



Asset Tracing & Recoveries (White Collar) Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a full-service market-leading African law firm established in 1977 with a strong focus on dispute resolution and corporate & commercial law. With a dedicated team of 10 partners, 16 associates and 39 support staff, the firm has been consistently ranked by leading legal directories such as Chambers Global, IFLR 1000 and Legal 500 as a top-tier firm in Kenya.

We provide specialist legal services both locally and regionally in **Arbitration, Banking & Finance, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, FinTech, Infrastructure, Projects and PPP, Private Client, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, governments, regulators, and not-for-profit organisations from target industry sectors including retail, construction, education, energy, financial services, manufacturing & industries and the public sector.

We provide both local and cross-jurisdictional legal services, either directly or through the extensive relationships that we have established with leading firms across the globe, which enable us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

Oraro & Company Advocates prides itself in its **deeply-rooted client relationships** by providing **quality legal services** through its **partner-led approach, drawing from local knowledge and global perspectives**.

"they do not compromise on the quality of legal representation they offer, no matter the importance of value of a matter."

Chambers Global 2021.

Our Asset Tracing & Recoveries (White Collar) Expertise

Our Asset Tracing & Recoveries practice area is a recognised leader in advising on both complex contentious and non-contentious tracing and recovering of assets and in restructuring insolvencies. The practice area is led by a team of Partners with specialist know-how and deep experience in offering strategies for obtaining effective and time-critical legal remedies to secure and recover assets, including freezing injunctions, disclosure orders and protection of assets. For instance, the practice area is currently acting in one of the largest banking fraud disputes in the country involving the tracing and recovery of about USD 340 million. They succeeded in obtaining a *mareva* injunction (freezing order) which is currently in force to preserve the subject matter of the suit.

With a good reputation in handling complex banking disputes, debt recovery and asset tracing, the practice area has represented clients in various courts in the land including the Court of Appeal and the Supreme Court. Our Asset Tracing & Recoveries practice works closely with a broad range of stakeholders including banks, financial intermediaries, distressed companies, creditors, private equity sponsors, and governments. As a full service law firm, the practice area is able to call upon lawyers from a wide range of related specialist areas including tax, employment & labour, banking & finance and restructuring & insolvency.

"All-round superior legal firm that can cover a client in all possible respects."

Chambers Global 2020.

Our Key Competencies

Our practice area encompasses the full spectrum of contentious matters including:

- Asset tracing
- Bankruptcy, financial restructuring and insolvency
- Dispute resolution and litigation
- Financial services and regulation
- Freezing and disclosure orders
- White-collar crime including anti-bribery, money laundering and extradition
- Regulation and compliance
- Risk advisory, including preventative strategies and policies

"They've established quite a number of precedents in the market, they're in the group that has developed things and for that the entire market is grateful. As far as litigation is concerned, I think they're one of those firms where you sleep soundly."

Chambers Global 2020.

Our Market Recognition



Our Experience

- Acting for the monetary authority of Kenya in the recovery of funds in the “Goldenberg” related cases, in excess of USD 1 billion.
- Representing a Kenya government corporation as lead counsel. We also obtained a mareva injunction/freezing order, which is currently in force to preserve the subject matter of the suit. This is a recovery action as well as the tracing of assets worth USD 70 million from individuals and companies alleged to have defrauded a commercial Bank in Kenya, leading up to its receivership.
- Representing a commercial bank in Kenya, which is Under Receivership, in a claim that seeks the tracing and recovery of approximately USD 340 million which was defalcated from a Bank. We obtained a mareva injunction/freezing order, which is currently in force to preserve the subject matter of the suit. We also successfully defended the client against a claim by the shareholders seeking to be enjoined in this suit despite stiff opposition.
- Representing a leading regional bank in a claim of USD 52 million arising from a facility of USD 300 million advanced to the defendants to fund the construction of the Nairobi – Mombasa oil pipeline. We obtained a mareva injunction/freezing order, which is currently in force to preserve the subject matter of the suit and secured an admission of liability for USD 25 million from the defendants with the balance being referred to an independent expert for determination.
- Representing an accused person for actions done while executing duties when acting as a senior official in the Government of Kenya (**GoK**). The accused was charged with abuse of office and conspiring to defraud the GoK. The saga has come to be known as the Anglo-leasing saga.
- Advising a multinational company on how to exercise its rights of subrogation with respect to the recovery of monies insured by a third party whose parent company based in the UK was undergoing administration.
- Advising an Insurance Company on its potential claim of approximately KES 1.1 billion for impaired assets against three insolvent companies, where it invested in notes and commercial paper.
- Acting for a Kenyan investment firm in a suit where a customer alleges that the Bank failed to act in accordance with his instructions, with respect to a sale order on a Kenyan mobile network operator’s shares that he had purchased. The Bank contends that owing to certain discrepancies in the identity of the customer at the time the sale instructions were received, it was put on enquiry as to whether it was faced with a potential fraud and took reasonable steps (Know Your Customer) in order to avert the same.

- Representing a Kenya government corporation in a claim brought on behalf of depositors and account holders of a commercial bank against it for alleged negligence thus perpetrating fraud, dishonesty, deceit, unscrupulousness, corruption, massive mismanagement and concealment of financial improbity and imprudence that lead to the collapse of a Kenyan commercial Bank.
- Representing an independent government financial regulatory agency in a recovery claim involving a Stockbrokers company which is under the statutory management of the government financial regulatory agency in a claim for the recovery of monies converted by the Managing Director.
- Representing the Receiver Manager of a trade and development financial institution appointed under debenture held by the Bank as security for borrowings by a limited liability company. The borrower filed a suit before the High Court against the Bank and the Receiver Manager challenging the Receiver Manager's attempt to exercise power of sale over various securities held by the Bank.
- Acting for a Kenyan Insurance Company in a domestic arbitration seeking the recovery of approximately USD 770,000 being outstanding premiums claimed by the Insurer against the Judiciary of Kenya under a Group Medical Insurance Cover.
- Advised and represented various lenders in an insolvency claim in the sum of USD 150 million and a challenge to the placing of a Company (In Administration).
- Representing an independent government financial regulatory agency in negotiating the recovery of depositor's USD 200 million from a debtor. We represented the corporation in the initial Court processes and are now representing the corporation in the negotiations.
- Representing a leading manufacturer of Fast-Moving Consumer Goods in East Africa, in its USD 670,381 claim in Insolvency Proceedings against a Kenyan supermarket chain. Our role includes advising the manufacturer on the chances of recovery of its debt, representing the manufacturer in the proceedings relating to the liquidation petition, attending and participating in creditor's meetings and the ongoing negotiations on a proposed Creditor's Voluntary Agreement on behalf of the manufacturer.
- Representing a Kenyan commercial Bank as a secured creditor in an insolvency petition against a leading cables manufacturer in East Africa ("**the Company**"). We also successfully represented the Bank in an application by the Company which sought orders to restrain the Bank from enforcing its debentures by appointing a receiver over specific fixed assets given as security for the advancement of various credit facilities to the Company.

- Acting for a financial services organization as Lead Counsel in a claim by a borrower in an appeal challenging a ruling that was entered on admission by the said borrower. The borrower had approached the bank for various facilities but defaulted.

Key Asset Tracing & Recoveries Lawyers

George Oraro SC | Founding Partner



George (goraro@oraro.co.ke) is the Founding Partner at Oraro & Company Advocates. With over 44 years of experience, he is held in high esteem for his arbitration, mediation and litigation expertise in Kenya. He specialises in administrative and judicial law, banking & commercial litigation, corporate & commercial law, employment and labour disputes, international trade and tax disputes.

He has practised in the International Criminal Court, LCIA, International Chamber of Commerce, the Supreme Court of Kenya, Court of Appeal, the High Court, the Employment & Labour Court, and various Tribunals.

In 2012, George was conferred with the rank of Senior Counsel for his exemplary service to the legal profession. He was also appointed to serve as a Commissioner of Assize to assist in expediting and determining criminal and civil matters. Similarly, in the Chambers Global 2021 Guide, he retained the prestigious ***‘Star Individual’*** accolade in Dispute Resolution which is accorded to lawyers with exceptional recommendations in their field. George remains the only lawyer ranked in this category in Kenya. He is also ranked a Band 1 lawyer in Dispute Resolution: Arbitrators, receiving a plethora of praise from the Kenyan legal community for being *“one of the best lawyers Kenya has”* and *“without a doubt among the leading individuals in litigation and arbitration.”*

In addition, the Legal 500 listed George among Africa’s leading arbitration practitioners in its Arbitration Powerlist: Africa 2021.

Aside from his legal practice, George has served as a board member for the Capital Markets Authority in which he was instrumental in the development of the legal and regulatory framework for the Capital Markets in Kenya. He was also a member of the Nairobi Securities Exchange Technical committee. In 2015, George became the first Honorary Consul for the Republic of Lithuania.

Noella Lubano | Partner



Noella (noella@oraro.co.ke) is a Partner at Oraro & Company Advocates and a recognised dispute resolution and arbitration expert. She specialises in the tracing and recovery of assets, commercial litigation, employment and labour disputes, and shareholder disputes but is well regarded for her international arbitration and insolvency & restructuring expertise.

She is ranked by Chambers Global 2021 in Dispute Resolution with clients lauding her for being “*extremely professional and approachable*,” and others saying “*her level of subject matter knowledge, especially corporate law matters, is exceptional*”.

Legal 500 also recognised her in the 2020 rankings as a Next Generation Partner, with sources saying she is ‘*responsive, conducts very good and well thought out research, and is approachable and witty.*’

Noella was recently recognised as one of “*Africa's 50 Most Promising Young Arbitrators 2020*” by the Association of Young Arbitrators.

Noella is an eloquent speaker. She spoke on various topics around International Arbitration at the International Arbitration Conference in Kigali, Rwanda in 2017, Addis Ababa, Ethiopia in 2018 and Nairobi, Kenya in 2019. She has also shared her legal insights across the globe including in the United Kingdom and Austria.



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