

From: MF & Co. - Marketing <marketing@mossfon.com>

Sent: Tuesday, March 22, 2016 7:13 PM

To: Ryle, Gerard

Subject: FW: Media inquiry from ICIJ/Private and confidential

Dear Mr. Ryle:

Below please find our responses to your inquiries:

We have received and reviewed the questions you sent us relating to the business of Mossack Fonseca and parties alleged to have conducted business with the firm.

We cannot provide responses to questions that pertain to specific matters, as doing so would be a breach of our policies and legal obligation to maintain client confidentiality. Although we cannot provide such information to the media, we have always contributed information to the pertinent authorities when it has been requested. However, we can confirm that the parties in many of the circumstances you cite are not and have never been clients of Mossack Fonseca. We encourage you to verify your sources, comprehend the essence of the industry dedicated to company formation, and understand how this business has functioned historically versus the changes that have taken place recently to ensure transparency into the identity of ultimate beneficial owners and to improve safeguards within the international financial system in which Mossack Fonseca operates.

Nonetheless, we respectfully take this opportunity to provide additional insights into our business and its role, and to briefly comment on some of the issues brought by you in your questionnaire. Before you report your story, please consider the following facts:

We provide company incorporation and related administrative services that are widely available and commonly used worldwide.

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Incorporating companies is the normal activity of lawyers and agents around the world. Services such as company formations, registered agent, and others are frequently used and provided in many worldwide jurisdictions, including the United States and the United Kingdom.

Moreover, it is legal and common for companies to establish commercial entities in different jurisdictions for a variety of legitimate reasons, including conducting cross-border mergers and acquisitions, bankruptcies, estate planning, personal safety, and restructurings and pooling of investment capital from investors residing in different jurisdictions who want a neutral legal and tax regime that does not benefit or disadvantage any one investor.

Our services are regulated on multiple levels, often by overlapping agencies, and we have a strong compliance record.

Our business is regulated by several different oversight and enforcement agencies, including the Banking Superintendence of Panama and the Intendancy of Non-financial Regulated Services Providers. We are also subject to regulatory oversight and enforcement in all of the other jurisdictions where we incorporate companies. In addition, we have always complied with international protocols such as the Financial Action Task Force (FATF) and, more recently, the U.S. Foreign Account Tax Compliance Act (FATCA) to assure as is reasonably possible, that the companies we incorporate are not being used for tax evasion, money-laundering, terrorist finance or other illicit purposes.

The FATF, in particular, praised Panama in its February 2016 plenary session, saying specifically that Panama has made “significant progress in improving its AML/CFT (anti-money laundering and combating the financing of terrorism) regime.” The FATF, subsequent to the plenary session, removed Panama from its gray list.

We are responsible members of the global financial and business community.

We conduct thorough due diligence on all new and prospective clients that often exceeds in stringency the existing rules and standards to which we and others are bound. Many of our clients come through established and reputable law firms and financial institutions across the world, including the major correspondent banks, which are also bound by international “know your client” (KYC) protocols and their own domestic regulations and laws.

If a new client/entity is not willing and/or able to provide to us the appropriate documentation indicating who they are, and (when applicable) from where their

funds are derived, we will not work with that client/entity. Indeed, the documents you cite in your reporting show that we routinely deny services to individuals who are compromised or who fail to provide information we need in order to comply with our KYC and other obligations.

Our due diligence procedures require us to update the information that we have on clients and to periodically verify that no negative results exist in regards to the companies we incorporate and the individuals behind them. Again, the documents you cite in your reporting show that we routinely resign from client engagements when ongoing due diligence and updates to sanctions lists reveal that a beneficial owner of a company for which we provide services is compromised.

For 40 years Mossack Fonseca has operated beyond reproach in our home country and in other jurisdictions where we have operations. Our firm has never been accused or charged in connection with criminal wrongdoing.

- However, we are legally and practically limited in our ability to regulate the use of companies we incorporate or to which we provide other services. We are not involved in managing our clients' companies. Excluding the professional fees we earn, we do not take possession or custody of clients' money, or have anything to do with any of the direct financial aspects related to operating their businesses.

We operate in jurisdictions with increasingly stringent financial and legal controls.

- All of the jurisdictions where we have operations have made significant strides in their efforts to comply with global protocols to prevent abuse of their financial and corporate systems. This includes preventing money laundering, combatting terrorist financing and preventing tax evasion.

Most of the jurisdictions have formal tax information exchange agreements with several countries that are approved by the Organization for Economic Cooperation and Development (OECD). Panama has nine formal OECD-approved tax information exchange agreements, including with the United States and Canada, and 16 double taxation agreements (which include provisions for information sharing between authorities) with countries such as Ireland, Luxembourg and the Netherlands included in this group. The OECD has recognized Panama for

improving the government's access to information about beneficial ownership of entities incorporated in its jurisdiction as well as for improving the sharing of such information with authorities in other jurisdictions.

To quote from the OECD's most recent peer review of Panama: "The 2014 Supplementary Agreement noted the significant progress made by Panama in expanding its exchange of information network since the 2010 Phase 1 Report, which brought the number of signed EOI (exchange of information agreements) agreements from one to 25."

In addition, Panama, the British Virgin Islands (BVI), and the United States have agreed to terms for financial institutions in their jurisdictions to comply with the U.S. Treasury's Foreign Account Tax Compliance Act (FATCA). This act ensures that American citizens with accounts in these territories declare and pay any taxes on income or investments earned in them that are due to the U.S. Internal Revenue Service.

We regret any misuse of our services and actively take steps to prevent it.

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We regret any misuse of companies that we incorporate or the services we provide and take steps wherever possible to uncover and stop such use. If we detect suspicious activity or misconduct, we are quick to report it to the authorities. Similarly, when authorities approach us with evidence of possible misconduct, we always cooperate fully with them.

With regards to some of the allegations contained in your questionnaire, we would like to comment as follows:

(a) **Tax Evasion and Avoidance**: We strongly disagree with any statement implying that the primary function of the services we provide is to facilitate tax avoidance and/or evasion. Our company does not advise clients on the structuring of corporate vehicles and the use they may make of same; and we likewise do not offer solutions whose purpose is to hide unlawful acts such as tax evasion. Our clients request our services after being duly advised by qualified professionals in their places of business. Moreover, it should be made clear that tax avoidance and evasion are not the same thing. For example, a client can use the structures provided by us for tax optimization of his/her estate, such as taking advantage of

provisions in treaties for avoiding international double taxation. Such behavior is perfectly legal.

(b) **Due Diligence on Clients:** To begin with, approximately 90% of our clientele is comprised of professional clients, such as international financial institutions as well as prominent law and accounting firms, who act as intermediaries and most of them are regulated in the jurisdiction of their business. In the case of Panama, Law 2 of 2011 allows the information and documentation on the final beneficiary to be held in custody by the professional regulated client. Likewise, BVI's 2008 AML Act allowed the information regarding the final beneficiary to be held in custody by such regulated client until December 2015. Thus, most of the persons mentioned in your questionnaire are not our clients nor do they appear in our database as persons related to the companies we formed. Due diligence procedures were carried out in accordance with the laws in place at the time the companies and cases you made reference to were incorporated and in existence. Also, be aware that a significant percentage of our clients are banking institutions, trust companies, lawyers, and accountants who are also obliged to perform due diligence on their clients in accordance with the KYC and AML regulations to which they are subject. In addition to the above, we do have some end-user clients—we have never denied this fact, and in these cases, as in all others, we have complied with all applicable due diligence procedures.

(c) **Politically Exposed Persons (PEPs):** We have duly established policies and procedures to identify and handle those cases where individuals either qualify as PEPs or are related to them. As per our Risk Based Approach, PEPs are considered to be high risk individuals. Hence, enhanced due diligence procedures apply in these cases. Also, periodic follow-up is conducted to assure that no negative results are found. Lastly, you should bear in mind that according to international KYC policies, PEPs do not have to be rejected just for being so; it is just a matter of proper risk analysis and administration.

(d) **Sanctions Lists and Convicted Criminals:** Our company does not foster or promote unlawful acts. The very documents you cite in your reporting show specific instances demonstrating that once these types of situations are identified, we routinely discontinue the provision of our services. The Service Provision Agreements signed with our clients impose on them the obligation to notify us as soon as they have knowledge of a client of theirs having been either convicted or

listed by a sanctioning body. Likewise, we have our own procedures in place to identify such individuals, to the extent it is reasonably possible. Bear in mind that we have an obligation to follow an orderly administrative process when resigning from client engagements. The time it takes for us to resign as registered agent from the involved companies varies depending on our internal procedures and the regulations of the respective country or jurisdiction. Also, sometimes the authorities require the registered agent not to file any resignation in order to prevent obstructing their investigation. In any case, our company always complies with the filing of the respective reports according to the governing laws of the specific country or jurisdiction.

Notwithstanding the above, we would like to take this opportunity to clarify that we have never knowingly allowed the use of our companies by individuals having any relationship with North Korea, Zimbabwe, Syria, and other countries mentioned by you that might have been considered as a threat to any other country's national security or that have been listed by a sanctioning body. If for some reason, unbeknownst to us, some company formed by us ended up in the hands of people having such relations for whatever criminal or unlawful purpose, we strongly condemned that situation and took and will continue taking any measures that are reasonably available to us.

(e) **Provision of Company Secretarial Services**: Company Secretarial Services are legal services that allow a professional company provider to act on behalf of a company that is owned by third parties. Company Secretarial Services are not used to hide the identity of the real owners of the company as for instance, a director is not in its nature the owner of the company. These services often include directorships and facilitate document filings before the authorities and registry of a company's jurisdiction. For example, a secretary might help a company register for taxes and file for licenses, manage patents and trademarks, tax returns and other documentation to be handled and filed. Company Secretarial Services are provided by many firms to professional clients and investors all over the world. The same director or company secretary can act on behalf of many different companies in different jurisdictions. That is widely accepted and perfectly legal, especially in cases where the purpose of a company is to be a holding company or own immovable or movable property. The fact that many companies have the same directors and/or address does not mean that such companies are connected in any way, as is commonly assumed. In the case of

professional service providers, usually a director or company/corporate secretary has no economic interest or commercial link to the company's activity and he/she does not endorse, participate or assist in the commercial or passive roles of a company in any way. Following the pre-established guidelines, the secretary appoints agents and attorneys that then carry out the administration of the company. Our company is not the only one providing this type of service. You can take a look at UK law firms' websites and you will find more information about the provision of this service.

Below please find a small sample of companies that offer company secretarial services:

- Elemental CoSec, London, UK
- CT Corporation, New York, USA
- The Corporation Service Company, Delaware, USA
- National Registered Agents, Inc., USA
- InCorp Services, Inc., Nevada, USA
- My LLC, California, USA
- Northwest Registered Agent LLC, WA, USA
- Swift Formations, UK
- DeMontford Bell, UK
- CG Incorporations, UK
- TCS Group International, UK
- MILS Corporation Ltd., UK
- HGN Limited, UK
- A & P Intertrust Corporation, Canada

(f) **Shareholders and Beneficial Owners**: Closely related to the point above, as part of the services our trust company provides, we often constitute trusts for shares. As a result, your allegations that we provide shareholders with structures supposedly designed to hide the identity of the real owners, are completely unsupported and false. These types of services are always supported by the existence of legally recognized vehicles utilized for such purposes by all service providers in this industry. Even though we do provide shareholdership services through the legal structures already explained, we do not provide beneficiary services to deceive banks. Banks currently carry out their due diligence procedures just as we do. It is difficult, not to say impossible, not to provide banks with the

identity of final beneficiaries and the origin of funds.

(g) **Administrative Penalties**: It is mentioned in your questionnaire, that we have been fined by the BVI authorities for non-compliance with AML regulations. Please be aware that these are administrative fines imposed by the regulator to registered agents when the intermediaries or professional clients do not comply with their contractual obligation of informing the registered agent of a client of theirs having been either convicted or listed by a sanctioning body. If you recall, we already explained that as regulated professional clients, BVI's 2008 AML Act allowed the information regarding the final beneficiary to be held in custody by such regulated clients. But if the intermediary does not comply as required, the registered agent is penalized. You can access the Regulator's website and you will find that we are not the only agents who have been penalized for this. In fact, this was very common up to December 2015, when the cited law allowed full reliance on intermediaries. Since then, the law has been changed. You will also be able to verify that the fines referred by you were applied before said change occurred.

(h) **Backdated Documents**: The issuance of documents with a retroactive date is a well-founded and accepted practice when the decisions made with regard to the particular document are recorded in resolutions approved before or when the transaction in particular has taken place and the formalization is still pending. Such practice is common in our industry and its aim is not to cover up or hide unlawful acts. As we have previously stated, our company does not foster or promote unlawful acts.

(i) **Destruction of Documents**: As to your allegations about this matter, we do not know what the source of your information is, and we categorically deny their veracity. Let us be clear that it is not our policy to hide or destroy documentation that may be of use in any ongoing investigation or proceeding.

Finally, we will not answer any questions related to private information regarding our company founding partners as we do not see the public interest behind said inquiries. Likewise, we will not make any reference to the statistics and other "factual" information about numbers and amounts since they are far from being accurate. In relation to our asset management company, same does not have the capacity by law to use, move, or dispose of in any way their clients' money.

You may consider this document as our response to your questionnaire. However, it should not be considered as a validation of the information contained therein, and especially to the method by which said information was obtained. From the way you present your “facts”, it appears that you have had unauthorized access to proprietary documents and information taken from our company and have presented and interpreted them out of context. We trust that you are fully aware that using information/documentation unlawfully obtained is a crime, and we will not hesitate to pursue all available criminal and civil remedies.

Kind regards, **Carlos Sousa**

Public Relations Director MOSSACK FONSECA & CO. (PANAMA)



Mossfon Building
54th E. Street,
Panama
Tel. +507 205 5888
www.mossfon.com