



Global Dispute Advisory Services

KPMG Forensic

KPMG International

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With globalization comes cross-border, multi-jurisdictional disputes. Volume and complexity of regulations coupled with the growing costs of resolving disputes, uncertainty of outcomes, and lengthy proceedings are all litigation-related challenges facing organizations today.

As disputes arise, it is important to gather the critical facts, assess the strengths and weaknesses of your organization's position, and develop a plan to settle or prevail. Cross-border disputes can involve complex economic, financial and technical issues as well as multiple languages, client locations and applicable laws and standards. Litigants with a command of the issues and a sound assessment of each side's position can achieve better outcomes, whether in settlement or litigation. That is where KPMG's Dispute Advisory Services can help.

To help achieve the business goals of litigation and reduce the potential adverse financial, reputational or operational impacts, KPMG firms lend their expertise, offering robust, practical advice to assist with the successful resolution of disputes.

Challenges faced by companies in litigation	How KPMG member firms can help
Avoid disputes where possible. Increases in the volume and complexity of regulations.	Reduce the risk of litigation through early case assessments, and regulatory compliance services.
Increase in complexity and type of disputes. Growing number of disputes. Lengthy proceedings. Uncertain outcomes.	Deep dispute experience in a wide variety of business sectors (e.g., financial services, pharma, oil & gas, manufacturing, consumer products, etc.) and types of disputes. Sophisticated analysis matched to complexity of issues including use of data analysis tools and skills, econometric models, statistical approaches. Senior team with extensive testifying experience at some of the highest levels. Experience with some of the largest and most complex disputes.
Globalization has brought more cross-border, multi-jurisdictional disputes.	Experienced global cross-border dispute advisory teams using KPMG's consistent global dispute advisory methodology. Extensive international dispute and arbitration experience.
Volume of information requested and disclosed as part of a dispute.	Integrated and experienced eDiscovery, forensic technology and data & analytics skills.
Increasing costs of resolving disputes.	Consistent global dispute services methodology and training. Extensive and intelligent use of technology and advanced tools.

A global team of multidisciplinary professionals

As a network of 3,000 multidisciplinary professionals operating across time zones, languages and cultures, KPMG Forensic professionals are trusted advisers to a significant number of the world's leading enterprises. KPMG member firms can bring the right mix of professionals to disputes in the key venues where they are resolved.

KPMG's Dispute Advisory Services include accounting, economic, loss quantification and valuation-related advice and opinions as well as document disclosure services. Objective assessments help to resolve disputes in arbitration, litigation, insurance claims, and transactions. KPMG professionals serve as privileged consultants, expert witnesses, arbitrators and panel-appointed, neutral experts. They support parties in negotiations and mediations. Senior professionals are seasoned expert witnesses and arbitrators and deal with some of the largest and most complex disputes in the world.

KPMG Forensic professionals assist litigants and their legal counsel with potentially costly and disruptive disputes

and litigation. They identify and analyze key accounting, economic and financial issues around which the dispute revolves. KPMG member firms offer a wide range of Dispute Advisory Services, including:

- Damages assessment
- Economic analysis
- Valuations
- Data analysis
- Expert witness testimony
- Expert determination
- Early case assessment
- Document and electronic record disclosure
- Settlement valuation
- Forensic accounting investigations
- Corporate intelligence

Our Experience

KPMG Forensic's dispute advisory experience includes:

- Commercial contract breaches
- Shareholder disputes
- Insurance disputes (business interruption and lost profits)
- Investor/state disputes
- Post-acquisition disputes
- Professional negligence claims
- Competition and other regulatory disputes
- Data security disputes
- Bankruptcy litigation
- Government contract claims
- Tax disputes
- Class action litigation
- High-value family and matrimonial disputes

KPMG member firms have helped to represent clients under the auspices of the following major forums around the world:

- International Chamber of Commerce
- International Centre for Settlement of Investment Disputes
- United Nations Commission on International Trade Law
- American Arbitration Association
- London Court of International Arbitration
- International Dispute Resolution Centre
- Singapore International Arbitration Centre
- Stockholm Chamber of Commerce
- The Centre for Effective Dispute Resolution
- National and regional courts around the world





Why choose KPMG for your Global Dispute Advisory needs?

Your organization requires a strong reputation for providing robust opinions supported by credible written and oral evidence

KPMG Forensic offers a team of professionals experienced in providing authoritative, impartial advice on a range of financial, accounting and economic aspects of disputes. In addition to in-depth experience giving evidence in complex disputes, KPMG member firms have professionals with backgrounds in accounting, statistics, finance, economics, construction, engineering, project management, technology, business valuations, quantity surveying and many others. Dispute Advisory Services professionals from across KPMG's network of firms have been recognized in *Who's Who Legal* among the world's leading commercial arbitration expert witnesses, demonstrating KPMG's outstanding capabilities.

Your organization requires in-depth cross-industry expertise

Increasingly, the nature of the disputes arising requires detailed and specific subject matter expertise. In addition to depth of experience in the provision of impartial advice on accounting and economic matters and in giving authoritative expert evidence, KPMG's global network of member firms offers access to industry experts. These individuals include specialists in Financial Services, Media and Telecommunications, Government and Infrastructure, Energy and Natural Resources, Manufacturing, Automotive and Healthcare and Pharmaceuticals.

Your organization requires forensic technology skills

Litigants often face the challenge of dealing with large volumes of documents and transactional data. KPMG's Forensic professionals can offer a response using trained personnel, sophisticated technology, methodologies, tools and dedicated technology centers. They can provide insight in complex disputes by importing transactional data and analyzing it in relational databases and other sophisticated tools to help uncover patterns, biases, errors, and fraudulent activity. These capabilities can help you reduce costs, reduce risks and find the facts that are contained in a mass of detail.

Your organization requires local presence with global reach

KPMG Forensic professionals are committed to consistently delivering to clients the right capabilities at the right time from one trusted adviser, no matter where in the world they do business — an important advantage as complex disputes can involve parties, courts and panelists from more than one country. They offer a truly global dispute advisory capability because of investment in a shared global methodology, common global training and a network of partners who work together.

Case studies





Application of forensic investigative/ accounting skills in landmark civil RICO case



The challenge

KPMG in the US was retained by a global law firm to provide expert witness, forensic accounting and investigative services on behalf of a major multinational energy corporation that was the plaintiff in a litigation in the Federal Court in New York. The litigation was related to a damage award from a prior Ecuadorian lawsuit which pertained to the energy company's alleged responsibility for the contamination of the Ecuadorian Amazon rainforest. The prior Ecuadorian lawsuit, which resulted in a multibillion dollar judgment against the energy corporation, led to the plaintiffs from the Ecuadorian lawsuit seeking to enforce this judgment in many international jurisdictions. The energy corporation responded by bringing an action in the Federal Court in New York contending, among other things, that the Ecuadorian judgment was procured through corrupt means. KPMG Forensic professionals reviewed documentation, performed detailed analyses, and provided testimony to assist the Court in assessing whether the defendants had violated the civil Racketeer Influenced and Corrupt Organizations Act (RICO).



KPMG approach

KPMG Forensic professionals were engaged to review documents and other information made available through discovery and independent research in order to assess whether there was evidence that an enterprise organization racketeering scheme existed with a plan to participate in fraudulent activities. They reviewed a significant amount of varied data (both structured and unstructured) such as emails, financial statements, invoices, excerpts of general ledgers, fund disbursement schedules, and film outtakes to determine whether the documentation clearly demonstrated that a systematic plan which was put in place by defendants with the intention to deceive.

KPMG professionals developed a tool to load and aggregate upwards of 20,000 data files. This tool allowed KPMG professionals to identify key business records and other financial documents which demonstrated financial irregularities and improper activities related to the conduct of the plaintiff's attorneys and their consultants during the Ecuadorian lawsuit. This tool allowed KPMG professionals to aggregate the data and show when, where, and how money was spent. Following the analysis of hundreds of thousands of unique pages of materials, an economic roadmap was generated from the collected data that sought to make visible the flow of funds among the involved individuals and entities.

Furthermore, KPMG's expert provided his opinion on whether the available documents reflected financial recordkeeping in accordance with standards for transparency and accountability.



Client benefits

- Over the course of approximately two years, KPMG professionals played a significant role in assisting with this case and provided expert witness reports and testimony that the judge found to be compelling. The client obtained a favorable judgment. Civil RICO judgments are very difficult to obtain and, to date, this case is likely one of the few that has succeeded.
- KPMG’s testimony was cited numerous times in the Court’s ruling as key evidence in the case.
- The Court’s ruling prohibits the defendants from seeking to enforce the Ecuadorian judgment in the United States.



Forensic accounting investigation and expert testimony in suspected fraud case



The challenge

The client of KPMG in India, was a large multinational bank that was in the process of acquiring a large securities and investment company, owned by a Government owned finance company (seller). The seller had in turn acquired the securities company from its previous owner (previous owner). During the acquisition process, owing to high net-worth customer complaints, a securities fraud was suspected. Some of the fraudulent transactions related to the period before the seller's own acquisition of the securities company from its previous owner, while some related to the period post its acquisition of the securities company.

Transactions went back several years and involved complex futures and options as well as cash market securities transactions. There was also a significant element of off-market transactions through both forgery and trickery, whereby shares amounting to millions of USD were siphoned off via beneficiary and pool accounts, to unknown accounts. To make matters worse, the main suspected perpetrator of the fraud was mysteriously killed in a road accident a day before KPMG Forensic professionals were to commence their work. In the initial days after the work began, KPMG Forensic professionals had to help the client manage their customer perception and prevent departure of key customers, as well as to mitigate the risk of a significant public outcry and investigation by the securities regulator.



KPMG approach

KPMG Forensic professionals spent initial days helping the client re-build their customer confidence through meetings with high net-worth customers who were also the worst affected. KPMG professionals pieced together the jigsaw puzzle and identified several instances of shares siphoned off. Several payouts to customers were noticed, which when compared with bank statements, showed that the money was siphoned off by the perpetrators but accounted for as payments to customers against unauthorized sale of their shares. The exposure seemed to be significantly higher and the fraud more complex than was initially believed.

KPMG professionals initially used data analytics, but eventually resorted to significant quantum of manual reconciliations due to the nature of the fraud. Transactions were analyzed along with corporate actions such as bonus shares, face value splits, dividends and rights issues. Transactions in the futures and options segment booked into high net-worth customer accounts were reviewed and a pattern was established. Payouts to customers were mapped to customer ledger accounts. Several fraudulent payouts were identified that were purported to be client payouts, but which were never paid to clients. During disk imaging and review, details of assets like securities and real estate, held in the name of the deceased perpetrator and his wife, which ran into several million USD, were recovered. KPMG professionals reviewed off-market transfer of shares to identify instances when large quantities of shares were stolen by the perpetrators and found a maze of stock movements across client accounts and eventually to client accounts in other depository participants.



Client benefits

- Several million USD of financial losses suffered by the client were uncovered. This caused adjustment in the purchase price paid by the client to the seller.
- Based on a) the investigation conducted by KPMG professionals for the client and b) several fraudulent transactions pertaining to the period prior to the seller's own acquisition of the securities company, the seller also engaged KPMG professionals and initiated arbitration proceedings against the previous owner.
- KPMG Forensic's expert witness report identified the facts and circumstances, explained the complex maze of fraud perpetrated over several years in a simple manner and quantified the loss suffered by the seller in the period prior to its acquisition from the previous owner. The loss ran into tens of millions of USD.
- Due to certain unforeseen delays, the matter remained in abeyance for three years. Eventually, the KPMG Forensic expert was cross-examined over three days, in arbitration proceedings. The seller eventually got an arbitral award for the full value of their claim plus interest, and was paid the full amount of the award by the previous owner.

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