



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

November 12, 2019

Via Email and USPS

[addressee deleted]

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

Dear [name deleted]:

We write in response to your letter of September 3, 2019 (“September 3 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding the registration obligation of your client, [US LLC], under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). After careful consideration of your request, we have concluded that [US LLC] is obligated to register under the Act.

According to your September 3 Letter, [US LLC] is planning to provide public relations services to the [international organization], pursuant to a proposed contract submitted with your letter. The September 3 Letter describes [international organization] as an international initiative composed of [text deleted] leaders around the world seeking to inspire [text deleted]. The September 3 Letter characterizes [international organization]’s activities as religious in nature, and that [US LLC]’s contemplated public relations service would relate to those religious activities. The September 3 letter also notes, that in addition to religious activities, part of [international organization]’s described mission is to bring together the world’s religious leaders to agree on measures to overcome important social challenges. In support of [international organization]’s social mission, the September 3 Letter refers to [international organization]’s website, which notes that [international organization] was established to [text deleted].

The September 3 Letter also discloses that the [foreign government ministry] is a participant in [international organization].¹ The proposed agreement between [US LLC] and [international organization] provides that [foreign corporation], an affiliate of [foreign government ministry], is a guarantor and responsible for [US LLC]’s [dollar amount] fee for the one year duration of the proposed agreement. Accordingly, [foreign government ministry], an agency of the [foreign government], is a foreign principal under FARA.

Under the proposed agreement submitted with the September 3 Letter, [US LLC] would provide a long-term strategic communications plan to raise [international organization]’s profile in the United States, expand the presence and visibility of [international organization]’s events, workshops, and other engagements, and help the [international organization] develop global, national, and regional relationships. [US LLC]’s services would include advising [international organization] on communications strategy, messaging and media relations, online profile and

¹ [text deleted].

social media management, and other public relations activities designed to maximize positive media exposure.

The purpose of FARA is to inform the American public of the activities of agents working for foreign principals intended 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 foreign country or foreign political party. The term “foreign principal” is defined as including “a government of a foreign country and a foreign political party . . . and a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” 22 U.S.C. § 611(b)(1) and (3).

A person representing a foreign principal is “an agent of a foreign principal” who must register under FARA if it 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” and who engages in certain specified activities within the United States. Among those activities requiring registration are engaging in “political activities”² or “act[ing] . . . as a public relations counsel,³ publicity agent, information-service employee or political consultant for or in the interests of such foreign principal.” 22 U.S.C. § 611(c)(1)(i), (ii).

The September 3 Letter identifies [foreign government ministry] as a foreign principal for the proposed conduct, and acknowledges that [US LLC] will be acting as an agent of [foreign government ministry]. *See* 22 U.S.C. § 611(c)(1)(ii). Accordingly, [US LLC] is obligated to register under FARA, absent an exemption.

Your request asserts that [US LLC] qualifies for the “religious exemption” set out at 22 U.S.C. § 613(e). The religious exemption under FARA extends to “[a]ny person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.” *Id.* (emphasis added). Moreover, the exemption does not apply if the person engages in “political activities . . . for or in the interests of [the] foreign principal.” 28 C.F.R. § 5.304(d). The burden of establishing an exemption “shall rest upon the person for whose benefit the exemption is claimed.” 28 C.F.R. § 5.300.

While some of [international organization]’s activities appear to be “in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts,” [international organization] also engages in activities in furtherance of [political issue], which [US LLC] would

² “Political activities” are defined under FARA 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 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.” 22 U.S.C. § 611(o).

³ Under FARA, “[t]he term ‘public-relations counsel’ includes any person who engages directly or indirectly in informing, advising, or in any way representing a foreign principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal.” 22 U.S.C. § 611(g).

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likewise promote. These activities fall within the definition of “political activities” under FARA since they are intended to influence the American public and government with respect to U.S. domestic policy, and could also be in the public interests of a foreign government. Since [US LLC] will be engaging in political activities for the interests of a foreign principal, [US LLC] is not entitled to the religious exemption.

Please effect [US LLC]’s registration within 10 days of such time as it agrees to act as an agent of [international organization] as outlined in your request and in our response. Instructions on how to register may be found on our website, <https://www.fara.gov>.

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

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit