

# Forensic & Investigative Services



## About Us

Baker & Partners is an independent specialist litigation and dispute resolution practice.

The Firm is based in Jersey, British Isles with offices in London. Our lawyers have regularly been at the forefront of complex and high-value multi-jurisdictional litigation. We take the view that no legal problem is unsolvable.

Every step we take is directed to protect and advance our clients' interests. Our advice is always straightforward, objective, and independent. We remain conflict-free by not operating an associated trust company or financial services business and focussing solely on dispute resolution.

Our lawyers have extensive practical experience in the courts of not only Jersey but also England & Wales. We further have senior lawyers qualified and who have appeared in courts throughout the Caribbean including BVI, Cayman and the Bahamas.

Baker & Partners' Forensic & Investigatory Services practice, headed up by Stephon Grey, enables us to bring a focussed multi-disciplinary approach to Asset Tracing, Investigations, and Asset Recovery. We target money laundering abuses and focus on asset recovery with a particular expertise on the proceeds of grand political corruption. Our advice has been crucial to the recovery of the proceeds of corruption in many countries.

This publication is intended for general information purposes only and should not be relied upon as a source of legal advice. Information correct as of April 2020. Independent legal advice should be sought before taking any action based on information contained within this publication.

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# Governmental work

Establishing the legal framework and technical capacity to trace, restrain, and recover the profits, proceeds or assets reflecting dishonest activity is often a considerable challenge.

In many countries, the problems, at a simplistic level, are often two-fold. These are inadequate legal frameworks, and inadequate technical capacity to undertake the work. The reasonable reliance on criminal mechanisms, usually conviction-based procedures, have resulted in very low levels of recovery. When one considers the large numbers of individuals, professionals, and organizations that are used to steal and launder the proceeds of crime or to convert them into assets, then one begins to get an understanding of the challenges involved. It is no surprise that investigators and prosecutors retreat into the safety of familiar, yet often inadequate, criminal laws. The added dimension of the trans-national nature of corruption and related crimes adds the further complicating factor of the need to seek information and evidence from foreign jurisdictions.

The firm has acted for many nations on both asset recovery actions and establishing technical capacity.

## Case Citations

### Case Study 1

#### The Grenada National Stadium [Grenada]

Stephon Grey served as the Forensic Auditor on behalf of the liquidator for ICS [Grenada] Ltd. Re: "The Grenada National Stadium controversy" This multi-million dollar matter surrounding the structural collapse of a football and athletic stadium was heard in the International Court of Arbitration and the High Courts of Grenada. Asset Tracing identified cash and offshore bank accounts.

### Case Study 2

#### Federal Republic of Brazil/ Paulo Maluf

The firm acted for the Federal Republic of Brazil and the Municipality of São Paulo. The former mayor of São Paulo, Paulo Maluf had stolen many hundreds of millions of USD\$ and laundered them through a very complex trust and offshore company structure. The Maluf matter is a totemic example of corruption in Brazil. Two BVI companies were successfully sued for dishonestly assisting in the fraud and knowingly receiving the proceeds of it. The case was proved at trial and judgment in the sum of approximately USD\$ 30million given in favour of Brazil. Substantial sums were recovered. The firm now acts for the liquidators of the two BVI companies in innovative proceedings to recover the balance of what is owed.

### Case Study 3

#### Federal Republic of Nigeria [FGN]/ Sani Abacha

The firm was instructed on behalf of the FGN. Its advice significantly contributed to the recovery of over USD\$ 2billion. Sani Abacha, the former president of FGN, his family, and friends looted the Nigerian Treasury by a variety of dishonest schemes and laundered the funds through offshore accounts and structures. This firm designed the strategy which has recovered approximately USD\$ 500million from the offshore company Doraville through use of non-conviction based forfeiture regimes.

### Case Study 4

#### First-Citizens bank

Stephon Grey served as a sub-contractor to Kroll UK Ltd, in a case where the National Energy Corporation [NEC] officials discovered millions of dollars missing from its USD\$ Account. Money was transferred to Bank accounts in Boston, Antigua, Dubai, and Guyana. Approximately US\$4.6million was recovered by the state bank from foreign financial institutions. Approximately US\$5 million in overseas bank accounts was frozen.

## Case Study 5

### Kenyan Ethics and Anti-Corruption Commission

This firm acted for the Kenyan Ethics and Anti-Corruption Commission. Former Minister Chris Okewu and the former Chief Executive of Kenyan Power and Light Company were accused of receiving dishonest, corrupt payments. Those sums were paid to an offshore company Windward Trading. This firm designed the strategy whereby proceedings were commenced in an offshore court and resulted in the repatriation of the stolen assets, in this case, by criminal prosecution of the company for money laundering.

## Case study 6

### Pakistan National Accountability Bureau

This firm was instructed by the Pakistan National Accountability Bureau in a series of cases involving Bennazar Bhutto, Afzal Zafatri, Happy Minwalla and others. Assets were recovered and repatriated to Pakistan by a variety of means.

## Case study 7

### Cross-Border Investigation

Stephon Grey served as a Financial Investigator concerning the enforcement of an award issued by the District Court of Harris County, Texas, for USD\$ 35,372,130, plus prejudgment interest of USD\$ 324,648.32 as well as an award rendered in the United Kingdom for £9,052,132.69.

## Case study 8

### The Maurice Bishop International Airport

Stephon Grey conducted the Internal Control Review, Examination, and Process Re-Engineering of the financial & audit operations following International Standards.

# Our services

## Forensic Investigations

Our investigatory expertise covers all forms of accounting and financial fraud including, the compliance auditing of suspect contracts, forensic accounting, damages calculations and reconstruction of accounting records.

## Asset Tracing

With financial and asset misappropriation on the rise, we can gather, trace and find evidence on hidden assets through systematic analysis of a wide range of data repositories around the globe with strategically targeted inquiries.

## Special Investigations

As expert fraud investigators, we can handle all aspects of the investigation into suspected acts of fraud and abuse in a manner that maximizes your likelihood of successful litigation and recovery of lost resources.

## Asset Recovery

We have unparalleled experience in bringing and defending major international fraud claims and asset recovery actions before the courts. We act for foreign governments, NGOs, multinational corporations, and private individuals in some of the most complex and high-value political corruption, forfeiture and judgment enforcement actions, including:

- Asset tracing claims;
- Confiscation proceedings;
- Freezing injunctions;
- Disclosure orders;
- Search and seizure orders;
- Civil fraud claims;
- Fraudulent breach of trust claims

## Corporate Intelligence

Using our well-established global network of agents and contacts, we can undertake due diligence and investigative research in several worldwide jurisdictions, including the Caribbean, North & South America, Asia, Europe and Africa.

## Civil & Commercial Litigation

Baker & Partners has a leading reputation for resolving high-value, and often complex, civil and commercial disputes. We act for local and international businesses, banks, and financial institutions as well as consumers in a range of actions including:

- Shareholder disputes;
- Banking litigation;
- Civil fraud claims;
- Breach of contract/covenant claims;
- Professional negligence;
- Injunctions and disclosure orders;
- Conflict of laws and jurisdiction disputes.

## Regulatory & Insolvency

Baker & Partners' Regulatory and Insolvency team brings together extensive legal, accounting, and commercial experience of Jersey's financial services industry. The firm is regularly instructed by regulators, insolvency practitioners, financial institutions, and private individuals to advise and act in an array of often highly complex and challenging situations, such as AML/CFT compliance and civil and criminal fraud.

## Trust Disputes

We have acted for beneficiaries, trustees, and other fiduciaries on a range of contentious trust matters. Our lawyers have been at the forefront of the most complex, high value, and hostile trust litigation in Jersey, including long-running litigation relating to the administration of a substantial family charitable trust, which resulted in orders for the removal of the corporate trustee.

## Anti-Bribery & Anti-Corruption

Our expertise includes the provision of an extensive range of assistance on anti-corruption-related matters covering pre-transaction, post-acquisition integration, and ongoing monitoring. Our services include Forensic Accounting Investigations of alleged violations of anti-corruption legislation, Compliance Program Review and Implementation, Anti-Bribery, and Anti-Bribery Controls Analysis.

## Forensic Review of Capital Projects

Companies can lose from 10% to 50% and more budgeted CAPEX due to fraud and conflicts of interest. With our distinctive approach, our clients can be helped to mitigate such risk: we contrast benchmark costs to market prices, check actual volumes and quality of work on site and identify diverted funds. We answer the questions of who, what, where, when, and how?

## Contract Compliance Auditing

Intelligent strategies must be developed to fight organized crime. Contract compliance audits are a valuable component of finding and preventing fraud in the energy, public, and procurement sector.

## Anti-Money Laundering Compliance

We combat financial terrorism by combining local, regional, and international experience in anti-money laundering, CFT sanctions, and compliance to proactively improve the quality of due diligence by the financial community in today's marketplace.

Our other services include; Forensic & Anti-Fraud Training; Governance Risk & Compliance; Fraud Prevention and Process Re-Engineering; Computer Forensics & Data Recovery.

# Our Experts

Our experts have been instrumental in the recovery of billions of dollars stolen from states which have been the victim of political corruption.

They have acted on behalf of many countries. They have unrivalled experience in the misuse of offshore banks, trust and company service providers, and other financial services in the laundering of the proceeds of corruption.

**Mr. Stephen Grey** is the Head of Forensic & Investigatory Services at Baker & Partners.

Stephon is an International Asset Tracing expert, a Certified Fraud Examiner, and Forensic Auditor with eighteen [18] years' experience and expertise in; Asset Tracing;

Contractor Audits for Oil and Gas; Corruption Investigations; Forensic Accounting & Auditing; Follow the Money Investigations; Corporate Intelligence; Forensic & Anti-Fraud Training.

As an Asset Tracing expert, he has served as an advisor in the implementation process of asset recovery agencies in the Caribbean & East Africa. With clientele in the Caribbean, Americas, Asia, and Europe, he has also served as a Consultant for five [5] of the world's leading international investigative and audit firms, carrying out Asset Tracing & Forensic Audit assignments.

Stephon is considered an Oil and Gas Contract and Procurement audit expert. He has executed sixty-four [64] such exercises, in the energy sector, as an Independent Assessor to three [3] major energy conglomerates, with his work resulting in millions of dollars in contract fraud and abuse, being identified, recovered and saved.

He is also the founder and Executive Head of the Caribbean Institute of Forensic Accounting and has carried out International Asset Tracing and Recovery Speaking Engagements in the Caribbean, Ecuador, Thailand, Florida, Ethiopia, Miami, and Hong Kong.

Key accomplishments include;

- Served as an Advisor on Asset Tracing & Recovery Investigations on six [6] cases for the State Asset Recovery Agency [SARA] of Guyana.
- An Asset Tracing expert, he has served as an advisor in the implementation process of the Asset Recovery Task Force in Ethiopia.
- Served as the Technical Advisor to the Special Organised Crime Unit [SOCU] for two money laundering case matters before the courts.
- Served as the Independent Assessor for a [7] year period for the energy company, British Gas.

**Mr. Stephen Baker** is an English barrister and advocate in Jersey, Channel Islands. He is called to the bar of the British Virgin Islands. He is Senior Partner of Baker & Partners, whose lawyers are qualified in many offshore jurisdictions, including Jersey, BVI, Cayman Islands, and most of the British offshore centres. He is an expert in the investigation and recovery of assets hidden in offshore structures by means of both civil and criminal processes, including non-conviction-based forfeiture regimes.

He was formerly head of the International Bar Association Anti-Corruption Subcommittee on Asset Recovery. He acts or has acted for the Federal Republic of Nigeria, the Islamic Republic of Pakistan National Accountability Bureau, the Kenyan Anti-Corruption Commission, the Federal Republic of Brazil and the Municipality of Sao Paulo in corruption cases. Cases in which Stephen has been instructed include Brazil v Durant and Kildare [Bagudu, Bhojwani, Abacha [re Nigeria], Bhutto, and Zardari, Ul Haq, Minwalla [Pakistan], Gichuru, Okewu, Windward Trading [Kenya].

Stephen is an extremely experienced trial lawyer. He has prosecuted the most serious frauds involving the misuse of offshore trusts and companies. He has appeared at trial representing the Claimants in very substantial civil frauds.

He has acted repeatedly as an Inspector appointed by the Jersey Financial Services Commission in cases where the most severe money laundering was suspected.

As an expert in the interaction between criminal and civil asset recovery actions and in the interrelationship between asset recovery efforts in jurisdiction with common and civil law traditions.

He works closely with the OECD/ World Bank Stolen Assets Recovery initiative, most recently in the publication of "Going for Broke," a guide to the use of insolvency tools in recovering the proceeds of corruption.

Key accomplishments include;

- Stephen's advice and representation have significantly contributed to the recovery of over USD\$ 2 billion looted by kleptocrat governments.
- From 2001 to 2003, he was the Senior Legal Adviser to the Attorney General of Jersey. He headed multiple corruption and money laundering investigations, which involved a series of offshore banks and Trust companies.
- Stephen advised the Attorney General of Guernsey in the case involving Lazarenko, the former Premier of Ukraine, who stole hundreds of millions of US Dollars from Ukraine, which was laundered through Guernsey financial services institutions.
- He is a member of the International Chamber of Commerce Fraudnet group, which enables teams of lawyers across some 70 jurisdictions to work together.
- He regularly speaks around the world on the subject of corruption, the misuse of offshore structures and related issues most recently at the UNCAC Conference of State Parties in Abu Dhabi in 2019.

**Mr. Jack de Kluiver** is the Managing Partner of Baker de Kluiver Washington DC. Baker de Kluiver, a sister firm of Baker & Partners, was established by Stephen Baker and Jack de Kluiver to provide states which have been the victim of corruption using the most up-to-date and effective cross border legal techniques combined with the proven ability to bring prompt and effective financial recompense to states which have suffered financial depredation.

Jack is a 20-year veteran of the International Unit of the Money Laundering and Asset Recovery Section (MLARS) of the United States Department of Justice (DOJ) located in Washington, D.C. He vacated the special post of "Senior Legal Counsel" to MLARS in August of 2017. He served as a Trial Attorney and a Senior Trial Attorney before becoming an Assistant Deputy Chief in 2011 and a Deputy Chief in 2015, before being appointed Senior Legal Counsel to MLARS in 2016. Before working for MLARS, Jack was a litigation associate at what is now Fowler Rodriguez in New Orleans, Louisiana, for three years and was a Federal judicial law clerk for four years in the Middle District of Louisiana.

He provided critical legal guidance focused on international asset recovery on all manner of DOJ and Department of Treasury asset recovery efforts including, but not limited to, the major asset recovery efforts associated with crimes committed by Bernard Madoff, Sani Abacha, Pavel Lazarenko, Dimitri Firtash, Navinder Singh Sarao [aka Flashcrash], and PokerStar, and asset recoveries involved in the more recent and ongoing Karimova/VimbleCom, IMDB and FIFA investigations.

He participated in anti-money laundering and counter-terrorist financing assessments of foreign countries such as Israel, the Netherlands, and Canada, and drafted foreign anti-money laundering and confiscation provisions, e.g., Kenya. Represented the U.S. at international asset recovery and anti-money laundering conferences, and led or participated in numerous treaty consultations. Also, from 2007 through 2017 was DOJ's lead representative to the OECD's Financial Action Task Force (FATF), which sets the international standards on anti-money laundering and countering the financing of terrorism and the financing of proliferation.

Key accomplishments include;

- Spent five years working undercover on money laundering cash pick-up operations recovering over \$100 million in laundered drug proceeds and assisting in the conviction of dozens of money launderers, including foreign bankers.
- Was a member of the prosecution team for multiple cases arising from theft or misappropriation of Iraq reconstruction funding as directed by the Special Inspector General for Iraq Reconstruction.
- Recovered US\$120 million in laundered corruption proceeds that were generated by the bribery of Italian judges deciding civil matters that were unjustly favorable to the Rovelli family and cheating Italian banks out of almost US\$400 million.
- Helped secure or recover US\$100s of millions in fraud proceeds from abroad in the Robert Allen Stanford/Stanford International Limited securities fraud matter.
- Lead the DOJ team responsible for enforcing 50 plus foreign confiscation orders in the United States against US\$ 600 to US\$ 900million in U.S. assets.

## Contact

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