

Law Firms Look for Lessons—and Clients—in Panama Papers Leak

By Nell Gluckman

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Major law firms are carefully monitoring the fallout from the so-called Panama Papers, as the unprecedented leak of 11.5 million internal documents from the Panamanian law firm Mossack Fonseca continues to shine a spotlight on the offshore movement of wealth.

While many firms are getting updates and looking for opportunities in the wake of the leak, at least one, Sheppard, Mullin, Richter & Hampton, has formally set up a multipractice group devoted to Panama Papers-related developments.

“We know we have an existing client base that is impacted by this, so there’s a necessity to be proactive,” said Raymond Marshall, co-chair of the firm’s white-collar defense practice, who is leading the Panama Papers group.

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A screenshot shows the website of Panamanian law firm Mossack Fonseca on April 4, 2016.

A team of about eight firm leaders from Sheppard Mullin’s cybersecurity, international tax, finance, real estate, white-collar and private equity practices

convenes at least once a week, Marshall said. They hope to advise clients who are either named or affiliated with companies that appear in the Mossack Fonseca files, as well as another investigation into offshore transactions that was released online this week.

The repercussions of the leak will likely play out for years to come. The internal files themselves have not been released, but on April 3, in an effort coordinated by the International Consortium of Investigative Journalists, over 100 news organizations published stories on the hidden fortunes of public officials, businesspeople and celebrities that Mossack Fonseca represents.

Within a week, the prime minister of Iceland, Sigmundur Gunnlaugsson, resigned amid accusations that he hid millions in taxes in an offshore company owned by his wife. The U.S. attorney for the Southern District of New York, Preet Bharara, told the ICIJ later that month that his office had opened an investigation “regarding matters to which the Panama Papers are relevant” and asked the nonprofit for a meeting.

And last week, President Barack Obama proposed new rules that are meant to blunt tax evasion by making it easier for regulators to determine who owns offshore companies and accounts.

Marshall said there are any number of reasons why his firm’s clients might need guidance on issues related to the Panama Papers. They may have questions about attorney-client privilege, how to deal with regulators, their own offshore accounts or how to respond to a subpoena from government investigators.

“Many of these things are legal,” Marshall said. “Our guess is that not all of them are.”

At least 30 Am Law 100 firms, including some that no longer exist, and dozens of other law firms around the world appeared in the searchable database that was published Monday by the ICIJ. The firms and

other entities listed came from the Panama Papers leak and a separate ICIJ investigation from 2013. The nonprofit said in a disclaimer that there are “legitimate uses for offshore companies and trusts,” and that appearing in the database doesn’t suggest that an entity was involved in illegal or improper activities.

A due diligence wake-up call

Regardless of whether they appear in the database, law firms should view the Panama Papers as a wake-up call, said Hinshaw & Culbertson professional liability partner Janis Meyer.

“Firms would be well served to take this opportunity to review their client intake procedures,” Meyer said. While large firms typically do have systems in place to alert them if a potential client has been flagged by a law enforcement agency, every jurisdiction has its own rules regarding what kind of due diligence is mandatory.

In the U.K., for example, “there are procedures to ensure that you know your client,” said Meyer, who was general counsel at Dewey & LeBoeuf before the firm went bankrupt in 2012. “We don’t have any mandatory procedures for that here [in the U.S.], but good lawyers do it.”

(Neither Dewey & LeBoeuf, nor its predecessor firms, LeBoeuf, Lamb, Greene & MacRae and Dewey Ballantine, have appeared in the Panama Papers database.)

Meyer, who represents lawyers and law firms, added that large firms working internationally must also perform due diligence on their local counsel to ensure that they maintain high ethical standards.

“People get caught in getting the deals done,” she said. “There should be standardized procedures in law firms for retaining or hiring local counsel.”