



**U.S. Department of Justice**

National Security Division

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Washington, DC 20530

February 29, 2012

[addressee deleted]

Re: Request for an Advisory Opinion Regarding FARA Registration for representation of [text deleted].

Dear [name deleted]:

This is in reference to your letter of January 23, 2012 requesting an advisory opinion pursuant to 28 C.F.R. § 5.2 with respect to your firm's obligation or exemption under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (FARA or the Act) in connection with its "provision of legal and political consultancy services" to [foreign individual]. You specifically state that your firm's representation of [foreign individual] should be exempt from FARA registration pursuant to 22 U.S.C. § 613(h) since your firm registered under the Lobbying Disclosure Act (LDA), and should be exempt under 22 U.S.C. § 613(d)(2) claiming that the activities of your firm in this matter do not serve "predominantly a foreign interest." Based upon our review of the information provided, we find that your firm's political activities require registration under FARA.

In your letter you indicate that your client is married to [former leader of foreign political party]. [Foreign individual] has retained your firm to educate U.S. policymakers and to obtain the [text deleted] of [former leader of foreign political party] from a [foreign country] prison. The fees for your services will be paid by [foreign individual] out of [his/her] own funds, and you state that [he/she] will not be reimbursed by the [foreign government], any political party, or any other person. Your firm will inform U.S. policymakers about [former leader of foreign political party]'s treatment in prison and ask for their support of [his/her] release.

[former leader of foreign political party] has been active in the [foreign country] political system for a number of years, lost [his/her] [dated deleted] presidential bid to [name deleted], and is regarded by many as [foreign country]'s top opposition leader. According to [name deleted], "the people will vote for [him/her] [former leader of foreign political party]; [his/her] rating is higher than that of [name deleted] right now by at least 3%."<sup>1</sup> According to [former leader of foreign political party]'s website, [text deleted] members of [his/her] former staff are presently residing in [another foreign country], where [foreign individual] was granted political asylum. They are seeking [former leader of foreign political party]'s release and calling for

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<sup>1</sup> [text deleted]

support to prevent the [foreign government] from intimidating [foreign country] voters in the upcoming elections. Articles on the website refer to [former leader of foreign political party] as a political prisoner and indicate that [his/her] “release from prison is key to fixing relations between [foreign country] and [region of the world].”<sup>2</sup>

Your firm relies on the exemption in 22 U.S.C. § 613 (h), claiming that it is exempt from registration because it has registered under the LDA for its lobbying activities on behalf of [foreign individual]. This Unit has determined that your firm’s activities are “political activities” in as much as they are an attempt to influence U.S. government officials or the American public with respect to issues involving U.S. domestic or foreign policy, and concern the political or public interests of a government of a foreign country or foreign political party. As stated in 28 C.F.R. § 5.307, “[I]n no case where a foreign government or foreign political party is the principal beneficiary will the exemption under 3(h) be recognized.”

In addition, your firm asserts that it should be exempt from registration under FARA, relying on 22 U.S.C. § 613(d)(2). Your letter specifically references 28 C.F.R. § 5.304(c) of the FARA regulations arguing that the exemption applies to political activities on behalf of a foreign person that are not directed by a foreign government or a foreign political party and that do not directly promote the public or political interests of a foreign government or a foreign political party. The regulation on which your firm relies applies to foreign corporations engaged in commercial activities. The regulation makes clear that the exemption is available “so long as the political activities are not directed by a foreign government or foreign political party and the political activities do not directly promote the public or political interests of a foreign government or foreign political party.”

Finally, although your client is [text deleted] of a major political figure and leader in [foreign country], you request that we treat this matter as nonpolitical and outside the purview of FARA because [he/she] is retaining you to obtain [text deleted]’s release and will pay for your services, not reimbursed by anyone. As you know, payment of the agent is not the only factor in determining FARA coverage. The purpose of the Act is to inform the American public of the activities of foreign agents working for foreign principals to influence U.S. government officials and/or the American public with reference to 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 or foreign political party.

Based on the representations in your letter, and our understanding of the matter in question, we have determined that your firm’s activities will involve “political activities” as defined in 22 U.S.C. § 611(o) and that these activities will directly promote the political or public interests of a foreign government or foreign political party. Your firm’s activities are outside of the FARA exemptions, and therefore your firm must register under FARA for its “legal and political consultancy services” to [foreign individual].

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<sup>2</sup> [text deleted]

If you have any questions, please contact me at (202) 233-0776.

Sincerely,

Heather H. Hunt, Chief  
Registration Unit  
Counterespionage Section