



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

May 9, 2019

By FedEx

[addressee deleted]

Re: Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [name deleted]:

This is in reference to your letter of April 4, 2019, requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding the possible obligation of your client, [US Company], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”) for its public relations and communications activities on behalf of the [Foreign Nonprofit Organization]. Based on the representations in your letter, we have concluded that [US Company] does not have an obligation to register, so long as [US Company]’s activities for the [Foreign Nonprofit Organization] do not differ in any way from those activities contained in your letter.

You represent that [US Company] is a consulting firm based in [US City] that specializes in complex communications. You further state that [Foreign Nonprofit Organization] is a Non-Governmental Organization “based in [Foreign Country] that is not owned, controlled, or financed/subsidized by the [Foreign Government].” According to your letter, the [Foreign Nonprofit Organization] has retained [US Company] to support the candidacy of the former [Foreign Government Official], for the position of [UN position]. [US Company] will develop a comprehensive global communications plan to provide public relations support for [Foreign Government Official]’s campaign including “campaign strategy; message development; tools; media; writing; and training.” You clarify that [US Company]’s representation of the [Foreign Nonprofit Organization] will not involve outreach to U.S. government officials or agencies, nor will it involve any outreach to sectors of the U.S. public or U.S. media. You further state that [US Company]’s communications and public relations activities on behalf of [Foreign Government Official]’s candidacy will be targeted toward a non-U.S. audience, primarily Eastern Europe, the Middle East, Africa, Asia and Latin America.

Generally speaking, a party is an “agent of a foreign principal” who must register under FARA if it acts “in any . . . capacity 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 who directly or through any other person,” and within the United States, in pertinent part:

- (i) engages in political activities¹ for or in the interests of such foreign principal;

¹ The Act defines “political activity” as “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies

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(ii) acts as public relations counsel, publicity agent, information-service employee or political consultant² for or in the interests of such foreign principal.

See 22 U.S.C. § 611(c)(1).

If a person engages in the above-described activities within the United States intending to influence a U.S. government official or agency or a segment of the American public concerning the domestic or foreign policy of the United States, registration would be required before engaging in the conduct. You have represented that although [US Company] is generating work product in and from the United States through its communications and public relations efforts on behalf of its foreign principal, [US Company] will not meet with U.S. government officials and will not direct its outreach to the United States to garner support for [Foreign Government Official]'s candidacy. You further state that [US Company]'s social media campaign will be conducted in multiple foreign languages and will target only a non-U.S. audience.

Based upon the foregoing representations and assurances in your letter describing the activities proposed to be undertaken by your client [US Company] on behalf of the [Foreign Nonprofit Organization] and [Foreign Government Official]'s candidacy, we do not contest that the proposed activities would not require registration under FARA.

Please note that our advisory opinion is based solely upon the specific facts described and the assurances given in your April 4, 2019 letter, and must be revisited in the event that any of the represented facts change. Your client may need to register under FARA should the direction or focus of your client's activities change, in particular, if they are undertaken with an intent to influence a U.S. government official or agency or a segment of the public within the United States concerning the domestic or foreign policies of the United States or with respect to the political or public interest, policies, or relations of a foreign country or of a foreign political party. If that were to occur, you or your client should contact the FARA Unit immediately in order that we may reexamine whether your client has an obligation to register.

If you have any questions regarding this matter, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit

of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country." 22 U.S.C. § 611(o).

² The Act defines a "political consultant," as "any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party." 22 U.S.C. § 611(p).