



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

May 29, 2020

VIA EMAIL

[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 letter of April 24, 2020 (the “April 24 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, as to whether your client, [name deleted], is obligated to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 et seq. (“FARA” or the “Act”) for work she may perform on behalf of the Embassy of [foreign country]. Based upon our review of your request, as well as additional information provided in your May 26, 2020 e-mail (“May 26 Email”), we have determined that your client would not have an obligation to register at this time.

Your April 24 Letter notes that your client has executed a Master Services Agreement with the Embassy of [foreign country] (the “Agreement”). Your client’s responsibilities under the Agreement include creating a detailed project plan for a “gala launch dinner, an immersive consumer experience, and educational content and merchandise.” You have advised that your client’s activities will be to support the [US nonprofit], a nonprofit corporation that is being formed to provide financial support to [US nonprofit], a [subject deleted] conservation group. You have further indicated that your client’s work will neither be government- nor public-facing during this phase, and that your client will not be interacting with U.S. government officials.

The purpose of FARA 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 foreign country or foreign political party. 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:

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

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- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or
- (iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

See 22 U.S.C. § 611(c)(1).

Your letter asks whether your client is acting as an agent of a foreign principal “given that her work would be for [US nonprofit], a U.S.-based 501(c)(3), despite her Agreement with the Embassy of [foreign country].” The Embassy of [foreign country] is a foreign principal under the definition set out at 22 U.S.C. § 611(b)(1) and, pursuant to the Agreement, your client is acting at its direction and control. However, we do not believe your client is obligated to register under FARA at this time so long as her activities remain focused on developing a project plan for a gala dinner and related activities, because she would not be engaging in activities enumerated in 22 U.S.C. § 611(c)(1).

Your letter also asks whether your client would be obligated to register under FARA should she be called upon to plan or execute the aforementioned activities set forth in the Agreement between your client and the Embassy of [foreign country]. In your May 26 Email, your client clarified that she will not be creating content for [US nonprofit], although she may serve as a Project Manager who oversees the time, management, and scope of activities carried out by vendors hired by [US nonprofit]. In accordance with these statements, we have determined that your client would not be required to register under FARA. We make this determination based on the representations that your client’s work will be focused on the logistics of events and their execution in support of [US nonprofit], and not on efforts to influence the public regarding the political or public interests of the Embassy of [foreign country].

This position is limited to the specific facts and circumstances outlined in your April 24 Letter and May 26 Email, and may change should the direction or focus of your client’s activities for the Embassy of [foreign country] be modified. Your client may need to register under FARA if your client’s activities 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 [foreign country], or any other 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.

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

Sincerely,

[addressee deleted]

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/s/ Brandon Van Grack

Brandon L. Van Grack
Chief, FARA Unit