FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of	)	
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Russian Federation; Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer; Donald J. Trump; H. Russell Taub; Cambridge Analytica, LLC; Internet Research Agency; and Paul Manafort	)	MURs 7207, 7268, 7274, and 7623

STATEMENT OF REASONS OF
COMMISSIONERS SHANA M. BROUSSARD AND ELLEN L. WEINTRAUB

The "Russian government engaged in an aggressive, multi-faceted effort to influence, or attempt to influence, the outcome of the 2016 presidential election," concluded the bipartisan U.S. Senate Select Committee on Intelligence in its five-volume report, *Russian Active Measures Campaigns and Interference in the 2016 U.S. Election*.[1] The Complaints in these matters alleged that such interference amounted to impermissible campaign contributions from foreign nationals. The facts before the Commission – set forth in the Senate Intelligence Committee Report, the Department of Justice Special Counsel's *Report On the Investigation Into Russian Interference In The 2016 Presidential Election*, federal indictments and trial transcripts, and other findings issued by the U.S. Intelligence Community – overwhelmingly supported the conclusion that the Russian Federation and the Internet Research Agency ("IRA"), a Russian troll farm tied to Russian intelligence, made, and that Donald Trump and his presidential committee ("Trump Committee") knowingly solicited or accepted, prohibited foreign national contributions in violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"). We voted accordingly, consistent with the recommendations from our General Counsel's Office.[2]

Russia's 2016 Election Interference

Five months before the 2016 presidential election, the American public learned that Russian military intelligence hacked the computer system of the Democratic Party's national committee.[3] A month later and on the eve of the Democratic convention, WikiLeaks published a tranche of stolen

[1] U.S. SENATE SELECT COMM. ON INTELLIGENCE, RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION ("Senate Intelligence Committee Report"), VOLUME 5: COUNTERINTELLIGENCE THREATS AND VULNERABILITIES (Aug. 18, 2020), at v.
[2] *See* Certification in MURs 7207, 7268, 7274 and 7623 (Russian Federation, *et al.*), dated April 22, 2021 ("Cert").
[3] *See* First Gen. Counsel's Rpt. in MURs 7207, 7268, 7274 and 7623 (Russian Federation, *et al.*) ("FGCR") at 2 (citing David E. Sanger and Nick Corasaniti, *D.N.C. Says Russian Hackers Penetrated its Files, Including Dossier on Donald Trump*, N.Y. TIMES, June 14, 2016).

documents.[4] Shortly thereafter Donald Trump implored, "Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing," which purportedly belonged to his opponent.[5] Nearly five hours after Trump made this statement, the GRU, a Russian military intelligence agency, began spearphishing attacks targeting emails associated with presidential candidate Hillary Clinton's personal office.[6] Separate from those efforts, the GRU had successfully accessed the emails of Clinton campaign officials and the Democratic Congressional Campaign Committee. The GRU stole "thousands of documents, including emails, strategy memos, analyses of congressional races, fundraising information, and opposition research."[7] The hack-and-release operation culminated in WikiLeaks publishing documents stolen from the Chair of the Clinton campaign in the weeks before the election.[8]

At the same time, Russian troll farms perpetrated a mass disinformation campaign against the American public in support of Trump's candidacy. The IRA operated as a quasi-governmental entity "at the direction of the Kremlin"[9] in conducting what it referred to as "information warfare against the United States of America."[10] The IRA was not a small operation. It had "more than eighty"[11] employees tasked with U.S.-related operations. The IRA operated accounts on U.S. social media platforms masquerading as U.S. citizens and grassroots organizations designed to influence public opinion by promoting Trump and disparaging Clinton.[12] It operated approximately 3,800 Twitter accounts, 470 Facebook accounts, and 170 Instagram accounts.[13] Amassed among these accounts were hundreds of thousands of followers.[14] Through its many fake profiles, the IRA planned and organized dozens of political rallies in U.S. cities, allowing hostile foreign operatives to participate directly in American democracy.[15]

The Trump Campaign's Role in Russia's Interference Efforts

Russian interference coincided with a series of communications between apparent agents of the Trump campaign and individuals with ties to the Russian government. The available information before the Commission reflects that Roger Stone, a Trump Committee official until

[4] *See id*. (citing Joe Uchill, *WikiLeaks Posts 20,000 DNC Emails*, THE HILL, July 22, 2016).
[5] *See id*. at 23 (citing C-SPAN, *Donald Trump on Russian & Missing Hillary Clinton Emails*, YOUTUBE (July 27, 2016), https://www.youtube.com/watch?v=3kxG8uJUsWU).
[6] *See id*. at 24 (citing SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP'T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION ("Special Counsel's Report") at 49 (Mar. 22, 2019); Senate Intelligence Committee Report Vol. 5 at 232; Indictment, *United States v. Netyksho*, *et al.*, 1:18-cr-00215 (D.D.C. July 13, 2018) ("GRU Indictment") ¶ 22).
[7] *Id.* at 18-19 (citing, *inter alia,* Special Counsel's Report at 38, 40, 43; GRU Indictment ¶ 28(a)).
[8] *See id*. at 2 (citing Ellen Nakashima, *U.S. Government Officially Accuses Russia of Hacking Campaign to Interfere with Elections,* WASH. POST, Oct. 7, 2016).
[9] *Id*. at 9 (citing, *inter alia*, Senate Intelligence Committee Report Vol. 2 at 32).
[10] *Id*. (citing Superseding Indictment, *United States v. Internet Research Agency, et al.*, 1:18-cr-00032 (D.D.C. Nov. 8, 2019) ("IRA Indictment") ¶ 10(c)).
[11] *Id*. at 10 (citing, *inter alia*, IRA Indictment ¶ 10(d)).
[12] *See id*. at 11 (citing, *inter alia*, Special Counsel's Report at 19, 27).
[13] *See id*. at 12 (citing *Open Hearing: Social Media Influence in the 2016 U.S. Election Before the S. Select Comm. on Intelligence*, 115th Cong. (Nov. 1, 2017); *Open Hearing on Foreign Influence Operations' Use of Social Media Platforms (Company Witnesses) Before the S. Select Comm. on Intelligence*, 115th Cong. (Sept. 5, 2018); Twitter, *Update on Twitter's Review of the 2016 Election* (Jan. 19, 2018) (updated Jan. 31, 2018); Special Counsel's Report at 15; Senate Intelligence Committee Report Vol. 2 at 50, 76-77).
[14] *See id*. (citing Special Counsel's Report at 14-15).
[15] *See id*. at 16 (citing Special Counsel's Report at 29).

August 2015 who remained in regular contact with the Trump campaign thereafter, conveyed non-public information to the campaign about the release of hacked emails.[16] Notably, Stone appears to have told senior campaign officials and Trump himself that WikiLeaks would release emails damaging to Clinton before that information became public.[17] The WikiLeaks Twitter account also had multiple contacts with Donald Trump, Jr., who wrote to WikiLeaks to ask for information about a potential "leak."[18] And there is extensive evidence in the public record regarding former Trump campaign manager Paul Manafort's role in sharing Trump Committee polling data with Konstantin Kilimnik, a Russian intelligence officer with possible connections to the GRU's hack-and-release operation.[19]

Trump's own "Russia, if you're listening" solicitation must be understood in the context of the many reported contacts between Russian operatives and Trump campaign officials. It was no "offhand remark," as claimed by the Trump Committee.[20] Trump made the statement seeking Clinton's emails at a press conference with television cameras rolling, at a time when numerous sources were reporting that Russia was aiding his campaign.[21] This occurred on July 27, 2016, five days after WikiLeaks released the DNC documents, and approximately one week after Stone reportedly discussed WikiLeaks with Trump himself.[22] Russia, apparently, was listening.

H. Russell Taub

The GRU's efforts were not confined to the presidential race. On August 15, 2016, "Guccifer 2.0," the online persona controlled by the GRU as part of its larger hack-and-release operation, received a request for stolen documents from a candidate running for U.S. Congress.[23] Guccifer 2.0 in return sent the candidate stolen documents related to his opponent. The Commission, not knowing the identity of the candidate, found reason to believe that an unknown congressional candidate solicited, accepted, or received a foreign national contribution and authorized our attorneys to seek the identity of the unknown candidate.[24]

The Office of General Counsel determined that the unknown candidate was H. Russell Taub, a 2016 candidate for Rhode Island's 1st Congressional District. The Commission obtained records of a Twitter message exchange from August 2016 in which Taub asked an account operated by Guccifer 2.0 for a list of Republican donors in order to defeat his opponent, explaining "if I had the resources I can win."[25] Guccifer 2.0 replied, informing Taub that it had a dossier on Taub's

[16] *See id*. at 25-33 and internal sources.
[17] *See id*. at 25 and internal sources.
[18] *See id*. at 33-34 and internal sources. Trump Jr.'s June 9, 2016 meeting with a Kremlin-linked lawyer regarding potential opposition research is the subject of another Matter Under Review. We voted to find reason to believe that Trump and Trump Jr. knowingly solicited a contribution from a foreign national in the context of that meeting. Our Republican colleagues disagreed. *See* Certification in MURs 7265 and 7266 (Make America Great Again f/k/a Donald J. Trump for President, Inc.), dated March 9, 2021.
[19] *See* FGCR at 35-39 and internal citations; *id*. at 83 (citing, *inter alia*, Special Counsel's Report at 129-31, 135-36, 140).
[20] Trump Committee Resp. at 5, MUR 7207.
[21] *See* FGCR at 65 and internal citations.
[22] *See id*. at 65, 26 (citing Senate Intelligence Committee Report Vol. 5 at 229-30 (citing interview of Michael Cohen)).
[23] *See id*. at 22 (citing GRU Indictment ¶ 43(a); Special Counsel's Report at 43).
[24] *See* Cert. We had the requisite four votes to find reason to believe, despite two Commissioners voting against our attorneys' recommendation.
[25] *See* MUR 7207 (Taub), Factual and Legal Analysis at 5.

opponent and offering to send the dossier.[26] After Taub responded with his email address, Guccifer 2.0 sent Taub ten documents related to Taub's opponent, including professionally-produced reports and polling data, apparently stolen from GRU's election-related hacking targets.[27]

This was a clear-cut solicitation and receipt of a foreign national contribution by a federal candidate. Taub first asked Guccifer 2.0 for a donor list, a valuable campaign asset. In return, he received a trove of materials akin to opposition research – materials which typically come with a high price tag. Recognizing this, the Commission pursued the allegations against Taub and ultimately entered into a conciliation agreement.[28] The public finally knows that the "unknown congressional candidate" is H. Russell Taub.

Alleged FECA Violations

This statement only scratches the surface on the breadth of Russian attacks on our democracy in the 2016 election. We will not repeat the extensive factual record presented by the General Counsel's Office. There is no doubt that Russia interfered in the 2016 election and spent substantial sums to do so. Our Intelligence Community, the Special Counsel, and the bipartisan U.S. Senate Select Committee on Intelligence have all reported ample evidence of such interference. The Federal Election Commission should have had no hesitation about joining in the condemnation in response to the Complaints before us alleging that Russia's efforts amounted to impermissible campaign contributions.

The Act and Commission regulations prohibit any foreign national from "directly or indirectly" making a "contribution or donation of money or other thing of value," "an express or implied promise to make a contribution or donation," or "an expenditure, independent expenditure, or disbursement for an electioneering communication" in connection with a federal, state, or local election.[29] A contribution is "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."[30] The Act similarly defines "expenditure" as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing an election."[31] The Russian Federation paid substantial sums in a long-running campaign to influence a U.S. election.

As a threshold matter, we agreed with our nonpartisan Office of General Counsel that the Commission has jurisdiction over the Russian Federation.[32] And with clear and extensive evidence of Russia's efforts to influence the 2016 U.S. election, we voted, *inter alia*, to support their recommendations to find reason to believe that: 1) the Russian Federation and the IRA made prohibited foreign national expenditures and independent expenditures in connection with the influence campaign targeting the 2016 presidential election; 2) (not surprisingly) the Russian

[26] *See id*.
[27] *See id*. at 6.
[28] Although the agreement does not require Taub to pay a civil penalty because Taub demonstrated an inability to pay a fine, the value lies in the American public knowing the identity of the U.S. candidate who solicited a contribution from a foreign adversary to benefit himself and his campaign.
[29] 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f).
[30] 52 U.S.C. § 30101(8)(A)(i).
[31] *Id*. § 30101(9)(A)(i).
[32] *See* FGCR at 43-49.

Federation and IRA failed to report those expenditures; 3) the Russian Federation made a prohibited in-kind contribution by expending resources to hack Clinton-related servers in response to Trump's "Russia, if you're listening" comment; and 4) the Russian Federation made prohibited in-kind foreign national contributions.

It is likewise illegal to knowingly solicit contributions from foreign nationals.[33] Under Commission regulations, "to solicit" means "to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value."[34] Thus, we voted to find reason to believe that: 1) Trump and the Trump Committee knowingly solicited, accepted, or received an in-kind contribution from the Russian Federation in connection with Trump's "if you're listening" comment; 2) the Trump Committee knowingly solicited an in-kind contribution from WikiLeaks; 3) an Unknown Congressional Candidate (Taub) knowingly solicited, accepted, or received a prohibited in-kind foreign national contribution; and 4) Paul Manafort and the Trump Committee knowingly solicited a prohibited in-kind foreign national contribution and transferred a campaign committee asset without charge.

In addition to supporting our attorneys' recommendations to find reason to believe against the Russian Federation and the IRA, we supported their recommendation to then take no further action against those Respondents.[35] The Commission's Office of General Counsel concluded there was no realistic prospect that the Russian Federation or the IRA would cooperate and voluntarily enter into conciliation with the Commission. The likelihood of success in obtaining a collectible judgment through litigation was low. Our vote to find reason to believe they violated the Act as described above but to take no further action was influenced by the knowledge that other parts of the government were better situated to address these serious attacks on our national sovereignty and were taking steps to do so. In April of last year, for example, the U.S. Department of the Treasury announced new sanctions against the Russian government's attempts to influence U.S. elections in 2020.[36] Several of Treasury's targets were involved in the 2016 disinformation campaign, including Yevgeniy Prigozhin, the financier of the IRA, and Konstantin Kilimnik, the Russian agent who provided the Russian Intelligence Service with sensitive information on polling and Trump's campaign strategy.[37] The FBI is currently seeking the arrest of Prigozhin for conspiracy to defraud the United States, and the arrest of Kilimnik for obstruction of justice and conspiracy to obstruct justice.[38] Those sanctions follow earlier penalties imposed by the Treasury Department during the Trump administration.[39]

No similar factors militated against pursuing the non-State actor respondents. Thus, we supported our attorneys' recommendation to conciliate with Trump, the Trump Committee, and

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[33] 52 U.S.C. § 30121(a)(2).
[34] 11 C.F.R. §§ 110.20(a)(6), 300.2(m).
[35] *See* FGCR at 61-62; Cert.
[36] *See* U.S. Department of the Treasury, *Treasury Escalates Sanctions Against the Russian Government's Attempts to Influence U.S. Elections* (April 15, 2021), https://home.treasury.gov/news/press-releases/jy0126.
[37] *See id*.
[38] *See* Federal Bureau of Investigation, *Most Wanted*, https://www fbi.gov/wanted/counterintelligence/yevgeniy-viktorovich-prigozhin, https://www.fbi.gov/wanted/counterintelligence/konstantin-viktorovich-kilimnik (last visited February 10, 2022).
[39] *See* Nathan Layne, *U.S. Imposes fresh Russia sanctions for election meddling*, REUTERS (Dec. 19, 2018), https://www.reuters.com/article/us-usa-russia-sanctions-treasury/u-s-imposes-fresh-russia-sanctions-for-election-meddling-idUSKCN1OI27F.

Manafort.[40] Unfortunately, our Republican colleagues disagreed and, accordingly, the Commission did not have the four votes required to move forward with those allegations.

Once the Commission failed to find reason to believe that the Russian Federation and the IRA violated the Act – deadlocking yet again along party lines – we supported dismissing the allegations against only those parties as a matter of prosecutorial discretion (again relying on other parts of the government that are better positioned to address these foreign respondents). Thus, we voted alongside two of our colleagues in a combined motion to dismiss the allegations as to the Russian Federation and IRA and to pursue the allegations against the then-unknown congressional respondent.[41] This meant the Commission was able to uncover Taub's identity.

The Commission's response to foreign threats should transcend partisan politics. Our preferred course of action would have been for the Commission to join together to unequivocally declare that the Russian Federation and Russian operatives violated federal campaign finance law through their unprecedented efforts to influence U.S. elections.[42] Though we could not reach consensus at the Federal Election Commission, Russian interference has not gone without a response. The U.S. government continues to hold Russia accountable for its interference and remains vigilant as to ever-present threats from foreign adversaries to the integrity of our elections. We applaud those efforts, as well as the work done by our attorneys to extensively document the many credible campaign finance violations resulting from Russia's attacks on our democracy.

February 15, 2022
Date

Shana M. Broussard
Commissioner

February 15, 2022
Date

Ellen L. Weintraub
Commissioner

[40] *See* Cert.
[41] *See id.*
[42] One of our colleagues states that he "did not consider it appropriate to take action against the Russian Federation and the Internet Research Agency ('IRA') without first apprising the Department of State and [redacted]." Statement of Reasons of Vice Chair Allen Dickerson in MURs 7207, 7268, 7274, and 7623 (Russian Federation, et al.) at 3. "Denied that opportunity," he voted to dismiss the allegations. *Id.* at 4. To be clear, we supported communicating the details of this matter to the Department of State [redacted]