

Jack Blum: The idea of how to set up a scheme to get around taxation is at the guts of every law school course in taxation.

Naomi Fowler: Jack Blum had developed a keen dislike for some of the operators behind the system that makes tax abuse and other kinds of corruption possible. At the Tax Justice Network we refer to them as the enablers, and the enabler industry.

Jack Blum: There's a whole layer of problem that goes with tax evasion and money laundering, which are clearly criminal. And it's a system that enables the evasion of regulation and ultimately criminal behaviour. But then the question is where is the crime committed, who's the criminal, how do we do anything about what has happened? There one has to understand how this system is put together.

Naomi Fowler: This is the Corruption Diaries from the Tax Justice Network. I'm Naomi Fowler.

Jack Blum: Around the world there are several companies and law firms that specialise in setting up offshore shell companies. Question, what is an offshore shell? Well, in, in the typical offshore jurisdiction, they'll get a corporate charter. The corporate charter will have nominee officers, directors, and even shareholders. And they're nominees for God knows who, there's no requirement that they keep books and records. Nor is there a requirement of any location for whatever records there are. And in many cases, the way the system worked was, uh, someone would approach a corporate formation firm and say, set up a company for me. They would sign a contract with the company formation firm, and the contract would say that the company formation firm would be providing these nominee directors and officers, but neither the individuals nor the corporation forming the corporation would have any liability for anything it did, ever. Nor would it be responsible for anything the corporation did, nor would the nominees be responsible for anything it did. And that every one of these directors, nominee directors and officers would be leaving signed but undated letters of resignation in the file which could be put into effect at any given time. In turn, this newly formed entity, which had no responsible owners, directors, officers, or whatever, would hire an accounting firm. And the accounting firm would have similar clauses saying we bear no responsibility for everything, all of the information in our reports have been furnished by the customer, you know, lots of luck in relying on what is in this report. Everybody connected with the transaction, the enabling corporation, the nominees, the accounting firm, all of them are absolving themselves from any responsibility. And, of course, the corporation would then go out into the world at large, open bank accounts, do business, claim to have life as a separate entity.

Now, the people in this business tend to talk about tax avoidance as opposed to tax evasion. And they keep pointing to laws and judicial opinions and the, the gravamen of what they say is look, we have a perfect right to take advantage of every tax loophole there is, and we'll do that and we'll do that reasonably aggressively. And you can't come after us for suggesting that some arrangement or business arrangement that we propose is illegal or is anything more than legitimate tax avoidance. And that becomes the stickiest area of trying to hold people accountable and keep their feet to the fire.

When the hedge fund business was really blossoming, lots of hustlers went to the offshore jurisdictions and set up hedge funds. Because now there were no records in the jurisdiction, there was no responsibility on the part of the officers or the directors, and there were no records in the jurisdiction, numbers of these hedge fund operators simply took the money and disappeared.

The reason we know about what happened with these different contracts was that there would then be a liquidator appointed who would go to the jurisdiction and go to court in an effort to recover assets for the people who said, where's my money? And at that point everybody would come in and say, Well, we're not responsible for any of that, good luck! That was one of the places where this problem of no responsibility, no records kept turning up.

One of the things that the community of people who are interested in controlling offshore evasion and, uh, uh, money laundering have been concerned with are the people who do this for a living, the enablers. And there have been a variety of attempts to go after the enablers and to figure out how to shut that down as a business, because what in fact the enablers are doing is supporting offshore criminality and international financial crime and tax evasion and money laundering, and this should not exist as a business. Support services for criminals ought to be criminal. And where the law has been passed and enablers have been told, uh, you've got to shut up shop, the bar associations have come back very strongly, arguing, complaining, saying you're interfering with lawyer-client privilege, that when somebody comes to a lawyer and asks for advice, uh, what goes on between the lawyer and client is absolutely confidential, remains confidential, should continue to be confidential even after the client is dead, and, uh, the lawyer should never have the obligation of, uh, telling, uh, the authorities anything about the people who come to him and ask him for advice on how to do some offshore arrangements.

Well, there's an exception to lawyer-client privilege called the 'crime fraud exception.' Thus, anybody who comes into my law office and says, I want to hide money for whatever blankety blank reason, suddenly is placing both of us in jeopardy because if what the man wants is illegal uh, I've got a terrific problem, I become a co-conspirator instead of a legal counsellor. And the example I give here is I had a gentleman come into my law office and ask me whether I would help him hide 400 million dollars because he was about to get a divorce and he said my wife is gonna hire a couple of great white shark lawyers and they're gonna take me to the cleaners and I want to make sure that my assets are out of their reach and somebody told me that it would be wonderful to hide the money in Thailand. And I, I looked at the guy and I said, I'm sorry, I can't really help you. He said, but you're the expert in offshore. I said, yes, I know a lot about offshore, but I can't help you that way. He said, well, why not? I said, well, here's the problem. The only way, the only way you're going to be able to avoid telling where this money is is to lie under oath when you're deposed in the divorce case and they ask you, do you have any money hidden offshore? And if you answer no, you're lying under oath and that means I have suborned perjury because I know you're lying and I can't do that so, you know, let's forget about it. He said, well, what about Thailand? I said, well, look, I, I've already told you that I can't represent you. I won't represent you. I'm not about to give up my law license for your need to beat your wife out of whatever money she might be due. But let me tell you that you're kind of a fool to even think about it because let's, let's just look at the situation. Do you speak Thai? No. Do you know anything about the

Thai criminal justice system or the Thai civil law system? No. Do you know any Thai lawyers? No. Did you know that Thai money and Thai accounting is all done in units of 12? No. So, why do you think your money will be safer there than here in the United States? And let's go a little bit further. You've made 400 million. If your wife takes half of the 400 million, and you're left with 200 million, you won't be living in the park! You're clearly going to have enough money to get by on, but more likely than not, given the skill you exhibited to turn up 400 million, you'll be able to earn a bunch more pretty quickly. And, uh, the whole idea of taking the risk of putting all of your assets in the hands of people you don't know, in a system you're not familiar with, to me is a little bit crazy. And, uh, my strong advice to you is don't try to hide the money. Try to figure out how to legitimately gain whatever advantage you can in the divorce case. And, uh, forget about Thailand, forget about any offshore jurisdiction. Uh, it's all going to be the same question and, uh, whenever you're hiding money, you're always at risk that you're going to be exposed, cheated, uh, or put in some situation where you're never going to see Dollar One again.

And that ended my dealings with this particular gentleman, but it summarizes the problem of anybody who's dumb enough to think that it's a really good idea to put all your money in the hands of someone who's going to potentially cheat you. And I give as, uh, Exhibit A in that whole affair what happened to all of the, uh, Jews of Germany who put their money in Swiss banks and who, uh, had insurance policies with Swiss insur insurers who then disappeared during the Nazi era because they were in camps and they were exterminated, and the bankers just calmly, uh, kept the proceeds of both the insurance policies and the bank accounts.

Naomi Fowler: The Corruption Diaries is a production of The Tax Justice Network, made by Naomi Fowler and Jo Barratt. Interviews with Jack Blum were recorded over several days at Jack's home in Maryland by Zoe Sullivan.