



Mr Peter Baldacchino  
The Chairman  
The Accountancy Board  
Ministry for Finance  
Maison Demandols  
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Valletta VLT 2000

Cc.

Mr Benjamin Rizzo  
Mr Mario P. Galea  
Dr Desiree Cassar  
Mr Paul Grech  
Ms Christine Bartolo Perici  
Mr John Sammut  
Profs. Edward Scicluna

25 June 2018

Dear Mr Baldacchino,

In accordance with the powers granted to you under Chapter 281 of the Laws of Malta, I am calling on you to convene the disciplinary committee catered for by Articles 7 (1) (b) and 7 (16) in order to commence proceedings leading to the withdrawal of the warrants of Mr Brian Tonna and Mr Karl Cini.<sup>1</sup>

In order to facilitate your work I will outline the clear evidence of wrongdoing for your attention.

### **Kickbacks to Keith Schembri**

One FIAU investigation showed how kickbacks were transferred from Brian Tonna to Keith Schembri following the sale of passports through Malta's citizenship-for-cash scheme. This is in violation of Article 115 of the Criminal Code as well as Article 3 of Chapter 373 of the Laws of Malta. In a weak effort to justify this transaction Brian Tonna and Keith Schembri informed the FIAU that it constituted the repayment of a loan.

This false justification, in and of itself, creates a conflict of interest inconsistent with the obligations of warrant holders stipulated in the Accountancy Code of Ethics.

### **Tax Evasion on Profits from the Sale of Passports**

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<sup>1</sup> Brian Tonna - Warrant Number AB/13/88 and Mr Karl Cini - Warrant Number: 10144



The Panama Papers leak exposed Brian Tonna as the UBO of Willerby Trade Inc. According to an Agreement with BT International found in the Panama Papers, for every client referred by Willerby Trade Inc to BT International Ltd, who then went on to buy Maltese citizenship, Willerby Trade Inc would receive “50% of the agreed fee between BT International and the prospective client”.

By claiming his BVI company had referred clients to his Maltese company, Brian Tonna set-off invoices from Willerby Trade Inc against BT International’s income, thus reducing the income for declared tax purposes in Malta and evading tax.

### **Brian Tonna Involved in Kickbacks to Adrian Hillman**

Another FIAU investigation showed that kickbacks were transferred from Keith Schembri to Adrian Hillman under circumstances the FIAU concluded required police action. The funds were transferred through accounts held with MFSP Financial Management Ltd. Brian Tonna was also involved in these transactions. He played a role in justifying some of the payments from Keith Schembri to Adrian Hillman as ‘consultancy fees’. In a letter to MFSP Financial Management bearing his signature, Brian Tonna declared that the transfer of €125,000 to MFSP Financial Management Ltd from Malmos Limited (a secret company owned by Keith Schembri) in respect of Lester Holdings Group Ltd. was relating to amounts due as consultancy fees for services rendered. MFSP Financial Management Ltd was fined by the FIAU for breaching anti-money laundering laws in view of their failure to detect and/or report the suspicion of money laundering.

### **The Panama Papers**

Brian Tonna and Karl Cini are the architects of the money laundering structures exposed in the Panama Papers leak. They created the financial instruments to enable corruption and money laundering for Konrad Mizzi and Keith Schembri under circumstances that show they were complicit and criminally liable to the same extent as the politically exposed persons they serviced.

Email correspondence from the Panama Papers leak demonstrates that Karl Cini was responsible for setting up the Panamanian companies Hearnville and Tillgate and the connected trusts in New Zealand. He proceeded to attempt to open bank accounts for the Panamanian companies and in doing so guaranteed cash flows that could not be legitimately explained.

As an obliged entity under the FIAU implementing procedures, Nexia BT was duty bound to report a suspicion of money laundering. They did not do so because they were complicit. This notwithstanding, there were numerous instances in their dealings with Konrad Mizzi and Keith Schembri that warranted reporting to the FIAU.



In particular, in view of the following occurrences/requests associated with or made by politically exposed persons:

- The creation of international financial structures with no connection to clients;
- The choice of jurisdiction;
- The insistence on secrecy;
- The unexplained source of funds; and
- The commitment to hundreds of thousands in annual cash-flows.

The failure to report the above occurrences constitute breaches of Article 6.4 of the FIAU implementing procedures.

### **Concealing of evidence and misleading authorities**

The process to create the money laundering structures for Keith Schembri and Konrad Mizzi started in March 2013 and was ongoing up until Daphne Caruana Galizia started her reporting in February 2016. When asked for the correspondence between Nexia BT and their clients, Nexia BT replied that 'all communications were verbal'. The parties must have been well aware they were committing serious crimes and thus would have avoided paper trails. This is the only plausible explanation for the inexistence of written correspondence over the course of 3 years.

The FIAU suspected that the letter of engagement with Konrad Mizzi was created and backdated to coincide with public statements that Konrad Mizzi made. In addition, incriminating correspondence with Mossack Fonseca was not provided to the FIAU despite the FIAU's request for all available correspondence. The FIAU's knowledge of this correspondence resulted from other sources at a later date.

The above is further evidence of complicity in corruption and money laundering. But also constitutes a breach of Article 135 of the Criminal Code and Article 8.6.1.1 (a) of the FIAU's implementing procedures.

### **Creation of Companies and Pilatus Bank account for Shanghai Electric negotiator Mr Cheng Chen**

Nexia BT was responsible for providing Mr Cheng Chen, the Shanghai Electric negotiator on the sale of a stake in Enemalta with Torbridge, a BVI company. A bank account for this company was created following hand-delivered instructions being sent to Pilatus Bank CEO Hamidreza Ghanbari. This was deemed to be suspicious by the FIAU given that Hamidreza Ghanbari is the CEO of Pilatus Bank plc and would not usually be involved in any account opening procedures.

Correspondence showed that the bank account would receive funds that would reach a total of €1 million at a time that happened to coincide with the sale of a stake in Enemalta to Shanghai Electric that was being negotiated by Konrad Mizzi.



### **Karl Cini is Nexia BT's MLRO**

Aggravating these acts considerably is the fact that Karl Cini is the designated Money Laundering Reporting Officer (MLRO) for Nexia BT. He is responsible for ensuring robust processes are in place for detection of a suspicion of money laundering and the subsequent reporting of that suspicion to the FIAU, in accordance with Article 15 of Chapter 373.01 of the Laws of Malta. His personal involvement in corruption and money laundering is significantly aggravated as he continues to occupy this role.

The statements made above are based on documented evidence that is in my possession and that I am prepared to present to the disciplinary committee. It is evidence of the complicity of Brian Tonna and Karl Cini in systemic corruption and money laundering. This information demonstrates that the requirements of Article 15 (1) (a) of Chapter 281 of the Laws of Malta are more than satisfied and the failure of the board to appoint a disciplinary committee cannot be justified on the basis of the absence of a court judgement.

In the unfortunate case of Pilatus Bank we are witnessing the damage that is caused as a result of the dereliction of duty of the regulatory bodies that should have acted against the bank. Nexia BT is Malta's Mossack Fonseca. The continued operation of Nexia BT and in particular the fact that Karl Cini and Brian Tonna continue to possess their warrants, despite the overwhelming evidence against them, is reason for great concern and a threat to the integrity of the accountancy profession as a whole.

I therefore call you to protect the integrity of the accountancy profession and to commence the process leading to the withdrawal of the warrants of Karl Cini and Brian Tonna.

Yours sincerely,

David Casa MEP