



## firm profile

McMillan is a modern and ambitious business law firm serving public, private and not-for-profit clients across key industries in Canada, the United States and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan’s commitment to serve our clients, our local communities and the legal profession. For more information, please visit our website at [www.mcmillan.ca](http://www.mcmillan.ca).

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## white collar defence and government investigations

### overview

Heightened scrutiny of corporate practices, and the increasing scope of government investigations and prosecutions are raising the importance of corporate compliance and risk management functions. McMillan’s White Collar Defence and Government Investigations group provides comprehensive support for clients seeking to prevent or responding to such investigations and prosecutions.

Our services include:

- Representing corporations, other organizations and executives at all stages of criminal, quasi-criminal and regulatory investigations and prosecutions for all types of white collar offences including fraud, bribery and corruption, money laundering, cartels and price-fixing, insider-trading or other securities offences, economic sanctions, export/import controls and tax offences, as well as offences under health and safety, discrimination, immigration, financial services, energy, environmental and other regulatory regimes
- Managing and defending against search warrants, inspection orders, interviews given under statutory compulsion, wiretapping orders, and other investigative actions
- Conducting proactive internal investigations and audits into potential criminal and regulatory contraventions under the protection of solicitor-client privilege
- Providing advice on risk management and regulatory compliance, including internal compliance systems, training, whistle-blowing, ethics and media response-readiness programs
- Conducting due diligence and advising on strategies to deal with foreign agents, intermediaries or other parties to commercial or M&A transactions
- Providing advice on reputation management and defamation
- Developing and executing government relations and communications strategies

Our team collectively has decades of investigation, enforcement, prosecution and defence experience. They include:

- Former regulators and prosecutors, including a former General Counsel of the Public Prosecution Service of Canada who prosecuted Royal Canadian Mounted Police cases and cartels, and a former Chair of Ontario’s Market Surveillance Panel
- Litigators with experience in criminal, civil, administrative tribunal and appellate proceedings across Canada



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- Specialists in anti-corruption, export controls, sanctions, anti-money laundering, cartels, securities, financial services, environmental, health and safety, discrimination and other regulatory regimes
- Former senior government officials including cabinet ministers and deputy ministers with responsibilities for International Trade, Public Security, Labour, Treasury Board, Finance, and Environmental matters
- Forensic specialists, including the current President of the Association of Certified Forensic Investigators of Canada

McMillan's White Collar Investigations and Defence lawyers have been recognized in Chambers Canada and the Global Investigation Review's Canadian survey. Where cross-border issues arise, we have working relationships with expert firms around the world to obtain the international assistance that our clients require.

To augment our legal services for clients facing urgent situations, McMillan has developed a full suite of Crisis Response Services:

- Search Response Services — immediate, on-site responses to real-time investigative actions such as searches and seizures by police, the CBSA, the Competition Bureau or other authorities, as well as inspections by environmental, energy, employment and other authorities
- Data Breach Crisis Service – rapid responses to cyber-security attacks and data breaches including dealings with regulatory agencies and other stakeholders
- Product Recall and Regulatory Compliance Services – dealing with urgent product recall issues including regulatory requirements and other potential legal exposures
- Document Preservation Service – avoiding the unintentional destruction or alteration of critical records at the onset of an investigation or litigation
- Fraud and Emergency Orders Service – isolating, assessing and alleviating acts of fraud, and initiating court applications to freeze assets (Mareva injunctions), protecting evidence (Anton Piller orders) and obtaining relevant third party documents (Norwich orders).
- Crisis Communications Service – assisting companies with government, media and other external communications during government investigations and legal or regulatory proceedings



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In addition, McMillan is uniquely positioned to provide clients under investigation with supporting government relations and communications advice and assistance through McMillan Vantage Policy Group, a national public affairs firm that assists organizations in communications with governments, regulators and the media.

## representative transactions

- Counsel for former officers and a director of Sino-Forest Corporation before the Ontario Securities Commission and the Ontario Divisional Court in one of Canada's largest ever securities fraud proceedings, spanning more than 180 hearing days and the related appeal
- Representing multiple parties under investigation in, and following the Charbonneau Inquiry into private sector and government corruption and bid-rigging in the construction industry in Quebec
- Representing a major agricultural company in settling a \$33 million civil ascertained forfeiture order and criminal indictments for export permit violations for combined penalties of \$50,000
- Counsel to one of the defendants in the Competition Bureau's investigation and prosecution of price-fixing in the chocolate confectionary industry
- Assisting numerous US-headquartered companies and their Canadian subsidiaries with compliance issues and dealings with the Attorney General of Canada in respect of *Foreign Extraterritorial Measures Act* issues involving trade with Cuba
- Legal counsel on an investigation of alleged breaches of the Ontario Independent Electricity System Operator's Market Rules
- Defending corporations and individuals faced with investigations and prosecutions arising from serious workplace injuries and fatalities
- Reviewing and modernizing the anti-corruption compliance programs of Canadian subsidiaries of numerous large-scale, multinational corporations in various sectors, including the automotive and pharmaceuticals industries
- Designing new global ethics and anti-corruption policies for a Canadian oil and gas company with extensive foreign operations in high risk areas
- Charges relating to proceeds of crime, money laundering and failing to report pursuant to the Terrorist Financing Act



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- Representing clients that are under investigation by the RCMP for:
  - Alleged breaches of the *Corruption of Foreign Public Officials Act*;
  - Alleged dispositions of funds under the proceeds of crime, money-laundering and terrorist financing legislation;
- Assisting clients to deal with debarment issues before federal and provincial procurement agencies
- Acting as independent advisors to Public Services and Procurement Canada where a company faced suspension from government contracts as a result of corruption and fraud charges
- Represented Volkswagen in an investigation by the Competition Bureau for fraudulent misrepresentation (settled with a consent agreement, without criminal charges being laid) and by Environment Canada and the Ontario Ministry of Environment for alleged use of defeat devices to circumvent emissions regulation
- Represented the mayor of a Quebec municipality who was being investigated by the Anti-Corruption Unit of the Quebec Provincial Police for fraud, bribery, collusion, and in subsequent proceedings before the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry (Charbonneau Commission)
- Represented investors in tracing and recovering money that a fraudster took for the purposes of local development and used to improve other property in Florida, USA
- Represented an individual who was being investigated for fraudulent representations on the internet and possession of proceeds of crime, including various matters linked to the execution of the search warrants and a successful constitutional challenge of section 11 of the Competition Act
- Represented a Canadian mayor who was defrauded of \$1.2 million by his lawyer who was funding a Ponzi Scheme
- Represented a client that was subject to a two-week search and seizure by the RCMP regarding money laundering and related offences pursuant to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act
- Defending a corporate officer from US \$60 million in fraud claims arising from a US \$560 million share sale
- Represented a large merchant bank in prosecuting a \$30 million set of claims for fraud and conspiracy arising from a failed international joint venture, including consulting with



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RCMP on the alleged criminal connections of the counter-parties