



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

May 21, 2020

VIA E-MAIL

[addressee deleted]

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

Dear [name deleted]:

This is in reference to your e-mail correspondence of April 23, 2020 (“April 23 e-mail”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding your obligation to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611 *et seq.* (“FARA” or the “Act”). Based upon the representations in your e-mail, your employment agreement, as well as a review of other materials, we have determined that you have an obligation to register under FARA.

In your April 23 e-mail, you ask for guidance whether your activities as the Director of Business Development for the [office] of [foreign corporation], which is housed at the [foreign country’s embassy in the US], require registration pursuant to FARA. According to the website for [foreign corporation], it is the “national agency supporting the international development of the [foreign country] economy, responsible for fostering export growth by [foreign country] businesses, as well as promoting and facilitating international investment in [foreign country].” [link removed]. In your April 23 e-mail, you explain that your activities as Director of Business Development “include[s] promoting [foreign country] as a location for international business expansion among US companies throughout the Midwest from the heavy manufacturing and light manufacturing industrial sectors.” The unsigned Employment Agreement you provided us,¹ under which you will be paid [dollar amount] per month, does not amplify your duties further, saying only that your duties “shall be those customarily performed by an Employee acting in that capacity, and those that may be designated or assigned . . . by the Executive Director” of [foreign corporation].

Generally speaking, a party is an “agent of a foreign principal” who must register under FARA if he 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, “(i) engages within the United States in political activities for or in the interests of such foreign principal; [or] (ii) acts as

¹ We note that this unsigned Employment Agreement has an “effective date” of March 9, 2020. In the event you have already signed this Employment Agreement, your obligation to register began within 10 days after the date you signed it, and you are responsible for reporting your activities as of that date. See 22 U.S.C. § 612(a).

[name deleted]

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public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal” 22 U.S.C. § 611(c)(1).

We have determined that you are acting as an agent of a foreign principal within the meaning of FARA. As an initial matter, a “foreign principal” includes “a government of a foreign country.” 22 U.S.C. § 611(b)(1). Given that [foreign corporation] is a “department of the [foreign country] Embassy,” *see* Employment Agreement, and a “national agency” of the [foreign country], *see* [link removed], that requirement is met here. Second, you are acting as an agent “under the direction or control” of [foreign corporation] pursuant to the terms of the employment agreement you provided to us. Third, according to the explanation of your duties as the Director of Business Development, you will be engaged in “political activities” within the meaning of FARA. FARA defines “political activities,” in pertinent part, as “any activity that the person engaging in believes will or that the person intends to in any way influence . . . any section of the public within the United States with reference to . . . [the] public interests . . . of a government of a foreign country” 22 U.S.C. § 611(o). Here, in “promoting [foreign country] as a location for international business expansion among US companies,” you will be seeking to persuade and influence U.S. companies to invest in [foreign country] for the benefit of [foreign country] industry, which is in the public interest of [foreign country]. Accordingly, you are acting as an agent of [foreign corporation], a foreign principal, within the meaning of FARA.

As an additional basis for requiring your registration under FARA, you are also acting as an information-service employee for [foreign corporation] within the meaning of FARA. FARA defines an “information-service employee” to include “any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States” 22 U.S.C. § 611(i). As part of your duties “promoting [foreign country] as a location for international business expansion among US companies,” you will be “disseminating . . . information[] or data” regarding the industrial, employment, and economic benefits of [foreign country]. Accordingly, your work as an information-service employee provides an additional basis requiring you to register as an agent of a foreign principal within the meaning of FARA.

Finally, you have raised no exemption to your obligation to register, and we have determined that none applies.² *See* 22 U.S.C. § 613. In light of this determination, you are obligated to register under FARA. Please effect the registration within thirty (30) calendar days of the date of this letter. Useful information and forms needed for registration are available on our website at <https://www.fara.gov>. If you have any questions regarding registration, or have additional information to provide, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

² For example, while there is an exemption to registration for staff members or employees of diplomatic or consular officers of a foreign government, *see* 22 U.S.C. § 613(c), this exemption is not available to those who, *inter alia*, function as information-service employees. *See id.*

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/s/ Brandon L. Van Grack

Brandon L. Van Grack
Chief, FARA Unit