



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

July 13, 2018

Via Email and First Class Mail

[addressee deleted]

Re: [text deleted]
Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [name deleted]:

We write in response to your letter of May 14, 2018, and June 5, 2018, supplement, in which you request an opinion, pursuant to 28 C.F.R. § 5.2(a), with respect to the registration obligation of your client, [U.S. corporation], under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). Based upon the representations made in your letter and supplement, we have determined that [U.S. corporation] is not “an agent of a foreign principal” under the Act pursuant to Section 611(d) of the Act in connection with the publication and dissemination of [publication], [text deleted].

We understand [U.S. corporation] to be a print media company that engages in the publication of a number of popular magazines. [U.S. corporation] also publishes, [other publications], each of which addresses a particular topic or public figure(s). According to your submission, these publications are funded completely by sales and do not contain advertisements.

According to your submission, [U.S. corporation] created and published [publication] [text deleted], to coincide with the visit of [foreign government leader]. You have relayed that [U.S. corporation] thought that its readers would have a heightened interest in [foreign country] because of [text deleted]. According to your submission, at no time was [U.S. corporation] approached by the [foreign government leader], [his or her] representatives, or any other official or representative of the [foreign government] or any other foreign government with respect to publishing the [publication]. Nor, was there any foreign funding involved in its publication. You have stated that the decision to publish [publication] was solely [U.S. corporation]’s and was a business decision based upon anticipated revenue.

You also note in your submission that [U.S. corporation] contacted [advisor to foreign government leader], and invited [the advisor] to submit an article for the [publication]. [The advisor] accepted and submitted an editorial to be published in the [publication]. [The advisor] was also provided with a working copy of the draft [publication] for review. According to your submission, [the advisor] suggested some changes, recommended replacing some photographs

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with other, more palatable photographs, and offered additional images of the [foreign government leader] that could be used in the publication. According to your submission, [U.S. corporation] was not obligated, but chose, to accept the changes suggested by [the advisor].

We note that Section 1(d) of FARA states:

The term “agent of a foreign principal” does not include any news or press service or association organized under the laws of the United States. . . . or any newspaper, magazine, periodical, or other publication . . . published in the United States . . . so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal . . . or any agent of a foreign principal.

22 U.S.C. § 611(d).

Taking into account the facts stated in your submission, and limiting our evaluation only to the facts stated in your submission, we find that there is no agency relationship between [U.S. corporation] and any foreign principal. The origination of [other publication], appears to be a product of [U.S. corporation] alone, and while [U.S. corporation] sought out comments from an advisor to [a foreign government leader], [U.S. corporation] was not under any obligation to follow any suggestions made by the advisor, and there is no evidence of any contractual relationship between [U.S. corporation] and any [foreign government] entity. You have further stated that no [foreign government] entity provided any financing to the publication of [other publication]. Accordingly, we agree that [U.S. corporation], in this instance, is not an “agent of a foreign principal” under FARA and does not have an obligation to register under the Act.¹

If any of the facts with respect to activities undertaken by [U.S. corporation] in this matter are different in any way from those depicted in your submission, please notify this office, as [U.S. corporation]’s registration status may change.

¹ Additional authority for this determination may be had under 22 U.S.C. § 611(c)(1) which states that an “agent of a foreign principal” is any person who acts at the “order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal” and engages in specified activities. [U.S. corporation] is not an agent of a foreign principal under this section as well.

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We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact [name deleted] or me by telephone at 202-233-0776, if you have any questions.

Sincerely,

Heather H. Hunt, Chief
FARA Registration Unit