



**U.S. Department of Justice**

**Office of Legislative Affairs**

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Office of the Assistant Attorney General

Washington, D.C. 20530

May 21, 2015

The Honorable Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter to Attorney General Eric H. Holder, Jr. dated April 22, 2015, regarding the applicability of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* ("FARA" or "the Act") to Mr. Sidney Blumenthal and Mr. John Kornblum, in connection with their activities on behalf of Mr. Bidzina Ivanishvili. In your letter, you cited two news reports describing these activities: (1) the March 27, 2015 ProPublica article by Jeff Gerth written in conjunction with Sam Biddle of *Gawker*, "Private Emails Reveal Ex-Clinton Aide's Secret Spy Network," and (2) the March 30, 2015, report by Sam Biddle posted on *Gawker*, "Did Clinton's Backdoor Advisory Illegally Lobby for Putin Ally?"

As you know, FARA is a disclosure statute that requires persons in the United States who are acting as agents of foreign principals, and engaged in certain specified activities, within the United States, to register with the U.S. Department of Justice (the Department) and to make periodic public disclosure of their relationship with the foreign principal, as well as disclosure of activities, receipts, and disbursements in support of those activities. The Department is charged with the administration and enforcement of the Act, the purpose of which is to ensure that the Government and American people are informed of the identity of agents of foreign principals required to register under the Act, and can appraise their statements and actions accordingly.<sup>1</sup> FARA enforcement is administered by the FARA Unit, a component of the Counterespionage Section of the Department's National Security Division.

The articles referenced in your letter dated April 22, 2015, initially came to the FARA Unit's attention when FARA Unit personnel, as they do each day, monitored online and print media. The FARA Unit routinely reviews such media to identify individuals and entities that may have incurred an obligation to register under FARA. When questions regarding a possible obligation to register come to the attention of the FARA Unit, it sends a letter of inquiry to the

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<sup>1</sup> The Act does not place any limitations on the political advocacy activities of an agent, and the Department's administration of the Act is not designed or intended to inhibit or discourage the expression of political views in any way.

appropriate individual or entity. According to the FARA Unit's records, neither individual identified in your letter is, or has been, registered under FARA. The Department will take appropriate steps to evaluate whether further action is warranted.

You also requested information concerning FARA investigations and prosecutions, specifically, the number of investigations opened and closed for each of the last ten years, how many prosecutions resulted from those investigations, how many resulted in convictions or guilty pleas, and what sentences were imposed for each successful prosecution. Investigative activity by the FARA Unit consists of letters of inquiry sent to parties with a potential obligation to register, and inspections of certain registrants by the FARA Unit. As described above, when the FARA Unit becomes aware of a potential registration obligation, it notifies the parties of the potential obligation, seeks additional information, and makes a determination as to whether or not a registration obligation exists. Under current law, the FARA Unit does not possess Civil Investigative Demand ("CID") authority to issue administrative subpoenas.<sup>2</sup> As a result, the FARA Unit depends on open-source information and voluntary compliance with requests for records and information to make determinations regarding whether a given organization or individual is required to register as a foreign agent.

The FARA Unit has issued approximately 130 letters of inquiry in the past ten years.<sup>3</sup> Of those letters, 38 of the recipients were found to have an obligation to register under FARA, and subsequently registered. The remaining parties were found either to have no obligation to register, or the Department is continuing to acquire more information to determine whether or not there is an obligation to register under the Act.

With respect to inspections, FARA requires agents of foreign principals to keep and preserve books and records regarding all activities for which the Act requires disclosure. The books and records must be available for inspection by the FARA Unit. The FARA Unit conducts inspections of certain registrants' books and records throughout the year. Since 2005, FARA Unit personnel have conducted 101 inspections.

The Act contains a criminal penalty provision for willful violations of FARA, as well as a civil enforcement provision allowing the Attorney General to seek an injunction when a person engages in or is about to engage in acts which would violate FARA. The government's ability to apply these criminal and civil enforcement provisions remains limited because of challenges in proving "direction and control" by a foreign principal, broadly worded language in exemptions available under the statute, and the heavy burden of proving willfulness to impose a criminal penalty. These challenges are compounded by the FARA Unit's above-noted lack of authority to

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<sup>2</sup> In 1991 and again in 1999, at the FARA Unit's recommendation, the Department submitted legislative proposals to Congress to amend FARA to obtain CID authority, but no legislation was enacted.

<sup>3</sup> Number of inquiry letters by year: 2015 (six); 2014 (twenty); 2013 (fifteen); 2012 (seventeen); 2011 (sixteen); 2010 (eleven); 2009 (one); 2008 (six); 2007 (seventeen); 2006 (fourteen); and 2005 (four).

compel the production of records from potential registrants. The FARA Unit thus relies heavily on administrative authorities, such as the inspections and letters of inquiry described above, to achieve the Act's goal of promoting visibility into the activities, identities, and information provided by persons acting as agents of foreign principals. The Department would welcome the opportunity to work with Congress to develop appropriate legislation to provide the FARA Unit with additional tools to enforce FARA.

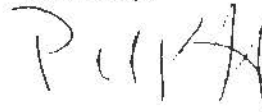
In the past ten years, the Department has charged four criminal cases relating to FARA, three of which resulted in a conviction or guilty plea on a FARA or FARA-related charge:

- In 2007, Tongsun Park was convicted at trial in the Southern District of New York for conspiracy to violate FARA, 18 U.S.C. § 951 (acting as an agent of a foreign government without prior notice to the Attorney General), and money laundering in connection with a scheme to lobby for easing United States and United Nations sanctions on Iraq and to corruptly influence the award and conditions of Oil for Food contracts. Park was sentenced to 60 months imprisonment.
- In 2010, former U.S. Representative Mark Delo Siljander pleaded guilty in the District of Missouri to obstruction of justice and to acting as an unregistered foreign agent, relating to his work for the Islamic American Relief Agency (IARA), an Islamic charity with ties to international terrorism. His co-defendant Abdel Azim El-Siddig also pleaded guilty to conspiring with Siljander and others to hire Siljander to lobby for IARA's removal from a Senate Finance Committee list of charities suspected of having terrorist ties, while concealing this advocacy and not registering. Siljander was sentenced to one year and one day in federal prison without parole. El-Siddig received two years' probation.
- In 2011, Syed Ghulam Nabi Fai, director of the NGO Kashmiri American Council, was charged in the Eastern District of Virginia with conspiring to act as an agent of the government of Pakistan without registering as an agent under FARA. The FARA charge subsequently was dropped as part of a plea agreement in which Fai pleaded guilty to conspiracy and tax offenses.
- In 2014, Prince Asiel Ben Israel pleaded guilty in the Northern District of Illinois for failing to register under FARA as an agent for a foreign government and for attempting to persuade U.S. government officials to push for the lifting of the sanctions imposed in 2003 on Zimbabwean President Robert Mugabe and other top Zimbabwean government officials. Ben Israel was sentenced to seven months in prison.

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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Kadzik". The signature is stylized with a large "P" and a long horizontal stroke.

Peter J. Kadzik  
Assistant Attorney General

cc: The Honorable Patrick J. Leahy  
Ranking Member