



*Tackling the Professional
Enablers of Illicit Financial
Flows: **A Focus on Lawyers***

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Why have lawyers been designated as professional enablers of illicit financial flows?

Paradise Papers

Luanda Leaks

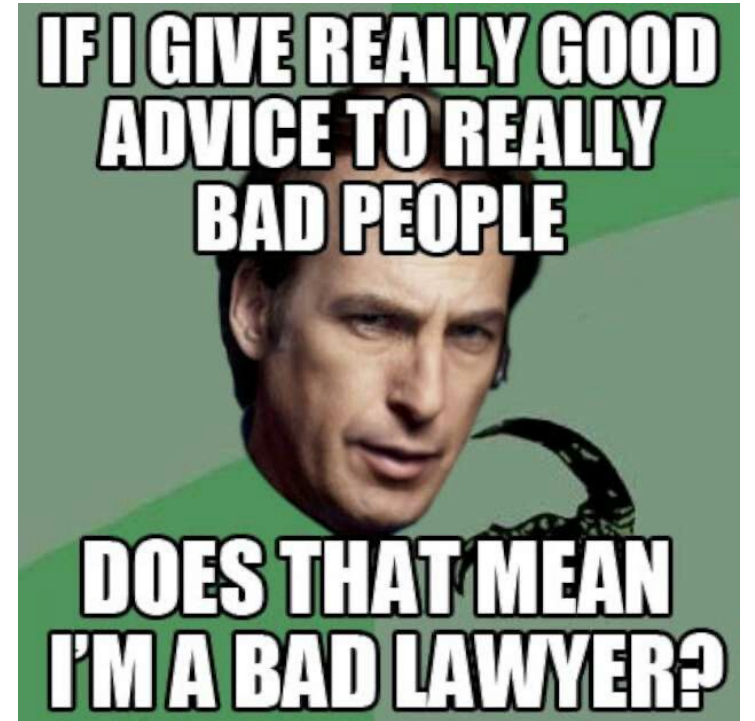
Panama Papers

FinCEN Files



‘Very few types of IFFs are conducted purely by criminals. Most of them are enabled by a variety of professionals, including lawyers...

FACTI Panel Report 2020



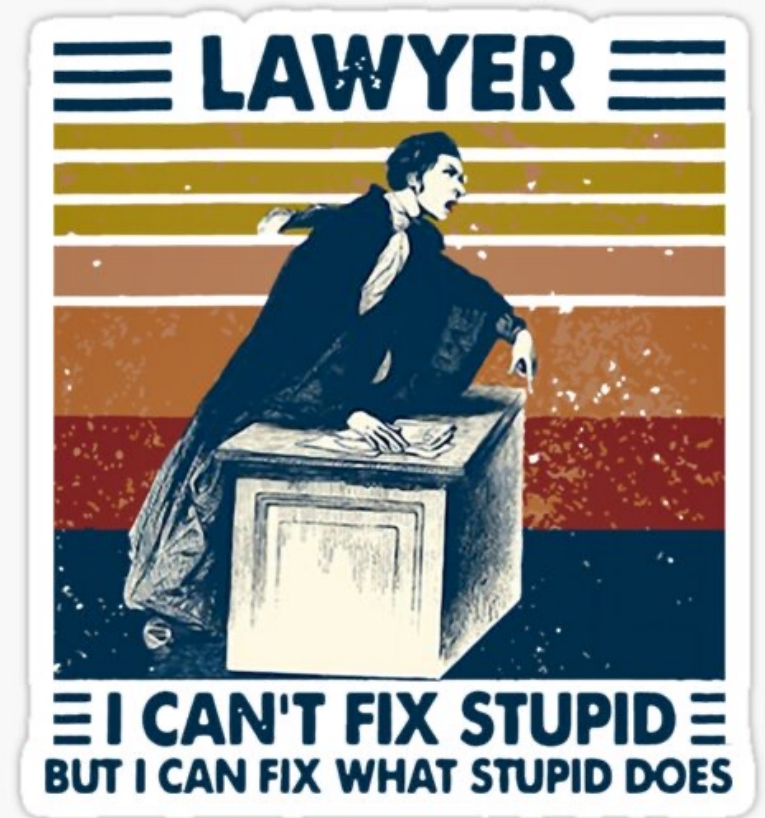
*‘Lawyers and law firms often abuse their **legal professional privilege**, asserting that routine tasks, such as creating a corporation are protected from disclosure on grounds of privilege’*

FACTI Panel Report 2020

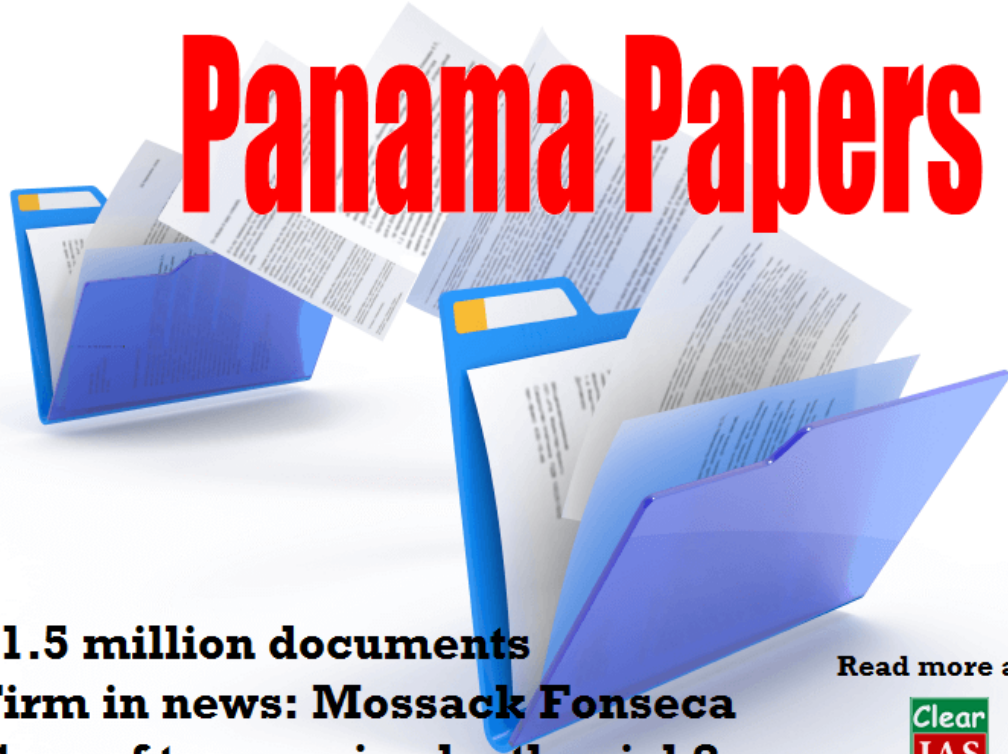


‘Enabled by their lawyers and accountants, corrupt elites and criminals set up fake companies to help them hide their profits, fund lavish lifestyles and invest in further criminality’

UK Home Office, Serious and Organised Crime Strategy 2018



Panama Papers



- * **11.5 million documents**
- * **Firm in news: Mossack Fonseca**
- * **Case of tax evasion by the rich?**

Read more at:



*‘However, whether **complicit**, **negligent** or **unwitting**, professional enablers are also **key facilitators in the money laundering process** and often crucial in **integrating illicit funds** into the UK and global banking systems.’*

UK Home Office, SOCS 2018

Do you think we are strategically positioned to:

1. Recognise illicit funds?

2. Integrate, move, conceal illicit funds?

3. Prevent, interrupt illicit financial flows?

Do you think we are strategically positioned to:

1. Recognise illicit funds?

Do we know our clients?

Their networks?

Their source of wealth?

Can we identify red flags in our transactions?

How do we conduct due diligence, what do we focus on?

Do you think we are strategically positioned to:

2. Integrate, move, conceal illicit funds?

Are you setting up complex company structures?

Managing shell companies?

Trying to blur the nature and origin of ill-gotten gains?

Are you involved in money laundering?

Do you think we are strategically positioned to:

3. Prevent, interrupt illicit financial flows?

Duty to report suspected criminal activity

Duty to report suspicious transactions

Duty to verify the origins of the assets you handle

Should you reject substantial cash transactions with no paper trail?

How do you deal with clients' adamant on withholding key identifying information?

Tanzania Co. Ltd



Italy

Register a cashew export company in Tanzania with the following instructions:

Shareholding:

John Mvuli - 40%

Bermuda Investments - 30%

ABC Co - 30%

Tanzania Co. Ltd



Shareholding:

John Mvuli - Tanzanian resident

Bermuda Investments:

Dubious Trust 50% shareholding

John Man 50% shareholding - POA

ABC Co:

Sole proprietorship

Italy

Tanzania Co. Ltd



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John Man



You draft the agreement between Tanzania Co Ltd and John Man acting through Launder & Co Advocates.

Launder & Co Advocates inform you that John Man will apply for a separate loan facility for \$400,000 and revise the agreement to reflect this.

\$400,000 is wired to Tanzania Co Ltd from a UAE account held by Bermuda - UAE Investments in which John Man is a 10% shareholder, 70% is held by Bermuda Investments and 20% by ABC Co.

off the mark.com by Mark Parisi



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You act for the purchaser - John

John wants to purchase land in Arusha for \$100,000

John pays the deposit in cash (\$10,000) and agrees to a monthly instalment plan to be paid in cash.

1. He tells you he has been saving the money and will borrow from family members. The transaction goes ahead
2. You know John is a criminal, he has told you that he is in possession of funds obtained through corruption and extortion. He gives you a generous legal fee and asks you to help him 'whiten' his 'black money'. You advise John to purchase land in Arusha

The background features a dark teal and black color scheme. It includes several silhouettes of human heads in profile, some facing left and some facing right. Interspersed among these are several question marks of varying sizes. A central lightbulb icon is depicted with radiating lines, suggesting an idea or insight. The overall aesthetic is professional and thought-provoking.

Were you able to:

1. Recognise illicit funds?

2. Integrate, move, conceal illicit funds?

3. Prevent, interrupt illicit financial flows?



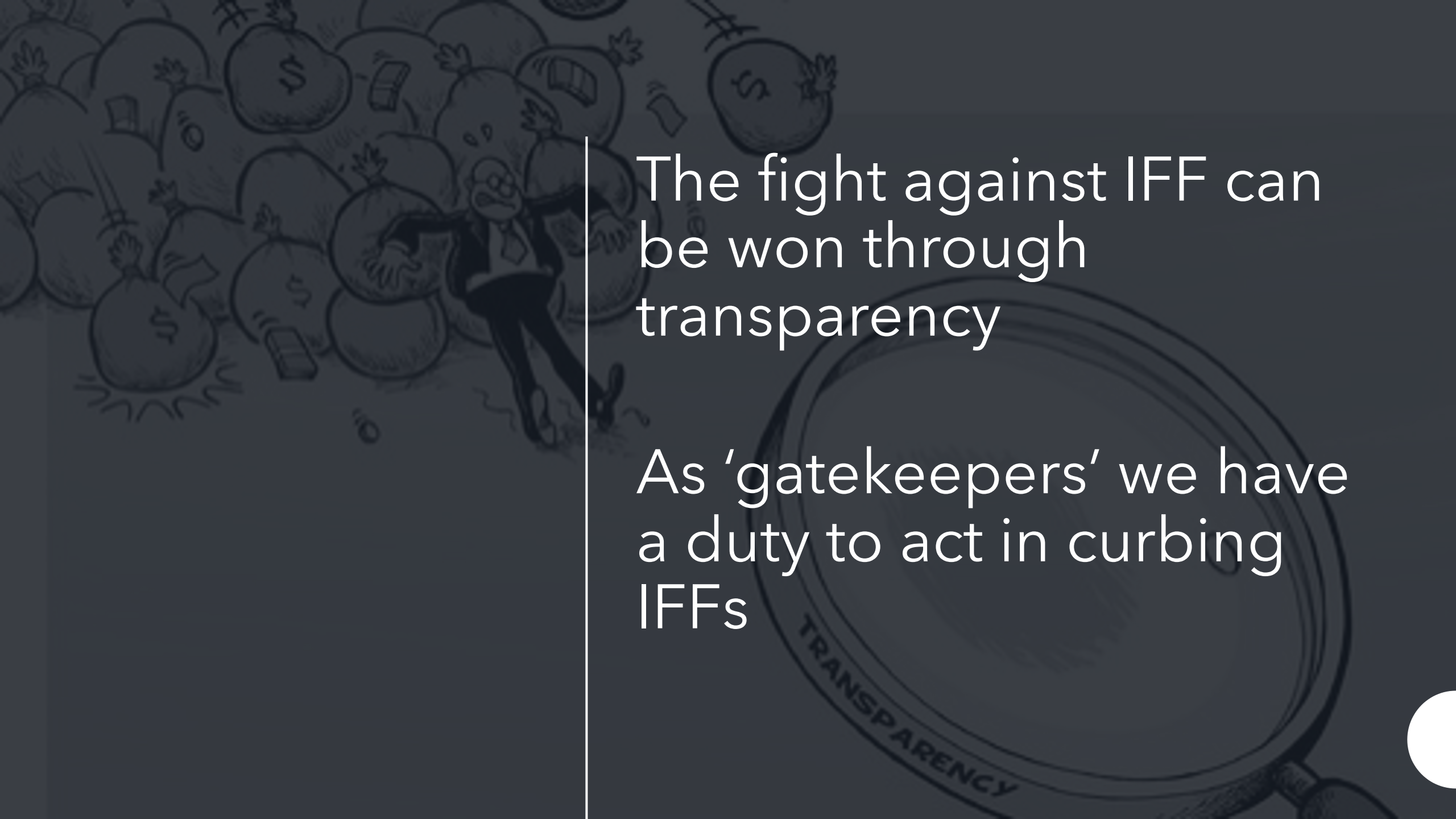
What lawyers must do:

1. Awareness of IFFs (types: commercial, criminal and corruption based; enabling environment: tax havens, financial secrecy, undisclosed beneficial owners, cash transactions)
2. Know your Client (details, networks, source of assets, where necessary) - conduct the same anti-money laundering background checks that banks are required to do
3. Prioritise integrity over confidentiality
4. Be clear on who the ultimate beneficiaries of a transaction are
5. Perform risk assessments with HNWI
6. Know the market - what are the prevalent forms, practices and patterns of abuse so that you conduct heightened levels of due diligence



International moves

- OECD - governments to reflect on whether duty of confidentiality poses a barrier to successful investigation and prosecution of offences
- US - impose AML obligations on private investment funds
- UN FACTI Panel and UN Special Session of the General Assembly against Corruption (UNGASS) - establish centralised, public registers of beneficial ownership
- Tax Justice Network -adopt legislation that require tax advisors to report to tax authorities their estimate of the amount of tax avoided through the advice they have provided to companies and clients



The fight against IFF can
be won through
transparency

As 'gatekeepers' we have
a duty to act in curbing
IFFs