAPS) once we have completed our investigation, we can provide the SAPS with the forensic investigation report in order to aid its processes.

Our team of specialists also liaises with the Information Regulator in cases of data breaches and non-compliance with the Protection of Personal Information Act 4 of 2013.

"Cliffe Dekker Hofmeyr's promptness in addressing any enquiries or concerns is truly commendable."

5. Advisory



Fraud risk management

CDH has experience identifying and understanding the nature of potential incidents and events that could influence the achievement of an organisation's core objectives and goals, and we have the appropriate measures to address the threats posed by such potential fraud incidents within organisations.

Our team of experts has experience in financial risk management and the identification of risks such as money laundering, terrorist financing, tax evasion and other financial crime risks.

We are qualified and experienced to deliver tailored services to our clients, including:

- Anti-fraud strategies
- Fraud awareness campaigns and training
- Fraud prevention and response plans
- Fraud incident standard operation procedures (SOPs)



Anti-bribery and anti-corruption

Many people only consider bribery and corruption to be acts of misconduct committed by government officials and other members of the public sector. Bribery and corruption, though, are pervasive in both the public and private sectors, and can have serious repercussions for any organisation, public or private.

The services we provide include:

- Establishing any connections between officials/employees and stakeholders that could be used illicitly
- Tracking and tracing illicit capital flows into and out of an organisation
- Liaison and relationship management between relevant stakeholders in legal proceedings should corrupt activities be discovered
- Providing anti-bribery and anti-corruption training

Our team of specialists handles national and cross-border anti-bribery and corruption regulatory investigations for clients, and if these investigations lead to prosecution, we defend companies and individuals, offering legal advice and representation at all stages of proceedings, including court appearances. Our team also works with clients to ensure compliance with the US Foreign Corrupt Practices Act and the UK Bribery Act, as well as with the various local laws and regulations where they operate.



Anti-money laundering

We specialise in anti-money laundering (AML) investigations and the implementation of risk-mitigating procedures, and we help our clients ensure compliance with the requirements of AML legislation. Money laundering allegations can involve numerous countries, multiple legal jurisdictions and various business sectors. We tailor-make AML risk management strategies for our clients, including:

- Programme designs
- Compliance assessments
- Legal risk reviews
- AML/Know Your Customer training

5. Advisory



Sanctions

We advise financial institutions, multinational entities and organisations that have global expansion plans to understand sanction regimes and provide the following tailored services:

- Evaluating risks
- Drafting policy documents
- Creating compliance procedures
- Defending sanction enforcement actions



Corporate governance compliance

A foundational quality of a healthy business is good corporate governance as it demonstrates the organisation's internal operations and behaviour to the market as a whole.

We evaluate corporate governance compliance and determine potential areas for improvement in an operational context.

Our track record and reputation in the field of corporate governance consulting are based on providing customised, focused and efficient solutions. We also have experience helping clients put our recommendations into action.

6. Training and development



We conduct training workshops and develop policy and procedure material for all of our service areas. Our clients receive ongoing support to ensure compliance with legislative and regulatory requirements.

OUR EXPERIENCE

Select confidential matters

- We conducted a highly sensitive investigation into potential collusion between employees of a client (a regulatory body) and an entity subject to regulatory oversight by the client. The scope of work included a review of compliance with numerous legislative provisions applicable within the particular industry. The procedures we performed during the course of this investigation included a detailed review of relevant documentation, a detailed consideration of the regulatory and governance framework applicable to the matter, and an analysis of compliance with the relevant regulatory procedures and interviews.
- Our team completed an investigation into the conduct of a mining client's chief financial officer (CFO) to determine whether he was involved in any fraud, collusion or illegal activity of any kind in the negotiation and conclusion of several agreements that he had entered into on the client's behalf. We conducted numerous background searches on the relevant individuals and entities, reviewed relevant documentation, did a detailed computer analysis of the CFO's work electronic devices, and conducted interviews.
- CDH investigated the veracity of numerous allegations made against employees in a particular department of a client in the aviation industry. A substantial number of allegations were made against one particular employee. These allegations were received anonymously through the client's whistle-blowing hotline. The procedures we performed during the course of the investigation included conducting background checks on the relevant employees, a detailed review of documentation, a review and analysis of the client's security access logs, a detailed computer analysis of the work and electronic devices of the employee against whom most of the allegations were made, and interviews.
- We conducted an investigation into allegations of procurement irregularities committed by a senior employee of a multinational company in the telecommunications sector. Our work involved a review of data, interviews, analysing evidence and preparing a report on the findings.
- CDH investigated the circumstances around the approval of funding by a development finance institution (DFI) involving a major transaction. This entailed reviewing all relevant legislation, regulations and international guidelines; reviewing the DFI's policies and procedures around the funding of politically exposed persons and its investment criteria, norms and processes; and preparing a written report on the findings and recommendations to the DFI.
- Our team conducted an investigation into fraud perpetrated by two consultants of a large South African distributor. This matter included a detailed financial analysis to determine overstatements of sales figures as well as comparing commissions claimed and paid against what should have been claimed and paid.
- We completed an investigation into mismanagement and dishonesty perpetrated by the executive management team of an entity involved in the aviation industry. This matter included a detailed financial analysis of the entity's financial records to determine the use of funds and to identify any irregular transactions.
- We conducted an investigation into allegations of professional misconduct and assisted a client with written representations to the South African Institute of Chartered Accountants (SAICA) for an alleged breach of the SAICA Code of Professional Conduct, Assessment of Professional Competence (APC) Examination Regulations, and SAICA by-laws arising from the APC of November 2015.
- Our team investigated allegations of employee misconduct relating to a highly publicised incident of alleged racism contained in 'viral' video footage. The procedures performed during the course of the investigation included conducting interviews, a detailed review of documentation, a review and analysis of security video footage, and preparing a report on the findings.

MARKET RECOGNITION

The way we support and interact with our clients attracts significant external recognition.

Rishaban Moodley is the Practice Head of the Dispute Resolution team and Head of the Gambling & Regulatory Compliance sector. *The Legal 500 EMEA 2016–2023* recommended Rishaban for dispute resolution.

Tim Fletcher is the Chairperson and a Director in our Dispute Resolution team. *Chambers Global 2022–2023* ranked Tim in Band 2 for dispute resolution. *Chambers Global 2019–2021* ranked him in Band 3 for dispute resolution. *The Legal 500 EMEA 2016–2023* recommended him as a leading individual for dispute resolution.

The Legal 500 EMEA 2015–2021 recommended **Eugene Bester** for dispute resolution.

Chris Charter is the Practice Head of the Competition Law team. *Chambers Global 2018–2023* ranked him in Band 1 for competition/antitrust. *The Legal 500 EMEA 2017–2023* recommended Chris as a leading individual for competition. *The Legal 500 EMEA 2012–2016* recommended him for competition. *IFLR1000 2019–2022* recommended him as a highly regarded lawyer. *IFLR1000 2011–2018* recommended Chris as a leading lawyer. *Global Competition Review 2020–2021* named Chris a highly recommended lawyer.

Jackwell Ferris is Head of the Industrials, Trade & Manufacturing sector, and a director in our Dispute Resolution practice. *Chambers Global 2023* ranked him as an up and coming dispute resolution lawyer. *The Legal 500 EMEA 2022–2023* recommended him for dispute resolution. The *Association of Young Arbitrators* recognised Jackwell as an expert arbitration practitioner.

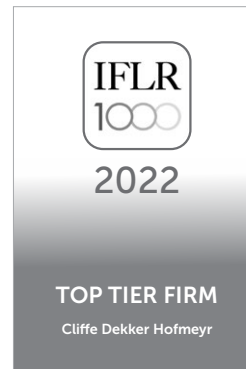
The Legal 500 EMEA 2023 recommended **Anja Hofmeyr** for Dispute Resolution.

The Legal 500 EMEA 2022–2023 recommended **Corné Lewis** for dispute resolution.

The Legal 500 EMEA 2023 recommends **Burton Meyer** for mining.

Aadil Patel is the Practice Head of the Employment Law team, and the Joint Sector Head of the Government & State-Owned Entities sector. *Chambers Global 2015–2023* ranked him in Band 2 for employment. *The Legal 500 EMEA 2021–2023* recommended Aadil as a leading individual for employment and recommended him from 2012–2020.

Chambers Global 2023 ranked **Lucinde Rhoodie** in band 4 for dispute resolution. *The Legal 500 EMEA 2021–2023* recommended her for dispute resolution.



OUR TEAM

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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