



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 14, 2018

Via FedEx

Benjamin May, Esq.
General Counsel and COO
Policy Impact Communications, Inc. and PIC Media
1155 Connecticut Avenue, NW, 10th Floor
Washington, DC 20036

Re: Possible Obligation to Register Pursuant to the Foreign Agents Registration Act

Dear Mr. May:

This is in response to your letter dated January 12, 2018, which responded to our letter to William Nixon dated December 13, 2017, in reference to the registration of Policy Impact Communications ("PIC") pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* ("FARA" or "the Act").

In our letter, we stated that we reviewed a website and related media campaign entitled "Qatar: A Dangerous Alliance," available at: <http://www.adangerousalliance.com/index.html> (the "media campaign" or "film") that discloses it was produced by PIC Media, and that advances the message that Qatar is supporting terrorism. We also informed you that PIC Media was retained by Andreae & Associates ("Andreae") to script, produce, and disseminate "Qatar: A Dangerous Alliance," and that Andreae worked with Lapis Strategic Communications ("Lapis") in connection with the campaign. In addition, PIC Media was paid by Andreae for its work on the production. The website of Lapis, <http://www.lapis-communications.com/explore>, discloses that Lapis is a strategic communications agency "[o]perating throughout the Middle East, North Africa, and Central Asia." Accordingly, we inquired whether PIC may have engaged in activities on behalf of a foreign principal, which would require it to amend its current registration under FARA. We thus posed a number of questions seeking further information to enable us to make this determination.

Although your letter responded to each of our questions, we find your responses to be unpersuasive, and lacking sufficient facts to persuade us that PIC Media is entitled to an exemption from registration under FARA. As noted in your January 12, 2018, letter, PIC Media is seeking an exemption from registration under FARA because it has registered under the Lobbying Disclosure Act (LDA), 2 U.S.C. § 1601 *et seq.* Please note that FARA's implementing regulations, at 28 C.F.R. § 5.300, provide that the burden of establishing the

availability of an exemption rests upon the person for whose benefit the exemption is claimed. We find that you do not meet the burden for the following reasons.

First, while you state that “the film was neither paid for nor influenced by a foreign government or official,” the facts surrounding the production and dissemination of the media presentation in question suggest otherwise. You note in your letter, that direct funding for production of the media presentation was provided by Andreae, who according to your letter, received at least partial funding from Lapis, a company headquartered in the United Arab Emirates. We understand, additionally, that Lapis provides services to the UAE’s Ministry of Foreign Affairs and International Cooperation.¹ An “agent of a foreign principal” is defined in the Act as any person “whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or *through any other person*—(engages in any of the activities described in the subsection) (emphasis added). In the absence of evidence to the contrary or of an exemption, we have determined that PIC Media has an obligation to register under the Act for activities on behalf of a foreign principal.² 22 U.S.C. § 611(c)(1).

Turning to your claim of an exemption, while you state that the film was “neither paid for nor influenced by a foreign government or official,” you have not offered sufficient information to rebut information inferring that the media campaign was paid for by agents or surrogates of the UAE government. Further, you assert that “any potential FARA requirements are exempted by the LDA disclosures under 22 U.S.C. § 613(h).” While PIC Media’s registration may be accepted as prima facie evidence that it has, indeed, filed a registration statement under the LDA, the regulations also provide that “in no case where a foreign government or foreign political party is the principal beneficiary will the exemption under Section 613(h) be recognized.” 28 C.F.R. § 5.307.

In that regard, Lapis’ identification of its client as the Ministry of Foreign Affairs and International Cooperation of the United Arab Emirates raises questions about who the ultimate beneficiary of the media campaign would be. Although you state PIC “had no direct relationship or official communication with Lapis, and Lapis did not have any authority on any decisions regarding the film or its dissemination” you disclose that “a representative of Lapis assisted in providing professional counsel and advice on elements of the documentary and the promotional plan,” and that Lapis provided “some of the funds” for the media campaign. That statement necessarily begs the question of whose funds Lapis would be transmitting in support of the media campaign and why it was compelled to send a representative to provide counsel³ There can be no doubt that the media campaign is political in nature as it espouses a critical view of the

¹ See “Common Connections,” <http://www.lapis-communications.com/work>. The services provided by Lapis to the UAE Ministry of Foreign Affairs, may or may not involve the media campaign that is the subject of this letter.

² Because we do not have enough information to establish whether the services provided by Lapis, Andreae, and PIC Media are funded in whole or in part by the UAE, we cannot definitively state that the UAE is a foreign principal.

³ You have disclosed that PIC has registered as a lobbyist for Andreae with Lapis as an “affiliated organization” under the LDA, thereby acknowledging that there is an agency relationship at least between those two entities.

policies and activities of a specific nation, Qatar, and the views of the UAE government about Qatar are well known.⁴ Accordingly, we have determined that such political activity was undertaken on behalf of a foreign principal, and that, despite the disclosures in your LDA registration, the exemption under Section 613 (h) does not apply because the government of the UAE, through its Ministry of Foreign Affairs and International Cooperation, the client of Lapis, is the principal beneficiary of this political media campaign. Accordingly, absent information contradicting our determination, PIC is required to register under FARA for this activity.

Please effect PIC's registration within thirty (30) calendar days of the date of this letter. Useful information and forms needed for registration may be found on our website at <http://www.fara.gov>. If you have any questions regarding registration, or have additional information to provide, please contact [REDACTED] by telephone at (202) 233-0776.

Sincerely,

Heather H. Hunt
Chief
FARA Registration Unit

⁴ See, e.g., Anne Barnard & David D. Kirkpatrick, *5 Arab Nations Move to Isolate Qatar, Putting the U.S. in a Bind*, N.Y. TIMES, June 5, 2017; Patrick Wintour, *Gulf plunged into diplomatic crisis as countries cut ties with Qatar*, THE GUARDIAN, June 5, 2017.