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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
JENNIFER DUCK, *Democratic Staff Director*

March 13, 2017

**VIA ELECTRONIC TRANSMISSION**

Mr. Dana Boente  
Acting Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Boente:

According to recent news reports, Lt. Gen. Michael Flynn, President Trump's former National Security Advisor, retroactively registered under the Foreign Agents Registration Act (FARA). By contrast, the Judiciary Committee has been seeking information since April 2015 about the failure of a close advisor to former Secretary of State Clinton to register under FARA, and it appears that he still has not done so. Initial oversight inquiries with the Department of Justice suggest that there may be broader concerns about the effectiveness and evenhandedness of its FARA enforcement efforts.

On July 6, 2016, I wrote to Attorney General Lynch regarding Mr. Sidney Blumenthal: a self-described "advisor" to the Clinton Foundation; an individual that Secretary Clinton used as an "off the books" intelligence resource during her time at the State Department; and someone who was acting as an agent of a foreign power in an effort to influence the decision making process within the State Department and Obama Administration.<sup>1</sup> I noted that Mr. Blumenthal delivered documents to Secretary Clinton on behalf of Mr. John Kornblum, a lawyer working for the opposition party in Georgia at that time, the Georgian Dream, which advocated for closer relations with Russia.<sup>2</sup>

My letter requested specific information that was not included in the Department's May 22, 2015 response to my April 22, 2015 letter.<sup>3</sup> In particular, the May 22, 2015 response failed to indicate whether letters of inquiry had been sent to Mr. Blumenthal and Mr. Kornblum, and what additional steps have been taken to identify if further action is necessary. The failure to fully respond required a follow up letter on July 6, 2016 to which the DOJ responded on August

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<sup>1</sup> Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep't. of Justice (July 6, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep't. of Justice (May 22, 2015). ; Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep't. of Justice (April 22, 2015).

31, 2016. On September 20, 2016, I sent *another* follow up letter requesting the Obama Administration answer these questions.<sup>4</sup> On January 13, 2016, the Obama Administration responded, but *again*, failed to answer all questions posed.<sup>5</sup>

Given the public reporting on Mr. Blumenthal's and Mr. Kornblum's activities in support of the pro-Russian Georgian Dream party, it is imperative that the DOJ explain why it does not appear to be enforcing the legal requirement to register under FARA.

Mr. Blumenthal and Mr. Kornblum attempted to influence Secretary Clinton, and the Obama Administration, on behalf of a pro-Russian foreign entity.<sup>6</sup> News reports indicate that Mr. Kornblum passed along a personal letter to Secretary Clinton via Mr. Blumenthal from Mr. Bidzina Ivanishvili, the leader of the opposition Georgian Dream.<sup>7</sup> In that letter, Mr. Ivanishvili requested Secretary Clinton's support for the pro-Russian Georgian Dream party, which was opposing the sitting Georgian government in an upcoming election.<sup>8</sup> Mr. Blumenthal also transmitted a memo from Mr. Kornblum to Secretary Clinton that urged her to support the pro-Russian Georgian Dream party.<sup>9</sup>

The FARA requires individuals to register with the DOJ if they act, even through an intermediary, "as an agent, representative, employee, or servant" or "in any other capacity" at the behest of a foreign principal, including a foreign political party such as the Georgian Dream, for purposes of engagement with a United States official.<sup>10</sup> The registration applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to "formulat[e], adopt[, or chang[e] the domestic or foreign policies of the United States."<sup>11</sup> Likewise, an individual whose activities are subject to registration under FARA and who sends informational material "for or in the interest of [a] foreign principal" with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission.<sup>12</sup> Notably, an ongoing failure to register with the DOJ is a continuing offense.<sup>13</sup>

A recent Inspector General (IG) audit of the DOJ's FARA enforcement procedure found that there was a lack of statutory understanding of FARA, as well as a lack of a coherent enforcement strategy.<sup>14</sup> Specifically, the Inspector General noted "there was not a coordinated

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<sup>4</sup> Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep't. of Justice (September 20, 2016).

<sup>5</sup> Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (January 9, 2015).

<sup>6</sup> Sam Biddle, *Did Clinton's Backdoor Advisor Illegally Lobby for Putin Ally?*, Gawker (March 30, 2015); see also, Jeff Gerth, *Private Emails Reveal Ex-Clinton Aide's Secret Spy Network*, ProPublica in Conjunction with Sam Biddle of Gawker (March 27, 2015).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 22 U.S.C. §§ 611(b)-(c).

<sup>11</sup> 22 U.S.C. § 611(o).

<sup>12</sup> 22 U.S.C. § 614(a).

<sup>13</sup> 22 U.S.C. § 618(e).

<sup>14</sup> Office of the Inspector General of the U.S. Department of Justice, *Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act*, p. 11 (September 2016).

strategy on FARA,” and “there was no strategy addressing how FARA fits into the Department’s overall national security efforts.”<sup>15</sup> Even National Security Division officials “acknowledged the differing views on what constitutes a FARA charge” and as a result are in the process of “educat[ing] field investigators and prosecutors on the difference.”<sup>16</sup> In light of the Obama Administration’s non-responsive replies to my FARA oversight letters, the IG’s findings, unfortunately, are not surprising.<sup>17</sup>

Nonetheless, this Committee is owed answers. The behavior of Mr. Blumenthal and Mr. Kornblum, to include multiple reported transmittals to the Secretary of State on behalf of foreign entities, consists of the type of activity Congress intended to reach with FARA. Yet, it appears that the Obama Administration failed to require either individual to register under FARA, which leaves the impression that enforcement of FARA more generally may be lacking.

The Obama Administration said that specific to Mr. Blumenthal and Mr. Kornblum, “[t]he Department will take appropriate steps to evaluate whether further action is warranted.”<sup>18</sup> But, not only did the previous administration fail to explain why Mr. Blumenthal and Mr. Kornblum were not required to register under FARA, it also failed to specify what other steps were taken to ensure compliance with FARA in this particular case.

Accordingly, I have attached all previous FARA correspondence to this letter to ensure that the new administration is aware of the full background.

Please provide an answer to the following questions:

1. Given the available reporting of the facts and circumstances relating to Mr. Blumenthal and Mr. Kornblum, to include their efforts on behalf of foreign entities, please explain why the DOJ has not required them to register under FARA.
2. In DOJ’s May 21, 2015 letter, it noted that “[t]he Department will take appropriate steps to evaluate whether further action is warranted.”<sup>19</sup> What steps were taken to evaluate whether further action was necessary with respect to Mr. Blumenthal’s and Mr. Kornblum’s failure to register under FARA?
3. Did the DOJ send a letter of inquiry to Mr. Blumenthal or Mr. Kornblum? If so, please provide a copy. If not, why not?

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 10.

<sup>17</sup> Congress intended FARA to be enforced. FBI personnel interviewed by the IG voiced their frustration at a lack of FARA enforcement. The majority of FBI personnel interviewed complained that the DOJ was “generally slow and [] reluctant to approve FARA charges.” The IG report concluded that the DOJ has failed to devote the time and attention required to enforce FARA, oftentimes taking the view that “[these] matters will take as long as they take,” while failing to use the tools at its disposal to compel compliance with FARA. These findings are extremely disappointing and illustrate a breakdown of the FARA enforcement process.

<sup>18</sup> Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (May 21, 2015).

<sup>19</sup> *Id.*

4. Did the DOJ send a letter of inquiry to Lt. Gen. Flynn? If so, please provide a copy. If not, why not?
5. Under 28 C.F.R. § 5.2 any present or prospective agent of a foreign entity may request an advisory opinion from the DOJ regarding the need to register. Has Mr. Blumenthal, Mr. Kornblum, or Lt. Gen. Flynn, or their attorneys, ever requested an advisory opinion? If so, please provide a copy.

Please answer the questions according to their corresponding questions. I anticipate that your written response and the responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. The Committee complies with all laws and regulations governing the handling of classified information. The Committee is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you in advance for your cooperation with this request. Please respond no later than March 27, 2017. If you have questions, contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary

Cc:  
The Honorable Michael E. Horowitz  
Inspector General, U.S. Department of Justice

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director  
KRISTINE J. LUCIUS, Democratic Chief Counsel and Staff Director

April 22, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Holder:

According to recent news reports, it appears that Mr. Sidney Blumenthal, a self-described “advisor” to the Clinton Foundation,<sup>1</sup> and Mr. John Kornblum, a lawyer working for the opposition party in Georgia, attempted to influence Secretary of State Hillary Clinton, and potentially the President, on behalf of a foreign entity.<sup>2</sup> News reports indicate that Mr. Kornblum passed along a personal letter to Secretary Clinton via Mr. Blumenthal from Mr. Bidzina Ivanishvili, the leader of the opposition Georgian Dream.<sup>3</sup> In that letter, Mr. Ivanishvili requested Secretary Clinton’s support for Georgian Dream, which was opposing the sitting Georgian government in an upcoming election. Notably, the letter states, “Our nation is still controlled by single-party institutions in the hands of a leader who rejects the most basic principle of democracy – that he must someday leave office...” and “[t]he government of Mikheil Saakashvili is using every method available to it to undermine the election process.”

The letter ends with Mr. Ivanishvili asking for Secretary Clinton’s help. “Recent polls suggest that Georgian Dream can make this happen, if the authorities give democracy a chance. You can help by making clear publicly to the current government that you will not tolerate its obvious efforts to undermine the October 1 election.”<sup>4</sup>

<sup>1</sup> Bio, available at <http://authors.simonandschuster.com/Sidney-Blumenthal/453035597>.

<sup>2</sup> Sam Biddle, *Did Clinton’s Backdoor Advisor Illegally Lobby for Putin Ally?*, GAWKER (March 30, 2015); see also, Jeff Gerth, *Private Emails Reveal Ex-Clinton Aide’s Secret Spy Network*, PROPUBLICA in conjunction with Sam Biddle of GAWKER (March 27, 2015).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Despite these activities and communications, it appears that neither Mr. Kornblum nor Mr. Blumenthal and his associates registered with the Department of Justice (DOJ) under the Foreign Agents Registration Act (FARA) at the time.<sup>5</sup> Notably, the FARA registration bank contains other individuals acting on behalf of the Georgian Dream.

The FARA statute requires individuals to register with the DOJ if they act, even through an intermediary, “as an agent, representative, employee, or servant” or “in any other capacity” at the behest of a foreign principal—including a foreign political party such as Georgian Dream—for purposes of engagement with a United States official.<sup>6</sup> The registration requirement applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to “formulat[e], adopt[], or chang[e] the domestic or foreign policies of the United States.”<sup>7</sup> Likewise, an individual whose activities are subject to registration under FARA and who sends informational material “for or in the interests of [a] foreign principal” with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission.<sup>8</sup> Notably, an ongoing failure to register with the DOJ is a continuing offense.<sup>9</sup>

Much like the Lobbying Disclosure Act, FARA promotes a fundamental public interest in openness and transparency in policymaking.<sup>10</sup> FARA registrants, for example, must disclose substantial business and financial information and make that information available for inspection.<sup>11</sup> The behavior of Mr. Blumenthal and Mr. Kornblum, as detailed in the above news accounts, appears to fall within the category of activities covered by the statute. At the very least, these individuals’ multiple reported transmittals to the Secretary of State on behalf of foreign entities are plainly the types of activities Congress intended to reach.

Accordingly, please provide the following:

1. Prior to this letter, was the DOJ aware of Mr. Blumenthal’s and Mr. Kornblum’s communications to Secretary Clinton regarding the Georgian Dream, its leaders and affiliated personnel? If so, when and how did the DOJ become aware?
2. Have Mr. Blumenthal and/or Mr. Kornblum been registered with the DOJ under FARA at any time?

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<sup>5</sup> 22 U.S.C. § 611 *et seq.*

<sup>6</sup> 22 U.S.C. §§ 611(b)-(c).

<sup>7</sup> 22 U.S.C. § 611(o).

<sup>8</sup> 22 U.S.C. § 614(a).

<sup>9</sup> 22 U.S.C. § 618(e).

<sup>10</sup> H.R. Rep. 104-339(I) at 5-6 (1995).

<sup>11</sup> 22 U.S.C. §§ 612, 615.

3. Is the DOJ currently investigating this matter? If not, does DOJ plan to do so?
4. How many FARA investigations has DOJ opened and closed in each of the past 10 years?
5. How many prosecutions resulted from those investigations in each of the last 10 years? How many resulted in a conviction or guilty plea, and what sentences were imposed for each successful prosecution?
6. Currently, how many FARA investigations are ongoing?

In addition to written responses to the above questions, we request an immediate briefing on this subject matter. Thank you in advance for your cooperation with this request. Please respond no later than May 12, 2015. If you have questions, contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary



**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.

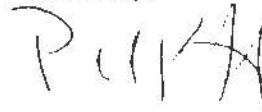
In the past ten years, the Department has charged four criminal cases relating to FARA, three of which resulted in a conviction or guilty plea on a FARA or FARA-related charge:

- 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.

The Honorable Charles E. Grassley  
Page Four

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

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 6, 2016

**VIA ELECTRONIC TRANSMISSION**

The Honorable Loretta E. Lynch  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Lynch:

On April 22, 2015, I wrote to your predecessor, Attorney General Holder, regarding Mr. Sidney Blumenthal, a self-described “advisor” to the Clinton Foundation and an individual that Secretary Clinton used as an off the books intelligence resource during her time at the State Department. My letter noted that Mr. Blumenthal was delivering documents to Secretary Clinton on behalf of a Mr. John Kornblum, a lawyer working for the opposition party in Georgia. One document in particular that Mr. Kornblum passed to Mr. Blumenthal was a personal letter to Secretary Clinton from Mr. Bidzina Ivanishvili, the leader of the opposition Georgian Dream.<sup>1</sup> In that letter, Mr. Ivanishvili requested Secretary Clinton’s support for Georgian Dream, which was opposing the sitting Georgian government in an upcoming election. These activities and communications on behalf of foreign principals appear to fall within the types of activity intended to be regulated by the Foreign Agents Registration Act. Thus, I write today for an update on the Department of Justice’s (DOJ) May 21, 2015, response.

As you are aware, the FARA statute requires individuals to register with the DOJ if they act, even through an intermediary, “as an agent, representative, employee, or servant” or “in any other capacity” at the behest of a foreign principal—including a foreign political party such as Georgian Dream—for purposes of engagement with a United States official.<sup>2</sup> The registration

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<sup>1</sup> Sam Biddle, *Did Clinton’s Backdoor Advisor Illegally Lobby for Putin Ally?*, GAWKER (March 30, 2015); see also, Jeff Gerth, *Private Emails Reveal Ex-Clinton Aide’s Secret Spy Network*, PROPUBLICA in conjunction with Sam Biddle of GAWKER (March 27, 2015).

<sup>2</sup> 22 U.S.C. §§ 611(b)-(c).

requirement applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to “formulat[e], adopt[], or chang[e] the domestic or foreign policies of the United States.”<sup>3</sup> Likewise, an individual whose activities are subject to registration under FARA and who sends informational material “for or in the interests of [a] foreign principal” with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission.<sup>4</sup> Notably, an ongoing failure to register with the DOJ is a continuing offense.<sup>5</sup>

Much like the Lobbying Disclosure Act, FARA promotes a fundamental public interest in openness and transparency in policymaking.<sup>6</sup> FARA registrants, for example, must disclose substantial business and financial information and make that information available for inspection.<sup>7</sup> The behavior of Mr. Blumenthal and Mr. Kornblum, to include multiple reported transmittals to the Secretary of State on behalf of foreign entities, consists of the type of activity Congress intended to reach.

Despite these activities and communications on behalf of a foreign entity, neither Mr. Kornblum nor Mr. Blumenthal and his associates registered with the DOJ under FARA at the time.<sup>8</sup> In DOJ’s May 21 response, it said, “[a]ccording to the FARA Unit’s records, neither [Mr. Blumenthal or Mr. Kornblum] is, or has been, registered under FARA.” Notably, the FARA registration bank contains other individuals acting on behalf of the Georgian Dream.

The DOJ’s response further states that a letter of inquiry is sent to individuals when questions exist with respect to the requirement to register and that specific to Mr. Blumenthal or Mr. Kornblum, “[t]he Department will take appropriate steps to evaluate whether further action is warranted.” On June 18, 2015, DOJ personnel briefed my staff on FARA related issues to include Mr. Blumenthal’s and Mr. Kornblum’s failure to register under FARA. DOJ officials were not prepared to discuss the particulars relating to them at that time. Given that it is has been over one year since that briefing and over one year since the DOJ official letter response, please provide an update to the following questions:

1. Have Mr. Blumenthal and/or Mr. Kornblum been registered with the DOJ under FARA since the DOJ’s May 21, 2015 letter? If not, why not?
2. Did the DOJ send a letter of inquiry to Mr. Blumenthal? If so, please provide a copy. If not, why not?

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<sup>3</sup> 22 U.S.C. § 611(o).

<sup>4</sup> 22 U.S.C. § 614(a).

<sup>5</sup> 22 U.S.C. § 618(e).

<sup>6</sup> H.R. Rep. 104-339(I) at 5-6 (1995).

<sup>7</sup> 22 U.S.C. §§ 612, 615.

<sup>8</sup> 22 U.S.C. § 611 *et seq.*

3. Did the DOJ send a letter of inquiry to Mr. Kornblum? If so, please provide a copy. If not, why not?
4. Did the DOJ, or any component of the DOJ, inspect any books or records of Mr. Blumenthal or Mr. Kornblum relating to their activities with the Georgian Dream or any other foreign entity? If not, why not?
5. In DOJ's May 21, 2015 letter, it noted that "[t]he Department will take appropriate steps to evaluate whether further action is warranted." What steps were taken to evaluate whether further action was necessary with respect to Mr. Blumenthal's and Mr. Kornblum's failure to register under FARA?
6. Has the DOJ completed its inquiry into Mr. Blumenthal's and Mr. Kornblum's failure to register under FARA? If so, please provide the final report of inquiry.

Please answer the questions according to their corresponding questions. Thank you in advance for your cooperation with this request. Please respond no later than July 21, 2016. If you have questions, contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary



U.S. Department of Justice

Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

August 31, 2016

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 the Attorney General dated July 6, 2016, 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 Mr. Bidzina Ivanishvili and the Georgian Dream.

According to a search of the FARA records, neither Mr. Blumenthal nor Mr. Kornblum is, or ever has been, registered under FARA. As you know, FARA is a disclosure statute that requires an agent of a foreign principal, as defined in Section 611(c), to register when that person engages within the United States in certain activities at the request of, or under the direction or control of, a foreign principal. As a general matter, an agency relationship must be established in order for an individual or organization to incur an obligation to register under the Act. Absent this agency relationship, registration under FARA is not required. In addition, if an agency relationship does exist, registration may not be required if the person qualifies for any one of the exemptions in Section 613 of the Act.

As to your question regarding inspections of books and records of registered agents, FARA does provide legal authority to conduct such inspections pursuant to 22 U.S.C. § 615. Here, however, the Department of Justice (the Department) has not inspected any books or records of Mr. Blumenthal or Mr. Kornblum under Section 615 of the Act because, as noted above, neither individual is, or ever has been, a registered agent of a foreign principal.


With regard to your inquiries as to whether the Department has sent letters of inquiry to Mr. Blumenthal or Mr. Kornblum, as indicated in the Department's prior letter to the Committee dated May 21, 2015, letters of inquiry sent by the FARA Unit are considered investigative activity. Consistent with longstanding Department of Justice practice, we neither confirm, nor deny the existence of non-public investigations and therefore, cannot comment or provide documents on the existence, or nonexistence, of investigative activities.

The Honorable Charles E. Grassley  
Page Two

As a general matter, the FARA Unit's investigative activity includes sending letters of inquiry to parties with a potential obligation to register. FARA Unit personnel continue to monitor potential covered FARA activity on a daily basis, and if additional evidence or information indicating direction and control by a foreign principal is discovered, we can assure you the Department takes appropriate action to seek compliance with the Act.<sup>1</sup>

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 "PK" followed by a stylized flourish.

Peter J. Kadzik  
Assistant Attorney General

cc: The Honorable Patrick J. Leahy  
Ranking Member

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<sup>1</sup> As explained in the Department's May 2015 letter, however, the FARA Unit lacks statutory authority to compel potential registrants to provide information.



CHARLES E. GRASSLEY, IOWA, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

September 20, 2016

**VIA ELECTRONIC TRANSMISSION**

The Honorable Loretta E. Lynch  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Lynch:

On July 6, 2016, I wrote to you regarding Mr. Sidney Blumenthal, a self-described “advisor” to the Clinton Foundation and an individual that Secretary Clinton used as an “off the books” intelligence resource during her time at the State Department.<sup>1</sup> I noted that Mr. Blumenthal was delivering documents to Secretary Clinton on behalf of Mr. John Kornblum, a lawyer working for the opposition party in Georgia, the Georgian Dream.<sup>2</sup> My letter requested specific information that was not included in the Department of Justice’s (DOJ) May 22, 2015 response.<sup>3</sup> In particular, the May 22, 2015 response failed to indicate whether letters of inquiry had been sent to Mr. Blumenthal and Mr. Kornblum, and what additional steps have been taken to identify if further action is necessary. The failure to fully respond required a follow up letter on July 6, 2016 to which the DOJ responded on August 31, 2016. In that response, the DOJ again failed to answer the majority of the questions posed. In particular, in both the May 22 and August 31, 2016 responses the DOJ noted that neither Mr. Blumenthal nor Mr. Kornblum is, or ever has been, registered under the Foreign Agents Registration Act (FARA).<sup>4</sup>

Given the public reporting on Mr. Blumenthal’s and Mr. Kornblum’s activities in support of the Georgian Dream, it is imperative that the DOJ explain why it does not appear to be enforcing the legal requirement to register under FARA.

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<sup>1</sup> Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep’t. of Justice (July 6, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (May 21, 2015); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (August 31, 2016).

As I have noted in previous letters, according to news reports, Mr. Blumenthal and Mr. Kornblum attempted to influence Secretary Clinton, and potentially the President, on behalf of a foreign entity.<sup>5</sup> News reports indicate that Mr. Kornblum passed along a personal letter to Secretary Clinton via Mr. Blumenthal from Mr. Bidzina Ivanishvili, the leader of the opposition Georgian Dream.<sup>6</sup> In that letter, Mr. Ivanishvili requested Secretary Clinton's support for the Georgian Dream, which was opposing the sitting Georgian government in an upcoming election.<sup>7</sup> Mr. Blumenthal also transmitted a memo from Mr. Kornblum to Secretary Clinton that urged her to support the Georgian Dream.<sup>8</sup>

The FARA requires individuals to register with the DOJ if they act, even through an intermediary, "as an agent, representative, employee, or servant" or "in any other capacity" at the behest of a foreign principal, including a foreign political party such as the Georgian Dream, for purposes of engagement with a United States official.<sup>9</sup> The registration applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to "formulat[e], adopt[], or chang[e] the domestic or foreign policies of the United States."<sup>10</sup> Likewise, an individual whose activities are subject to registration under FARA and who sends informational material "for or in the interest of [a] foreign principal" with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission.<sup>11</sup> Notably, an ongoing failure to register with the DOJ is a continuing offense.<sup>12</sup>

A recent Inspector General (IG) audit of the DOJ's FARA enforcement procedure found that there is a lack of statutory understanding of FARA, as well as a lack of a coherent enforcement strategy.<sup>13</sup> Specifically, the Inspector General noted "there was not a coordinated strategy on FARA," and "there was no strategy addressing how FARA fits into the Department's overall national security efforts."<sup>14</sup> Even National Security Division officials "acknowledged the differing views on what constitutes a FARA charge" and as a result are in the process of "educat[ing] field investigators and prosecutors on the difference."<sup>15</sup> The IG's report found that the DOJ's refusal to properly enforce FARA extended into civil enforcement as well, noting that injunctive relief had not been sought as a remedy since 1991.<sup>16</sup> Such a lack of enforcement has created a lack of accountability. The IG report noted that, documents are routinely submitted late or in many cases registrants ceased submitting required documents entirely.<sup>17</sup>

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<sup>5</sup> Sam Biddle, *Did Clinton's Backdoor Advisor Illegally Lobby for Putin Ally?*, Gawker (March 30, 2015); see also, Jeff Gerth, *Private Emails Reveal Ex-Clinton Aide's Secret Spy Network*, ProPublica in Conjunction with Same Biddle of Gawker (March 27, 2015).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> 22 U.S.C. §§ 611(b)-(c)

<sup>10</sup> 22 U.S.C. § 611(o)

<sup>11</sup> 22 U.S.C. § 614(a)

<sup>12</sup> 22 U.S.C. § 618(e)

<sup>13</sup> Office of the Inspector General of the U.S. Department of Justice, *Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act*, p. 11 (September 2016).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Id.* at 12.

<sup>17</sup> *Id.* at 13.

Congress intended FARA to be enforced. And, FBI personnel interviewed by the IG voiced their frustration at a lack of FARA enforcement. The majority of FBI personnel interviewed complained that the DOJ was “generally slow and [] reluctant to approve FARA charges.”<sup>18</sup> The IG report concluded that the DOJ has failed to devote the time and attention required to enforce FARA, oftentimes taking the view that “[these] matters will take as long as they take,”<sup>19</sup> while failing to use the tools at its disposal to compel compliance with FARA. These findings are extremely disappointing and illustrate a complete breakdown of the FARA enforcement process.

The behavior of Mr. Blumenthal and Mr. Kornblum, to include multiple reported transmittals to the Secretary of State on behalf of foreign entities, consists of the type of activity Congress intended to reach. Yet, it appears that the DOJ has not required either individual to register under FARA. The DOJ’s May 22 response states that a letter of inquiry is sent to individuals when questions exist with respect to the requirement to register. The letter also states that specific to Mr. Blumenthal and Mr. Kornblum, “[t]he Department will take appropriate steps to evaluate whether further action is warranted.”<sup>20</sup> But, not only has the DOJ failed to explain why Mr. Blumenthal and Mr. Kornblum have not been required to register under FARA, the DOJ’s August 31 response also failed to specify what other steps were taken to ensure compliance with FARA in this particular case.

In light of all of the above, please provide an update to the following questions:

1. Given the available reporting of the facts and circumstances relating to Mr. Blumenthal and Mr. Kornblum, to include their efforts on behalf of foreign entities, please explain why the DOJ has not required them to register under FARA.
2. In DOJ’s May 21, 2015 letter, it noted that “[t]he Department will take appropriate steps to evaluate whether further action is warranted.”<sup>21</sup> What steps were taken to evaluate whether further action was necessary with respect to Mr. Blumenthal’s and Mr. Kornblum’s failure to register under FARA?
3. The DOJ noted in its May 21, 2015 response that letters of inquiry are sent to individuals when “questions regarding a possible obligation to register come to the attention of the FARA unit.”<sup>22</sup> Once a letter of inquiry is sent and the DOJ decides to close the inquiry, is the letter available via a Freedom of Information Act request? If not, why not?

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<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.*

<sup>20</sup> Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (May 21, 2015).

<sup>21</sup> *Id.*

<sup>22</sup> Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (May 21, 2015); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dept. of Justice, to Charles E. Grassley, Chairman, U.S. Senate Comm. On the Judiciary (August 31, 2016).

4. Under 28 C.F.R. § 5.2 any present or prospective agent of a foreign entity may request an advisory opinion from the DOJ regarding the need to register. Has Mr. Blumenthal or Mr. Kornblum, or their attorneys, ever requested an advisory opinion? If so, please provide a copy.

Please answer the questions according to their corresponding questions. I anticipate that your written response and the responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. The Committee complies with all laws and regulations governing the handling of classified information. The Committee is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you in advance for your cooperation with this request. Please respond no later than October 4, 2016. If you have questions, contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 9, 2017

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

Dear Chairman Grassley:

This responds to your letter to the Attorney General, dated September 20, 2016, 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.

Enforcement of FARA is an active, integral part of the Department of Justice's ("the Department") overall strategy to address threats to U.S. national security. The National Security Division ("NSD") devotes substantial resources to determining whether entities and individuals are complying with registration and disclosure obligations. NSD's Counterintelligence and Export Control Section ("CES"), which houses the FARA Registration Unit, works with U.S. Attorneys' Offices across the United States to consider whether there is sufficient evidence of willful conduct to support criminal prosecutions of FARA violations. CES also has increased its training for prosecutors and FBI agents regarding FARA.

NSD agrees with all 14 recommendations in the Office of the Inspector General's Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act ("OIG Report") and is committed to taking steps to implement the recommendations in an effort to strengthen FARA. One area on which we have focused particular attention concerns limits on our ability to obtain information to enforce FARA. Currently, DOJ must either rely on requests for the voluntary production of records and information or have a factual basis for referring a matter for criminal investigation. As noted in the OIG Report, the Department submitted legislative proposals to Congress in 1991 and 1999 seeking Civil Investigative Demand ("CID") authority. Such authority would substantially strengthen the Department's ability to assess whether entities and individuals have an obligation to register under FARA and whether existing registrants are meeting their disclosure obligations.

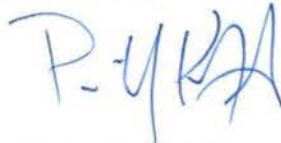
With respect to your inquiries regarding Mr. Blumenthal and Mr. Kornblum, it is not our practice to comment on non-public investigative actions that we may take to determine whether a party has an obligation to register under FARA. Similarly, it is not our practice to comment on our analysis or conclusions when evaluating whether a party has an obligation to register.

As a general rule (and as indicated in previous correspondence), although Department personnel review public sources daily in an attempt to identify agents who may be required to register, we do not draw legal conclusions based solely on information gleaned from public reporting (which may be incomplete or inaccurate). Instead, the Department often requests additional information from the subject of the reporting (who may elect to provide it voluntarily). After analyzing all information available, including documentary evidence provided by the potential registrant or others, the Department will seek the agent's registration if the Department determines that there is a registration requirement.

It is the Department's practice to release letters of inquiry in response to Freedom of Information Act ("FOIA") requests only with respect to individuals and entities that subsequently register with FARA (redacting information where appropriate). To provide the public with access to letters of inquiry sent to persons and entities we ultimately determined had no obligation to register under FARA would compromise the privacy of those recipients, without legal justification, and could discourage outreach by potential registrants seeking to understand their obligations.

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 blue ink, appearing to read "P. J. Kadzik", with a stylized flourish at the end.

Peter J. Kadzik  
Assistant Attorney General

cc: The Honorable Dianne Feinstein  
Ranking Member