

# Forensic Accounting and Investigations Review of 2021

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# A market leading forensic accounting and investigations team



**Carl Jackson**  
Quantuma CEO

People often think of the Quantuma brand primarily in relation to insolvency and restructuring matters, but we also have a market leading forensic accounting and investigations team.

We first formed our forensic accounting and investigations team in 2018, when **Gavin Pearson**, **Gordon Hodgen** and a small team joined us in London. Less than four years later, the UK team has grown to more than 20 people and we have established forensic, asset-tracing and expert witness teams in the Middle East, the Caribbean and mainland Europe. Our UK team has grown to be one of the leaders in the mid-tier space with highly experienced MDs **Rob Parry** (Manchester), **Kate Hart** (London and South) and **David Bell** (Scotland) having joined Gavin and Gordon, and we are regularly being appointed in some of the highest profile dispute and investigation matters in the UK and globally.

2021 was also the year in which we grew the team significantly internationally, with **Yaser Dajani** joining us to lead our forensic accounting team in the Middle East, **Angela Barkhouse** setting up our offshore asset recovery team in the Caribbean and **Adam Markiewicz** joining us in mainland Europe with a particular focus on growing our international arbitration practice alongside the UK team.

In 2021, we also launched our eDiscovery function, led by **Ben Hammerton**, which has quickly established itself as both a standalone service line, as well as assisting on many forensic accounting assignments.

Late in 2021, I attended a meeting of the entire European forensic accounting and investigations team and it was fantastic to see, not only the size of the team, but the quality of people we have at all levels. We have received some excellent feedback from people who have worked with the team and hopefully, if you haven't had the opportunity to instruct them to date, you may do so over the coming year.

Carl Jackson

# Our senior team share their highlights of the past year



## UK Managing Directors



**Gavin Pearson**

Gavin leads the forensic accounting and investigations team and is regularly instructed to undertake expert witness, advisory and investigation assignments across the UK and globally.

*“ In addition to watching the team grow with so many high-quality new hires, one of the highlights of my year has been surviving a day’s hard cross examination from an American trial litigator in a large arbitration relatively unscathed. ”*



**Gordon Hodgen**

Gordon is based in London and specialises in providing expert witness and advisory services in disputes, with particular expertise in the insurance and financial services sectors.

*“ Seeing the Civil Court system continuing to stand up to the complexities of the COVID-19 pandemic was very encouraging. I gave evidence both in person and remotely during the year, and whilst they were quite different experiences, I felt at all times that the key purpose of expert evidence, to assist the Court, was being met. ”*



**Rob Parry**

Rob provides expert accountancy support on complex commercial disputes, as well as high value clinical negligence and injury cases.

*“ In addition to completing 35 years in the accountancy profession in 2021, my best moment was receiving an unexpected hamper from my instructing solicitor’s client after judgment on a case I’d given oral evidence on, and then being recommended again by the QC on the case. ”*





### Kate Hart

Kate predominantly works as an expert witness and advisor on commercial and matrimonial disputes and as expert determiner for share valuation and completion accounts/earn out disputes.

*“ Seeing a client settle a long-running shareholder dispute when I thought he'd lost it by failing to make that last (tiny) concession at mediation was one of my 2021 highlights. But more generally, joining Quantuma in 2021 and building the Guildford team has led to me meeting some inspiring (and fun) new colleagues. ”*



### David Bell

Based in Glasgow, David leads the forensic accounting and investigations team in Scotland where he regularly acts as expert witness, leads fraud and fact-finding investigations, and provides dispute advisory services to clients, and their legal teams, of all sizes.

*“ There are several best moments to mention: the first has got to be joining Quantuma during the summer of 2021 to set up the Scottish forensic accounting team; the second is giving expert evidence on three separate occasions in the second half of 2021 in the Court of Session in Edinburgh, the High Court in Birmingham, and then the Lands Tribunal in Scotland. ”*





## International Managing Directors



### Yaser Dajani

Yaser is the head of Quantuma Middle East and leads our operations in the region from our new office in the DIFC. His areas of expertise include cross-border investigations, asset-tracing and recovery, complex problem-solving, corporate intelligence assignments and offensive reputation management.

*“ Meeting my colleagues in the UK for the first time in December was one of my best moments from 2021. I joined last year, and I've really made the firm my new home. Client cases in Dubai are almost always multi-jurisdictional and every time we, as a firm, deliver results to clients is a rewarding moment. ”*



### Adam Markiewicz

Based in Poland, Adam is responsible for developing our forensic accounting capability in Continental Europe. He serves as a forensic accounting and business valuation expert in both litigation and arbitration operating predominantly between London and Warsaw.

*“ Joining Quantuma in 2021 was an important career milestone for me. Not only can I now offer conflict-free quality financial expertise, but I can also provide my clients with the flexibility of business terms that stems from Quantuma's entrepreneurial and lean culture. ”*



### Angela Barkhouse

Angela leads the cross-border asset recovery group and is head of the Caribbean practice. She is recognised by legal and investigation publications as a Global Elite Thought Leader in Asset Recovery and Investigations.

*“ Joining Quantuma in January 2021, opening both the Cayman Islands and the British Virgin Islands offices, and increasing the Caribbean professional team to nine within a year was a major highlight, as was being instructed on a high-profile corruption case for a State to recover over \$5.6 billion in stolen assets. ”*



## eDiscovery & forensic technology team



### Ben Hammerton

Ben leads the eDiscovery service line, complementing the work of his forensic accounting colleagues, but also providing services directly to law firms and their clients. His services are used across a wide variety of cases in the UK and frequently used in conjunction with cross-border cases involving our Poland, Cyprus, Cayman and Dubai offices.

*“ Being asked to set up the new eDiscovery department in 2021 is far and away my best moment of the year. The volume and variety of cases that we have worked on has been phenomenal, with every case providing different and interesting challenges. Some of my personal highlights include a Dubai blackmail case, and a UK sports match-fixing case. ”*



### Mike Fanshawe

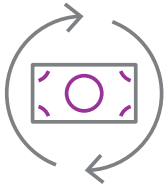
Mike specialises in both forensic accounting and forensic technology, accepting expert witness, advisory and investigation assignments across both disciplines.

*“ Leading several multi-million pound investigations on behalf of our insolvency team has been an important highlight for me. The prosecution accepting a not guilty plea from our client, in a case where they had obtained but had not been able to analyse electronically stored financial information, was of particular significance. ”*





# Examples of matters we acted on during 2021



## Investigation of transactions

We were instructed on behalf of a large privately owned business to undertake a review of certain transactions put through the accounting records (and therefore accounts) to transfer costs between entities where there appeared to be no commercial justification for the transactions.

This required detailed analysis of the transactions concerned, interviewing relevant personnel at the entity and ultimately preparing a report of our findings, including commenting on relevant statutory and professional guidelines, which was used by the company directors to determine what action to take against certain individuals.



## Expert witness in ICC Arbitration proceedings

One of our managing directors was instructed to act as expert witness in ICC Arbitration proceedings between a global chemicals business and a global energy company whereby significant losses were claimed to have arisen as a result of an explosion claimed to have been caused by the respondent.

We were instructed on behalf of the respondent to consider the losses put forward by the petitioner's expert, which were claimed to have arisen in multiple jurisdictions over multiple years and totalled more than \$50m. This required us to review a large volume of complex industry and financial information and assess the true losses that had been demonstrated to have arisen.

Following the preparation of two reports, one of our experts made an oral presentation and was cross-examined in front of the Tribunal.





## Intelligence and investigations

**We were instructed to undertake intelligence gathering into an individual who was alleged to be a 'frontman' to a former PEP in West Africa accused of corruption and embezzlement, in order to join him to legal proceedings for recovery of stolen assets by the PEP.**

The investigation involved open-source research using publicly available information where we identified properties in France and real estate interests in Miami.

Additional human intelligence enquiries into certain business sectors and political circles in Central and West Africa further highlighted undisclosed business relationships with known money launderers and persons named in multiple court filings for tax evasion and corruption. One business relationship of particular concern involved a former President of an East African state who is currently being investigated for extensive corruption within his country.



## Waste-to-energy construction dispute

**In 2021, one of our larger cases involved the provision of an accounting expert witness for the claimant in a matter that was ultimately heard in the High Court.**

The case was a construction dispute arising from the building of a waste-to-energy power station in the North East of England. Most of the damages were claimed from the losses suffered due to a delay in start up. The approach necessary to quantify losses was to model, for a substantial period of time, the expected financial performance of the power station had it been operating at its expected full capacity.

We presented a detailed financial model that reflected all the income and expenditure derived from the plant, had it been operating at the levels envisaged when it was being constructed. The model was prepared with input from the claimant's management team and gave us a thorough understanding of the processes involved and the interaction of the various sources of income (gate fees, contracts for difference, power pricing etc.) and expenditure of the plant.

We went through the usual stages of production of expert reports, critiquing the defendants' expert, meetings of joint experts and, ultimately, a full High Court trial where oral testimony was given. The claim was in excess of £100m. Judgment is yet to be given.



## Valuation of recruitment companies

**We acted as the single joint expert to value the parties' ordinary share and loan note interests in a £30m group of companies involved in recruitment, specifically in the finance, public and tech sectors.**

The group had recently delisted and provided temporary, permanent and executive search solutions. A number of complex shareholder agreements in relation to third party minority interests in subsidiary undertakings meant a detailed line by line approach was required to the valuation of each entity in the group.

We were also instructed to prepare a historical valuation of the parties' interests at the date of separation and to consider the tax implications of various share transfers and disposals, the liquidity of the companies and the husband's sustainable income.

The husband owned a separate interest in a recruitment company providing locum staffing to the NHS and this entity benefited significantly from the COVID-19 pandemic, creating challenges when preparing both current and historical valuations.



## Compulsory purchase

**We were involved in a compulsory purchase matter where the claimants alleged that they had an undocumented loan between a UK company and a Gibraltar company. The loan was claimed to be between unrelated parties and to represent an expense claimable from the acquiring authority.**

Although the claimants did not provide accounts for the Gibraltar company, our forensic accounting team was able to obtain them from the relevant authorities. These accounts showed no loan present in the Gibraltar company at key times.

Our expert summarised the facts he discovered and explained how undocumented loans between unrelated parties were unheard of in his experience. He also explained how a loan that was not described in written terms, but was claimed to be interest bearing, would have a number of potential issues in terms of how interest would be calculated (how often would interest be calculated and what interest rates to apply etc.).

Ultimately the judgment was entirely in favour of the acquiring authority (our client).



## Post transaction dispute

**We acted for a defendant buyer in a post transaction dispute relating to a failed earn out. The vendors of a business alleged they had entered into the transaction based on misrepresentation.**

We examined extensive contemporaneous correspondence and accounting records and provided a report setting out opinion on the buyer's financial position and the status of its financial projections based on those records.

The case went to trial and judgment was found in the defendant buyer's favour and the claim was dismissed.



## Unfair prejudice claim

**We acted for a minority shareholder in an unfair prejudice claim against the other directors and the company.**

A minority shareholder in a family group of businesses was alleging he had suffered losses as trade had been diverted from group companies to non-group entities, costs had been incurred by group companies that were for the benefit of non-group entities, and employees and assets of the group companies had been used for the benefit of non-group entities.

We prepared two separate expert witness reports. One report quantified the alleged losses suffered by the group companies over a period of ten years in relation to the allegations set out in the petitions. The second report valued the group companies and the minority shareholding in the companies in two ways: firstly, on the basis that the allegations in the petitions are upheld; and secondly on the basis that the allegations in the petitions are not upheld.

The case went to trial in High Court in November 2021 and a decision is due any day now.



## eDiscovery and forensic technology

**Three business partners incorporated two companies and initially had a third stake in each. One party was eventually removed as a director of both firms and then dismissed. His claim was that it was unlawful to do so, and that he had also been excluded from bonus and profit share unlawfully.**

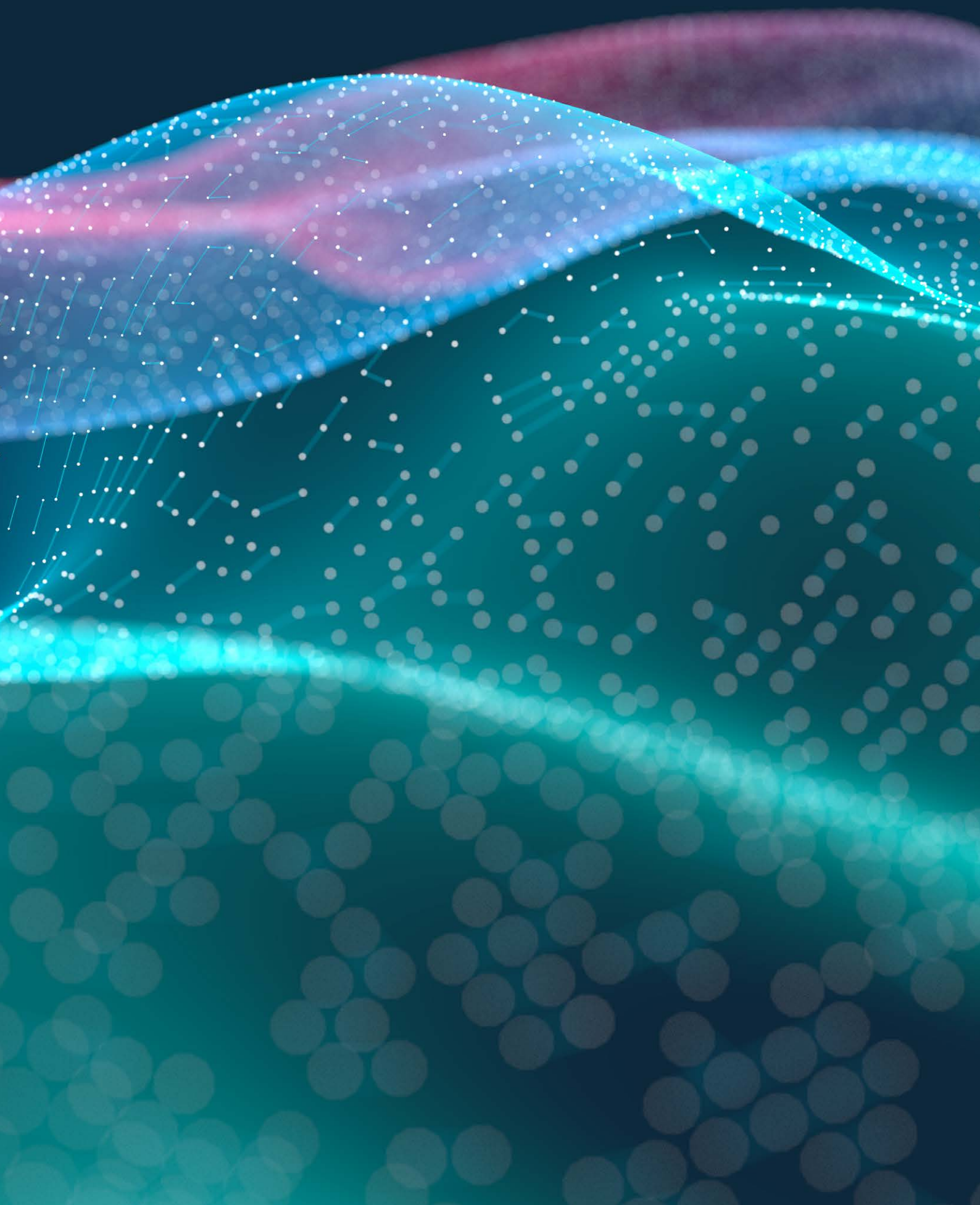
We were asked to visit the defendant's offices and forensically collect data from the company server, multiple laptops and mobile devices for legal review.

Using the Reveal-Brainspace eDiscovery platform, and its TAR (Technology Assisted Review) capabilities which can determine relevant versus irrelevant information, we reduced the initial 260k documents down to a proportionate number for review. In addition, we produced a report to be presented at the CMC to break a deadlock between both sides regarding which keywords were to be used to find the relevant documentation.

This case study represents a hugely compelling argument for the use of TAR and shows how the expertise of our eDiscovery team can be properly utilised to reduce legal time and cost.









## There will be an inevitable increase in COVID-related cases

Whilst we continued to be busy throughout 2021, we haven't been instructed on many cases arising directly from COVID over the last year. However, as businesses face the fallout from COVID, more instances of fraud, particularly in relation to business interruption claims, are likely to be uncovered, and we expect to see more concerted action being taken to recover those losses.

## A buoyant deals market will lead to more disputes

You can't ignore the impact of the pandemic and the tension this continues to cause across the board – the fallout from this will go well into and beyond 2022 and we expect to see an increase in claims and disputes between businesses, between shareholders, and between buyers and sellers of businesses in a buoyant deals market.

The high levels of M&A activity last year are likely to lead to loss of profit and breach of contract and warranty claims, increased share valuations and missed earn outs by buyers and sellers respectively.

## Cross-border arbitration is likely to increase significantly

We expect our exposure to arbitration, particularly to cross-border M&A-related matters, to increase significantly in 2022.

## We'll see more disputes arising as a result of climate change and environmental concerns

We anticipate seeing our first environmental, social and governance related dispute in 2022 as these issues move to the forefront of the public consciousness.

## 2022 is the year that lawyers and their clients will harness the capabilities of eDiscovery review platforms

Cases that took a back seat in 2021 due to the pandemic, will likely rise to the surface in early 2022. Time pressures will push forward-thinking lawyers and their clients into really harnessing the AI and TAR (Technology Assisted Review) features already contained in the eDiscovery review platforms, which have been underutilised for a number of years.

We've already started to see more review workflows combining traditional keywords with 'active learning' to create 'likely relevant' batches to prioritise the review strategy.

## E-communications will become an even more important source of evidence

Given the increased numbers working from home, we expect electronic communications to become an even more important source of evidence for investigations – not just traditional email communications, but also the relatively new methods that are gaining ever more traction, such as Microsoft Teams chat.

## Inflationary pressures will lead to more disputes

We predict that interest rate increases in response to inflationary pressures will place an additional burden on businesses, leading to more disputes.

## Virtual trials, prevalent during the pandemic, will continue

Senior members of the team have recently given evidence under cross-examination in virtual trials and we expect this to continue even once the pandemic is over.

## We'll see an increase in mandates in the Middle East

We anticipate new and interesting multi-jurisdictional mandates to keep our team in the Middle East busy throughout 2022.



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