



**U.S. Department of Justice**

National Security Division

---

*Washington, DC 20530*

February 16, 2011

[addressee deleted]

Re: [text deleted]

Dear [name deleted]:

This is in response to your letter and enclosures of October 23, 2010. Pursuant to 28 C.F.R. § 5.2, you request an opinion from the Department of Justice as to whether [US firm] is required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (FARA or the Act) for its activities pursuant to a contract entered into with the [foreign government].

Your letter indicates that [US firm] entered into a contract with [foreign government] on October 14, 2010, to provide legal services to the [foreign government] and to [foreign nationals]. [US firm] will provide legal services in and related to litigation involving alleged violations of the rights of [foreign nationals] in the United States. These legal services provided to [foreign government] will be in connection with "significant legal impact cases" in multiple areas of the law. The firm will identify cases appropriate for litigation. Once identified, [US firm] may then engage in pre-litigation discussions with relevant federal, state or local government officials in an attempt to avoid judicial action. These pre-litigation discussions may involve advocacy on behalf of the [foreign government] and/or on behalf of [foreign nationals] who currently reside in the United States or have been in the United States at some time. The goal of the pre-litigation discussions will be to persuade these government officials to enforce existing policies or to change existing policies or practices affecting the legal rights of [foreign nationals] in the United States.

Your letter contends that in circumstances where there are actions of government officials believed to be in violation of the legal rights of [foreign nationals], then attorneys, acting as legal representative to [foreign government], may urge that particular policies affecting the legal rights of [foreign nationals] be enforced as required, or where necessary, changed to protect the legal rights of [foreign nationals]. You argue that "[d]iscussions prior to filing, in the course of settlement negotiations of pending lawsuits, regarding the enforcement of court judgments, and at other appropriate points in the adversarial process are all within the framework of the 'course of judicial proceedings' contemplated by FARA."

Based on the representations in your letter, and so long as the attorneys engaged in the legal representation disclose [foreign government] as the foreign principal before any court of law or any agency of the Government of the United States, and in any of its pre-litigation discussions, [US firm] can claim the legal exemption set forth in Section 613(g) of the Act. We

agree with your argument that the advocacy contemplated by [US firm] is within the “course of judicial proceedings.” We conclude that so long as the activities of [US firm] are limited to litigating cases for the [foreign government] and [foreign nationals], and its discussions with government officials are limited to advocacy undertaken “in the course of 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,” as described in your letter, the contemplated activities are exempt under 22 U.S.C. § 613(g).

We are not clear on what, if any, activities your firm may conduct which may seek to “change existing policies and practices.” In addition, other than “significant legal impact cases,” your letter is not specific as to the types of cases that your firm plans on litigating for the [foreign government] or [foreign nationals]. We are not certain what you contemplate as the scope of a settlement discussion, or with whom you may attempt to negotiate a settlement. “Political activity” is defined, in pertinent part, in Section 611(o) of FARA as activity which is intended to influence U.S. Government officials or a section of the public, with reference to either formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political, or public interests, policies, or relations of a government of a foreign country. Please provide this Unit with clarification of the “significant legal impact cases,” and cases which will “change existing policies and practices” in the state and federal context.

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

Sincerely,

Heather H. Hunt, Chief  
Registration Unit  
Counterespionage Section