



U.S. Department of Justice

National Security Division

Washington, DC 20530

July 27, 2011

[addressee deleted]

Dear [name deleted]:

This is in reference to your letters of October 23, 2010 and March 15, 2011, as well as to my telephone conversations on March 8, 2011 and June 16, 2011 with [US person] regarding whether [US firm] has incurred an obligation to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (FARA or the Act).

[US firm] contracted with the [foreign government] in 2010 to provide litigation services in the United States in multiple areas of the law to [foreign nationals] who are or have been in the United States. The contract focuses on cases of “potentially significant impact” as determined by your firm and by the [foreign government]. Your firm and the [foreign government] will control the cases and [US firm] “will be prepared to initiate, conduct, supervise, and assist in litigation,” and hire counsel, co-counsel, or consulting counsel as needed.

Based on your representations, this Department does not consider [US firm] “an agent of a foreign principal” as that term is defined in the Act, for the legal representation of [foreign nationals] within the United States, because these individuals are not “foreign principals” as defined in Section 1(b) of FARA and the firm's activities are not among those enumerated in Section 1(c)(1)(i) - (iv). Accordingly, registration is not required for the representations of these individuals.

With respect to [foreign nationals] not within the United States, these persons are considered “foreign principals” as defined in Section 1(b) of the Act, but this Unit has determined that your firm's representation of these individuals is exempt from registration under 22 U.S.C. § 613 (g), which exempts from the registration requirements of 22 U.S.C. § 612(a), “any person qualified to practice law, insofar as he engages in the legal representation of a disclosed foreign principal before any court of law or agency of the Government of the United States.” This exemption “does not include attempts to influence or persuade agency personnel or officials other than in judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.”

Furthermore, you indicated that the [foreign government] is funding the litigation of these cases, and that [US firm] is acting at the request and under the direction and control of the [foreign government] in determining which cases to pursue. So long as your firm's activities do

not constitute political activities and are not attempts to in any way influence U.S. Government officials or sections of the public within the United States with respect to the political or public interests, policies, or relations of the [foreign government], your firm is not required to register for the [foreign government] in as much as the firm's activities are not among those enumerated in Section 1 (c)(1)(i) - (iv). Political activities, as defined in Section 1(o) of FARA, even if performed by an attorney, no matter what the forum, mandate FARA registration if those activities are conducted at the request of or under the direction or control of the [foreign government].

Finally, with respect to the recent amicus briefs [text deleted], so long as the court requirements are strictly followed with respect to disclosure of the represented parties, our position remains the same.

Please note that the question of obligation or exemption must be revisited as the nature of the relationship changes from time to time. Because the question of obligation or exemption depends on your firm's relationship with any foreign principal, this opinion is limited to the facts as represented. If the facts concerning your relationship should change, you may wish to ask us to reexamine whether your firm has an obligation to register under the Act.

Based on this decision, we are returning the \$305.00 filing fee, and this Unit will not process the [US firm] registration on behalf of the [foreign government] [text deleted]. However, we are required to retain the registration in our internal correspondence files.

Please note that all requests for Rule 2 advisory opinions under the Act must be accompanied by a fee mandated by Congress and established by regulations codified at 28 C.F.R. § 5.5. The fee for such opinions regarding the applicability of FARA is \$96.00. All checks should be made payable to "FARA Registration Unit."

If you have any questions, please contact me at (202) 233-0777.

Sincerely,

Heather H. Hunt, Chief
Registration Unit
Counterespionage Section