

SPRING MEETING 2017 PROGRAM

Has the Legal Profession Lost its Moral Compass? The Panama Papers, Lawyers' Professional Ethics and Due Diligence Obligations

Friday, April 28, 2017, 9:00 a.m. -10:30 a.m.
Capital Hilton, 1001 16th St, NW, Washington, DC 20036

Following the release of the Panama Papers, the New York Times ran a story in April 2016, [Panama Papers Show How Lawyers Can Turn a Blind Eye](#), describing the role of lawyers in setting up shell companies and offshore bank accounts for clients “while turning a blind eye to possible violations of law.” The Times article cited a January 2016 60 Minutes segment, [Anonymous Inc.](#), that featured an [investigation](#) conducted by the non-profit organization Global Witness, which included footage of American lawyers depicted as willing to act on behalf of a corrupt foreign official in need of moving and sheltering (illicitly gained) funds. In light of the Panama Papers and the Global Witness investigation, the Times article posited this question: “Has the legal profession lost its moral compass?”

Did the Times ask the right question? Are moral and professional obligations the same? Should they be? What is or should be the role of lawyers in detecting and reporting financial crime, particularly money laundering?

This program will explore rules-based, ethical, and moral obligations of lawyers to detect and report illicit financial activity by clients, including a comparison of European and American positions on the role of lawyers as “gatekeepers.” Among other rules, we will explore ABA [Model Rule of Professional Conduct 1.2\(d\)](#), which provides that a lawyer should “not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal or fraudulent.” In addition, this program will examine whether and to what extent American lawyers, like covered financial institutions and some of their European lawyer counterparts, should be obligated to “know their clients” and report suspicious transactions, including from the perspective of the Financial Action Task Force (FATF) which recently recommended that the United States apply “appropriate anti-money laundering/counter-terrorism financing obligations” to lawyers.

SPEAKERS

Robert Bourns

President, Law Society of England and Wales

Geoffrey Hazard

Emeritus Thomas E. Miller Distinguished Professor of Law,
University of California Hastings College of the Law

Honorable James Robertson

Mediator and Arbitrator, JAMS
Judge (Ret.), U.S. District Court for the District of Columbia
Former President, District of Columbia Bar

Kevin Shepherd

Partner, Venable LLP and American Bar Association Board of Governors Liaison
to American Bar Association Task Force on Gatekeeper Regulation and the Profession

Gary Sutton

Senior Legal Advisor for Financial Crime, Office of General Counsel,
United States Department of the Treasury

MODERATOR AND PROGRAM CHAIR

Hdeel Abdelhady

Principal, MassPoint Legal and Strategy Advisory PLLC
Co-Chair, ABA Middle East Committee

Robert Bourns



Robert Bourns is the former senior partner at TLT and the president of the Law Society. Robert trained with Osborne Clarke and was admitted 1980. For the first 6 years as a solicitor he undertook criminal defense work, later moving to employment, partnership and regulatory work. Robert has significant experience managing and developing a growing business across the UK, having been managing partner for six years and more recently senior partner at TLT. He has been involved with local law societies intermittently for many years, having been a secretary and president of Bristol Law Society and secretary of the Association of South Western Law Societies. Robert joined the Law Society Council in 2011 and is an elected member of the Management Board. He is one of five representatives for the City of London constituency, a member of the Law Society's Equality and Diversity Committee and a member of the RAB Regulatory Processes Committee.

Professor Geoffrey Hazard



Geoffrey Hazard is perhaps the primary figure in legal ethics in the country today. His treatise *Civil Procedure* (Foundation, 5th ed. 2001), with Fleming James Jr. and John Leubsdorf, is a mainstay of American legal education. His book (with Angelo Dondi), *Legal Ethics: A Comparative Study* (Stanford, 2004) compares ethics in the legal professions of modern industrialized countries. Hazard received the ABA Michael Franck Award in Professional Responsibility, American Bar Foundation Research Award and William Keck Foundation Award, Columbia University School of Law Association Medal for Excellence, American Judicature Society, Outstanding Contributions to Promoting Effective Administration of Justice, the ceremony of Salute, Superior Court of Pennsylvania, the International Insolvency Institute Gold Award, and the ABA Robert J. Kutak Award as well as seven honorary degrees.

Honorable James Robertson



The Honorable James Robertson served with distinction as a United States District Judge for the District of Columbia for more than 15 years before his retirement on June 1, 2010, presiding over a docket that included a broad range of complex federal civil cases. He has earned a well-deserved reputation for fairness, integrity, courage, intelligence, decisiveness, compassion, and fair play. A progressive thinker and innovator, Judge Robertson served on the Judicial Conference Committee on Information Technology for eight years and was its chair from 2003 through 2005, presiding over the introduction of electronic filing in the federal judiciary and initiating an on-line system for receiving and reviewing clerkship applications. While an active federal judge, he served on the Foreign Intelligence Surveillance Court. Prior to Judge Robertson's appointment to the federal bench, he was in private law practice for 25 years with Wilmer, Cutler & Pickering. He also served with the Lawyers' Committee for Civil Rights Under Law, as a civil rights litigator in Mississippi, as its national director in Washington, and later as co-chairman. He was a member of the Board of Governors of the D.C. Bar and was elected president in 1990. Judge Robertson is a Fellow of the American College of Trial Lawyers and a member of the American Law Institute.

Kevin Shepherd



Kevin Shepherd is a senior partner in the Venable LLP's Real Estate Practice Group. He represents large national and multinational institutions in complex real estate transactions, ranging from the development of electric generation power plant facilities and the world headquarters of a multinational biotechnology and life science firm to the purchase and sale of the nation's highest profile assets. Mr. Shepherd holds significant leadership positions in Venable and law-related organizations. Mr. Shepherd is Managing Director of Finance and chair of Venable's Finance Committee, which oversees the firm's financial operations, policies, and procedures. For a dozen years, Mr. Shepherd served as chair of Venable's Real Estate Practice Group. Mr. Shepherd is a past Chair of the ABA Section of Real Property, Trust and Estate Law, and he is a past president of the American College of Real Estate Lawyers. Mr. Shepherd has served on a number of task forces and committees, and is chair of the ABA Task Force on Gatekeeper Regulation and the Profession, and he served for several years on the ABA Standing Committee on Publishing Oversight.

Gary Sutton

Gary Sutton is Senior Legal Adviser for Financial Crimes in the Office of the General Counsel, U.S. Treasury Department, where he focuses on U.S. and international anti-money laundering and counter-terrorist financing issues. He has been involved in implementing the anti-money laundering provisions of the USA PATRIOT Act since its enactment in 2001. Gary serves on the U.S. delegation to the Financial Action Task Force (FATF), an intergovernmental body that develops and promotes policies to combat money laundering and terrorist financing, and was involved in the preparation for the 2016 FATF evaluation of the U.S. anti-money laundering regime as well as for the 2006 assessment. He has also participated in FATF assessments of other jurisdictions, as well as in the review and revision by the FATF of its Recommendations, completed in 2012. Prior to joining the Treasury Department in 1998, Gary represented financial institutions in both regulatory and transactional matters. He began his career at Shearman & Sterling and has subsequently served in corporate counsel positions, including General Counsel of a regional bank holding company. He also served as Special Counsel in the Division of Market Regulation of the Securities and Exchange Commission, and was an adjunct professor at George Mason University Law School.

Hdeel Abdelhady



Hdeel Abdelhady is Principal of MassPoint Legal and Strategy Advisory PLLC, her boutique Washington, D.C. law and strategy firm that provides compliance, governance, and bespoke advisory services to help banks, sovereign and private entities, and other parties navigate legal complexity, achieve strategic objectives, and manage risk. Hdeel's experience includes representing banks, borrowers, non-bank financial intermediaries, and companies as lead counsel in financing and corporate transactions and advising banks, companies, and other parties on compliance with U.S. AML, anti-corruption, and sanctions laws and regulations. In addition, Hdeel has structured conventional and Islamic structures for public investment and philanthropic purposes for sovereign and non-governmental parties. Hdeel has served as in-house secondment counsel to banks in the United States and Dubai. Prior to founding MassPoint, Hdeel practiced law with two major international law firms. She is a Co-Chair of the ABA Middle East Committee and a Professorial Lecturer in Law at the George Washington University Law School.