

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 7207¹

DATE COMPLAINT FILED: 12/19/2016

DATES OF SUPPLEMENTS: 05/04/2017

06/02/2017

DATES OF NOTIFICATIONS: 12/22/2016

05/10/2017

06/09/2017

LAST RESPONSE RECEIVED: 08/22/2017

DATE ACTIVATED: 10/02/2017

EXPIRATION OF SOL: 01/01/2020 – 11/08/2021

ELECTION CYCLE: 2016

COMPLAINANTS:

Free Speech for People

Campaign for Accountability

Allen J. Epstein

Rose Clara White

RESPONDENTS:

Russian Federation

Donald J. Trump for President, Inc. and Bradley T.

Crate in his official capacity as treasurer

Donald J. Trump

Unknown Congressional Candidate

MUR: 7268²

DATE COMPLAINT FILED: 08/08/2017

DATES OF SUPPLEMENTS: 09/15/2017

01/09/2018

10/29/2018

¹ We administratively severed from MURs 7637 the allegations against Donald J. Trump and Donald J. Trump for President involving Russian interference in the 2016 election and merged them into MUR 7207, which involves similar allegations. First Gen. Counsel's Rpt. at 1-2 n.2, MUR 7637 (Donald J. Trump for President, et al.). Consequently, the Complainant in MUR 7637, Allen J. Epstein, and the Complainant

Rose Clara White, have been added to MUR 7207. Respondents Donald J. Trump and Donald J. Trump for President were not removed from MURs 7637 because additional allegations remain against them in those matters.

² The Complaint in MUR 7268 alleges, among other things, that Trump campaign officials met with Russian nationals on June 9, 2016, to obtain opposition research, an allegation that is at issue in MURs 7265 and 7266. We administratively severed and merged that allegation into MUR 7266. Respondents Donald Trump Jr., Paul Manafort, and Jared Kushner were removed from MUR 7268 and added to MUR 7266; Donald J. Trump for President was added to MUR 7266 but not removed from MUR 7268 because additional allegations remain against it; and the Complainant in MUR 7268, Robert C. Sinnot, was also added to MUR 7266.

MURs 7207, 7268, 7274, & 7623 (Russian Federation, *et al.*)

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1 DATES OF SUPPLEMENTS: 01/16/2020
2 DATES OF NOTIFICATIONS: 08/15/2017
3 06/23/2020
4 07/02/2020
5 LAST RESPONSE RECEIVED: 09/14/2017
6 DATE ACTIVATED: 10/02/2017
7
8 EXPIRATION OF SOL: 01/01/2020 – 11/08/2021
9 ELECTION CYCLE: 2016

10 **COMPLAINANT:** Robert C. Sinnot
11
12 **RESPONDENT:** Donald J. Trump
13 Donald J. Trump for President, Inc. and Bradley T.
14 Crate in his official capacity as treasurer
15 Cambridge Analytica, LLC
16
17
18 **MUR: 7274**
19 DATE COMPLAINT FILED: 09/07/2017
20 DATE OF NOTIFICATION: 09/14/2017
21 LAST RESPONSE RECEIVED: 10/31/2017
22 DATE ACTIVATED: 10/02/2017
23
24 EXPIRATION OF SOL: 01/01/2020 – 11/08/2021
25 ELECTION CYCLE: 2016
26
27 **COMPLAINANTS:** Common Cause
28 Paul S. Ryan
29
30 **RESPONDENT:** Internet Research Agency
31
32
33 **MUR: 7623³**
34 DATE COMPLAINT FILED: 07/22/2019
35 DATE OF NOTIFICATION: 07/25/2019
36 LAST RESPONSE RECEIVED: 09/05/2019
37 DATE ACTIVATED: 11/18/2019
38

³ The Complaint in MUR 7623 alleges, among other things, that Trump campaign officials met with Russian nationals on June 9, 2016, to obtain opposition research, an allegation that is at issue in MURs 7265 and 7266. We administratively severed and merged that allegation into MUR 7266. Respondents Donald Trump Jr. and Jared Kushner were removed from MUR 7623 and added to MUR 7266; Donald J. Trump for President and Paul Manafort were added to MUR 7266 but not removed from MUR 7623 because additional allegations remain against them; and the Complainant in MUR 7623, Russell S. Kussman, was also added to MUR 7266.

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1		EXPIRATION OF SOL: 01/01/2020 – 11/08/2021
2		ELECTION CYCLE: 2016
3		
4	COMPLAINANT:	Russell S. Kussman
5		
6	RESPONDENTS:	Donald J. Trump
7		Donald J. Trump for President, Inc. and Bradley T.
8		Crate in his official capacity as treasurer
9		Paul Manafort
10		
11	RELEVANT STATUTES	52 U.S.C. § 30104(c)
12	AND REGULATIONS:	52 U.S.C. § 30114(b)
13		52 U.S.C. § 30121(a)(1), (a)(2)
14		11 C.F.R. § 109.10(b)
15		11 C.F.R. § 109.20
16		11 C.F.R. § 109.21
17		11 C.F.R. § 110.20(b), (f), (g)
18		11 C.F.R. § 113.1(g)
19		11 C.F.R. § 300.2(m)
20		
21	INTERNAL REPORTS CHECKED:	Disclosure Reports
22		
23	FEDERAL AGENCIES CHECKED:	
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1 I. INTRODUCTION

2 The Complaints in these matters allege that Respondents violated the Federal Election
3 Campaign Act of 1971, as amended (the “Act”), in a variety of ways based upon the Russian
4 Federation’s interference in the 2016 U.S. presidential election. A number of the Complaints
5 rely on the findings in official government reports, including those issued by the United States
6 Intelligence Community and the Special Counsel for the DOJ, which have uniformly concluded
7 that the Russian Federation engaged in a wide-ranging campaign to influence the 2016 U.S.
8 presidential election.⁵ The Russian Federation perpetrated its so-called “influence campaign,”
9 also known as “active measures,” in two ways: (1) by conducting a social media campaign
10 through a Russian LLC known as the Internet Research Agency (the “IRA”); and (2) a hack-and-

⁵ See OFFICE OF THE DIR. OF NAT’L INTELLIGENCE, INTELLIGENCE COMMUNITY ASSESSMENT: ASSESSING RUSSIAN ACTIVITIES AND INTENTIONS IN RECENT US ELECTIONS at ii, 1 (Jan. 6, 2017) (“Intelligence Community Assessment”); SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION at 1, 4 (Mar. 22, 2019) (redactions partially removed on June 19 and November 2, 2020) (“Special Counsel’s Report”) (citations reference Volume 1). Their conclusions on Russian interference in the 2016 U.S. presidential election were confirmed by parallel congressional investigations. U.S. SENATE SELECT COMM. ON INTELLIGENCE, RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, VOLUME 1: RUSSIAN EFFORTS AGAINST ELECTION INFRASTRUCTURE (July 25, 2019), VOLUME 2: RUSSIA’S USE OF SOCIAL MEDIA (Oct. 8, 2019), VOLUME 3: U.S. GOV’T RESPONSE TO RUSSIAN ACTIVITIES (Feb. 6, 2020), VOLUME 4: REVIEW OF THE INTELLIGENCE COMMUNITY ASSESSMENT (Apr. 21, 2020), VOLUME 5: COUNTERINTELLIGENCE THREATS AND VULNERABILITIES (Aug. 18, 2020) (“Senate Intelligence Committee Report”); U.S. HOUSE OF REPRESENTATIVES PERMANENT SELECT COMM. ON INTELLIGENCE, REPORT ON RUSSIAN ACTIVE MEASURES (Mar. 22, 2018); MINORITY MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES PERMANENT SELECT COMM. ON INTELLIGENCE, VIEWS TO THE MAJORITY-PRODUCED REPORT ON RUSSIAN ACTIVE MEASURES (Mar. 26, 2018).

In addition to these official reports, testimony and statements by expert and U.S. government witnesses called before Congress, indictments brought by the Special Counsel against individuals and entities involved in the Russian influence campaign, and the trial transcript of an individual associated with the Trump campaign charged with obstructing investigations into the Russian influence campaign provide relevant information about the Russian Federation’s activities. *E.g.*, *Disinformation: A Primer in Russian Active Measures and Influence Campaigns: Hearing Before the S. Select Comm. on Intelligence*, 115th Cong. (Mar. 30, 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); Superseding Indictment, *United States v. Internet Research Agency, et al.*, 1:18-cr-00032 (D.D.C. Nov. 8, 2019) (“IRA Indictment”); Indictment, *United States v. Netyksho, et al.*, 1:18-cr-00215 (D.D.C. July 13, 2018) (“GRU Indictment”); Transcript, *United States v. Roger J. Stone, Jr.*, 1:19-cr-00018 (D.D.C.) (“Stone Trial Tr.”). All of the sources cited in this Report are available

1 release operation through a Russian military agency, the Main Intelligence Directorate of the
2 General Staff of the Russian Army (the “GRU”). Both measures are subjects of the instant
3 Complaints.

4 Allegations of Russian efforts to influence the 2016 U.S. presidential election garnered
5 significant attention and media coverage beginning in June 2016, when the Democratic National
6 Committee (the “DNC”) announced that it had been hacked and identified Russian military
7 intelligence as the most likely culprit.⁶ Active measures events again garnered significant news
8 coverage in July 2016, after WikiLeaks published a tranche of documents stolen from the DNC
9 on the eve of the Democratic National Convention, and in October 2016, after WikiLeaks
10 published documents stolen from John Podesta, the Chair of Hillary Clinton’s 2016 presidential
11 campaign.⁷ At the same time, researchers and journalists began observing a proliferation of
12 suspected Russian “troll” accounts on social media platforms posing as U.S. citizens and
13 organizations while engaging in online discussions about the election.⁸

14 About a month before Election Day, on October 7, 2016, the United States Intelligence
15 Community published a press release assessing that the Russian Federation was responsible for

⁶ See 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.

⁷ Joe Uchill, *WikiLeaks Posts 20,000 DNC Emails*, THE HILL, July 22, 2016; Ellen Nakashima, *U.S. Government Officially Accuses Russia of Hacking Campaign to Interfere with Elections*, WASH. POST, Oct. 7, 2016 (cited by First Am. Compl. at 4 n.1, MUR 7207 (May 4, 2017)).

⁸ E.g., Andrew Weisburd and Clint Watts, *How Russia Dominates Your Twitter Feed to Promote Lies (And, Trump, Too)*, DAILY BEAST, Aug. 6, 2016 (cited by First Am. Compl. at 10 n.26, MUR 7207); Natasha Bertrand, *It Looks Like Russia Hired Internet Trolls to Pose as Pro-Trump Americans*, BUSINESS INSIDER, July 27, 2016 (cited by First Am. Compl. at 11 n.27, MUR 7207); see also Special Counsel’s Report at 18 n.28 (defining the term “troll” as “paid operatives—who post inflammatory or otherwise disruptive content on social media or other websites”). This Report uses the term “troll” and the phrase “fake account” to refer to the social media and internet accounts that posed as U.S. citizens and political organizations but were in fact operated by the Russian employees of the IRA.

1 the hackings and releases of stolen documents.⁹ Two months after the election, on January 6,
2 2017, the United States Intelligence Community published a declassified version of a highly
3 classified assessment coordinated among the Central Intelligence Agency, Federal Bureau of
4 Investigation, and National Security Agency. The Intelligence Community Assessment
5 concluded that the Russian Federation perpetrated an influence campaign targeting the 2016
6 presidential election and described the GRU's hack-and-release operation and the IRA's social
7 media campaign.¹⁰

8 The Special Counsel, appointed on May 17, 2017, examined multiple contacts between
9 members of Trump's principal campaign committee, Donald J. Trump for President and Bradley
10 T. Crate in his official capacity as treasurer (the "Trump Committee"), and individuals having or
11 claiming to have ties to the Russian government and concluded, in a report publicly released on
12 April 18, 2019, that evidence was insufficient to criminally prosecute Trump Committee officials
13 for conspiring or coordinating with the Russian Federation in its election interference activities,
14 among other reasons for declining to prosecute.¹¹ However, during the course of the Special
15 Counsel's investigation, the DOJ indicted individuals who worked for the GRU and the IRA for
16 their efforts to influence the 2016 election.¹² The DOJ additionally indicted individuals who
17 worked for or were associated with the Trump campaign for obstructing the investigations into

⁹ Press Release, U.S. Dep't of Homeland Security Press Office, *Joint Statement from the Dep't of Homeland Security and Office of the Dir. of Nat'l Intelligence on Election Security* (Oct. 7, 2016).

¹⁰ Intelligence Community Assessment at 1-5.

¹¹ Special Counsel's Report at 180.

¹² IRA Indictment ¶ 9 (charging the IRA, two companies that funded the IRA, and 13 individuals who controlled or worked for the IRA with various crimes relating to the social media campaign, such as conspiracy to defraud the United States including by failing to report political expenditures to the Commission); GRU Indictment ¶¶ 1-2 (charging 12 individuals who served as Russian military intelligence officers with various crimes relating to the hack-and-release operation, such as conspiracy to commit an offense against the United States).

1 Russian election interference or for conduct unrelated to the 2016 presidential election but
2 discovered during the Special Counsel's investigation.¹³

3 The Senate Intelligence Committee released a five-volume series of reports, between July
4 2019 and August 2020, providing further details on Russian efforts to influence the 2016 election
5 and related interactions with the Trump Committee. The Senate Intelligence Committee
6 similarly concluded that “the Russian government engaged in an aggressive, multi-faceted effort
7 to influence, or attempt to influence, the outcome of the 2016 presidential election.”¹⁴ It reached
8 this conclusion from an investigation that “focused on the counterintelligence threat posed by the
9 Russian intelligence services” as distinguished from the Special Counsel's Report's “focus[] on
10 criminal activity.”¹⁵

11 The Complaints in these matters each cite to the official reports regarding Russian efforts
12 to interfere in the 2016 election.¹⁶ The Complaints in MURs 7207, 7268, and 7274 specifically
13 allege that the Russian Federation and the IRA violated the Act by making impermissible foreign
14 national expenditures and independent expenditures in connection with the presidential election
15 and by failing to report the independent expenditures.¹⁷

¹³ *E.g.*, Indictment, *United States v. Roger J. Stone, Jr.*, 1:19-cr-00018 (D.D.C. Jan. 24, 2019); Indictment, *United States v. Paul J. Manafort, Jr. and Richard W. Gates III*, 1:17-cr-00201 (D.D.C. Oct. 30, 2017); Superseding Indictment, *United States v. Manafort and Gates*, 1:18-cr-00083 (E.D. Va. Feb. 22, 2018); Statement of the Offense, *United States v. Michael T. Flynn*, 1:17-cr-00232 (D.D.C. Dec. 1, 2017); Information, *United States v. George Papadopoulos*, 1:17-cr-00182 (D.D.C. Oct. 3, 2017).

¹⁴ Senate Intelligence Committee Report Vol. 5 at v.

¹⁵ *Id.* at 4.

¹⁶ First Am. Compl. ¶¶ 9-12, MUR 7207; Compl. at 1, MUR 7268 (Aug. 8, 2017); Compl. ¶ 4, MUR 7274 (Sept. 7, 2017); Compl. at 4-5, MUR 7623 (July 22, 2019).

¹⁷ First Am. Compl. ¶¶ 46-60, MUR 7207; Second Am. Compl. ¶¶ 5-13, MUR 7207 (June 2, 2017); Compl. at 1, MUR 7268; Supp. Compl. at 1-2, MUR 7268 (Sept. 15, 2017); Compl. ¶¶ 17-20, MUR 7274.

1 coordination are speculative and fail to satisfy the “conduct” standard of the coordinated
2 communications test.²⁴ They also argue that Trump’s “Russia, if you’re listening” statement was
3 an “offhand remark,” and not an actual request or suggestion.²⁵ The Trump Committee further
4 argues that the Commission should dismiss the allegations because the Special Counsel declined
5 to indict anyone associated with the Trump Committee for conspiracy or coordination with the
6 Russian Federation in its election interference activities.²⁶

7 As discussed below, the factual record before the Commission indicates that the Russian
8 Federation and the IRA expended considerable resources to influence the 2016 U.S. presidential
9 election in violation of the Act.²⁷ Accordingly, we recommend that the Commission find reason
10 to believe that the Russian Federation and the IRA violated 52 U.S.C. § 30121(a)(1)(C) and
11 11 C.F.R. § 110.20(f) by making prohibited foreign national expenditures and independent
12 expenditures and 52 U.S.C. § 30104(c) and 11 C.F.R. § 109.10(b) by failing to report
13 independent expenditures.

14 Further, the information indicates that Trump solicited the Russian Federation’s help in
15 attempting to locate 30,000 Clinton emails, and that the Russian Federation through the GRU
16 responded by attempting to hack individuals from Clinton’s personal office for the first time.
17 We therefore recommend that the Commission find reason to believe that the Russian Federation

²⁴ Trump Committee Resp. at 3, 5, MUR 7207 (Jan. 25, 2017); Trump Committee & Trump Joint Resp. at 1, MUR 7207 (May 26, 2017) (incorporating prior response); Trump Committee Resp. at 2, 5-7, MUR 7268 (Sept. 14, 2017); Trump Committee Resp. at 1, MUR 7623 (Sept. 5, 2019); Trump Committee Resp. at 1, MUR 7637 (Sept. 16, 2019) (citing to prior responses).

²⁵ Trump Committee Resp. at 5, MUR 7207; *see* Trump Committee & Trump Joint Resp. at 1, MUR 7207.

²⁶ Trump Committee Resp. at 1, MUR 7623 (citing Special Counsel’s Report at 2); Trump Committee Resp. at 1-2,

²⁷ The Russian Federation’s actions include those of the GRU, an instrumentality of the Russian Federation, as well as those of the IRA, an agent of the Russian Federation. *Infra* notes 238-242 and accompanying text.

1 made, and that Donald J. Trump and the Trump Committee knowingly solicited, accepted or
2 received, a foreign national in-kind contribution, in violation of 52 U.S.C. § 30121(a) and
3 11 C.F.R. § 110.20(b), (g).

4 In addition, the Special Counsel's Report and evidence introduced at Stone's trial
5 indicates that Stone, acting as an agent of the Trump Committee, unlawfully solicited
6 WikiLeaks, a foreign national, for specific hacked emails relating to Clinton. Consequently, we
7 recommend that the Commission find reason to believe that the Trump Committee knowingly
8 solicited an in-kind foreign national contribution from WikiLeaks in violation of 52 U.S.C.
9 § 30121(a)(2) and 11 C.F.R. § 110.20(g).

10 The Special Counsel's investigation also uncovered information that an Unknown
11 Congressional Candidate solicited hacked documents from a social media account controlled by
12 the GRU and that the GRU, in response, sent the candidate hacked documents relating to his or
13 her opponent. Accordingly, we recommend that the Commission find reason to believe that the
14 Russian Federation made, and the Unknown Congressional Candidate knowingly solicited,
15 accepted or received, a prohibited in-kind foreign national contribution in violation of 52 U.S.C.
16 § 30121(a) and 11 C.F.R. § 110.20(b), (g).

17 With respect to Manafort, the record reflects that he appears to have violated the Act
18 when he provided internal proprietary Trump Committee polling data to Russian and Ukrainian
19 oligarchs. The record indicates that Manafort sent the polling data for one or both of two
20 possible purposes, both of which are impermissible under the Act: Manafort either violated the
21 personal use regulations by transferring a committee asset without charge, apparently to resolve
22 business disputes with the recipients, or violated the foreign national prohibition by sending the
23 polling data to induce the recipients to take some action to benefit the Trump campaign. Thus,

1 we recommend that the Commission find reason to believe that Manafort and the Trump
2 Committee violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g)(3) by transferring a
3 campaign committee asset without charge, and that Manafort and the Trump Committee violated
4 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.2(g) by knowingly soliciting a prohibited in-kind
5 foreign national contribution.

6 Finally, the Supplemental Complaint in MUR 7268 alleges that Cambridge Analytica,
7 LLC, a former political consulting company, provided illegally sourced social profiles to the
8 Russian Federation.²⁸ The allegation here is vague, speculative, and unsupported by the
9 available information. Therefore, we recommend that the Commission dismiss the allegation
10 that Cambridge Analytica, LLC, violated the Act, as alleged.

11 To expeditiously resolve the allegations as to the Trump Committee, Trump, and
12 Manafort, we recommend that the Commission enter into pre-probable cause conciliation with
13 them. In addition, we plan on conducting a limited investigation to determine the identity of the
14 Unknown Congressional Candidate who requested hacked documents from the Russian
15 Federation and to uncover additional facts about the circumstances of the alleged solicitation.

16
17 Finally, we
18 recommend that the Commission take no further action as to the Russian Federation and IRA
19 beyond the recommended reason to believe findings, in light of prudential factors discussed
20 below.

²⁸ Fourth Supp. Compl. at 1, MUR 7268 (Jan. 16, 2020).

1 **II. FACTUAL BACKGROUND**

2 **A. Russian Social Media Campaign Conducted by the IRA**

3 The IRA was a Russian LLC that formed in or around 2013 and was located in St.
4 Petersburg, Russia during the relevant period.²⁹ The IRA operated as a quasi-governmental
5 entity that operated “at the direction of the Kremlin”³⁰ and conducted what it called “information
6 warfare against the United States of America.”³¹ The IRA employed hundreds of paid staff³²
7 and received its funding from Yevgeny Prigozhin, a Russian oligarch and “close Putin ally with
8 ties to Russian intelligence”; Prigozhin also controlled other companies that had Russian
9 government contracts.³³

10 Currently available information does not indicate precisely how much the IRA spent on
11 operations to interfere with the 2016 U.S. election, but the Senate Intelligence Committee has
12 determined that it was a “multi-million dollar” effort.³⁴ The Special Counsel’s investigation
13 obtained information that the IRA’s monthly budget, by September 2016, was approximately

²⁹ Special Counsel’s Report at 4; IRA Indictment ¶ 10; *see also* Special Counsel’s Report at 16 (explaining that the Internet Research Agency, LLC dissolved in 2014, and was followed by a series of successor companies as part of an effort to “hide its funding and activities”). For purposes of this Report, the term IRA refers to the Internet Research Agency, LLC and its successor companies.

³⁰ Senate Intelligence Committee Report Vol. 2 at 32; *see* Intelligence Community Assessment at 3-4; *see also id.* at 2 (“We assess that influence campaigns are approved at the highest levels of the Russian Government—particularly those that would be politically sensitive.”).

³¹ IRA Indictment ¶ 10(c). Indeed, the title of the IRA’s internal manual was “Waging Information Warfare Against the United States.” Special Counsel’s Report at 20.

³² IRA Indictment ¶ 10(a); Senate Intelligence Committee Report Vol. 2 at 25; *see* Special Counsel’s Report at 15-16.

³³ Intelligence Community Assessment at 4; *accord* Special Counsel’s Report at 16-17; Senate Intelligence Committee Report Vol. 2 at 23-24; *see* IRA Indictment ¶¶ 11-12; *see also* U.S. Dep’t of the Treasury, *Treasury Sanctions Individuals and Entities in Connection with Russia’s Occupation of Crimea and the Conflict in Ukraine* (Dec. 20, 2016) (sanctioning Prigozhin).

³⁴ Senate Intelligence Committee Report Vol. 2 at 22-23.

1 \$1.25 million, although that figure includes operations that did not target the United States.³⁵
2 There is information suggesting that, by July 2016, “more than eighty” IRA employees were
3 specifically tasked with U.S.-related operations, and each were paid approximately \$1,000 per
4 month, which equates to roughly \$1.8 million over the course of the 2016 election in salary
5 payments alone.³⁶

6 Ahead of the 2016 election, IRA employees traveled to the United States on at least two
7 intelligence-gathering missions: a June 2014 trip lasting approximately three weeks to locations
8 in Nevada, California, New Mexico, Colorado, Illinois, Michigan, Louisiana, Texas, and New
9 York; and a November 2014 trip to Atlanta, Georgia.³⁷ The Special Counsel's investigation
10 uncovered information showing that by approximately 2014, the IRA “began to track and study
11 groups on U.S. social media sites dedicated to U.S. politics and social issues,” and formed a
12 specific department, known as the “Translator Department,” which focused exclusively on the
13 U.S. population.³⁸

14 During the 2016 election, IRA employees operated accounts on U.S. social media
15 platforms, including Facebook, Twitter, YouTube, and Instagram, masquerading as U.S. citizens
16 and grassroots organizations.³⁹ The Special Counsel's Report states that the fake accounts were

³⁵ IRA Indictment ¶ 11(b); *see* Senate Intelligence Committee Report Vol. 2 at 25.

³⁶ IRA Indictment ¶ 10(d); *see* Senate Intelligence Committee Report Vol. 2 at 26-27.

³⁷ IRA Indictment ¶ 30 (stating that IRA employees purchased equipment such as cameras, SIM cards, and drop phones); Special Counsel's Report at 21 (describing how the travelers lied about the purpose of their trip to the U.S. Department of State on their applications to enter the United States).

³⁸ IRA Indictment ¶ 29; Special Counsel's Report at 19; Senate Intelligence Committee Report Vol. 2 at 30.

³⁹ Special Counsel's Report at 22; Senate Intelligence Committee Report Vol. 2 at 3; *see* New Knowledge, White Paper at 4-5, *The Tactics & Tropes of the Internet Research Agency* (Dec. 17, 2018) (“New Knowledge White Paper”) (drafted at the request of the Senate Intelligence Committee); Univ. of Oxford, Graphika, Working Paper at 8, *Computational Propaganda Research Project: The IRA, Social Media and Political Polarization in the United States, 2012-2018* (Dec. 17, 2018) (“Computational Propaganda Research Project Working Paper”) (same).

1 designed to “influence public opinion” and, more specifically, to “influence U.S. audiences on
2 the election.”⁴⁰ In the words of one IRA employee: “I created all these pictures and posts, and
3 the Americans believed that it was written by their people.”⁴¹

4 The accounts fall primarily into two categories.⁴² First, there were *individual* accounts in
5 which IRA users pretended to be U.S. citizens, many adopting a scripted persona, such as
6 “Pamela Moore,” a Texas conservative; “@MRNyc2015,” a liberal gay man; and “Crystal
7 Johnson,” an African American.⁴³ Second, there were *organizational* accounts that purported to
8 be U.S. grassroots organizations, each concentrating on a specific segment of society or a
9 political cause, such as “Being Patriotic,” a conservative group; “Stop All Invaders,” an anti-
10 immigration group; and “Blacktivist,” a social-justice group.⁴⁴ IRA employees “spent months
11 developing fake . . . personas and cultivating networks of supporters and followers among
12 sympathetic and agreeable Americans.”⁴⁵ Social media experts analyzing the IRA’s activity at
13 the request of the Senate Intelligence Committee explained that the accounts were “designed to
14 blend their activities with those of authentic and highly engaged users” and “infiltrate political
15 discussion.”⁴⁶ In addition to operating accounts in the two primary categories, the IRA also

⁴⁰ Special Counsel’s Report at 19, 27; *see* Senate Intelligence Committee Report Vol. 2 at 3.

⁴¹ IRA Indictment ¶ 58(d); *see also* Senate Intelligence Committee Report Vol. 2 at 29 (explaining that IRA employees “were required to study and monitor . . . the language and trends of internet users in the United States”).

⁴² Special Counsel’s Report at 22. The IRA also deployed automated Twitter accounts (or bots) to amplify the content generated by the individual, organizational, and news accounts. Senate Intelligence Committee Report Vol. 2 at 51; Special Counsel’s Report at 26.

⁴³ Special Counsel’s Report at 27; New Knowledge White Paper at 85, 90.

⁴⁴ Senate Intelligence Committee Report Vol. 2 at 6, 45; Special Counsel’s Report at 24-25. The pages for the purported U.S. organizations were professional looking and many used branded logos and typographies. New Knowledge White Paper at 42.

⁴⁵ Senate Intelligence Committee Report Vol. 2 at 54.

⁴⁶ Computational Propaganda Research Project Working Paper at 27, 39; *see* New Knowledge White Paper at 13; Special Counsel’s Report at 27.

1 operated accounts that purported to be U.S. news media entities, such as Baton Rouge Voice,
2 @MissouriNewsUS, and @OnlineCleveland.⁴⁷ Finally, the IRA operated a fake account that
3 impersonated the Tennessee Republican Party using the handle @TEN_GOP.⁴⁸

4 According to information released by Twitter and Facebook, the IRA operated
5 approximately 3,800 accounts on Twitter, 470 on Facebook, and 170 on Instagram, which is
6 owned by Facebook.⁴⁹ Among these were accounts with hundreds of thousands of followers.⁵⁰
7 The IRA-controlled accounts attracted millions of aggregate followers and millions more
8 “engagements” (shares, likes, comments, etc.); collectively, the IRA reached at least 126 million
9 people, according to an estimate provided by Facebook.⁵¹ Many IRA posts gained significant
10 popularity or “went viral.”⁵² High-profile individuals, including Donald Trump Jr., Eric Trump,
11 Kellyanne Conway, Roger Stone, Sean Hannity, Michael Flynn, and Brad Parscale, retweeted or

⁴⁷ *Russia Investigative Task Force Hearing with Social Media Companies Before the H. Permanent Select Comm. on Intelligence*, 115th Cong. (Nov. 1, 2017) (support documents, labeled SD002 at 53); New Knowledge White Paper at 66.

⁴⁸ Special Counsel's Report at 22; Senate Intelligence Committee Report Vol. 2 at 54. This IRA-created account had more followers than the official account of the Tennessee Republican Party and garnered attention from senior officials of the Trump Committee. U.S. HOUSE OF REPRESENTATIVES PERMANENT SELECT COMM. ON INTELLIGENCE, REPORT ON RUSSIAN ACTIVE MEASURES at 33 (Mar. 22, 2018); Senate Intelligence Committee Report Vol. 2 at 54; Special Counsel's Report at 33-34 (citing tweets by Trump, Donald Trump Jr., Kellyanne Conway, Brad Parscale, and Michael Flynn).

⁴⁹ *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. Much of the data provided by Twitter and Facebook includes the 2016 election cycle as well as the first half or more of 2017 when the IRA accounts were shut down. This Report, when possible, references only the 2016 election.

⁵⁰ Special Counsel's Report at 14-15.

⁵¹ *Id.*; Senate Intelligence Committee Report Vol. 2 at 40, 45, 48, 50 (identifying “over 61,500 Facebook posts, 116,000 Instagram posts, and 10.4 million tweets that were the original creations of IRA influence operatives”); New Knowledge White Paper at 7, 32; *see also* Senate Intelligence Committee Report Vol. 2 at 4 (cautioning that the “full scope of this activity remains unknown”).

⁵² *See* Special Counsel's Report at 27.

1 responded to IRA accounts.⁵³ The Special Counsel's Report cited a study that found that U.S.
2 news outlets often quoted the IRA-controlled accounts believing they were the accounts of U.S.
3 citizens.⁵⁴

4 The IRA used some of its fake organizational accounts, *i.e.*, those pretending to be
5 associated with U.S. grassroots organizations, to disseminate paid ads over the internet. Often
6 these ads contained a simple pitch describing the fictitious organization, apparently for the
7 purpose of attracting additional followers to whom the IRA could later disseminate further
8 communications.⁵⁵ For example, the IRA ran an ad from a fictitious organization called "Heart
9 of Texas" criticizing the "establishment" and proposing that Texas secede.⁵⁶ During the 2016
10 election cycle, the IRA purchased over 1,000 ads totaling approximately \$70,000.⁵⁷ The Senate
11 Intelligence Committee concluded that approximately 5 million people viewed the IRA-
12 purchased ads during the 2016 election cycle.⁵⁸

⁵³ *Id.* at 27-28, 33-34; Senate Intelligence Committee Report Vol. 2 at 40.

⁵⁴ Special Counsel's Report at 27 (citing Josephine Lukito and Chris Wells, *Most Major Outlets Have Used Russian Tweets as Sources for Partisan Opinion: Study*, COLUMBIA JOURNALISM REV. (Mar. 8, 2018)).

⁵⁵ *See id.* at 25; Senate Intelligence Committee Report Vol. 2 at 44; *see also* New Knowledge White Paper Slide Deck at 60 (example Facebook ads for "Being Patriotic," with text "United We Stand! Welcome every patriot we can reach. Flag and news!" and for "Back the Badge," with text "Community of people who support our brave Police Officers").

⁵⁶ *See App.*, Ex. 1 at 1.

⁵⁷ Public Statement, Minority Members of the U.S. House of Representatives Permanent Select Comm. on Intelligence, *Exposing Russia's Effort to Sow Discord Online: The Internet Research Agency and Advertisements* (May 10, 2018) (figure derived by analyzing database of IRA ads provided in statement). The Senate Intelligence Committee determined that the IRA created 1,519 ads that were "viewed" prior to the election. Senate Intelligence Committee Report Vol. 2 at 44. The mix of keywords in Facebook's "Ad Manager" feature shows that the IRA targeted audiences based on race, ethnicity, and identity. The most popular keywords by number of ads: "Martin Luther King" (52); "African-American Civil Rights Movement (1954-68)" (43); African-American history" (31); "Black Power" (18); "Gun Owners of America" (18); and "Right to keep and bear arms" (17). New Knowledge White Paper at 35.

⁵⁸ *See* Senate Intelligence Committee Report Vol. 2 at 44. A review of the public database of IRA ads shows approximately 17.8 million ad impressions (or total views) during the 2016 election cycle.

1 A relatively small number of the IRA's publicly known paid ads referenced the election
2 or candidates.⁵⁹ Based on our review of the ads made available by the House Intelligence
3 Committee, we identified at least 58 IRA-purchased ads totaling approximately \$3,000,
4 accounting for 698,000 impressions (or views), which appear to support or oppose a candidate,
5 namely Trump and Clinton, respectively.⁶⁰ The Special Counsel's Report refers to "dozens"
6 supporting the Trump Committee, and cites to an ad purchased by "Tea Party News," which asks
7 viewers to help them "make a patriotic team of young Trump supporters," by uploading photos
8 with the hashtag "#KIDS4TRUMP."⁶¹ Examples of IRA-purchased ads targeting the 2016
9 election, obtained from the database made available by the House Intelligence Committee, can
10 be found in Exhibit 1 in the Appendix to this Report.

11 The Senate Intelligence Committee explained that, despite "being a focus of early press
12 reporting," paid social media ads "were not key to the IRA's activity."⁶² Rather, the thrust of the
13 IRA's operation focused on "organic" content, that is, the non-ad social media posts and tweets
14 generated by paid IRA employees posing as U.S. citizens and grassroots organizations.⁶³

15 Numerous posts from these fake accounts mentioned political candidates: in excess of
16 4,300 on Facebook; 21,000 on Instagram; and 628,000 on Twitter.⁶⁴ According to the Special

⁵⁹ *Id.*

⁶⁰ *See supra* note 57 (database of ads). The amounts for ads purchased in rubles were calculated based on the exchange rate to USD on the date that the ad was created. The Senate Intelligence Committee determined that "77 of 1,519" ads, roughly five percent, "viewed prior to the election . . . included text referencing Hillary Clinton or Donald Trump." Senate Intelligence Committee Report Vol. 2 at 44.

⁶¹ Special Counsel's Report at 25.

⁶² Senate Intelligence Committee Report Vol. 2 at 40.

⁶³ *Id.* at 43-45, 77.

⁶⁴ New Knowledge White Paper at 76; *see* Senate Intelligence Committee Report Vol. 2 at 32. The majority of content disseminated by IRA accounts did not mention candidates, but rather involved "innocuous content" to "build character details for their fake personas . . . until the opportune moment arrived when the account was used to

1 Counsel's Report, the IRA pursued "a targeted operation" that "favored [] Trump and disparaged
 2 Clinton."⁶⁵ The Senate Intelligence Committee similarly concluded that "IRA social media
 3 activity was overtly and almost invariably supportive of then-candidate Trump, and to the
 4 detriment of Secretary Clinton's campaign."⁶⁶ An internal IRA document gave the following
 5 instruction to its paid employees: "Main idea: Use any opportunity to criticize Hillary and the
 6 rest (except Sanders and Trump — we support them)."⁶⁷ Another IRA document criticized an
 7 employee's "lower" number of posts negative to Clinton and ordered him or her to "intensify
 8 criticizing Hillary Clinton."⁶⁸

9 Many IRA posts used election-related hashtags (*e.g.*, #Trump2016, #Hillary4Prison) and
 10 some IRA accounts bore election-related handles (*e.g.*, "Clinton FRAUDation," "Trumpsters
 11 United").⁶⁹ The IRA accounts also pushed voter suppression messages — primarily targeting
 12 African Americans — such as promoting an election boycott or spreading incorrect voting
 13 instructions.⁷⁰ Examples of organic IRA posts targeting the election, drawn from the Special

deliver tailored 'payload content' designed to influence the targeted user." Senate Intelligence Committee Report Vol. 2 at 32. Thus, the relatively low number of election-related posts (and for that matter election-related ads) as compared to total amounts of such content, is "not dispositive of the IRA's intent to influence voters." *Id.*

⁶⁵ Special Counsel's Report at 4. The IRA used real, unwitting Americans as a source of information. For example, in June 2016, IRA employees communicated with a Texas grassroots activist who advised them to focus on "purple states like Colorado, Virginia & Florida." IRA Indictment ¶ 31. The IRA followed that advice, thereafter using the term "purple states" as part of its strategy lexicon. *Id.*

⁶⁶ Senate Intelligence Committee Report Vol. 2 at 4; *see also id.* at 6 (explaining that the IRA also targeted Republican candidates during the presidential primaries that were apparently hostile to Russian interests).

⁶⁷ Special Counsel's Report at 23 ("The document provided different talking points and considerations for the different social media accounts operated by the IRA, broken into the following categories: 'Black Community,' 'Don't Shoot,' 'Patriotic,' 'Texas,' 'LGBT,' 'Muslims,' and 'Refugees.'").

⁶⁸ *Id.* at 24.

⁶⁹ IRA Indictment ¶ 44; *see* Special Counsel's Report at 33 n.96; Computational Propaganda Research Project Working Paper at 27.

⁷⁰ *See* Senate Intelligence Committee Report Vol. 2 at 35, 38 ("No single group of Americans was targeted by IRA information operatives more than African-Americans."); Computational Propaganda Research Project Working Paper at 19, 26; New Knowledge White Paper at 8, 81, 84.

1 Counsel's Report, New Knowledge White Paper, and Computational Propaganda Research
2 Project Working Paper, can be found in Exhibit 2 in the Appendix to this Report.

3 The IRA, mainly through its fake organizational accounts, also planned and organized
4 dozens of political rallies in U.S. cities.⁷¹ Some appear to have drawn “hundreds” of attendees
5 while others drew “few (if any).”⁷² Many of the rallies, and almost all in the five months
6 preceding the 2016 election, “focused on the U.S. election, often promoting the Trump
7 Campaign and opposing the Clinton Campaign.”⁷³ The amount of money that the IRA expended
8 for these efforts is unknown, but it would appear to include at least the cost of buttons, flags,
9 posters, megaphones, and banners, in addition to the salaries it paid to IRA staff to coordinate
10 these activities as well as payments sent to real U.S. persons who carried out tasks on behalf of
11 the IRA unaware of the Russian connection.⁷⁴ In August 2016, the IRA paid an American to
12 build a cage on a flatbed truck, and another to sit inside the cage wearing a costume of Clinton in
13 a prison uniform; this display was featured at an IRA-organized pro-Trump rally in Florida.⁷⁵
14 Several of the IRA-organized rallies received support from or drew the attention of the Trump

⁷¹ Special Counsel's Report at 29. The IRA organized the rallies without a physical presence in the United States by relying on real-world assistance from unwitting Americans. First, an IRA-controlled social media account would announce the rally. Next, the IRA-controlled account would reach out to followers, looking for someone to serve as the event coordinator (often pretending that the true coordinator could not attend); from those responding, the IRA-controlled account would select a real U.S. person to be the event coordinator. *Id.* at 29; *see id.* at 14, 31-32; IRA Indictment ¶¶ 51-57.

⁷² Special Counsel's Report at 29.

⁷³ *Id.* at 31.

⁷⁴ IRA Indictment ¶ 94; Special Counsel's Report at 32 n.94 (citing private social media messages discussing payments for rally supplies and construction materials).

⁷⁵ IRA Indictment ¶¶ 72, 77; Senate Intelligence Committee Report Vol. 2 at 37. In September 2016, the IRA paid the same person to travel from Florida to New York to appear at another IRA-organized, pro-Trump rally. IRA Indictment ¶ 84.

1 Committee.⁷⁶ However, there is no public information indicating that the Trump Committee was
2 aware of the Russian organization and execution of these events.⁷⁷ Examples of IRA-organized
3 political rallies, based on information gathered by the Special Counsel's investigation, can be
4 found in Exhibit 3 in the Appendix to this Report.

5 **B. Russian Hack-and-Release Operation Conducted by the GRU**

6 During the 2016 election, the GRU, a Russian military intelligence agency, hacked
7 computer networks and email accounts of the DNC, the DCCC (formerly known as the
8 "Democratic Congressional Campaign Committee"),⁷⁸ and John Podesta, Chair of the Clinton
9 campaign.⁷⁹ According to the Special Counsel's Report and other official reports, the GRU
10 distributed documents stolen from those networks and accounts primarily by transferring them to
11 WikiLeaks for publication, but also by releasing them on a GRU-operated WordPress blog,
12 releasing them on a GRU-operated website called "DCLeaks," sending the documents directly to
13 news reporters, and, in at least one instance, sending documents upon request to a congressional

⁷⁶ Special Counsel's Report at 35. For example, in June 2016, a Trump Committee volunteer agreed to provide signs for an IRA-organized "March for Trump," and the official Trump Committee Facebook account re-posted photos from an IRA-organized "Florida Goes Trump" rally held in Miami. *Id.* at 31, 34, 35 n.108.

⁷⁷ *Id.* at 35.

⁷⁸ Compare DCCC, Am. Statement of Org. (Oct. 15, 2015), with Democratic Congressional Campaign Committee, Am. Statement of Org. (May 22, 2015).

⁷⁹ Intelligence Community Assessment at 2; Special Counsel's Report at 36; Senate Intelligence Committee Report Vol. 2 at 7-8, 63-70. The GRU also attempted to hack individuals and entities responsible for election administration such as state boards of election, secretaries of state, and private companies that supply election-related technology. Special Counsel's Report at 50; Intelligence Community Assessment at 3. The Senate Intelligence Committee found that Russian actors may have targeted "all 50 states." Senate Intelligence Committee Report Vol. 1 at 12, 20. However, the Intelligence Community indicated that there is no evidence election results were altered. *Open Hearing: Election Security Before the S. Select Comm. on Intelligence*, 115th Cong. 4 (Mar. 21, 2018) (written testimony of Jeh Johnson, former Sec'y of the Dep't of Homeland Security); Senate Intelligence Committee Report Vol. 1 at 3.

1 candidate.⁸⁰ The Special Counsel's Report assessed that the releases were "designed and timed
2 to interfere with the 2016 U.S. presidential election and undermine the Clinton campaign."⁸¹

3 By March 2016, the GRU targeted persons affiliated with the Clinton campaign with
4 email "spearphishing" attacks to steal their credentials.⁸² Spearphishing is a method of hacking
5 whereby the victim is unknowingly lured into providing credentials to a malicious actor.⁸³ The
6 GRU attempted to spearphish "over 300 individuals" affiliated with Clinton, the DCCC, and the
7 DNC.⁸⁴ Included among those whom the GRU successfully spearphished was Podesta, whose
8 hacked documents, as discussed below, were published on WikiLeaks in October 2016, about a
9 month before Election Day.⁸⁵ Further, by using the credentials of certain spearphishing targets,
10 the GRU was able to access the DNC and DCCC computer servers.⁸⁶ The GRU stole thousands

⁸⁰ Special Counsel's Report at 36, 42-43; Intelligence Community Assessment at 2-3; Senate Intelligence Committee Report Vol. 5 at 170-72.

⁸¹ Special Counsel's Report at 36. The GRU, like the IRA but to a lesser extent, also published "anti-Clinton content" on social media using fake accounts. *Id.* at 37; *see also* Senate Intelligence Committee Report Vol. 2 at 64 (describing the GRU's use of social media accounts, pretending to be U.S. persons, posting anti-Clinton and pro-DCLeaks content).

⁸² Special Counsel's Report at 36; Intelligence Community Assessment at 2.

⁸³ Special Counsel's Report at 36 n.112; U.S. DEP'T OF JUSTICE, REPORT OF THE ATT'Y GENERAL'S CYBER-DIGITAL TASK FORCE at 36 (July 2, 2018); U.S. HOUSE OF REPRESENTATIVES PERMANENT SELECT COMM. ON INTELLIGENCE, REPORT ON RUSSIAN ACTIVE MEASURES at 34 (Mar. 22, 2018). The GRU's typical mode of operation was to send a "spoofed" email (*i.e.*, from a malicious source made to appear as a trusted source), prompting the recipient to change his or her password. The reset password button in the email would surreptitiously redirect the recipient to a GRU-controlled website that mimicked the real one (for example, a fake Gmail landing page), and the recipient would be prompted to enter his or her credentials which, if entered, were sent to the GRU. *See* GRU Indictment ¶ 21.

⁸⁴ GRU Indictment ¶ 21(b); Special Counsel's Report at 37. Although the GRU focused on persons affiliated with the Clinton campaign, DCCC, and DNC, it conducted cyber operations against both Republican and Democratic targets. *See* Intelligence Community Assessment at 2-3. The GRU used a "variety of means" to perpetrate the hackings, GRU Indictment ¶ 3, but it appears spearphishing was the principal method.

⁸⁵ Special Counsel's Report at 37.

⁸⁶ This occurred as follows: the GRU spearphished a DCCC employee, obtained the person's network credentials, and accessed the DCCC network; once on the DCCC network, the GRU was able to access the DNC network through a pre-existing virtual private network ("VPN"). GRU Indictment ¶¶ 4, 23-24, 26(a); Special Counsel's Report at 38.

1 of documents, including emails, strategy memos, analyses of congressional races, fundraising
2 information, and opposition research.⁸⁷ By June 8, 2016, the GRU began posting stolen emails
3 and documents on the DCLeaks website.⁸⁸ The DC Leaks “about” page falsely stated that it was
4 operated by “American hacktivists who respect and appreciate freedom of speech, human rights
5 and government of the people,” when in fact the DC Leaks website was controlled by the
6 GRU.⁸⁹

7 On June 14, 2016, the DNC publicly announced that it had been hacked and blamed
8 Russian government-sponsored actors.⁹⁰ The next day, “Guccifer 2.0” — an online persona
9 controlled by the GRU, but which publicly claimed to be a lone Romanian hacker⁹¹ — opened a
10 WordPress blog and issued a post to claim responsibility for the DNC hacking.⁹² Guccifer 2.0
11 published select documents hacked from the DNC, including its opposition research file on
12 Trump.⁹³ Thereafter, Guccifer 2.0 posted thousands of additional hacked documents over

⁸⁷ Special Counsel's Report at 38, 40, 43; GRU Indictment ¶ 28(a); Intelligence Community Assessment at 2. In order to exfiltrate the data through an encrypted connection, the GRU used a leased computer in Illinois. *See* GRU Indictment ¶ 28.

⁸⁸ Special Counsel's Report at 36, 41; Intelligence Community Assessment at 2-3. DC Leaks published documents on a periodic basis from victims such as Colin Powell and Clinton campaign staffer William Rinehart. *Disinformation: A Primer in Russian Active Measures and Influence Campaigns: Hearing Before the S. Select Comm. on Intelligence*, Prepared Statement of Kevin Mandia, CEO of FireEye, Inc., 115th Cong. 5 (Mar. 30, 2017) (“Mandia Statement”).

⁸⁹ DC Leaks | About, <https://web.archive.org/web/20160620202602/http://dcleaks.com/index.php/about> (archived version from June 20, 2016). Before it was shut down in March 2017, the DCLeaks website received over one million page views. GRU Indictment ¶ 36.

⁹⁰ Special Counsel's Report at 42; Ellen Nakashima, *Russian Government Hackers Penetrated DNC, Stole Opposition Research on Trump*, WASH. POST, June 14, 2016.

⁹¹ Intelligence Community Assessment at 3; Special Counsel's Report at 42; Lorenzo Franceschi-Bicchierai, *Here's the Full Transcript of Our Interview with DNC Hacker 'Guccifer 2.0,'* VICE, June 21, 2016.

⁹² Special Counsel's Report at 41, 43; Intelligence Community Assessment at 3; Mandia Statement at 5.

⁹³ Guccifer 2.0, DNC's Servers Hacked by Lone Hacker, <https://web.archive.org/web/20160615212154/https://guccifer2.wordpress.com/2016/06/15/dnc/> (archived version from June 15, 2016).

1 several months;⁹⁴ the GRU promoted the releases through posts on GRU-controlled social media
2 accounts and emails of “exclusive” content from Guccifer 2.0 to U.S. news journalists.⁹⁵

3 By July 2016, the GRU provided WikiLeaks with hacked documents using the DCLeaks
4 and Guccifer 2.0 online personas through Twitter direct message and other online channels.⁹⁶
5 WikiLeaks describes itself as a “multi-national media organization and associated library” that
6 specializes in “the analysis and publication of large datasets of censored or otherwise restricted
7 official materials involving war, spying, and corruption.”⁹⁷ Currently available information does
8 not indicate whether WikiLeaks is organized under the laws of any country. Julian Assange is
9 the founder and publisher of WikiLeaks and is an Australian national who, during the 2016
10 election, resided at the Ecuadorian embassy in London, England.⁹⁸

11 Public statements and known private messages between WikiLeaks and the Guccifer 2.0
12 and DCLeaks accounts controlled by the GRU present a conflicting timeline as to the exact date
13 that the GRU delivered the hacked documents to WikiLeaks. On June 12, 2016, Assange gave a
14 press interview in which he announced that WikiLeaks was planning to release emails relating to

⁹⁴ Special Counsel's Report at 43 n.147 (listing thirteen separate blog post releases that occurred between June 15, 2016, and October 18, 2016); Intelligence Community Assessment at 2-3; Mandia Statement at 4.

⁹⁵ Intelligence Community Assessment at 2-3; Special Counsel's Report at 43; Senate Intelligence Committee Report Vol. 5 at 186-87; *Disinformation: A Primer in Russian Active Measures and Influence Campaigns: Hearing Before the S. Select Comm. on Intelligence*, Opening Statement of Thomas Rid, Professor of Security Studies, King's College London at Ex. 7, 115th Cong. 5 (Mar. 30, 2017) (emails between Guccifer 2.0 and *The Smoking Gun*).

⁹⁶ Special Counsel's Report at 44-46.

⁹⁷ <https://wikileaks.org/What-is-WikiLeaks.html> (last accessed Feb. 19, 2021).

⁹⁸ *Id.*; *Assange “Free to Return Home” Once Legal Challenges Over, Australia PM Says*, REUTERS, Jan. 4, 2021. The U.S. filed extradition proceedings in London, England against Assange to stand trial in the U.S. for charges relating to his alleged conspiracy with Chelsea Manning to hack classified documents. Megan Specia, *Julian Assange Appears in London Court for U.S. Extradition Hearing*, N.Y. TIMES, Sept. 7, 2020; *see also* Second Superseding Indictment, *United States v. Assange*, 1:18-cr-111 (E.D. Va. June 24, 2020). The British court denied the extradition request. Elian Peltier and Megan Specia, *U.K. Judge Blocks Assange's Extradition to U.S., Citing Mental Health*, N.Y. TIMES, Jan. 10, 2021.

1 Clinton; two days later (the same day that the DNC announced it had been hacked), DCLeaks
2 sent WikiLeaks a Twitter direct message offering assistance and proposing to “do it together.”⁹⁹
3 The next day, June 15, 2016, Guccifer 2.0 announced on the WordPress blog that it had given
4 hacked DNC “files and mails” to WikiLeaks.¹⁰⁰ On July 6, 2016, WikiLeaks sent a message to
5 Guccifer 2.0 via Twitter direct message, asking for “anything hillary related,” and emphasized
6 that “we want it in the next twoo [*sic*] days prefable [*sic*] because the [Democratic National
7 Convention] is approaching and she will solidify bernie supporters. . . .”¹⁰¹ WikiLeaks specified
8 that: “we think Trump has only a 25% chance of winning against hillary . . . so conflict between
9 bernie and hillary is interesting.”¹⁰² Guccifer 2.0 emailed WikiLeaks on July 14 under the
10 subject “big archive,” attaching an encrypted file named “wk dnc link1.txt.gpg” and noting this
11 was a “new attempt.”¹⁰³ On July 22, three days before the Democratic National Convention,
12 WikiLeaks released a tranche of over 20,000 documents from the DNC that had been supplied by
13 the GRU via Guccifer 2.0.¹⁰⁴

⁹⁹ Senate Intelligence Committee Report Vol. 5 at 209; Special Counsel's Report at 45.

¹⁰⁰ Senate Intelligence Committee Report Vol. 5 at 209. The Senate Intelligence Committee stated that it could not confirm that the GRU transferred hacked DNC materials to WikiLeaks before Assange's interview and Guccifer 2.0's announcement. *Id.* at 210. The Senate Intelligence Committee does, however, detail multiple communications from June 22 to July 6, 2016, between WikiLeaks and Guccifer 2.0 *Id.* at 210; *see also* Special Counsel's Report at 45 (quoting June 22, 2016, Twitter direct message from WikiLeaks to Guccifer 2.0 asking for “any new material [stolen from the DNC] here for us to review and it will have a much higher impact than what you are doing”).

¹⁰¹ Special Counsel's Report at 45 (citing July 6, 2016, Twitter direct message from @WikiLeaks to @Guccifer_2). According to internal communications obtained by the Special Counsel, WikiLeaks's employees “privately expressed opposition” to Clinton. *Id.* at 44.

¹⁰² *Id.* at 45.

¹⁰³ *Id.* at 46; Senate Intelligence Committee Report Vol. 5 at 211 (concluding that this email “suggest[s] that previous efforts to share the data through other channels had failed”).

¹⁰⁴ Special Counsel's Report at 46.

1 Later in the fall, on September 15, 2016, DC Leaks messaged WikiLeaks via Twitter
2 direct message: “hi there! I’m from DC Leaks. How could we discuss some submission-related
3 issue? You won’t be disappointed, I promise.”¹⁰⁵ On October 7, 2016, WikiLeaks released
4 a set of emails from Podesta’s personal email account provided by the GRU via DC Leaks.¹⁰⁶
5 The release occurred on the same day as the U.S. government announced that the Russian
6 government was responsible for election hacking and less than an hour after the *Washington Post*
7 published an *Access Hollywood* outtake video from years earlier of Trump “using graphic
8 language about women.”¹⁰⁷ WikiLeaks continued to periodically release additional tranches of
9 Podesta emails until the election.¹⁰⁸

10 Another way in which the GRU disseminated hacked documents was through direct
11 contact with at least one federal candidate. According to information obtained during the Special
12 Counsel’s investigation, on or about August 15, 2016, Guccifer 2.0 “received a request for stolen
13 documents from a candidate for the U.S. Congress,” and responded by sending documents
14 relating to the candidate’s opponent.¹⁰⁹ Currently, we are aware of no additional information
15 about the interaction between Guccifer 2.0 and the unknown candidate.

¹⁰⁵ *Id.* (citing to Sept. 15, 2016, Twitter direct message from @dcleaks_ to @WikiLeaks). A few days later, DCLeaks followed up with an encrypted message bearing the subject “Submission.” *Id.* at 47 (citing Sept. 22, 2016, email from dcleaksproject@gmail.com).

¹⁰⁶ GRU Indictment ¶ 49.

¹⁰⁷ Special Counsel’s Report at 36, 58; Press Release, U.S. Dep’t of Homeland Security Press Office, *Joint Statement from the Dep’t of Homeland Security and Office of the Dir. of Nat’l Intelligence on Election Security* (Oct. 7, 2016).

¹⁰⁸ Special Counsel’s Report at 48; GRU Indictment ¶ 49; Mandia Statement at 5.

¹⁰⁹ GRU Indictment ¶ 43(a); Special Counsel’s Report at 43. Similarly, Guccifer 2.0 sent a state lobbyist and blogger approximately 2.5 gigabytes of Florida-related data stolen from the DCCC. GRU Indictment ¶ 43(b); Special Counsel’s Report at 43.

1 **C. Interactions Between the Trump Committee and the Russian Federation**

2 The Complaints in MURs 7207, 7268, 7623, 7637 allege that Trump and the
3 Trump Committee coordinated with, and made solicitations to, the Russian Federation in election
4 interference activities.¹¹⁰ As discussed below, the Special Counsel's Report found that Trump
5 and his campaign interacted with the Russian Federation in three principal ways relevant to the
6 Complaints in these matters: (1) Trump's "Russia, if you're listening" statement; (2) contacts
7 with WikiLeaks regarding the release of documents hacked by the Russians; and (3) Paul
8 Manafort's sharing of internal polling data with Russian and Ukrainian oligarchs.¹¹¹

9 1. Trump's "Russia, if you're listening" Statement

10 On July 27, 2016, shortly after WikiLeaks's first publication of DNC documents, Trump
11 stated at a televised campaign news conference:

12 I have nothing to do with Putin. I've never spoken to him. I don't know
13 anything about him other than he will respect me. He doesn't respect our
14 president. And if it is Russia — which it's probably not, nobody knows
15 who it is — but if it is Russia, it's really bad for a different reason,
16 because it shows how little respect they have for our country, when they
17 would hack into a major party and get everything. But it would be
18 interesting to see. I will tell you this — Russia, if you're listening, I hope
19 you're able to find the 30,000 emails that are missing. I think you will
20 probably be rewarded mightily by our press. Let's see if that happens.
21 That'll be next.¹¹²

¹¹⁰ First Am. Compl. ¶¶ 61-66, MUR 7207; Compl. at 1, MUR 7268; Compl. at 6-13, MUR 7623; Compl. at 1-2, MUR 7637;

¹¹¹ A fourth way that the Trump Committee interacted with the Russian Federation, or individuals from the Russian Federation, relates to a June 9, 2016, meeting held at Trump Tower in New York City. *See* Special Counsel's Report at 110-123. This interaction is the subject of MURs 7265 and 7266 and is addressed in the First General Counsel's Report for those MURs. As noted above, the allegations in MURs 7268 and 7623 concerning the Trump Tower meeting have been administratively severed and merged into MUR 7266. *Supra* notes 2-3.

¹¹² C-SPAN, *Donald Trump on Russian & Missing Hillary Clinton Emails*, YOUTUBE (July 27, 2016), <https://www.youtube.com/watch?v=3kxG8uJUsWU> (cited by Special Counsel's Report at 49).

1 Trump's reference to "the 30,000 emails that are missing" relates to emails allegedly
2 erased from Hillary Clinton's personal email server that she used while Secretary of State.¹¹³
3 Within approximately five hours after Trump's statement, the GRU commenced spearphishing
4 attacks targeting email accounts associated with Clinton's personal office; this was the first time
5 the GRU is known to have targeted Clinton's personal office.¹¹⁴ The Special Counsel did not
6 identify whether the GRU successfully hacked any documents from this particular spearphishing
7 attack; however, the purportedly missing Clinton emails were never publicly released.

8 The Clinton emails were a significant campaign issue during the election.¹¹⁵ Trump and
9 senior campaign associates discussed the issue frequently and devoted significant resources to
10 locating Clinton's emails.¹¹⁶ According to Rick Gates, Deputy Chairman of the Trump
11 Committee, the campaign prepared a press strategy, communications campaign, and messaging
12 based on the potential release of the missing Clinton emails.¹¹⁷

13 2. Trump Committee's Contacts with WikiLeaks

14 The available information reflects that individuals associated with the Trump Committee
15 sought information from WikiLeaks regarding its cache of stolen documents.

¹¹³ Special Counsel's Report at 61; Senate Intelligence Committee Report Vol. 5 at 222 n.1437 ("The Committee assesses that, at this time, the references to Clinton's 'emails' reflected a focus on allegedly missing or deleted emails from Clinton's personal sever during her tenure as Secretary of State.").

¹¹⁴ Special Counsel's Report at 49 ("It is unclear how the GRU was able to identify these email accounts, which were not made public."); Senate Intelligence Committee Report Vol. 5 at 232; GRU Indictment ¶ 22.

¹¹⁵ See, e.g., David E. Sanger and Eric Schmitt, *Spy Agency Consensus Grows That Russia Hacked D.N.C.*, N.Y. TIMES, July 26, 2016.

¹¹⁶ See Special Counsel's Report at 61 (Stone pursued offer of Clinton emails in May of 2016); *id.* at 62 (following Trump's "Russia, if you're listening statement," Trump "repeatedly" instructed campaign associates to locate the emails).

¹¹⁷ *Id.* at 54 (citing Gates interviews); Senate Intelligence Committee Report Vol. 5 at 226; *id.* at 230 (citing Gates's FBI interview and Stone trial testimony describing "brainstorming sessions" about the Clinton emails from June to July 2016).

1 a. Roger Stone

2 Roger J. Stone, Jr. was a Trump Committee official until August 2015 but maintained
3 regular contact with and publicly supported the Trump Committee through the remainder of the
4 2016 election.¹¹⁸ The Special Counsel's Report, the Senate Intelligence Committee Report, and
5 testimony from Stone's criminal trial describe multiple conversations between Stone and Trump
6 Committee officials in which Stone represented that he was conveying non-public information
7 about WikiLeaks's release of hacked emails.¹¹⁹

8 Stone told Trump and senior Trump Committee officials that WikiLeaks would release
9 emails damaging to Clinton; Stone said this before Assange announced on June 12, 2016, that
10 WikiLeaks had information about Clinton that it would publish, and before WikiLeaks released a
11 collection of documents hacked from the DNC on July 22, 2016.¹²⁰ Gates informed investigators

¹¹⁸ Senate Intelligence Committee Report Vol. 5 at 223 (explaining how Stone "stayed in close communication with the Campaign," including dozens of phone calls with Manafort and Gates); *see also* Stone Trial Tr., Ex. 167 (government exhibit identifying, in August 2016, nearly 50 phone calls between Stone and senior members of the Trump campaign); Senate Intelligence Committee Report Vol. 5 at 227 (describing records obtained by the Committee showing "numerous phone calls" between Trump and Stone).

On November 15, 2019, following a jury trial, Stone was convicted of obstructing an official proceeding, making false statements, and witness tampering, and was sentenced to 40 months in prison. *See* Verdict Form at 1-2, *United States v. Roger J. Stone*, 1:19-cr-00018 (D.D.C. Nov. 15, 2019); Press Release, Dep't of Justice, <https://www.justice.gov/usao-dc/pr/roger-stone-found-guilty-obstruction-false-statements-and-witness-tampering> (accessed Jan. 3, 2020) (summarizing case history and guilty plea); Judgment at 2, *United States v. Roger J. Stone*, 1:19-cr-00018 (D.D.C. Feb. 20, 2020). The charges arose out of Stone's interviews in connection with investigations regarding Russian interference in the 2016 election by the Senate Intelligence Committee, House Intelligence Committee, and the FBI. Stone Indictment ¶ 7. The criminal verdict related to Stone's alleged efforts to obstruct investigations regarding Russian interference in the 2016 election and does not answer whether there were violations of federal campaign finance law. In July 2020, Trump commuted Stone's sentence; in December 2020, Trump pardoned Stone for the crimes for which he had been convicted. *See* Executive Grant of Clemency (July 10, 2020); Executive Grant of Clemency (Dec. 23, 2020), <https://www.justice.gov/file/1349096/download>.

¹¹⁹ Special Counsel's Report at 52-59; Senate Intelligence Committee Report Vol. 5 at 221-52; Stone Trial Tr. at 927:3-928:4 (Gates testimony).

¹²⁰ *See* Senate Intelligence Committee Report Vol. 5 at 223-25; Special Counsel's Report at 52 ("Other members and associates of the Trump Campaign, however, told the Office that Stone claimed to the Campaign as early as June 2016—before any announcement by Assange or WikiLeaks—that he learned that WikiLeaks would release documents damaging to the Clinton Campaign."); Stone Trial Tr. at 927:3-928:4 (Gates testimony).

1 that in approximately May 2016, before Assange's WikiLeaks announcement, Stone told him
2 that something "big" was coming that had to do with a leak of information and, more
3 specifically, that Assange had Clinton's emails.¹²¹ Similarly, Manafort stated that Stone told
4 him, in June 2016, that "a source close to WikiLeaks confirmed that WikiLeaks had the emails
5 from Clinton's server."¹²² Moreover, Stone appears to have discussed WikiLeaks with Trump
6 himself. Michael Cohen, Trump's personal attorney, told investigators that, on or around July
7 19, 2016, he heard a conversation between Stone and Trump on speakerphone in which Stone
8 told Trump, "I got off the telephone a moment ago with Julian Assange. And in a couple of
9 days, there's going to be a massive dump of emails that's going to be extremely damaging to the
10 Clinton campaign," to which Trump responded, "that's good. Keep me posted."¹²³ Although
11 Stone did not specify the date of WikiLeaks's release and mistakenly predicted that WikiLeaks
12 would release Clinton's purportedly missing emails, Stone correctly predicted that WikiLeaks
13 would release hacked emails detrimental to the Clinton campaign before such knowledge was
14 made public.¹²⁴

¹²¹ Special Counsel's Report at 52; *see also* Senate Intelligence Committee Report Vol. 5 at 223; Stone Trial Tr. at 921:3-22, 927:3-928:4 (testimony of Gates).

¹²² Senate Intelligence Committee Report Vol. 5 at 223-24 (quoting Manafort 9/13/18 FBI 302); *see also* Special Counsel's Report at 52.

¹²³ Senate Intelligence Committee Report Vol. 5 at 229-30 (citing interview of Michael Cohen); *see also* Special Counsel's Report at 53 (citing separate interview of Cohen). Trump, in written responses to questions from the Special Counsel, stated: "I do not recall discussing WikiLeaks with [Stone], nor do I recall being aware of Mr. Stone having discussed WikiLeaks with individuals associated with my campaign," and claimed to have "no recollection of the specifics of any conversations I had with Mr. Stone between June 1, 2016 and November 8, 2016." Special Counsel's Report, App. C at C-18 to 19, Responses of President Donald J. Trump. The Senate Intelligence Committee did not obtain records to reflect a call between Stone and Trump during the relevant time period, but the committee states that it reviewed a limited number of such records and that it is possible the conversation occurred using alternative numbers. Senate Intelligence Committee Report Vol. 5 at 230; *id.* at 245 ("Despite Trump's recollection, the Committee assesses that Trump did, in fact, speak with Stone about WikiLeaks and with members of his Campaign about Stone's access to WikiLeaks on multiple occasions.").

¹²⁴ *E.g.*, Stone Trial Tr. at 921:5-11 (testimony of Gates) ("Mr. Stone indicated that he had information that would be coming out at some point, although a date was never given. And that was the information that he had

1 Cohen informed investigators that, after WikiLeaks released hacked emails from the
2 DNC on July 22, 2016, Trump told him something to the effect of, “I guess Roger was right” and
3 that “Stone knew what he was talking about.”¹²⁵ Similarly, Manafort recalled that he “thought
4 that Stone had been right.”¹²⁶ Manafort informed investigators that, on or about July 25, 2016,
5 he spoke with Trump about how Stone had apparently predicted the release and claimed to have
6 access to WikiLeaks; Trump directed Manafort to stay in touch with Stone.¹²⁷ Manafort relayed
7 this message to Stone and told Stone that he wanted to be kept apprised of any developments.¹²⁸
8 Separately, Manafort instructed Gates to follow up with Stone to find out when the additional
9 information might be coming out.¹²⁹ The Senate Intelligence Committee assessed that
10 “Manafort and Gates tasked Stone with communicating with WikiLeaks” and that “[a]fter
11 receiving Trump’s directive via Manafort, Stone channeled his efforts to reach Assange through
12 Jerome Corsi.”¹³⁰

13 Corsi, who worked for the media outlet WorldNetDaily, told investigators that he was a
14 self-described “operative” for Stone, seeking to assist the Trump campaign in a personal

passed along.”); Senate Intelligence Committee Report Vol. 5 at 223-24 (“Like Gates, Manafort recalled Stone telling him that emails would be released ‘soon,’ but Stone ‘did not know when.’”); *id.* at 231 (describing how Manafort recalled being confused by Stone’s predication, which was that WikiLeaks had emails from “Clinton’s server,” “whereas the document released that day came from the DNC”). *But see id.* at 226 (explaining that, shortly after the GRU released hacked documents from the DNC for the first time on the Guccifer 2.0 blog, Stone told Gates that “more information would be coming out of the DNC hack.”) (quoting Gates’s testimony, Stone Trial Tr. at 931-32).

¹²⁵ Special Counsel’s Report at 53 (quoting Cohen 9/18/18 FBI 302); Senate Intelligence Committee Report Vol. 5 at 231 (quoting Cohen 8/07/18 FBI 302).

¹²⁶ Senate Intelligence Committee Report Vol. 5 at 232 (quoting Manafort 9/13/18 FBI 302).

¹²⁷ Special Counsel’s Report at 53 (citation redacted).

¹²⁸ *Id.* at 53-54; Senate Intelligence Committee Report Vol. 5 at 232-33 (citing Manafort 9/13/18 FBI 302).

¹²⁹ Special Counsel’s Report at 54; Stone Trial Tr. at 938:1-5 (testimony of Gates).

¹³⁰ Senate Intelligence Committee Report Vol. 5 at 233.

1 capacity.¹³¹ On July 25, 2016, Stone emailed Corsi with the instruction: “Get to Assange [a]t
2 Ecuadorian Embassy in London and get the pending wikileaks emails . . . they deal with [the
3 Clinton] Foundation, allegedly.”¹³² Corsi forwarded the email to Theodore Malloch, an
4 associate who, at the time, lived in London, the same city in which Assange was then-ensconced
5 in the Ecuadorian Embassy.¹³³ Malloch, however, denied communicating with Assange or
6 WikiLeaks and told investigators for the Special Counsel that, although Corsi asked him to get in
7 touch with Assange, he made no such attempt because he did not have a way to contact
8 Assange.¹³⁴

9 In early August 2016, Corsi emailed Stone:

10 Word is friend in embassy plans 2 more dumps. One shortly after I'm
11 back [from Italy on August 12]. 2nd in Oct. Impact planned to be very
12 damaging. . . . I expect presidential campaign to get serious starting Sept.
13 Still in pre-season games. Time to let more than Podesta to be exposed as
14 in bed w enemy if they are not ready to drop HRC. That appears to be the
15 game hackers are now about. Would not hurt to start suggesting HRC old,
16 memory bad, had stroke — neither he nor she well. I expect that much of
17 next dump [to] focus on, setting stage for Foundation debacle.¹³⁵

¹³¹ Special Counsel's Report at 54 (quoting Corsi 10/31/18 FBI 302).

¹³² Stone Trial Tr., Ex. 35 (email from Stone to Corsi) (emphasis omitted, ellipsis in original); Senate Intelligence Committee Report Vol. 5 at 235. Previously, Stone contacted Corsi and discussed Corsi's ability to contact Assange. Senate Intelligence Committee Report Vol. 5 at 234 (citing Corsi 9/6/18 FBI 302 and phone records).

¹³³ Special Counsel's Report at 55; Senate Intelligence Committee Report Vol. 5 at 235 (email from Corsi to Malloch). On July 31, 2016, Stone sent another email to Corsi telling him that Malloch “should see Assange.” Special Counsel's Report at 55; Stone Trial Tr., Exs. 148 at 3, 164 (call records); *id.*, Ex. 36 (email).

¹³⁴ Special Counsel's Report at 55 n.218. Malloch also reported to federal investigators that Corsi had no connection to Assange. Senate Intelligence Committee Report Vol. 5 at 236 (citing Malloch 6/8/18 FBI 302).

¹³⁵ Stone Trial Tr., Ex. 37 (email from Corsi to Stone); Senate Intelligence Committee Report Vol. 5 at 237-38. On August 3, 2016, the day after receiving the reply from Corsi, Stone wrote an email to Manafort: “I have an idea... [t]o save Trump's ass. Call me pls.” Stone Trial Tr., Ex. 25.

1 On August 21, 2016, Stone tweeted: “Trust me, it will soon be the [sic] Podesta’s time in the
2 barrel.”¹³⁶ Corsi stated to investigators that during numerous phone calls in late August, “Stone
3 was asking for further information” about “timing and content of the Podesta email release.”¹³⁷

4 When investigators asked where Corsi obtained the information regarding Podesta, Corsi
5 said that he could not recall, stating only that he thought someone gave him the information
6 while he was traveling in Italy and that “it feels like a man” told him.¹³⁸ Corsi later changed his
7 account, stating that he deduced the release of Podesta’s emails from Assange’s public
8 statements, but that he thought it would be “more believable” to tell Stone that he had
9 “sources.”¹³⁹ The Special Counsel and the Senate Intelligence Committee were unable to resolve
10 whether Corsi had a connection to Assange and, if he did, who it was.¹⁴⁰

11 Stone also sought information from WikiLeaks through Randy Credico, a New York
12 radio host.¹⁴¹ On August 27, 2016, two days after Credico interviewed Assange on his show,
13 Credico sent Stone a text message stating: “Julian Assange has kryptonite on Hillary.”¹⁴²

¹³⁶ See First Am. Compl. ¶ 32 n.38, MUR 7207 (citing Aug. 21, 2016, 7:24am tweet from @RogerJStoneJr); Senate Intelligence Committee Report Vol. 5 at 241. It is unclear whether Stone’s tweet and the phrase in Corsi’s email — “Time to let more than Podesta to be exposed as in bed w the enemy if they are not ready to drop HRC” — are premised on Stone or Corsi’s knowledge that Podesta had been hacked and that his emails were soon to be published by WikiLeaks.

¹³⁷ Senate Intelligence Committee Report Vol. 5 at 241 (quoting Corsi 9/21/18 FBI 302).

¹³⁸ *Id.* at 239 (quoting Corsi 9/17/18 FBI 302). Corsi told investigators that while on his Italy trip someone told him that WikiLeaks had Podesta’s emails and that they would be released “seriatim and not all at once.” *Id.*

¹³⁹ *Id.* at 240 (quoting Corsi 11/1/18 FBI 302); see also *id.* at 233 n.1530 (“[A]lthough some of Corsi’s testimony was consistent and could be corroborated by documents and phone records, the Committee encountered difficulty in determining the veracity of Corsi’s conflicting statements regarding how he had obtained information about WikiLeaks possessing information on John Podesta — namely, whether he had been told the information by a source or had deduced it on his own.”).

¹⁴⁰ See *id.*; Special Counsel’s Report 53-56.

¹⁴¹ Special Counsel’s Report at 56; Senate Intelligence Committee Report Vol. 5 at 242.

¹⁴² Stone Trial Tr., Ex. 189 at 6 (text from Credico to Stone); Special Counsel’s Report at 56 (citing 8/27/16, text message, Credico to Stone); see also Stone Trial Tr. at 366:15 (testimony of FBI agent regarding texts from Credico to Stone discussing Assange appearing on Credico’s show); Stone Trial Tr. at 601:1-602:25 (describing

1 Credico testified at Stone's criminal trial that his statement was based on "public statements" by
2 Assange.¹⁴³

3 On September 18, 2016, Stone emailed Credico with a "request to pass on to
4 Assange."¹⁴⁴ The email stated: "Please ask Assange for any State or HRC e-mail from August
5 10 to August 30 — particularly on August 20, 2011 that mention [the key person named in the
6 article] or confirm this narrative" and contained an article about Clinton's alleged conduct as
7 Secretary of State regarding Libya.¹⁴⁵ After Stone followed up several times by email, on
8 September 20, 2016, Credico forwarded Stone's email to Margaret Kunstler, Credico's friend
9 and an attorney for a WikiLeaks employee who helped set up his Assange interview, and blind
10 copied Stone.¹⁴⁶ At Stone's trial, however, Kunstler testified that she did not pass Stone's
11 request to Assange or anyone else at WikiLeaks.¹⁴⁷ Further, Credico testified that he was not an
12 intermediary between Stone and Assange and that his statements implying that he possessed non-

how Credico was friends with an attorney who did work for WikiLeaks, Margaret Kunstler, and how Kunstler arranged for Assange to appear on Credico's show).

¹⁴³ Stone Trial Tr. at 613:12-13; Senate Intelligence Committee Report Vol. 5 at 243.

¹⁴⁴ Stone Trial Tr., Ex. 48 (text from Stone to Credico that he would be "e-mailing u a request to pass on to [A]ssange"); *id.*, Ex. 50 (email from Stone to Credico); Senate Intelligence Committee Report Vol. 5 at 243.

¹⁴⁵ Stone Trial Tr., Ex. 50; Senate Intelligence Committee Report Vol. 5 at 243.

¹⁴⁶ Stone Trial Tr., Ex. 55 (email from Credico to Kunstler); *see also* Stone Trial Tr., Exs. 53-54 (emails between Credico and Stone). Kunstler represented Sarah Harrison, who at the time worked for WikiLeaks, after lawyers representing Assange "decided that it would be helpful to have a second lawyer for Ms. Harrison," and Kunstler explained she only represented WikiLeaks to the extent there was overlap; regarding whether she was a WikiLeaks attorney, Kunstler answered: "technically, I don't know." Stone Trial Tr. at 832:8-11. Notably, Assange mentioned Kunstler in a Twitter message to Donald Trump Jr. as his point-of-contact for submissions. Senate Intelligence Committee Report at 244.

¹⁴⁷ Stone Trial Tr. at 837:10-23; Senate Intelligence Committee Report Vol. 5 at 244.

1 public information from Assange were either based on public information or outright
2 fabrications.¹⁴⁸

3 During the time that he was communicating with Corsi and Credico, Stone was also
4 reporting back to the Trump Committee regarding WikiLeaks. Steve Bannon, who joined the
5 Trump Committee in mid-August 2016 as Chief Executive Officer, stated that Stone told him
6 both before he joined the campaign and repeatedly thereafter, that he had a “connection to
7 Assange” and claimed that “WikiLeaks was going to dump additional materials.”¹⁴⁹ Manafort
8 stated that Stone told him that “John Podesta was going to be in the barrel” and that “there were
9 going to be leaks of John Podesta’s emails.”¹⁵⁰ Similarly, Gates stated that Stone told him, in or
10 about early August 2016, that damaging information was going to be released about Podesta.¹⁵¹
11 It appears that Stone may have informed Trump himself about upcoming WikiLeaks releases.
12 Gates told investigators that on or about September 29, 2016, while driving with Trump to
13 LaGuardia Airport, Trump received a call from Stone, after which he told Gates that “more
14 WikiLeaks information would be coming.”¹⁵²

¹⁴⁸ Stone Trial Tr. at 619:24-621:21, 624:17-19, 629:11-18, 630:5-16, 631:8-10. Credico testified that his sense that a WikiLeaks release was forthcoming was based on his reading of press reports and the fact that someone apparently “followed” him after he stood outside the Ecuadorian Embassy in London. *Id.* at 624:20-626:7.

¹⁴⁹ Senate Intelligence Committee Report Vol. 5 at 241 (quoting Special Counsel’s Report at 54; Stone Trial Tr. at 850, 857-61 (testimony of Bannon)).

¹⁵⁰ Senate Intelligence Committee Report Vol. 5 at 244 (quoting Manafort 9/13/18 FBI 302). When he spoke with Stone, Manafort had officially left the campaign but continued to advise senior campaign officials in an informal capacity. Special Counsel’s Report at 141 (citing 10/21/16 Email, Manafort to J. Kushner; Gates 2/12/18 FBI 302).

¹⁵¹ Senate Intelligence Committee Report Vol. 5 at 240 (citing Gates 10/25/18 FBI 302).

¹⁵² Stone Trial Tr. at 946:13 (testimony of Gates); *see id.* at 938:19-939:18, 952:14-23; Special Counsel’s Report at 54; Senate Intelligence Committee Report Vol. 5 at 244-45.

1 On October 7, 2016, WikiLeaks released the Podesta emails, and Trump Committee
2 officials credited Stone with having correctly predicted the release.¹⁵³ The campaign made use
3 of the hacked documents that WikiLeaks released by incorporating them into Trump's speeches,
4 tweets, and press releases.¹⁵⁴ WikiLeaks sent a private message to Stone on October 13, 2016,
5 following the Podesta release, admonishing him for spreading "false claims of association"
6 regarding Stone's public statements taking credit for having predicted the release.¹⁵⁵ Stone
7 replied: "Ha! The more you 'correct' me the more people think you're lying. Your operation
8 leaks like a sieve. You need to figure out who you[r] friends are."¹⁵⁶

9 Notwithstanding Stone's representations to the Trump Committee, the record includes no
10 documentary evidence, such as texts or private messages, showing that Stone actually
11 communicated, directly or indirectly through an intermediary, with WikiLeaks or Assange to
12 obtain inside knowledge of forthcoming releases.¹⁵⁷ The Senate Intelligence Committee in its
13 review of the documentary evidence explained that it "could not reliably trace the provision of
14 non-public information from WikiLeaks to Stone."¹⁵⁸

¹⁵³ Senate Intelligence Committee Report Vol. 5 at 250-51 (quoting statements from senior Trump Committee officials). The Special Counsel and the Senate Intelligence Committee investigated whether Stone played any part in the timing of WikiLeaks's release of Podesta's emails to coincide with the *Access Hollywood* tape but could not corroborate evidence that he did. Special Counsel's Report at 58-59, 176 (noting that phone records did not verify Stone having received the tape in advance); Senate Intelligence Committee Report at 250 (noting Corsi's conflicting accounts).

¹⁵⁴ Senate Intelligence Committee Report Vol. 5 at 253-56.

¹⁵⁵ *Id.* at 252. Stone had also made public statements indicating that he was in contact with Assange, to which WikiLeaks issued tweets denying any such communications. Senate Intelligence Committee Report Vol. 5 at 239.

¹⁵⁶ *Id.* at 252.

¹⁵⁷ Special Counsel's Report at 52 ("Stone has publicly denied having any direct contact with Assange and claimed not to have had any discussions with an intermediary connected to Assange until July or August 2016.").

¹⁵⁸ Senate Intelligence Committee Report Vol. 5 at 222. It is also noteworthy that, based on the available communications between WikiLeaks and the GRU (using the Guccifer 2.0 and DCLeaks personas), it is unclear whether WikiLeaks had obtained hacked documents from the GRU by the time Stone was telling Trump Committee officials about upcoming releases. *See* Special Counsel's Report at 45 (identifying June 14, 2016, as the first known

1 As detailed above, investigators were unable to identify Stone's source, if any, and the
2 two possible sources identified in the Special Counsel's Report and the Senate Intelligence
3 Committee Reports, Corsi and Credico, do not explain Stone's predictions to Trump and Trump
4 Committee officials concerning WikiLeaks's releases. Nevertheless, the available information
5 shows that Stone attempted to contact WikiLeaks, through Corsi and Credico, not simply to
6 inquire about upcoming releases, but also to request certain hacked documents relating to Clinton
7 that Stone presumed were in the possession of WikiLeaks.

8 b. Donald Trump Jr.

9 Separate from Stone's activities, on several occasions, WikiLeaks contacted Donald
10 Trump Jr., the candidate's son and campaign adviser, via Twitter direct message. First, on
11 September 20, 2016, WikiLeaks messaged Trump Jr. to provide the password of an as-yet-
12 unpublished anti-Trump website (WikiLeaks separately tweeted the password to the general
13 public) and asked whether he had any comments about the site; Trump Jr. replied: "Off the
14 record, I don't know what that is but I'll ask around."¹⁵⁹ Second, on October 3, 2016, WikiLeaks
15 messaged Trump Jr. to ask him to help disseminate an anti-Clinton link; Trump Jr. responded
16 that he "had done so" and asked "what's behind this Wednesday leak I keep reading about?"

contact between WikiLeaks and the GRU, post-dating when Stone first told Trump Committee officials about an upcoming release on WikiLeaks damaging to Clinton; and identifying September 15, 2016, as the first known contact between WikiLeaks and the GRU regarding the Podesta emails, post-dating when Stone continued to tell Trump Committee official about a second release and when Stone engaged in communications with Corsi and Credico about a second release); see also Senate Intelligence Committee Report Vol. 5 at 214-15 (identifying gaps in the documentary record and the possibility that the GRU sent the hacked documents to WikiLeaks using a channel unknown to investigators).

¹⁵⁹ Special Counsel's Report at 60; *see also* Senate Intelligence Committee Report Vol. 5 at 256 (indicating direct message was sent September 21, 2016).

1 though WikiLeaks did not respond to that question.¹⁶⁰ Third, on October 12, 2016, following the
 2 Podesta release, WikiLeaks messaged Trump Jr. asking for help promoting the URL of a website
 3 to help “dig through the trove of stolen documents and find stories”; on October 14, 2016, Trump
 4 Jr. tweeted the URL: “For those who have the time to read about all the corruption and
 5 hypocrisy all the @wikileaks emails are right here: wlsearch.tk.”¹⁶¹

6 3. Sharing of Internal Polling Data by Paul Manafort

7 Paul Manafort officially joined the Trump Committee on March 29, 2016, as the
 8 Campaign’s Convention Manager.¹⁶² By May 19, 2016, Manafort became Campaign Chairman
 9 and Chief Strategist, but he left that position and departed the campaign on August 19, 2016.¹⁶³

¹⁶⁰ Special Counsel’s Report at 60. The unidentified link apparently directed to a website that alleged Clinton had advocated targeting Assange with a drone. *Id.*; Senate Intelligence Committee Report Vol. 5 at 247.

¹⁶¹ Special Counsel’s Report at 60; *see* Senate Intelligence Committee Report Vol. 5 at 257.

¹⁶² Special Counsel’s Report at 134 (citing Trump Committee, Press Release, *Donald J. Trump Announces Campaign Convention Manager Paul J. Manafort* (Mar. 29, 2016)); Senate Intelligence Committee Report Vol. 5 at 56 (explaining that Trump appears to have hired Manafort on March 16, 2016, and that his hiring was not made public until March 29, 2016). The Special Counsel brought indictments against Manafort and Gates, related to their consulting work in Ukraine, resulting in guilty pleas for a variety of charges, including failure to register as foreign agents with the DOJ pursuant to the Foreign Agents Registration Act of 1938 (“FARA”). Plea Agreement, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018); Superseding Criminal Information, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018) (facts attached to Manafort’s guilty plea); Plea Agreement, *United States v. Gates*, 1:17-cr-00201 (D.D.C. Feb. 23, 2018); Superseding Criminal Information, *United States v. Gates*, 1:17-cr-00201 (D.D.C. Feb. 23, 2018). Manafort, following a trial in the Eastern District of Virginia, was found guilty on eight counts involving various financial crimes, and the court declared a mistrial on ten additional counts; Manafort later admitted guilt as to the ten remaining charges as part of his plea agreement in the District of Columbia case. SPECIAL COUNSEL’S OFFICE | DEPARTMENT OF JUSTICE, <https://www.justice.gov/sco>. The criminal charges, verdicts, and admissions relate to Manafort and Gates’s U.S.-based influence campaign, orchestrated by Manafort between 2012 and 2014, to lobby “dozens of Members of Congress, their staff, and White House and State Department officials” and do not address potential violations of campaign finance law. *See* Statement of the Offense ¶ 25, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018). In December 2020, Trump pardoned Manafort for the crimes for which he had been convicted in the U.S. District Courts for the Eastern District of Virginia and the District of Columbia. Executive Grant of Clemency (Dec. 23, 2020), <https://www.justice.gov/file/1349071/download>.

¹⁶³ Special Counsel’s Report at 20, 134 (citing Meghan Keneally, *Timeline of Manafort’s Role in the Trump Campaign*, ABC NEWS, Oct. 20, 2017); Special Counsel’s Report Vol. 2 at 20.

1 However, even after his departure from the campaign, Manafort continued to provide campaign
2 officials with advice.¹⁶⁴

3 Immediately upon joining the Trump Committee, Manafort directed Gates to prepare
4 memoranda addressed to Oleg Deripaska, a Russian oligarch with close ties to Putin,¹⁶⁵ and three
5 Ukrainian oligarchs, Rinat Akhmetov, Serhiy Lyovochkin, and Boris Kolesnikov.¹⁶⁶ The
6 memoranda described Manafort's appointment to the Trump campaign and expressed his interest
7 in consulting on Ukrainian politics in the future.¹⁶⁷ The memorandum to Deripaska, specifically,
8 included the suggestion that Manafort could brief Deripaska on the Trump campaign: "I am
9 hopeful that we are able to talk about this development with Trump where I can brief you in
10 more detail. I look forward to speaking with you soon."¹⁶⁸

11 The Senate Intelligence Committee described Deripaska as someone who "conducts
12 influence operations, frequently in countries where he has a significant economic interest."¹⁶⁹
13 Before he joined the campaign, Manafort had consulted for Deripaska from 2005 to 2009, but
14 their relationship soured after a failed business deal.¹⁷⁰ In 2014, one of Deripaska's companies,

¹⁶⁴ Special Counsel's Report at 141 (citing 10/21/16 Email, Manafort to J. Kushner; Gates 2/12/18 FBI 302).

¹⁶⁵ On April 6, 2018, the U.S. Department of the Treasury announced sanctions against Deripaska "for having acted or purported to act for or on behalf of, directly or indirectly, a senior official of the Government of the Russian Federation" in connection with "malign activity around the globe," U.S. Dep't of the Treasury, Press Release, *Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity* (Apr. 6, 2018). The Special Counsel's investigation neither established nor disproved that Deripaska was involved in Russian election interference. *See* Special Counsel's Report at 131.

¹⁶⁶ Special Counsel's Report at 135 (citing Gates 2/02/18 FBI 302); Senate Intelligence Committee Report Vol. 5 at 58-59.

¹⁶⁷ Special Counsel's Report at 135; Senate Intelligence Committee Report Vol. 5 at 60.

¹⁶⁸ Senate Intelligence Committee Report Vol. 5 at 60.

¹⁶⁹ *Id.* at 27.

¹⁷⁰ Special Counsel's Report at 131-32 (citing Gates 2/02/18 FBI 302; Gates 3/12/18 FBI 302; Manafort 12/16/15 Dep.).

1 Surf Horizon Limited, filed a lawsuit against Manafort, seeking millions of dollars in damages,
2 and the litigation remained ongoing during the 2016 election.¹⁷¹ Akhmetov, Lyovochkin, and
3 Kolesnikov were senior officials of the Opposition Bloc, a pro-Russian Ukrainian political party
4 that is the successor to the Party of Regions.¹⁷² From 2005 to 2015, Manafort consulted for the
5 Party of Regions and the Opposition Bloc,¹⁷³ receiving millions of dollars from his consulting
6 work, but the Opposition Bloc allegedly failed to pay him \$2 million and the debt remained
7 outstanding during the 2016 election.¹⁷⁴

8 On March 30, 2016, Gates emailed the memoranda, along with a press release about
9 Manafort's appointment to the Trump Committee, to Konstantin Kilimnik for translation and
10 dissemination.¹⁷⁵ Kilimnik was a longtime Manafort employee who previously oversaw
11 Manafort's lobbying office in Kiev.¹⁷⁶ The Senate Intelligence Committee labeled Kilimnik a
12 "Russian intelligence officer" who may have been connected to the GRU's hack-and-release
13 operation.¹⁷⁷ Kilimnik did not officially work for the Trump Committee but assisted Manafort

¹⁷¹ Surf Horizon Limited initially brought suit against Manafort in the Cayman Islands but later filed in New York State Court. Compl. ¶¶ 34-48, *Surf Horizon Limited v. Manafort & Gates*, 650130/2018 (N.Y. Sup. Ct. Jan. 10, 2018); Compl. ¶ 1, *Surf Horizon Limited v. Manafort & Gates*, 650130/2018 (N.Y. Sup. Ct. Jan. 10, 2018) (alleging that Manafort and Gates "vanished more than \$18.9 million"); see Special Counsel's Report at 132.

¹⁷² Special Counsel's Report at 132, 135 n.880; Senate Intelligence Committee Report Vol. 5 at 58-59 (describing the influence and wealth of the Ukrainian oligarchs, their Russian connections, and their previous working relationships with Manafort).

¹⁷³ See Special Counsel's Report at 131-32; see also *id.* at 132 (explaining that Akhmetov hired Manafort to work for Ukraine's Party of Regions in 2005 after being introduced by Deripaska).

¹⁷⁴ *Id.* at 135 (citing Gates 2/2/18 FBI 302), 141 (citing Gates 1/30/18 FBI 302; Patten 5/22/18 FBI 302).

¹⁷⁵ *Id.* at 131, 135 (citing 3/30/16 Email, Gates to Kilimnik).

¹⁷⁶ *Id.* at 129, 131-32. Kilimnik did not provide any statements to the Special Counsel's Office. Kilimnik was charged, along with Manafort and Gates, with crimes relating to their political consulting work in Ukraine, but he apparently remains at large. See Superseding Indictment, *United States v. Manafort & Kilimnik*, 1:17-cr-00201 (D.D.C. June 08, 2018); Special Counsel's Report, App. D-1 ¶ 5.

¹⁷⁷ Senate Intelligence Committee Report Vol. 5 at 28-29.

1 and Gates with translating documents and transmitting them to the Russian and Ukrainian
2 oligarchs.¹⁷⁸

3 The Special Counsel's Report summarized Gates's testimony that, in April or early May
4 2016, Manafort instructed Gates "to send Kilimnik . . . internal polling data and other updates so
5 that Kilimnik, in turn, could share it with Ukrainian oligarchs" and that Gates "understood that
6 the information would also be shared with Deripaska."¹⁷⁹ Gates sent the data on a periodic basis
7 to Kilimnik via WhatsApp pursuant to instructions he received from Manafort.¹⁸⁰ After
8 Manafort resigned from the campaign in August 2016, Gates continued to send the polling
9 data.¹⁸¹ Gates described the data as "topline" data, which included the results of internal polling
10 including state, dates, generic, decided GOP, and other such numbers, and explained that he
11 would copy and paste from summary sheets provided by Trump Committee pollster and
12 longtime Manafort associate Tony Fabrizio.¹⁸² The Senate Intelligence Committee stated that

¹⁷⁸ Special Counsel's Report at 131-34 (also explaining how the FBI has assessed that Kilimnik has ties to Russian intelligence).

¹⁷⁹ *See id.* at 136 (citing Gates 1/31/18 FBI 302; Gates 9/27/18 FBI 302). The Special Counsel's finding that Manafort sent polling data is based primarily on statements made by Gates and Sam Patten, a Kilimnik associate. *See id.* at 129 ("Manafort claims not to recall that specific instruction"), 133 n. 862 (noting Patten pled guilty to a FARA violation and also admitted to withholding information from the Senate in its investigation); *see also* Senate Intelligence Committee Report Vol. 5 at 80 (stating that Patten's Special Counsel interview provides the "most granular account" of the information Kilimnik obtained from Manafort). The Senate Intelligence Committee also obtained communications from Kilimnik that "make reference to Kilimnik's awareness of Trump's internal polling, providing contemporary documentary evidence that Kilimnik had access to it." Senate Intelligence Committee Report Vol. 5 at 77.

¹⁸⁰ Special Counsel's Report at 136 (citing Gates 1/31/18 FBI 302).

¹⁸¹ *Id.* (citing Gates 2/12/18 FBI 302); *id.* at 136 n.893 (explaining that the transmission became less frequent and Gates's access to internal polling data became limited when Tony Fabrizio, the Trump Committee pollster who prepared the polling data, was "distanced from the Campaign").

¹⁸² Senate Intelligence Committee Report Vol. 5 at 70-71 (citing Gates 2/15/19 FBI 302). Gates recalled that it was not the entire raw data set, nor was it cross tabs. *Id.* The Special Intelligence Committee analyzed the polling data Fabrizio sent to Manafort and Gates, and described the "topline" data as consisting of "all responses for each polled question on a questionnaire, which usually included approximately 100 questions," and that the questionnaires "tested a variety of questions related to Trump and Clinton." *Id.* at 71 n.391. For instance, on June 30, 2015, Fabrizio emailed Manafort and Gates "topline" data for eight of the campaign's 17 target states, consisting

1 “Kilimnik was capable of comprehending the complex polling data he received,” had worked
2 with Fabrizio before, and had previous experience with “present[ing] the outcome of polls to
3 politicians and colleagues.”¹⁸³

4 The Special Counsel's Report states that the investigation had a “limited ability to gather
5 evidence on what happened to the polling data after it was sent to Kilimnik,” and therefore was
6 unable to determine “what Kilimnik (or others he may have given it to) did with” the polling
7 data.¹⁸⁴ Moreover, neither the Special Counsel nor the Senate Intelligence Committee
8 determined Manafort's subjective purpose in sharing the Trump campaign's internal polling
9 data.¹⁸⁵ However, Gates believed that Manafort sent polling data to Deripaska “so that
10 Deripaska would not move forward with his lawsuit against Manafort.”¹⁸⁶ Gates also said that
11 Manafort told him that working for the Trump Committee would increase the likelihood that he
12 would receive the \$2 million allegedly owed to him by the Opposition Bloc.¹⁸⁷

of 247 pages with detailed breakdowns of aggregated responses for each questions tested as part of the poll. *Id.* It is unclear whether Gates copied and sent only portion of the topline data or the entirety. *Id.*

¹⁸³ Senate Intelligence Committee Report Vol. 5 at 77-78 (describing how, for over a decade, Kilimnik had “regularly helped formulate and review polling questionnaires and scripts, hired and overseen polling experts, [and] analyzed and interpreted polling results”).

¹⁸⁴ Special Counsel's Report at 131. It appears likely that the Russian and Ukrainian oligarchs received the polling data. Manafort sent the data over the course of several months which would be unusual if he did not receive some indication that the transmissions had been received. *See id.* at 132, 135, 137. There is evidence that Kilimnik was in contact with Deripaska's deputy, and that they spoke about Deripaska's “attention to the campaign,” again making it unlikely that Manafort would have continuously sent the data without some indication it was received. *Id.* at 137 (quoting 7/8/16 Email, Kilimnik to Manafort) (recounting conversation with Deripaska's deputy).

¹⁸⁵ *Id.* at 136 (citing Gates 2/12/18 FBI 302; Gates 1/31/18 FBI 302); Senate Intelligence Committee Report Vol. 5 at 29. The investigation “did not identify evidence of a connection between Manafort's sharing polling data and Russia's interference in the election.” Special Counsel's Report at 131. However, there is a question as to the certainty of this determination. *See id.* (noting “questions about Manafort's credibility” and “our limited ability to gather evidence”).

¹⁸⁶ Special Counsel's Report at 135-36.

¹⁸⁷ *Id.* at 135.

1 Manafort met with Kilimnik in person on at least two occasions during the election, both
2 times in New York.¹⁸⁸ Shortly after the first meeting, which occurred on May 7, 2016, Manafort
3 ordered Gates to send polling data.¹⁸⁹ During the second meeting, which occurred on August 2,
4 2016, Manafort and Kilimnik discussed Manafort's strategy for Trump to win the election; this
5 "encompassed the Campaign's messaging and its internal polling data" and the battleground
6 states of Michigan, Wisconsin, Pennsylvania, and Minnesota.¹⁹⁰ More specifically, according to
7 the Senate Intelligence Committee Report, "Manafort walked Kilimnik through the internal
8 polling data . . . in detail," explained his strategy in battleground states, and "told Kilimnik about
9 polls that identified voters bases in blue-collar, democratic-leaning states which Trump could
10 swing."¹⁹¹

11 4. Additional Contacts

12 The Special Counsel's Report extensively details a "series of contacts between Trump
13 Committee officials and individuals with ties to the Russian government," but states that the
14 investigation "did not establish that members of the Trump Committee conspired or coordinated
15 with the Russian government in its election interference activities."¹⁹² These include, *inter alia*,

¹⁸⁸ *Id.* at 138-39.

¹⁸⁹ *Id.* at 136 n.888 (citing Gates 11/07/18 FBI 302); Senate Intelligence Committee Report Vol. 5 at 70.

¹⁹⁰ Special Counsel's Report at 140 (citing Manafort 9/11/18 FBI 302; Gates 1/30/18 FBI 302). They also discussed Manafort's legal matter with Deripaska and his financial dispute with the Opposition Bloc. *Id.* at 141. The Special Counsel Report's details about the content of the meeting are based on statements by Manafort and Gates, who also attended, and by a business associate of Kilimnik (Sam Patten), who Kilimnik spoke with after the meeting. *Id.* at 139-41. The original purpose of the meeting was for Kilimnik to relay an important message directly from former Ukrainian President Yanukovich, who was exiled and living in Moscow. *Id.* at 138-39.

¹⁹¹ Senate Intelligence Committee Report Vol. 5 at 79-80 (citing Gates 2/2/18 FBI 302).

¹⁹² *Id.* at 5 (recognizing that "the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the Campaign expected it would benefit electorally from information stolen and released through Russian efforts").

1 a meeting between Jeff Sessions and Russian Ambassador Kislyak, Carter Page's connections to
2 Russian intelligence, and George Papadopoulos's purported advanced knowledge of Russia's
3 hacking operations.¹⁹³ These allegations were not directly raised in any of the Complaints and
4 do not appear relevant to the allegations raised in the Complaints; this Report thus does not
5 address those findings at length here.

6 **D. Cambridge Analytica**

7 Cambridge Analytica, LLC was a limited liability company organized in Delaware on
8 December 31, 2013.¹⁹⁴ Its parent company, SCL Group LTD, was based in England and
9 registered in the United Kingdom on July 20, 2005.¹⁹⁵ Cambridge reportedly began working for
10 political committees in the United States during the 2014 election cycle, which continued
11 through the 2016 election cycle.¹⁹⁶

12 The Supplemental Complaint in MUR 7268 alleges that “Cambridge Analytica . . .
13 provided illegally sourced social profiles to the Russians as reported in the British investigation
14 of Cambridge Analytica.”¹⁹⁷ The Supplemental Complaint does not provide any additional
15 information regarding the allegation or cite to a particular source.¹⁹⁸

¹⁹³ *Id.* at 66-110, 123-129; *see also id.* at 144-73 (post-election and transition-period contacts). As noted above, *supra* note 111, the Special Counsel's Report also details a June 9, 2016, meeting at Trump Tower organized by Donald Trump, Jr. to obtain damaging information on Clinton from Russian nationals, which is the subject of the First General Counsel's Report in MURs 7265 and 7266.

¹⁹⁴ Cambridge Analytica LLC, Delaware Div. of Corps., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (viewed Feb. 18, 2021).

¹⁹⁵ SCL Group Limited, U.K. Companies House Registration, Company No. 05514098, <https://beta.companieshouse.gov.uk/company/05514098> (last visited Feb. 18, 2021).

¹⁹⁶ Craig Timberg and Tom Hamburger, *Former Cambridge Analytica Workers Say Firm Sent Foreigners to Advise U.S. Campaigns*, WASH. POST (Mar. 25, 2018).

¹⁹⁷ Supp. Compl., MUR 7268 (Donald J. Trump) (Jan. 16, 2020).

¹⁹⁸ The term “British investigation” may be a reference to an investigation conducted by the Information Commissioner's Office of the United Kingdom into Cambridge Analytica, LLC. *See* Ltr from Elizabeth Denham CBE, UK Information Commissioner, to Julian Knight MP, Chair, Digital, Cultural and Media Sport Select Comm.,

1 **III. LEGAL ANALYSIS**

2 **A. The Act's Prohibition of Foreign National Contributions and Expenditures**

3 The Act and Commission regulations prohibit any foreign national from “directly or
 4 indirectly” making “a contribution or donation of money or other thing of value,” “an express or
 5 implied promise to make a contribution or donation,” or “an expenditure, independent
 6 expenditure, or disbursement for an electioneering communication,” in connection with a federal,
 7 state, or local election.¹⁹⁹ The Act and Commission regulations also prohibit any person from
 8 knowingly soliciting, accepting, or receiving a contribution or donation from a foreign
 9 national.²⁰⁰ Under Commission regulations, “to solicit” means “to ask, request, or recommend,
 10 explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or
 11 otherwise provide anything of value.”²⁰¹

12 In affirming the constitutionality of the Act's ban on foreign national contributions and
 13 independent expenditures, the court in *Bluman v. FEC* held:

14 It is fundamental to the definition of our national political community that
 15 foreign citizens do not have a constitutional right to participate in, and
 16 thus may be excluded from, activities of democratic self-government. It
 17 follows, therefore, that the United States has a compelling interest for
 18 purposes of First Amendment analysis in limiting the participation of

House of Commons (Oct. 2, 2020) (announcing the findings of investigation into Cambridge Analytica, LLC's alleged “use of personal information and political influence”), *available at* https://ico.org.uk/media/action-weve-taken/2618383/20201002_ico-o-ed-l-rtl-0181_to-julian-knight-mp.pdf. The Information Commissioner's Office “referred details of reported possible Russia-located activity to access data linked to the investigation to the National Crime Agency,” but the findings as stated in the October 2, 2020, report do not describe any specifics or otherwise corroborate the Supplemental Complaint's claim that Cambridge Analytica provided illegally sourced social profiles to Russian actors. *See id.* at 3.

¹⁹⁹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f).

²⁰⁰ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g); *see also* 11 C.F.R. § 110.20(a)(4) (definition of knowingly).

²⁰¹ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

1 foreign citizens in activities of American democratic self-government, and
2 in thereby preventing foreign influence over the U.S. political process.²⁰²

3 The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of
4 money or anything of value made by any person for the purpose of influencing any election for
5 Federal office.”²⁰³ The Act similarly defines “expenditure” as “any purchase, payment,
6 distribution, loan, advance, deposit, or gift of money or anything of value, made by any person
7 for the purpose of influencing any election.”²⁰⁴ “[A]nything of value includes all in-kind
8 contributions” such as “the provision of any goods or services without charge or at a charge that
9 is less than the usual and normal charge.”²⁰⁵ Although goods or services provided by a person
10 — foreign or domestic — to a political committee at the usual and normal charge do not
11 constitute a contribution under the Act, “soliciting, accepting, or receiving information in
12 connection with an election from a foreign national, as opposed to purchasing the information at
13 the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to
14 perform services for the political committee, could potentially result in the receipt of a prohibited
15 in-kind contribution.”²⁰⁶ The Commission has recognized the “broad scope” of the foreign
16 national prohibition and found that even where the value of a good or service “may be nominal
17 or difficult to ascertain,” such contributions are nevertheless banned.²⁰⁷

²⁰² 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012); *see also U.S. v. Singh*, 924 F.3d 1030, 1043 (9th Cir. 2019) (holding that “Congress was within its power when it acted to protect the country's political processes after recognizing the susceptibility of the elections process to foreign interference”).

²⁰³ 52 U.S.C. § 30101(8)(A)(i).

²⁰⁴ *Id.* § 30101(9)(A)(i).

²⁰⁵ 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1); *see Advisory Op.* 2007-22 at 5 (Hurysz) (“AO 2007-22”).

²⁰⁶ Factual & Legal Analysis at 6-7, MUR 7271 (DNC)

²⁰⁷ AO 2007-22 at 6 (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,940 (Nov. 19, 2002) (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and *expand* the ban on contributions, donations, and other things of value

1 **B. The Commission Has Jurisdiction Over the Russian Federation**

2 The Act's definition of "foreign national" includes an individual who is not a citizen or
 3 national of the United States and who is not lawfully admitted for permanent residence, as well
 4 as a "foreign principal" as defined at 22 U.S.C. § 611(b), which, in turn, includes a "government
 5 of a foreign country" as well as "a partnership, association, corporation, organization, or other
 6 combination of persons organized under the laws of or having its principal place of business in a
 7 foreign country."²⁰⁸ The phrase "government of a foreign country" "includes any person or
 8 group of persons exercising sovereign de facto or de jure political jurisdiction over any country,
 9 other than the United States, or over any part of such country, and includes any subdivision of
 10 any such group and any group or agency to which such sovereign de facto or de jure authority or
 11 functions are directly or indirectly delegated."²⁰⁹

12 Accordingly, the Act's plain language confers the Commission with jurisdiction over
 13 foreign governments.²¹⁰ Relying on the Act, the Commission has previously asserted
 14 jurisdiction over foreign state respondents, concluding that Congress "explicitly prohibited"
 15 foreign states from making contributions and thus "granted the Commission exclusive

by foreign nationals") (emphasis added) ("2002 Prohibitions E&J"); *see also* Gen. Counsel's Rpt. at 24-27, MUR 4250 (Republican Nat'l Comm., *et al.*) (Sep. 8, 1999) (describing the legislative history of the foreign national prohibition which, "unlike other provisions of the Act, has its origins in, and essentially remains, a national security provision with broad application").

²⁰⁸ 52 U.S.C. § 30121(b)(2); 22 U.S.C. § 611(b)(1); *accord* 11 C.F.R. § 110.20(a)(3); Factual & Legal Analysis, MUR 4583 (Devendra Singh and the Embassy of India) (finding reason to believe that the Indian Embassy as well as an embassy official knowingly and willfully violated the Act's ban on foreign national contributions).

²⁰⁹ 22 U.S.C. § 611(e).

²¹⁰ The Act grants the Commission with administrative jurisdiction over any "person" who is alleged to have violated the Act, and defines "person" to include "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons." 52 U.S.C. §§ 30109(a), 30101(11). The only stated limitation is that a "person" does not include the United States federal government. *Id.* § 30101(11).

1 jurisdiction with respect to civil enforcement of [the Act]" against such persons.²¹¹ The
 2 Commission further determined that, "[t]o assert otherwise would be to read an explicit
 3 prohibition . . . out of the statute."²¹² The Commission has addressed allegations against four
 4 foreign state respondents, finding reason to believe that three of those foreign governments had
 5 violated the Act, conciliating with one, and finding probable cause to believe against another.²¹³

6 The Russian Federation nonetheless argues that it is immune from the Commission's
 7 jurisdiction Congress enacted the Foreign Sovereign Immunities
 8 Act of 1976 ("FSIA") to codify certain principles of international comity with respect the
 9 assertion of jurisdiction over foreign governments in United States courts.²¹⁵ Under the FSIA, a

²¹¹ Factual & Legal Analysis at 10-11, MUR 2892 (Coordination Council of North American Affairs) ("CCNAA").

²¹² *Id.* at 14; *see also Davis v. Mich. Dep't of Treasury*, 489 U.S. 803, 809 (1989) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.").

²¹³ In MUR 2892 (CCNAA), involving an instrumentality of Taiwan, the respondent negotiated a conciliation agreement prior to a finding of probable cause to believe. Conciliation Agreement, MUR 2892 (CCNAA) (Jan. 13, 1992). In MUR 3801 (Royal Embassy of Saudi Arabia) ("RESA"), the Commission found reason to believe but closed the file, apparently for reasons unrelated to jurisdiction. Gen. Counsel's Rpt. at 7-8, MUR 3801 (RESA) (Apr. 24, 1995); *see* Certification ¶ 1, MUR 3801 (RESA) (May 25, 1995). In MUR 4530 (People's Rep. of China), this Office recommended that the Commission find reason to believe but the Commission took no action

In MUR 4583 (Embassy of India), the Commission exercised its "exclusive jurisdiction with respect to the civil enforcement of [the Act], the U.S. law that in relevant part prohibits foreign nationals and foreign governments from making direct or indirect contributions to U.S. elections." Notification to Embassy of India at 1, MUR 4583 (Embassy of India) (Jan. 16, 1997) (internal quotations omitted). The Commission found probable cause to believe, but elected not to pursue the respondent further. Notification to Embassy of India at 1, MUR 4583 (Embassy of India) (Sept. 10, 1999). Subsequently, Congress strengthened the Act's foreign national prohibition with the Bipartisan Campaign Reform Act of 2002, in part motivated by concerns about the role the Chinese government played in the 1996 election. *See Bluman*, 800 F. Supp. 2d at 283-84 (explaining the legislative history of the current foreign-national prohibition). At the Commission's request, this Office analyzed jurisdiction against foreign sovereigns, including in these prior MURs. Memo. to the Comm'n, Jurisdiction Over the Russian Federation in MUR 7207 (July 10, 2017).

²¹⁵ *See* 28 U.S.C. § 1602 ("The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial

1 foreign state is presumptively immune from suit in United States courts unless one of the
2 statute's enumerated exceptions applies to the alleged conduct.²¹⁶

3 The FSIA, however, addresses only sovereign immunity in the courts; FSIA does not
4 purport to address a federal agency's consideration of an administrative matter against a foreign
5 sovereign, such as whether there is reason to believe the Russian Federation violated the Act.²¹⁷
6 As noted above, the Commission has taken the position that the Act itself confers jurisdiction to
7 the Commission over foreign sovereign respondents in administrative enforcement actions.²¹⁸ In
8 prior matters, the Commission has asserted jurisdiction over foreign sovereigns without requiring
9 that the alleged conduct satisfy a FSIA exemption, but has noted probable alternative jurisdiction
10 under the FSIA "commercial activity" exception.²¹⁹

11 There is ample evidence that FSIA's "commercial activity" exception applies to the
12 Russian Federation's activity alleged in these matters. Under the FSIA, courts may exercise
13 jurisdiction over foreign sovereigns where an action is "based upon a commercial activity carried
14 on in the United States by the foreign state . . . or upon an act outside the territory of the United
15 States in connection with a commercial activity of the foreign state elsewhere and that act causes

property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities.").

²¹⁶ See 28 U.S.C. § 1605 (listing exceptions).

²¹⁷ *State Bank of India v. Nat'l Labor Relations Bd.*, 808 F.2d 526, 535 (7th Cir. 1986) (remarking, in dicta, that the FSIA, on its face, does not apply to the administrative process, but rather only when a federal agency seeks to enforce its orders in a court).

²¹⁸ See *supra* note 211-213 and accompanying text. The Act arguably also confers the Commission with authority to bring civil suits against foreign sovereign respondents (and thus confers courts with jurisdiction to hear such claims).

²¹⁹ See, e.g., Certification, MUR 4583 (Embassy of India) (Nov. 10, 1998) (finding probable cause); Gen. Counsel's Rpt. at 6-8, MUR 4583 (Embassy of India) (Nov. 3, 1998) (analyzing probable cause under the Act and noting probable jurisdiction under FSIA's commercial activity exception); Factual & Legal Analysis at 10-11, MUR 2892 (CCNAA) (same).

1 a direct effect in the United States.”²²⁰ Whether activity can be deemed “commercial” for
 2 purposes of the FSIA depends on the “nature” of the transaction, rather than its “purpose.”²²¹

3 [T]he question is not whether the foreign government is acting
 4 with a profit motive or instead with the aim of fulfilling uniquely
 5 sovereign objectives. Rather, the issue is whether the particular
 6 actions that the foreign state performs (whatever the motive behind
 7 them) are the *type* of actions by which a private party engages in
 8 trade and traffic or commerce.²²²

9 A suit over “a contract to buy army boots or even bullets” involves commercial activity because
 10 “private companies can similarly use sales contracts to acquire goods.”²²³ The “government’s
 11 purpose in conducting the activity is irrelevant; the only concern is whether the sovereign acted
 12 in the manner of a private actor.”²²⁴ Courts have held, for example, that foreign states can be
 13 subject to suit over the manufacture of defective ammunition,²²⁵ contracts concerning military
 14 aircraft,²²⁶ and the sale of uranium resulting from an international agreement to dismantle
 15 nuclear warheads.²²⁷

²²⁰ 28 U.S.C. § 1605(a)(2).

²²¹ *Id.* § 1603(d).

²²² *Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607, 614 (1992) (internal quotation marks omitted) (emphasis in original).

²²³ *Id.* at 614-15 (contrasting the issuance of regulations limiting foreign currency exchange, which is a sovereign activity “because such authoritative control of commerce cannot be exercised by a private party”).

²²⁴ *Thai Lao Lignite (Thailand) Co. v. Gov’t of Lao People’s Democratic Rep.*, No. 10 CIV. 5256 KMW DCF, 2013 WL 1703873, at *6 (S.D.N.Y. Apr. 19, 2013) (citing *NML Capital, Ltd. v. Rep. of Arg.*, 680 F.3d 254, 260 (2d Cir. 2012); see also *Weltover*, 504 U.S. at 614) (“We conclude that when a foreign government acts, not as regulator of a market, but in the manner of a private player within it, the foreign sovereign’s actions are commercial within the meaning of the FSIA.” (internal quotations omitted)).

²²⁵ *Rote v. Zel Custom Mfg. LLC*, 816 F.3d 383, 391 (6th Cir. 2016) (“[W]hether the ammunition was used or intended for military purposes is of no consequence. . . . DGFm does not assert that only governmental actors manufacture and design ammunition”).

²²⁶ *UNC Lear Servs., Inc. v. Kingdom of Saudi Arabia*, 581 F.3d 210, 217–18 (5th Cir. 2009) (“Regardless of the end use of the F–5 components in aircraft that were used for national defense, the SPAGE contract was for goods and services and is properly construed as commercial activity.”).

²²⁷ *Globe Nuclear Servs. & Supply (GNSS), Ltd. v. AO Techsnabexport*, 376 F.3d 282, 289 (4th Cir. 2004) (rejecting the Russian Federation’s argument that it was “not merely dealing in uranium; it [wa]s regulating its inventory . . . in a manner that no private player can” (emphasis omitted)).

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10 Recently, in *DNC v. Russian Federation*, a federal court in the Southern District of New
11 York ruled that the Russian Federation was immune to private claims brought by the DNC for a
12 portion of the Russian Federation's actions alleged in these matters — the hacking of DNC's
13 computers — because the plaintiff's causes of action did not qualify for the commercial activity
14 exception.²²⁸ Specifically, the court held that “[t]ransnational cyberattacks are not the type of
15 actions by which a private party engages in trade and traffic or commerce.”²²⁹ That opinion,
16 however, would not pose an impediment to the Commission's exercise of jurisdiction in these
17 matters. In holding that the Russian Federation's hacking operation was not commercial activity
18 under FSIA, the court relied on a Second Circuit opinion that illegal activity cannot be the basis
19 for a commercial activity exception because no person may engage in such activity in private

²²⁸ *Democratic Nat'l Comm. v. Russian Fed'n*, 392 F. Supp. 3d 410, 428-29 (S.D.N.Y. 2019) (considering DNC's private causes of action under six federal statutes, including RICO and DMCA (but not the Act), in addition to causes of action under DC and Virginia statutory and common law).

²²⁹ *Id.* at 429 (internal quotation omitted).

1 commerce.²³⁰ First, the Second Circuit's *per se* approach to excluding illegal activity from the
2 FSIA commercial activity exception has been questioned by other circuits.²³¹ Second, the court
3 in *DNC v. Russian Federation* did not consider any claims under the Act and did not adjudicate
4 the Commission as a party to such a claim, and thus did not address how the Commission is
5 uniquely empowered to enforce the Act against the Russian Federation for campaign finance
6 violations — that is, spending money for the purpose of influencing an election — rather than
7 harms flowing from the hack itself, as claimed by the DNC. Third, even accepting the validity of
8 the district court's holding, it does not implicate jurisdiction in the administrative context and is
9 thus not applicable here. As discussed below, we recommend that the Commission find reason
10 to believe against the Russian Federation but take no further action.

11 Finally, the analysis in *DNC v. Russian Federation* has no bearing on the Commission's
12 ability to make findings against the Russian Federation on other activity unrelated to the hack
13 and release operation,

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²³⁰ *See id.* at 429 (“Moreover, the alleged actions by the Russian Federation — hacking and theft — are illegal. The Second Circuit has made very clear that, for purposes of the FSIA, a commercial activity must be one in which a private person can engage lawfully.”) (internal quotation omitted).

²³¹ *Cicippio v. Islamic Republic of Iran*, 30 F.3d 164, 167 (D.C. Cir. 1994) (questioning the Second Circuit's determination that illegal activity cannot be commercial, saying that the Supreme Court's case law “may well undermine the Second Circuit's categorical approach” (citing *Saudi Arabia v. Nelson*, 507 U.S. 349 (1993))).

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3 In summary, because the Act independently confers jurisdiction on the Commission
4 against foreign governments, FSIA does not appear to restrict the Commission's jurisdiction in
5 an administrative matter, and, to the extent that FSIA would be applicable, an FSIA exception
6 appears to apply to a cause of action the Commission could bring in court, the Commission
7 should exert jurisdiction over the Russian Federation.

8 **C. The Commission Should Find Reason to Believe That the Russian Federation**
9 **and the IRA Made Prohibited Foreign National Expenditures and**
10 **Independent Expenditures, and Failed to Report Independent Expenditures**

11 The Russian Federation and the IRA are foreign nationals under the meaning of "foreign
12 principal" incorporated in the Act's definition.²³³ As discussed above,²³⁴ the term foreign
13 principal includes any "government of a foreign country" and, specifically, includes "any group
14 or agency" such as the GRU, a Russian Federation military intelligence agency, "to which such
15 sovereign de facto or de jure authority or functions are directly or indirectly delegated."²³⁵ In
16 addition, the term foreign principal also includes any "partnership, association, corporation,
17 organization, or other combination of persons organized under the laws of or having its principal
18 place of business in a foreign country."²³⁶ This applies to the IRA, a Russian LLC headquartered
19 in Saint Petersburg, Russia, and its successor companies.²³⁷

²³³ 22 U.S.C. § 611(b); *see* 52 U.S.C. 30121(b)(1) (defining the term "foreign national" to include "a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States").

²³⁴ *Supra* Part III.B.

²³⁵ 22 U.S.C. § 611(b), (e).

²³⁶ *Id.* § 611(b)(3).

²³⁷ Special Counsel's Report at 4, 14, 16.

1 Further, for purposes of liability, because the GRU is included within the meaning of
2 “government of a foreign country” as a subdivision of the Russian Federation, its actions are
3 imputed to the Russian Federation itself. Indeed, the United States Intelligence Community
4 assessed with high confidence that Russian President Vladimir Putin personally ordered the
5 Russian influence campaign.²³⁸ Moreover, though the IRA is ostensibly a non-governmental
6 entity, the Russian Federation appears to have acted directly or indirectly through the IRA and
7 therefore the Russian Federation is liable for the IRA’s actions as well.²³⁹ The United States
8 Intelligence Community labeled the IRA a “quasi-government” actor and described how
9 Yevgeniy Prigozhin, the financier of the IRA, “is a close Putin ally with ties to Russian
10 intelligence.”²⁴⁰ The Senate Intelligence Committee further explained how Prigozhin’s “close
11 ties to high-level Russian government officials including President Vladimir Putin, point to
12 significant Kremlin support, authorization, and direction of the IRA’s operations and goals.”²⁴¹
13 The State Department has identified both the IRA and Prigozhin as “persons that are part of, or
14 operate for or on behalf of, the defense and intelligence sectors of the Government of the Russian
15 Federation.”²⁴²

²³⁸ Intelligence Community Assessment at 1; *see also id.* at 1-2 (describing the reasons why Putin, his advisors, and the Russian Federation likely sought to interfere in the 2016 presidential election).

²³⁹ *See* 52 U.S.C. § 30121(a)(1)(B)-(C) (providing that it shall be unlawful for a foreign national, “directly or indirectly,” to make, *inter alia*, a contribution, expenditure, independent expenditure).

²⁴⁰ Intelligence Community Assessment at 3-4.

²⁴¹ Senate Intelligence Committee Report Vol. 2 at 5; *see also* Special Counsel’s Report at 16 (“Numerous media sources have reported on Prigozhin’s ties to Putin, and the two have appeared together in public photographs.”); *see also* Intelligence Community Assessment at 2 (“We assess that influence campaigns are approved at the highest levels of the Russian Government—particularly those that would be politically sensitive.”).

²⁴² Notice of Department of State Sanctions Actions Pursuant To Section 231(a) of the Countering America’s Adversaries Through Sanctions Act of 2017 (CAATSA) and Executive Order 13849 of September 20, 2018, and Notice of Additions To the CAATSA Section 231(d) Guidance, 83 Fed. Reg. 50,433, 50,434 (Oct. 5, 2018); CAATSA, Pub. Law 115-44, 131 Stat. 898 (2017).

1 As foreign nationals, the Russian Federation and the IRA are prohibited from making,
 2 directly or indirectly, “an expenditure, independent expenditure, or disbursement for an
 3 electioneering communication.”²⁴³ An “independent expenditure” “means an expenditure by a
 4 person for a communication expressly advocating the election or defeat of a clearly identified
 5 candidate; and that is not made in concert or cooperation with or at the request or suggestion of
 6 such candidate, the candidate’s authorized political committee, or their agents, or a political party
 7 committee or its agents.”²⁴⁴ Every person that is not a political committee that makes
 8 independent expenditures aggregating in excess of \$250 with respect to a given election in a
 9 calendar year must report such independent expenditures to the Commission.²⁴⁵ A
 10 communication expressly advocates when, it:

- 11 (a) Uses phrases such as . . . “support the Democratic nominee,” . . . “Bill
 12 McKay in ’94,” . . . “vote against Old Hickory,” “defeat” accompanied
 13 by a picture of one or more candidate(s), “reject the incumbent,” or . . .
 14 campaign slogan(s) or individual word(s), which in context can have
 15 no other reasonable meaning than to urge the election or defeat of one
 16 or more clearly identified candidates, such as posters, . . .
 17 advertisements, etc. which say “Nixon’s the One,” . . . or “Mondale!”;
 18 or
- 19 (b) When taken as a whole and with limited reference to external events,
 20 such as the proximity to the election, could only be interpreted by a
 21 reasonable person as containing advocacy of the election or defeat of
 22 one or more clearly identified candidate(s) because (1) The electoral
 23 portion of the communication is unmistakable, unambiguous, and
 24 suggestive of only one meaning; and (2) Reasonable minds could not
 25 differ as to whether it encourages actions to elect or defeat one or more

²⁴³ 52 U.S.C. § 30121(a)(C); 11 C.F.R. § 110.20(f).

²⁴⁴ 11 C.F.R. § 100.16(a); *see also* 52 U.S.C. § 30101(17).

²⁴⁵ 52 U.S.C. § 30104(c); 11 C.F.R. § 109.10(b).

1 clearly identified candidate(s) or encourages some other kind of
2 action.²⁴⁶

3 In *Bluman v. FEC*, the D.C. Circuit upheld the constitutionality of the foreign national
4 prohibition with respect to “contributing to candidates or political parties; [] making expenditures
5 to expressly advocate the election or defeat of a political candidate; and [] making donations to
6 outside groups when those donations in turn would be used to make contributions to candidates
7 or parties or to finance express-advocacy expenditures.”²⁴⁷ *Bluman* involved two foreign
8 nationals located in the United States who sought to engage in those three categories of activity,
9 *i.e.*, to make contributions to candidate and political party committees, to print and distribute
10 flyers supporting a candidate, and to donate to outside groups to be used for the same
11 purposes.²⁴⁸ The *Bluman* court concluded that the Act’s prohibition of these activities passed
12 constitutional muster.²⁴⁹ Animating the court’s holding was the government’s compelling
13 interest “in limiting the participation of foreign citizens in activities of American democratic
14 self-government, and in thereby preventing foreign influence over the U.S. political process.”²⁵⁰

15 In these matters, numerous federal investigations have concluded that the Russian
16 Federation orchestrated a sophisticated campaign to influence the 2016 election and, ultimately,

²⁴⁶ 11 C.F.R. § 100.22; *see also* Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292, 35,295 (July 6, 1995) (“[C]ommunications discussing or commenting on a candidate’s character, qualifications or accomplishments are considered express advocacy under new section 100.22(b) if, in context, they have no other reasonable meaning than to encourage actions to elect or defeat the candidate in question.”).

²⁴⁷ *Bluman*, 800 F. Supp. 2d at 284.

²⁴⁸ *Id.* at 285.

²⁴⁹ *Id.* at 286-92; *see also id.* at 292 (explaining, with respect to plaintiffs’ “concern that Congress might bar them from issue advocacy and speaking out on issues of public policy,” that “[o]ur holding does not address such questions, and our holding should not be read to support such bans”).

²⁵⁰ *Id.* at 288.

1 “undermine public faith in the U.S. democratic process,” implicating the precise threat that the
2 foreign national prohibition was designed to address, and greatly exceeding the dangers posed by
3 the two individual plaintiffs’ proposed activities prohibited by the *Bluman* court.²⁵¹ As stated in
4 the Intelligence Community Assessment, “President Vladimir Putin ordered an influence
5 campaign in 2016 aimed at the U.S. presidential election, the consistent goals of which were to
6 undermine public faith in the U.S. democratic process . . .” and that in trying to influence the
7 election, the Russian Federation sought to “undermine the U.S.-led liberal democratic order.”²⁵²

8 The Russian Federation’s influence campaign was a “multi-million dollar, coordinated
9 effort,”²⁵³ involving numerous payments that qualify as prohibited foreign national expenditures
10 and independent expenditures, as detailed below. Information provided in the official reports
11 indicates that salary payments to IRA employees targeting the U.S. election, likely the most
12 significant category of prohibited expenditures, totaled as much as \$1.8 million.²⁵⁴ Although
13 there is no public information regarding specific amounts, it is reasonable to presume that the
14 GRU also made salary payments to the 12 individuals tasked with conducting the hack-and-
15 release operation.²⁵⁵ In addition, the IRA made payments for social media ads during the 2016

²⁵¹ Intelligence Community Assessment at 1; *see* Senate Intelligence Committee Report Vol. 2 at 7, 22-23; IRA Indictment ¶ 11(b); *see also* Advisory Op. 2018-12 at 7-9 (DDC) (noting that “[f]oreign cyberattacks that entail disbursements by foreign nationals in connection with American elections are violations of section 30121” and stating that prohibition is intended to “exclude foreign citizens from activities intimately related to the process of democratic self-government” (quoting *Bluman*, 800 F. Supp. 2d at 287)).

²⁵² *See* Intelligence Community Assessment at 1.

²⁵³ Senate Intelligence Committee Report Vol. 2 at 22-23.

²⁵⁴ *Supra* note 36 and accompanying text (approximating total salary payments based on information regarding the number of IRA employees as of July 2016 specifically tasked with U.S.-directed influence operations and their average monthly salaries).

²⁵⁵ *See* Special Counsel’s Report at 39, 41; GRU Indictment ¶¶ 39, 57. The GRU also paid employees to post anti-Clinton content on social media using fake accounts. Special Counsel’s Report at 37; GRU Indictment ¶¶ 18, 39; Senate Intelligence Committee Report Vol. 2 at 64.

1 election (over 1,000 ads totaling approximately \$70,000) and spent an unknown amount on
2 candidate rally supplies, as well as various research and travel costs.²⁵⁶ And the GRU made
3 payments for computer infrastructure necessary to execute the hackings.²⁵⁷ The total amount of
4 those payments is unknown, but there is information that the GRU laundered a pool of more than
5 \$95,000 in cryptocurrency for this purpose.²⁵⁸

6 In analyzing whether a payment is a “contribution” or “expenditure” under the Act, the
7 Commission has concluded that the question is whether the payment, donation, or service was
8 made or provided “for the purpose of influencing a federal election [and] not whether [it]
9 provided a benefit to [a federal candidate’s] campaign.”²⁵⁹ The electoral purpose of a payment
10 may be clear on its face, as in payments to solicit contributions or for communications that
11 expressly advocate for the election or defeat of a specific candidate, or inferred from the
12 surrounding circumstances.²⁶⁰ As discussed above, the United States Intelligence Community,

²⁵⁶ *Supra* note 57 and accompanying text. Travel encompassed the journey from Russia to the U.S., travel between locations in at least nine states, and related equipment. IRA Indictment ¶¶ 30(a)-(d); Special Counsel’s Report at 21. Political rally supplies included buttons, flags, posters, megaphones, and banners and paying real U.S. people to perform tasks such as building a parade float with a Clinton impersonator. IRA Indictment ¶¶ 55(d), 62, 64, 72, 77, 94.

²⁵⁷ This included the purchase of internet domains used to conduct the spearphishing campaign, the domain DCLeaks.com used to publish hacked materials, and domains to facilitate the operation of malware used in the DNC and DCCC hackings; further, the GRU leased computer servers, including in the United States, to assist with exfiltrating documents from the DNC and DCCC, operating malware, and hosting the DCLeaks website. GRU Indictment ¶¶ 24, 28, 45(a), 53, 64(c); Special Counsel’s Report at 39, 39 n.126.

²⁵⁸ GRU Indictment ¶¶ 21, 57.

²⁵⁹ Factual & Legal Analysis at 6, MUR 7024 (Van Hollen for Senate).

²⁶⁰ *See, e.g.*, Advisory Op. 2000-08 (Harvey) at 1, 3 (“AO 2000-08”) (concluding private individual’s \$10,000 “gift” to federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”); Advisory Op. 1988-22 (San Joaquin Valley Republican Associates) at 5 (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions because “the financing of a communication to the general public, not within the “press exemption,” that discusses or mentions a candidate in an election-related context and is undertaken in coordination with the candidate or his campaign is “for the purpose of influencing a federal election”); Factual & Legal Analysis at 17–20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with

1 the Special Counsel, and the Senate Intelligence Committee concluded that the Russian
2 Federation and the IRA acted with the purpose of influencing the presidential election.²⁶¹ In
3 light of those findings, the specific activity (such as payments for express advocacy
4 communications), and the circumstances surrounding other payments, each of the Russian
5 Federation's payments can be fairly described as made for the purpose of influencing a federal
6 election. For Commission purposes, however, these wide-ranging expenses fall into a number of
7 different categories subject to different legal analyses.

8 First, payments made by the IRA for paid advertising in the form of express advocacy
9 communications constitute prohibited foreign national independent expenditures. The IRA
10 purchased ads on Facebook with language such as "Vote Republican, vote Trump, and support
11 the Second Amendment" and "#HillaryClintonForPrison2016," that unambiguously advocate the
12 election or defeat of clearly identified candidates.²⁶² However, paid advertising containing
13 express advocacy totaled roughly \$3,000, a fraction of the total cost of the Russian Federation's
14 influence campaign.²⁶³ As explained above, the Senate Intelligence Committee determined that

"uncompensated fundraising and campaign management assistance" and "advertising assistance," including spending "several million dollars" on coordinated advertisements).

²⁶¹ See Intelligence Community Assessment at 1 (assessing with high confidence "that Russian President Vladimir Putin ordered an *influence* campaign in 2016 aimed at the US presidential election") (emphasis added); Senate Intelligence Committee Report Vol. 2 at 4 (concluding "that the IRA sought to *influence* the 2016 U.S. presidential election by harming Hillary Clinton's chances of success and supporting Donald Trump") (emphasis added); Special Counsel's Report at 27, 36 (determining that the IRA used fake social media accounts "to attempt to *influence* U.S. audiences on the election") (emphasis added).

²⁶² See 11 C.F.R. § 100.22(a) (listing several examples using the word "vote" as well as others, like "Bill McKay in '94," which, like "Hillary Clinton for Prison 2016," is tied to the electoral date in a manner that, despite the absence of the word "vote," in context has no other reasonable meaning than to urge the election or defeat of the candidate); App., Exs. 1-3.

²⁶³ *Supra* note 59-61 and accompanying text; see App., Ex. 1; see also Senate Intelligence Committee Report Vol. 2 at 45 ("While early media reporting on the IRA's Facebook activity focused on purchased advertising, the organic content generated by IRA influence operatives on their Facebook pages far surpassed the volume of targeted advertisements."). We identified at least 58 ads totaling approximately \$3,000 that named and supported or opposed a clearly identified candidate or promoted a rally to support or oppose a specific candidate.

1 paid ads were apparently used to attract more followers to IRA-controlled accounts so that they
2 would be subsequently exposed to “payload content.”²⁶⁴ The main focus of the IRA’s efforts,
3 discussed below, related to organic content generated by paid IRA staffers. The IRA’s payments
4 for advertisements containing express advocacy on social media constitute foreign national
5 “independent expenditures,” prohibited under 52 U.S.C. § 30121(a)(1)(c).

6 Second, the IRA also paid an unknown amount for various costs in connection with IRA-
7 organized candidate rallies held in U.S. cities.²⁶⁵ The rallies were generally named in a manner
8 that expressly advocated for or against a clearly identified candidate, *e.g.*, “Miners for Trump,”
9 “Down With Hillary,” and “Florida Goes Trump,” indicating that these events were for the
10 purpose of influencing an election.²⁶⁶ The IRA’s payments for the costs of these rallies, staged
11 for the purpose of influencing an election, constitute foreign national “expenditures,”²⁶⁷
12 prohibited under 52 U.S.C. § 30121(a)(1)(c).

13 Third, payments made by the GRU in connection with the hack-and-release operation
14 constituted prohibited expenditures by a foreign national because they were made for the purpose
15 of influencing a federal election. The GRU paid at least 12 hackers to steal documents from
16 political targets — specifically, accounts and networks of candidate committee officers and
17 political party committees — and arranged for the stolen documents to be released online.²⁶⁸
18 The Special Counsel’s Report described the staged releases as “designed and timed to interfere

²⁶⁴ Senate Intelligence Committee Report Vol. 2 at 32-33, 51, 61 (explaining the role of “‘payload content’ designed to influence the targeted user”).

²⁶⁵ *See supra* note 74 and accompanying text.

²⁶⁶ App., Ex. 3 (listing known IRA-organized rallies held during the 2016 election and providing various information regarding relating purchases).

²⁶⁷ *See* 52 U.S.C. § 30101(9)(A)(i).

²⁶⁸ *See* Special Counsel’s Report at 36 n.109.

1 with the 2016 U.S. presidential election and undermine the Clinton Campaign.”²⁶⁹ The GRU’s
2 purpose of harming Clinton’s electoral chances is evident from the timing of the DNC and
3 Podesta releases and the GRU’s communications with WikiLeaks leading up to the releases,
4 which detail how releasing the documents could raise Trump’s “25% chance of winning against
5 Hillary” by creating “conflict between bernie and hillary.”²⁷⁰ The cost of the hack-and-release
6 operation is not publicly known but was likely at least hundreds of thousands of dollars, and it
7 may have been significantly more.²⁷¹ In Advisory Opinion 2018-12 (DDC), the Commission
8 concluded that “foreign cyberattacks that entail disbursements by foreign nationals in connection
9 with American elections are violations of section 30121.”²⁷² The Commission’s determination
10 was premised on the “enhanced threat” to election security posed by foreign cyberattacks, and
11 the Commission’s “obligation to preserve the basic conception of a political community”
12 underlying the foreign national prohibition.²⁷³ Accordingly, the Russian Federation’s payments,
13 through the GRU, in support of the hack-and-release operation were foreign national
14 “expenditures” and therefore prohibited under 52 U.S.C. § 30121(a)(1)(c).

²⁶⁹ *Id.* at 36.

²⁷⁰ Special Counsel’s Report at 45 (quoting July 6, 2016, Twitter direct message from @WikiLeaks to @Guccifer_2).

²⁷¹ In addition to paying the wages of 12 hackers, the GRU also made a variety of payments for the purchase or rental computer technology and resources, such as computer servers (including within the United States) and domain names. Special Counsel’s Report at 39, 41; GRU Indictment ¶¶ 39, 57 (explaining how the GRU laundered more than \$95,000 in cryptocurrency). The GRU also paid employees to post anti-Clinton content on social media using fake accounts in a manner similar to the IRA, though to a lesser extent. Special Counsel’s Report at 37.

²⁷² AO 2018-12 at 2 (DDC) (describing instances in 2008, 2012, and 2016 elections where hackers stole, and in some cases released, information from political candidates and others related to U.S. elections).

²⁷³ *Id.* at 7-9 (explaining that the prohibition is intended to “exclude foreign citizens from activities intimately related to the process of democratic self-government”) (quoting *Bluman*, 800 F. Supp. 2d at 287).

1 Fourth, salaries paid to IRA staff members to write and post “organic,” *i.e.*, non-paid
2 advertising, express advocacy communications on social media constituted prohibited
3 independent expenditures by a foreign national. This category of prohibited expenditures totals
4 in the millions of dollars. As explained above, an independent expenditure is any expense for a
5 “communication expressly advocating the election or defeat of a clearly identified candidate”
6 made independently of a candidate.²⁷⁴ The term “communication” in the definition of
7 “independent expenditure” is not limited to a “public communication” as defined at 11 C.F.R.
8 § 100.26,²⁷⁵ and, therefore, includes a communication on social media containing express
9 advocacy, even if not placed on that social media site as a paid advertisement.²⁷⁶ There are
10 internal IRA documents that reveal the specific instructions given to paid IRA employees, such
11 as “Main idea: Use any opportunity to criticize Hillary and the rest (except Sanders and Trump
12 — we support them).”²⁷⁷ IRA employees’ “organic” content included posts containing express
13 advocacy such as “Hillary is the Worst Candidate for President,” “Vote for Jill Stein,” “I’m not
14 voting for Hillary #HillaryForPrison2016,” and “#MAGA.”²⁷⁸ These phrases and slogans can
15 have no reasonable interpretation other than urging the election of Trump (or Stein) or the defeat

²⁷⁴ 11 C.F.R. § 100.16(a).

²⁷⁵ The term “public communication” does not include “communications over the Internet, except for communications placed for a fee on another person’s Web site.” *Id.* § 100.26.

²⁷⁶ The Commission’s regulations on both disclaimers and coordinated communications require a communication to be either an “electioneering communication,” which includes only certain broadcast, cable and satellite communications, or a “public communication,” which includes internet communications only when “placed for a fee on another person’s website.” 11 C.F.R. §100.26 (public communication); *see* 11 C.F.R. §§ 100.29 (electioneering communication); 109.21 (coordinated communication test); 110.11(a) (disclaimers). No such restriction exists in the Commission’s definition of an independent expenditure.

²⁷⁷ Special Counsel’s Report at 23-24. Another IRA document criticized an employee’s “lower” number of posts negative to Clinton and ordered him/her to “intensify criticizing Hillary Clinton.” *Id.*

²⁷⁸ *See* 11 C.F.R. § 100.22; App., Ex. 2. Researchers working for the Senate Intelligence Committee identified more than 4,300 posts on Facebook, 21,000 on Instagram, and 628,000 on Twitter that mentioned candidates by name. NK Working Paper at 76; *see also* Senate Intelligence Committee Report Vol. 2 at 32.

1 of Clinton.²⁷⁹ In an analogous context, the Commission determined that payments to door-to-
2 door canvassers making express advocacy communications are independent expenditures.²⁸⁰
3 Here, the IRA paid employees to conduct the digital equivalent by posting and engaging with
4 U.S. voters on social media.²⁸¹ Thus, the IRA's payments for salaries for persons to post
5 "organic" social media communications with express advocacy were prohibited independent
6 expenditures under 52 U.S.C. § 30121(a)(1)(c).

7 Fifth, and finally, the IRA incurred expenses for general administrative costs relating to
8 its 2016 election influence campaign, most significantly, to pay staff to post organic, non-express
9 advocacy content necessary to develop the fake personas that attracted audiences to subsequently
10 receive "payload" content directed at the election, as well as costs for computer infrastructure
11 necessary to orchestrate the social media campaign.²⁸² Though lacking express advocacy, the
12 payments were essential to advance the overall effort to influence the 2016 election. Therefore,

²⁷⁹ 52 U.S.C. § 30104(c); 11 C.F.R. § 109.10(b).

²⁸⁰ *See, e.g.*, Factual & Legal Analysis at 1-2, MUR 7285 (Worker's Voice) (finding that an independent expenditure-only political committee failed to report as independent expenditures "paid time and associated expenses" relating to door-to-door canvassing organized by the committee but carried out by individuals who were employed by and paid by other organizations for the time they spent working for the committee).

²⁸¹ IRA "trolls" were paid between \$700 and \$1,000 per month. Senate Intelligence Committee Report Vol. 2 at 26. The IRA had at least 80 employees focused on the U.S. population, although the entire organization had "hundreds" of employees. IRA Indictment ¶ 10(d). Assuming the 80 employees were paid \$1,000 per month over an approximate 15 month election cycle, the IRA paid its employees \$1.2 million (80 x 1,000 x 15). This figure does not include the "hundreds" of employees that were not directly focused on the U.S. population, but were also performing key roles within the organization, such as employees based in departments for graphics, data analysis, search-engine optimization, and information technology. IRA Indictment ¶ 10(d). Nor does it include any payments in connection with pre-election reconnaissance missions to the United States. *See* Special Counsel's Report at 21.

²⁸² Senate Intelligence Committee Report Vol. 2 at 32-33, 51, 61 (describing "payload" content); *see also id.* at 33 (detailing example of "Army of Jesus" Facebook page which posted thematic religious content but, shortly, before the election, posted an election-related message — "Hillary approves removal of God from the pledge of Allegiance") (original message in all caps).

1 such disbursements, made by a foreign national for the purpose of influencing a federal election,
2 are prohibited “expenditures” under 52 U.S.C. § 30121(a)(1)(c).²⁸³

3 The lack of express advocacy in the communications in this category does not bar
4 enforcement of the Act’s foreign national expenditure prohibition against the Russian Federation
5 and IRA for their payments made for the purpose of interfering with the 2016 election and,
6 ultimately, subverting the U.S. democratic process. The *Bluman* court, in the course of rejecting
7 a constitutional challenge to section 30121, stated that the Act’s foreign national prohibition
8 “does not bar foreign nationals from issue advocacy — that is, speech that does not expressly
9 advocate the election or defeat of a specific candidate.”²⁸⁴ However, because the issue of
10 applying the foreign national prohibition to non-express advocacy communications was not
11 before the court, this language is dicta.²⁸⁵ Moreover, the facts of that case, involving foreign
12 students living in the United States from making contributions and printing flyers supporting a
13 candidate, did not raise questions regarding other categories of expenditures.²⁸⁶ Given the nature
14 of the evidence obtained by U.S. government investigators, which shows that the Russian
15 Federation did not act to advance an issue relevant to U.S. voters but instead to surreptitiously
16 influence the election to advance its own interests and generally erode faith in the U.S.
17 democratic process, the Act’s prohibition against expenditures by foreign nationals, which

²⁸³ 52 U.S.C. § 30101(9)(A).

²⁸⁴ 880 F. Supp. 2d at 284 (citing *FEC v. Wisc. Right to Life, Inc.*, 551 U.S. 449 (2007)); *see also id.* at 282 (listing activities at issue before the Court none of which constituted issue speech); *id.* at 292 (listing issues that were not before the court, including “issue advocacy”).

²⁸⁵ *Id.* at 292 (explaining, with respect to plaintiffs’ “concern that Congress might bar them from issue advocacy and speaking out on issues of public policy,” that “[o]ur holding does not address such questions, and our holding should not be read to support such bans”); *cf. USAID v. Alliance for Open Society, Intl., Inc.*, 140 S. Ct. 2082, 2086 (2020) (holding that foreign organizations operating abroad do not possess First Amendment rights).

²⁸⁶ *Bluman*, 880 F. Supp. 2d at 285.

1 protects the compelling state interest of excluding foreign nationals from “activities of
2 democratic self-government,” extends to the full range of the IRA’s payments for its influence
3 campaign to subvert the 2016 election.²⁸⁷

4 Therefore, we recommend that the Commission find reason to believe that the Russian
5 Federation violated 52 U.S.C. § 30121(a)(1)(C) and 11 C.F.R. § 110.20(f) by making prohibited
6 foreign national expenditures and independent expenditures with respect to each of the five
7 categories listed above and that the IRA violated 52 U.S.C. § 30121(a)(1)(C) and 11 C.F.R.
8 § 110.20(f) by making prohibited foreign national expenditures and independent expenditures
9 with respect to categories one, two, four, and five. In addition, because the IRA did not report
10 the independent expenditures, we recommend that the Commission find reason to believe that the
11 IRA and the Russian Federation violated 52 U.S.C. § 30104(c) and 11 C.F.R. § 109.10(b) by
12 failing to report independent expenditures to the Commission.²⁸⁸

13 We do not, however, recommend that the Commission further pursue the Russian
14 Federation and IRA with respect to these violations. There is no realistic prospect that the

²⁸⁷ *Id.* at 288; *see* Advisory Opinion 2018-12 at 7-9 (DDC) (concluding that foreign national prohibition is intended to “exclude foreign citizens from activities intimately related to the process of democratic self-government”); *see also USAID v. Alliance for Open Soc’y, Int’l, Inc.*, 140 S. Ct. 2082, 2086 (2020) (“[I]t is long settled as a matter of American constitutional law that foreign citizens outside U.S. territory do not possess rights under the U.S. Constitution.”).

²⁸⁸ As noted above, on February 16, 2018, the Special Counsel brought an indictment against the IRA and a group of non-respondents including individuals who worked for the IRA and companies that funded it, alleging *inter alia*, conspiracy to defraud the United States for violating the Act — *i.e.*, “making expenditures in connection with the 2016 U.S. presidential election without proper regulatory disclosure.” IRA Indictment ¶¶ 8-85. Only one set of defendants, the companies that allegedly funded the IRA (non-respondents in these matters) made appearances, and the DOJ later filed a motion to dismiss those defendants ahead of a scheduled trial for various reasons, including their “ephemeral presence and immunity to just punishment, the risk of exposure of law enforcement’s tools and techniques, and the post-indictment change in the proof available at trial.” Motion to Dismiss Concord Defendants at 8-9, *United States v. Concord Management and Consulting LLC and Concord Catering*, 1:18-cr-00032 (D.D.C. Mar. 16, 2020). There has been no activity in the criminal matter since March 2020, based on a review of public filings, suggesting that the DOJ has been unable to prosecute the case against the remaining defendants and that the matter has stalled.

1 Russian Federation or the IRA will cooperate and voluntarily enter into conciliation with the
2 Commission,²⁸⁹ and the likelihood of success in obtaining a collectible judgment through
3 litigation against them is uncertain in light of the overall circumstances, including the statute of
4 limitations situation and developments in DOJ's criminal proceedings against the IRA and
5 individuals associated with the IRA.²⁹⁰ Accordingly, under the unique circumstances presented
6 in these matters, we recommend that the Commission take no further action as to the Russian
7 Federation and the IRA with respect to these violations, beyond finding reason to believe as
8 recommended above.²⁹¹

²⁸⁹ IRA Video Resp., MUR 7274; *cf.* Certification ¶ 1, MUR 3801 (RESA) (May 25, 1995) (finding reason to believe but closing the file with respect to the Royal Embassy of Saudi Arabia). *But see* Conciliation Agreement, MUR 2892 (CCNAA) (conciliating with an instrumentality of Taiwan).

²⁹⁰ *See supra* note 288.

²⁹¹ In the *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, the Commission announced that, as a matter of non-binding policy, it disfavored finding “reason to believe, but take no further action” and instead would generally “dismiss” matters that do not merit the additional expenditure of Commission resources under *Heckler v. Chaney*, 470 U.S. 821 (1985). 72 Fed. Reg. 12545 (Mar. 16, 2007). However, in setting forth the types of factors that would warrant dismissal, the Commission stated that dismissal would be appropriate in matters where “the seriousness of the alleged conduct is not sufficient to justify the likely cost and difficulty of an investigation” or the violation is minor. *Id.* at 12546. Further, the Commission could dismiss and send a letter of admonishment where “[a] respondent admits to a violation, but the amount in violation is not sufficient to warrant any monetary penalty;” or where “a complaint convincingly alleges a violation” but the significance of the violation does not warrant further pursuit. *Id.* Notwithstanding this guidance, the Commission foresaw that there could be matters that do not neatly fall within one of the actions described in the policy statement and therefore stated, “[t]he policy does not confer any rights on any person and does not limit the right of the Commission to evaluate every case individually on its own facts and circumstances.” *Id.* The allegations as to the Russian Federation and the IRA present extraordinary circumstances. Other governmental bodies have already conducted exhaustive investigations presenting evidence indicating that the seriousness of the alleged violations by the Russian Federation and IRA warrant reason to believe findings. *Id.* at 12545. Thus, reason to believe findings reflect the gravity of the alleged offenses, notwithstanding other facts and circumstances that may counsel against further use of Commission resources to investigate or conciliate with these respondents.

1 **D. The Commission Should Find Reason to Believe That the Russian Federation**
2 **Made, and Trump and the Trump Committee Solicited, Accepted or**
3 **Received, a Prohibited Foreign National Contribution by Coordinating in**
4 **Connection with Trump's Press Conference Statement**

5 Soliciting a contribution from a foreign national is a violation of the Act and Commission
6 regulations.²⁹² As explained above, “to solicit” means “to ask, request, or recommend, explicitly
7 or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
8 provide anything of value.”²⁹³ A solicitation “is an oral or written communication that,
9 construed as reasonably understood in the context in which it is made, contains a clear message
10 asking, requesting, or recommending that another person make a contribution, donation, transfer
11 of funds, or otherwise provide anything of value” and may be made “directly or indirectly.”²⁹⁴

12 Under the Act and Commission regulations, in-kind contributions result when goods or
13 services are provided without charge or at less than the usual and normal charge,²⁹⁵ and when a
14 person makes an expenditure in cooperation, consultation or in concert with, or at the request or
15 suggest of a candidate or the candidate's authorized committee or their agents.²⁹⁶

16 Payments for “coordinated communications” are addressed under a three-prong test at
17 11 C.F.R. § 109.21 and other coordinated expenditures are addressed under 11 C.F.R.
18 § 109.20(b). The Commission has explained that section 109.20(b) applies to “expenditures that
19 are not made for communications but that are coordinated with a candidate, authorized

²⁹² 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

²⁹³ 11 C.F.R. § 110.20(a)(6) (incorporating the definition at 11 C.F.R. § 300.2(m)).

²⁹⁴ *Id.* § 300.2(m).

²⁹⁵ 11 C.F.R. § 100.52(d).

²⁹⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20; *see also Buckley v. Valeo*, 424 U.S. 1, 46-47 (1976).

1 committee, or political party committee.”²⁹⁷ Section 109.20(a) defines coordination to mean
2 “made in cooperation, consultation or concert with, or at the request or suggestion of, a
3 candidate, a candidate’s authorized committee, or a political party committee.”²⁹⁸

4 Trump’s statement — “Russia, if you’re listening, I hope you’re able to find the 30,000
5 emails that are missing. I think you will probably be rewarded mightily by our press”²⁹⁹ —
6 constitutes both a prohibited solicitation of a foreign national contribution and a request or
7 suggestion under section 109.20(a).

8 Trump made an express, direct oral communication addressed to the Russian Federation,
9 asking, requesting, or recommending that the foreign country provide something of value within
10 the meaning of “contribution,” that is, to use its resources to find the purportedly missing 30,000
11 emails belonging to his opponent and to publish them or otherwise make them available to the
12 United States press, at no cost to the Trump Committee. In concluding that tangible and
13 intangible things are “anything of value” under the Act, the Commission has analyzed a number
14 of indicia of value, including, as relevant here, whether the provision of the thing would
15 “relieve” the campaign of an expense it would otherwise incur,³⁰⁰ whether the provider of the
16 thing or any third party “utilized its resources” to produce, organize, or collect the thing
17 provided;³⁰¹ and whether the thing “may not have been publicly available” for the campaign’s

²⁹⁷ Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 425 (Jan. 3, 2003) (“Coordination E&J”);
see also Advisory Opinion 2011-14 (Utah Bankers Association).

²⁹⁸ 11 C.F.R. § 109.20(a).

²⁹⁹ Special Counsel’s Report at 49.

³⁰⁰ *See* AO 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution
because it “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”).

³⁰¹ *See, e.g.*, Factual & Legal Analysis at 7-8, MUR 7271 (DNC) (finding that a foreign embassy
made a contribution when it “utilized its resources and expended ‘funds for opposition research’” that it provided to
campaign at no charge); First Gen. Counsel’s Rpt. at 10, MUR 5409 (Norquist, *et al.*) (dispositive Commission

1 use absent the provider's actions.³⁰² For instance, in MUR 5409 (Norquist, *et al.*), the
2 Commission concluded that a master contact list of political activists was "something of value,
3 meeting the Act's broad definition of contribution," given that a corporation had "utilized its
4 resources to obtain and compile" the materials; the materials contained "information that may
5 [have been] of value in connection with the [] election"; and it appeared the materials were not
6 "readily or publicly available."³⁰³

7 Trump made the statement seeking the Clinton emails at a campaign press conference,
8 with television cameras and recording devices in the room, at a time when numerous sources
9 were reporting that Russia was aiding his campaign.³⁰⁴ This occurred five days after WikiLeaks
10 released DNC documents. Although official government investigations had not yet revealed the
11 Russian Federation's role in the hacking, news reports at the time indicated that the Russian
12 Federation was likely responsible for the DNC hack and, further, that intelligence officials had
13 briefed the White House about the Russian Federation's role the DNC hack.³⁰⁵ During the press
14 conference, just moments before asking Russia to find the 30,000 emails, Trump recognized that
15 Russia had apparently attacked the DNC and had the capacity to "hack into a major party and get

opinion) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation "utilized its resources to obtain and compile"), and Certification, MUR 5409 (Oct. 19, 2004) (approving recommendation).

³⁰² See, e.g., First Gen. Counsel's Rpt. at 9, MUR 5409 (Norquist, *et al.*) (noting that attendee lists provided to a campaign "may not have been publicly available").

³⁰³ First Gen. Counsel's Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (internal quotation marks omitted); Certification ¶ 2, MUR 5409 (Oct. 19, 2004). The Commission found reason to believe that the respondents in MUR 5409 violated the prohibition on corporate contributions but took no further action because the value of the materials at issue appeared to be limited. First Gen. Counsel's Rpt. at 10-12, MUR 5409 (Norquist, *et al.*); Certification ¶ 2, MUR 5409. MUR 5409, however, did not involve a foreign national contribution.

³⁰⁴ *Supra* Part II.C.1.

³⁰⁵ See, e.g., David E. Sanger and Eric Schmitt, *Spy Agency Consensus Grows That Russia Hacked D.N.C.*, N.Y. TIMES, July 26, 2016.

1 everything.”³⁰⁶ The segue from that description of Russia’s ability to launch a cyberattack into
2 the request that Russia locate the Clinton emails can be reasonably understood as asking Russia
3 to carry out another similar operation.

4 From March through the election, the Trump campaign devoted considerable time and
5 resources to locating Clinton’s emails, mentioned the emails in multiple internal meetings, sent
6 several senior officials to meet with Russian nationals on the promise of Russian government
7 providing dirt on Clinton on June 9, and made Clinton’s emails a focal point of Trump’s press
8 strategy.³⁰⁷ In other words, Trump made his statement with every available indication that the
9 Russian Federation would receive his message — including by underscoring his request with the
10 phrase “Russia, if you’re listening” — and had an objective, reasonable basis to believe that
11 Russia had the means and will to carry out this request for the benefit of his campaign.

12 Specifically, Trump requested that “Russia” provide, without charge, a thing of benefit
13 and value to his campaign — the public release of the “30,000 emails that are missing” — that
14 would relieve the campaign of the expense of obtaining the thing the campaign had previously

³⁰⁶ C-SPAN, *Donald Trump on Russian & Missing Hillary Clinton Emails*, YOUTUBE (July 27, 2016), <https://www.youtube.com/watch?v=3kxG8uJUsWU> (starting at 0:41) (cited by Special Counsel’s Report at 49). Trump also made public statements questioning whether Russian hackers were responsible for the intrusions. Senate Intelligence Committee Report Vol. 5 at 253-54. However, Trump’s purported uncertainty as to the Russian Federation’s responsibility for the DNC or Podesta hacks is irrelevant to the conclusion that Trump solicited the Russian Federation to find the 30,000 Clinton emails.

³⁰⁷ *See, e.g.*, Special Counsel’s Report at 61 (Stone pursued offer of Clinton emails in May of 2016); *id.* at 62 (following Trump’s “Russia, if you’re listening statement,” Trump “repeatedly” instructed campaign associates to locate the emails); *id.* at 54 (“According to Gates, by the late summer of 2016, the Trump Campaign was planning a press strategy, a communications campaign, and messaging based on the possible release of Clinton emails by WikiLeaks.”); *see also* First Gen. Counsel Rpt., MURs 7265 & 7266 (Donald J. Trump for President, *et al.*) (detailing record concerning Trump Committee efforts to obtain information in connection with the June 9, 2016, meeting at Trump Tower).

1 tried to procure,³⁰⁸ and that was not otherwise publicly available for the campaign's use.³⁰⁹ In
2 context, the statement therefore constitutes a solicitation of a contribution by Trump individually
3 and on behalf of the Trump Committee from a foreign national, in violation of the foreign
4 national prohibition.³¹⁰

5 Although a foreign national need not make a contribution in response to a solicitation to
6 establish a violation of the Act for making a prohibited solicitation,³¹¹ the Russian Federation
7 appears to have made a contribution to the Trump Committee by acting in response to Trump's
8 solicitation. Five hours after Trump's solicitation, the GRU launched a spearphishing operation
9 against individuals associated with Clinton's personal office and Clinton's campaign, and thus
10 persons whose information might be helpful in tracking down the emails which originated on
11 Clinton's personal server that Trump had solicited.³¹² The Russian Federation's payments for
12 this effort were for the purpose of influencing a federal election and thus an expenditure as
13 defined by the Act, for the reasons described above.³¹³ The Russian Federation's contributions

³⁰⁸ See AO 2007-22 at 6 (noting that the provision of materials from previous elections, including "flyers, advertisements, door hangers, tri-folds, signs, and other printed material," to a campaign results in a contribution because it "would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials").

³⁰⁹ See First Gen. Counsel's Rpt. at 9, MUR 5409 (Norquist, *et al.*) (noting that attendee lists provided to a campaign "may not have been publicly available").

³¹⁰ Cf. Factual & Legal Analysis at 8-11, MUR 7048 (Cruz for President) (finding reason to believe candidate committee made a prohibited soft money solicitation through its agent's statement).

³¹¹ See 52 U.S.C. § 30121(a)(2); Definitions of "Solicit" and "Direct," 71 Fed. Reg. 13926, 13929 (Mar. 20, 2006) ("Solicitation E&J") (explaining removal of language concerning *provision* of solicited contribution from definition of "solicit" at section 300.2(m) because such "focus[] on the delivery of the funds or thing of value after the solicitation has taken place, as opposed to how a solicitation is made" is "unnecessary"); see also Factual & Legal Analysis, MUR 7271 (DNC) (finding reason to believe under Section 30121(a)(2) for, *inter alia*, soliciting, an in-kind contributions from a foreign national).

³¹² Special Counsel's Report at 49; Senate Intelligence Committee Report Vol. 5 at 232; see also GRU Indictment ¶ 22.

³¹³ See *supra* Part III.C; Advisory Op. 2018-12 at 8 (foreign cyberattacks against political targets constitute violations of section 30121).

1 are analogous to those in MUR 7271, where the Commission found reason to believe, based on
2 the information available prior to initiating an investigation, that the DNC solicited and received
3 prohibited in-kind contributions from the Ukrainian Embassy through research, because the
4 Embassy had reportedly “utilized its resources and expended funds . . . at no charge.”³¹⁴

5 The Russian Federation’s expenditures were coordinated with the Trump Committee
6 because they appear to have been made at the request or suggestion of Trump, in response to
7 Trump’s statement at the press conference.³¹⁵ Moreover, because they were coordinated, the
8 Russian Federation’s expenditures for the post-statement hacking operation constitute prohibited
9 contributions to Trump and the Trump Committee.³¹⁶ Further, because the Russian Federation
10 made an expenditure by hacking his opponent at the request or suggestion of Trump, Trump and
11 the Trump Committee therefore accepted or received a prohibited in-kind contribution. Though
12 the value of the expenditures in furtherance of the Russian hacking operation is unclear, at a
13 minimum, the GRU expended funds for salary and computer infrastructure.

14 The Trump Committee’s Response in MUR 7207 claims that Trump’s statement was an
15 “offhand remark,” and thus not a request or solicitation.³¹⁷ The Trump Committee has provided

³¹⁴ Factual & Legal Analysis at 7, MUR 7271 (DNC) (internal quotations removed); *see also* First Gen. Counsel’s Rpt. at 10, MUR 5409 (Norquist), Certification, MUR 5409 (Oct. 19, 2004) (approving reason to believe finding that respondent’s utilization of resources to obtain and compile materials regarding conservative activists was an in-kind contribution to a presidential campaign but taking no further action based on the limited value of the contribution).

³¹⁵ *See* 11 C.F.R. § 109.20(b); Coordination E&J, 68 Fed. Reg. at 421, 431 (explaining that, in the analogous context of a coordinated communication, a “determination of whether a request or suggestion has occurred requires a fact-based inquiry”); *see also* Solicitation E&J, 71 Fed. Reg. at 13928 (explaining that “suggest” encompasses more communications than “solicit”).

³¹⁶ *See* 11 C.F.R. § 109.20(b); *see also* 52 U.S.C. § 30102(e)(2); 11 C.F.R. § 101.2; Factual & Legal Analysis at 6 (July 22, 2015), MUR 6566 (Lisa Wilson-Foley for Congress) (“[A]ny candidate who receives a contribution does so as an agent of the candidate’s authorized committee”).

³¹⁷ Trump Committee Resp. at 5, MUR 7207.

1 no authority to explain why a request or suggestion cannot take the form of a brief phrase or
2 seeming aside.³¹⁸ Indeed, the Commission's regulatory examples of statements that would
3 constitute solicitations include short phrases and comments, such as "I will not forget those who
4 contribute at this crucial stage."³¹⁹

5 In the context of a solicitation, the Commission has explained that the analysis is
6 premised on whether the recipient should reasonably have understood that a solicitation was
7 made.³²⁰ The Commission has explained that, in the solicitation context, "words that would by
8 their plain meaning normally be understood as a solicitation, may not be a solicitation when
9 considered in context, such as when the words are used as part of a joke or parody."³²¹ The
10 Trump Committee provides no explanation of how Trump's tone, demeanor, or the content of his
11 statement should have indicated to his audience that he was not serious or did not intend to be
12 taken literally. Indeed, as noted above, Trump made the request at the very moment that news
13 outlets were widely reporting that Russia had both the capability and motivation to launch a
14 cyberattack against his opponent.

³¹⁸ Moreover, the record belies the Trump Committee's assertion that Trump's statement was an offhand remark and, instead, indicates that Trump and senior campaign officials prepared a press strategy, communications campaign, and messaging concerning the purportedly missing Clinton emails. *See* Special Counsel's Report at 54; Senate Intelligence Committee Report Vol. 5 at 230.

³¹⁹ 11 C.F.R. § 300.2(m)(2)(xi).

³²⁰ Solicitation E&J, 71 Fed. Reg. at 13929.

³²¹ *Id.* In MUR 6939 (Huckabee, *et al.*), the Commission found that an objective listener would not reasonably have understood that presidential candidate Mike Huckabee solicited million-dollar contributions for his authorized committee when he said: "I will be funded and fueled not by the billionaires, but by working people across America who will find out that \$15 and \$25 a month contributions can take us from Hope to higher ground. Now, rest assured, if you want to give a million dollars, please do it." F&LA at 2, MUR 6939 (Huckabee). Because Huckabee altered his facial expression and his tone, the audience laughed; this context indicated that a reasonable listener would have understood that the statement was in fact a joke and the Commission found that Huckabee's remarks were "not serious or intended to be taken literally." *Id.* at 6.

1 convictions for a violation of the Act, the Commission has successfully conciliated with
2 respondents on a non-knowing and willful basis to ensure that the interests of the Act were
3 served.³²⁶ Moreover, for the Commission to find reason to believe in these administrative
4 proceedings at this stage, the information before the Commission need only raise a reasonable
5 inference, *i.e.*, credibly allege, that a violation occurred.³²⁷

6 In addition, the Special Counsel's Office explained, in the context of its declination to
7 prosecute participants in the June 9 Trump Tower meeting, that it would need to prove that a
8 contribution solicited or accepted by the Trump Committee had a value of at least \$25,000 to
9 establish a felony criminal charge.³²⁸ However, there is no such monetary threshold that applies
10 to the Commission's civil enforcement of the Act. Indeed, with respect to the foreign national
11 prohibition in particular, the Commission has previously explained that a justiciable violation
12 occurs even when the value is "nominal" or "difficult to ascertain."³²⁹ Moreover, the Act
13 provides for statutory penalties, which are well suited for solicitation matters.³³⁰ Consequently,
14 the Special Counsel's decision to not file suit against Respondents is not a bar to civil
15 enforcement of the Act.

³²⁶ See Conciliation Agreement, MUR 7221 (James Laurita) (respondent admitted to non-knowing and willful violations of 52 U.S.C. §§ 30116 and 30122 after his criminal trial ended in a hung jury); Conciliation Agreement, MUR 5818 (Feiger, Feiger, Kenney, Johnson, & Giroux, P.C.) (corporate respondent entered into conciliation agreement on non-knowing and willful basis for violations of sections 30118 and 30122 after criminal trial of individual defendants resulted in acquittal).

³²⁷ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12545 (Mar. 16, 2007) (explaining also that "reason to believe" findings "indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred").

³²⁸ Special Counsel's Report at 188.

³²⁹ AO 2007-22 at 6.

³³⁰ Cf. MUR 7048 (Cruz) (conciliating statutory penalty for soft money solicitation violation).

1 Accordingly, because the available information indicates that Trump solicited a
2 contribution — *i.e.*, something of value for less than the “usual and normal” charge, for the
3 purpose of influencing an election — from a foreign national, and the Russian Federation made a
4 contribution — *i.e.*, an expenditure made at Trump’s request or suggestion — we recommend
5 that the Commission find reason to believe that the Russian Federation made, and Trump and the
6 Trump Committee knowingly solicited, accepted or received a prohibited foreign national in-
7 kind contribution, in violation of 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b), (g).³³¹

8 **E. The Commission Should Find Reason to Believe That the Trump Committee**
9 **Solicited a Foreign National In-Kind Contribution from WikiLeaks Through**
10 **Roger Stone**

11 The Amended Complaint in MUR 7207 alleges that the Trump Committee coordinated
12 the hack-and-release operation with the Russian Federation, as evidenced by Stone apparently
13 having advance knowledge of the “content and timing” of WikiLeaks’s releases.³³² However,
14 the available information does not support a conclusion that the Trump Committee or its agents
15 coordinated with the Russian Federation with respect to expenditures for the hack-and-release
16 operation or social media campaign, other than through Trump’s “Russia, if you’re listening”
17 statement, as discussed above.³³³ Further, the record includes no direct evidence that Stone

³³¹ For the reasons discussed above, we also recommend that the Commission take no further action as to the Russian Federation with respect to this violation, beyond the recommended reason to believe finding.

³³² First Am. Compl. ¶ 32, MUR 7207.

³³³ *See supra* note 11 and accompanying text; *see also infra* Part III.G.2 (recommending the Commission find reason to believe the Trump Committee, through Paul Manafort, solicited contributions by transferring polling data to foreign nationals, but pointing to a lack of evidence of coordination in the form of in-kind contributions made in response to the solicitations).

1 actually communicated, directly or indirectly, including through WikiLeaks as an intermediary,
2 with the Russian Federation to obtain inside knowledge of forthcoming releases.³³⁴

3 Moreover, there is a mixed record as to whether Stone obtained any non-public
4 information from WikiLeaks, either directly or through an intermediary, about upcoming
5 releases. The Senate Intelligence Committee, in its review of the documentary evidence,
6 explained that it “could not reliably trace the provision of non-public information from
7 WikiLeaks to Stone.”³³⁵ There is no available information regarding Stone’s source, if any,
8 ahead of the DNC release, and there is doubt as to whether Stone’s two purported WikiLeaks
9 contacts ahead of the Podesta release, Corsi and Credico, had any reliable way of contacting
10 WikiLeaks. Neither the Special Counsel nor the Senate Intelligence Committee obtained a full
11 record of Stone’s communications, which Stone sought to conceal.³³⁶ However, Stone told
12 Trump and senior Trump Committee officials that WikiLeaks would release emails damaging to
13 Clinton; Stone said this before Assange announced on June 12, 2016, that WikiLeaks had
14 information about Clinton that it would publish, and before WikiLeaks released a collection of
15 documents hacked from the DNC on July 22, 2016.

16 Nevertheless, the available information shows that Stone, acting as an agent of the Trump
17 Committee, solicited hacked documents about Clinton from WikiLeaks, an apparent foreign
18 national organization.³³⁷ Specifically, Stone attempted to contact Assange in his capacity as

³³⁴ See *supra* Part II.C.2.a. Nonetheless, neither the Special Counsel nor the Senate Intelligence Committee obtained a full record of Stone’s communications during the 2016 election because Stone took steps to conceal his communications by using alternative and encrypted channels and because Stone made false statements to investigators. Senate Intelligence Committee Report. Vol. 5 at 237 n.1554, 251.

³³⁵ Senate Intelligence Committee Report Vol. 5 at 222.

³³⁶ *Id.* at 237 n.1554, 251.

³³⁷ Though the official nature of the WikiLeaks organization is unclear, the entity’s overall foreign status is apparent, especially during the 2016 election, when its *de facto* headquarters was in London, England within the

1 founder and publisher of WikiLeaks, through Corsi and Credico; Stone did so not simply to
2 inquire about upcoming releases, but also to request certain hacked documents relating to Clinton
3 that Stone presumed were in the possession of WikiLeaks. Stone made a prohibited solicitation
4 of a contribution from a foreign national when he emailed Corsi: “Get to Assange. . . . and get
5 the pending wikileaks emails . . . they deal with [the Clinton] Foundation, allegedly.”³³⁸ Stone
6 further made a prohibited solicitation when he sent an email to Credico stating, “Please ask
7 Assange for any State or HRC e-mail from August 10 to August 30”³³⁹ Stone followed up
8 with Credico on at least six occasions to confirm that he had sent the request to Assange.³⁴⁰

9 The messages Stone sent to Credico and Corsi to send to WikiLeaks via Assange appear
10 “to ask, request, or recommend, explicitly or implicitly, that another person make a contribution,
11 donation, transfer of funds, or otherwise provide anything of value.”³⁴¹ The email to Credico
12 specifically references an “ask” of Assange.³⁴² Moreover, while Stone did not ask for a
13 monetary donation, his request was for a thing of value.³⁴³ Stone solicited specific emails to

Ecuadorian Embassy. Moreover, it is well-known that the founder and leader of WikiLeaks, Julian Assange, is an Australian foreign national. Accordingly, there is a reasonable basis to infer that Stone’s solicitation of a foreign national was made knowingly. *See* 11 C.F.R. § 110.20(a)(4) (defining “knowingly” to mean, *inter alia*, that a person must: “Be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national”).

³³⁸ Stone Trial Tr., Ex. 35; Senate Intelligence Committee Report Vol. 5 at 235; *supra* note 132 and accompanying text.

³³⁹ Stone Trial Tr., Ex. 50; Senate Intelligence Committee Report Vol. 5 at 243; *supra* note 145 and accompanying text.

³⁴⁰ Stone Trial Tr., Exs. 54-55; Senate Intelligence Committee Report Vol. 5 at 244; *supra* note 146 and accompanying text.

³⁴¹ 11 C.F.R. § 110.20(a)(6) (defining “solicit,” for purposes of the foreign national prohibition, to have the same meaning as in the soft money prohibition codified at 11 C.F.R. § 300.2(m)).

³⁴² “[T]o solicit means to ask.” 11 C.F.R. § 300.2(m).

³⁴³ *See supra* Part III.D; Factual & Legal Analysis at 7, MUR 7271 (DNC) (citing Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (explaining that a committee’s receipt of investigative or opposition research services without paying the usual or normal charge may result in an in-kind contribution)).

1 corroborate opposition research concerning decisions Clinton allegedly made regarding Libya
2 during her tenure as Secretary of State and allegations that the Clinton Foundation conducted
3 unlawful activity.³⁴⁴

4 Stone's requests for specific emails through Credico and Corsi represent solicitations of
5 material provided at no cost that would relieve the Trump Committee of the expense of obtaining
6 such valuable information themselves,³⁴⁵ and that were not otherwise publicly available for the
7 campaign's use.³⁴⁶ Moreover, because WikiLeaks had released its first tranche of documents to
8 great fanfare and media coverage just weeks before Stone's first solicitation, Stone made his
9 solicitation with knowledge of how the solicited emails may confer a benefit on the Trump
10 campaign.³⁴⁷ Stone's solicitations were, therefore, of things of value and constitute solicitations
11 of contributions from a foreign national.

12 That Stone made his requests through intermediaries does not change the analysis.
13 Commission regulations specify that a "solicitation may be made directly or indirectly" and thus
14 capture solicitations Stone made through persons acting on his behalf.³⁴⁸ The record shows that
15 Stone tasked Corsi and Credico with passing his requests "to Assange."³⁴⁹ Moreover, the

³⁴⁴ Stone Trial Tr., Ex. 50; Senate Intelligence Committee Report Vol. 5 at 243.

³⁴⁵ See AO 2007-22 at 6 (noting that the provision of election materials to a campaign results in a contribution because it "would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials").

³⁴⁶ See First Gen. Counsel's Rpt. at 9, MUR 5409 (Norquist, *et al.*) (noting that attendee lists provided to a campaign "may not have been publicly available").

³⁴⁷ See *id.* at 10 (recommending that contact lists provided to a campaign without charge were "of value" because they "may at least point [the campaign] in the direction of persons who might help [its] election efforts").

³⁴⁸ 11 C.F.R. § 300.2(m) (incorporated in foreign national prohibition at 11 C.F.R. § 110.20(a)(6)).

³⁴⁹ Stone Trial Tr., Ex. 35 (email from Stone to Corsi); see Stone Trial Tr., Ex. 48 (text from Stone to Credico regarding "a request to pass on to [A]ssange"); Senate Intelligence Committee Report Vol. 5 at 235, 243. Corsi told investigators that he was a self-described "operative" for Stone, seeking to assist the Trump campaign in a personal capacity. Special Counsel's Report at 54 (quoting Corsi 10/31/18 FBI 302).

1 intermediaries took steps to follow through on Stone's requests. Corsi forwarded Stone's
2 solicitation to Malloch who lived in London and whom Corsi believed had access to Assange.³⁵⁰
3 Credico forwarded Stone's solicitation to Margaret Kunstler, Credico's friend and an attorney for
4 a WikiLeaks employee who helped set up an interview with Assange on Credico's radio show.³⁵¹
5 Though Kunstler apparently had the ability to contact Assange, she testified at Stone's criminal
6 trial that that she did not pass Stone's request to Assange or anyone else at WikiLeaks.³⁵²

7 Although WikiLeaks may not have received Stone's solicitations, this does not foreclose
8 a finding that Stone made a prohibited foreign national solicitation. Although no Commission
9 precedent squarely addresses this issue, the language and structure of the Act's foreign national
10 solicitation prohibition creates three elements the Commission must identify in order to find a
11 violation of the statute: (1) that there was a solicitation; (2) of a contribution or donation;
12 (3) from a foreign national.³⁵³ While the final element here appears to require the receipt of the
13 solicitation by an actual foreign national, courts' treatment of an analogous element in the federal
14 bribery statute — an anti-corruption statute like the Act³⁵⁴ — indicates that an actual foreign
15 national's receipt of a solicitation may not be required.³⁵⁵ Applying the Act's foreign national

³⁵⁰ Special Counsel's Report at 55. Malloch acknowledged that Corsi asked him to get in touch with Assange but denied attempting to contact Assange because he did not have a connection to Assange. *Id.* at 55 n.218.

³⁵¹ Stone Trial Tr., Ex. 55 (email from Credico to Kunstler); *see also* Senate Intelligence Committee Report Vol. 5 at 244 (citing Twitter direct message from Assange to Trump Jr, identifying Kunstler as his point-of-contact for submissions).

³⁵² Stone Trial Tr. at 837:10-23; Senate Intelligence Committee Report Vol. 5 at 244.

³⁵³ 52 U.S.C. § 30121(a)(2).

³⁵⁴ *See* 148 Cong. Rec. S2139 (daily ed. Mar. 20, 2002) (statement of Sen. McCain) (remarking on parallels between campaign finance law and the bribery statute, stating that BCRA's solicitation prohibitions are "no different from the Federal laws and ethics rules that prohibit Federal officeholders from using their offices or positions of power to solicit money or other benefits.").

³⁵⁵ The federal bribery statute prohibits the offer of "anything of value" to a "public official" with intent to "influence any official act," and it similarly prohibits a "public official" from seeking or accepting "anything of value" in connection with "the performance of any official act." 18 U.S.C. § 201(b)(1)-(2). Courts have upheld

1 solicitation prohibition to asks made of, but not actually received by, foreign nationals would not
2 only parallel a comparable criminal political corruption statute, but also accord with Congress's
3 interest in "preventing foreign influence over the U.S. political process."³⁵⁶

4 Finally, the record indicates that Stone acted as an agent of the Trump Committee when
5 he solicited contributions from a foreign national and his solicitation is, therefore, imputed to the
6 committee. The Commission has not specifically defined "agent" in the context of the foreign
7 national solicitation prohibition, but, in the soft money context, which uses the same definition of
8 "solicit" as the foreign national prohibition regulation, Commission regulations define "agent" as
9 "any person who has actual authority, either express or implied, . . . [t]o solicit, receive, direct,
10 transfer, or spend funds in connection with any election."³⁵⁷ Actual authority is created by
11 manifestations of consent, express or implied, by the principal to the agent about the agent's
12 authority to act on the principal's behalf.³⁵⁸ In its revised Explanation and Justification for the
13 definition of "agent" at section 300.2(b), the Commission stated that "the candidate/principal
14 may also be liable for any impermissible solicitations by the agent, despite specific instructions

convictions under the bribery statute even when there was no "public official," an element that is analogous to the "foreign national" element in section 30121, stating that bribery occurs when a person offers or asks for money with the requisite intent to influence an official act, regardless of whether there is no actual public official to be bribed. *See Lopez v. United States*, 373 U.S. 427, 428-32 (1963); *United States v. Wright*, 665 F.3d 560, 568 (10th Cir. 2012); *United States v. Arbelaez*, No. 94-20349, 1995 WL 103637, at *1-2 (5th Cir. Mar. 2, 1995); *United States v. Opdahl*, 930 F.2d 1530, 1535 (11th Cir. 1991); *United States v. Pilarinos*, 864 F.2d 253, 253-55 (2d Cir. 1988); *United States v. Gallo*, 863 F.2d 185, 189 (2d Cir. 1988); *United States v. Jacobs*, 431 F.2d 754, 757-60 (2d Cir. 1970).

³⁵⁶ *Bluman*, 800 F. Supp. 2d at 287;

³⁵⁷ 11 C.F.R. § 300.2(b)(3); Restatement (Third) of Agency 3d §§ 2.01-2.02 (2006). The definition set forth in the soft money rules may have some salience here because the Commission cross-references the definition of "solicit" at section 300.2(m) of the soft money rules in defining that term for purposes of the foreign national prohibition. *See* 11 C.F.R. § 110.20(a)(6).

³⁵⁸ Agency E&J, 71 Fed. Reg. at 4975-76; AO 2007-05 (Iverson) at 3.

1 not to do so.”³⁵⁹ The Commission has explained that the definition of agent must cover
2 “implied” authority because “[o]therwise, agents with actual authority would be able to engage
3 in activities that would not be imputed to their principals so long as the principal was careful
4 enough to confer authority through conduct or a mix of conduct and spoken words.”³⁶⁰ The
5 Commission has extended agency principles to individuals beyond official campaign members
6 and includes “volunteers” in its definition of an agent.³⁶¹

7 Trump and the most senior officers of the Trump Committee appear to have granted
8 Stone actual authority to solicit WikiLeaks by instructing Stone to contact WikiLeaks regarding
9 future releases of hacked documents.³⁶² Witnesses reported overhearing conversations between
10 Stone and Trump discussing WikiLeaks information.³⁶³ Following the release of the DNC
11 emails on July 22, 2016, Manafort told investigators that Trump instructed him to remain in
12 touch with Stone,³⁶⁴ and Gates stated that Manafort asked him to “follow up with Mr. Stone on

³⁵⁹ Agency E&J, 71 Fed. Reg. at 4978 (citing *United States v. Investment Enterprises, Inc.*, 10 F.3d 263, 266 (5th Cir. 1993) (determining that it is a settled matter of agency law that liability exists “for unlawful acts of [] agents, provided that the conduct is within the scope of the agent’s authority); Factual & Legal Analysis at 5, MUR 7048 (Cruz for President) (same); Restatement (Second) of Agency § 216 (“A master or other principal may be liable to another whose interests have been invaded by the tortious conduct of a servant or other agent, although the principal does not personally violate a duty to such other or authorize a conduct of the agent causing the invasion.”); *id.* § 219(1) (“A master is subject to liability for the torts of his servant committed while acting in the scope of their employment.”)). Liability will attach, however, where the agent is acting on behalf of the principal, and not due solely to the agency relationship. *Id.*

³⁶⁰ Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49082 (July 29, 2002).

³⁶¹ Agency E&J at 4977; *see also* Factual & Legal Analysis at 5-6, MUR 7048 (Cruz for President) (concluding volunteer fundraiser was an agent of candidate’s campaign committee, which became liable for volunteer’s improper solicitation).

³⁶² Special Counsel’s Report at 53 (citing redacted interview between investigators for the Special Counsel’s Office and Manafort) (Trump instructed Manafort to tell Stone to follow up with WikiLeaks).

³⁶³ *E.g.*, Special Counsel’s Report at 53 (citing interview with Cohen); Senate Intelligence Committee Report Vol. 5 at 229-30 (indicating that Cohen recalled that the conversation took place on July 18 or 19, 2016).

³⁶⁴ Special Counsel’s Report at 53. The Senate Intelligence Committee assessed that “Manafort and Gates tasked Stone with communicating with WikiLeaks” and that “[a]fter receiving Trump’s directive via Manafort,” Stone “channeled his efforts to reach Assange.” Senate Intelligence Committee Report Vol. 5 at 233; *see also id.* at

1 occasion to find out when the additional information might be coming out.”³⁶⁵ Bannon, who
2 served as Campaign Manager after Manafort, stated that Stone was the campaign’s “access
3 point” to WikiLeaks.³⁶⁶ Because Stone was an agent for the Trump Committee by virtue of the
4 actual authority granted to him, the Trump Committee is liable for Stone’s impermissible
5 solicitations of WikiLeaks via Assange.³⁶⁷ Though the available information does not establish
6 that Trump Committee officials explicitly directed Stone to make the solicitations at issue,
7 Stone’s conduct was a reasonable outgrowth of the Trump Committee’s general directives to
8 Stone to obtain information about upcoming WikiLeaks releases.³⁶⁸

9 In its explanation of its declination decision with respect to potential criminal campaign-
10 finance charges stemming from Stone’s outreach to WikiLeaks, the Special Counsel’s Report
11 focused on WikiLeaks’s *release* of stolen materials as expenditures or, if the release were
12 coordinated with the Trump Committee, as contributions, rather than Stone’s *solicitation of*
13 contributions from WikiLeaks.³⁶⁹ Because of this difference in focus, as well as the material

222 (“Trump directed Campaign officials to stay in touch with Roger Stone about future WikiLeaks activities regarding Clinton-related emails. Manafort in turn tasked Stone to contact Julian Assange, and Stone endeavored to reach Assange through several intermediaries. Stone reported back to senior Campaign officials and associates, and to Trump directly.”).

³⁶⁵ Stone Trial Tr. at 938 (testimony of Gates).

³⁶⁶ *Id.* at 860:22-861:1, 862:19-21, 869:14-19; 872:13-21 (testimony of Bannon).

³⁶⁷ *See, e.g.*, Factual & Legal Analysis, MUR 7048 (Cruz for President) (finding Cruz for President liable for agent’s impermissible solicitation).

³⁶⁸ *See* Restatement (Third) of Agency § 2.02 (Scope of Actual Authority) (“An agent has actual authority to take action designated or implied in the principal’s manifestations to the agent and acts necessary or incidental to achieving the principal’s objectives, as the agent reasonably understands the principal’s manifestations and objectives when the agent determines how to act.”); *see also United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961, 970 (D.C. Cir. 1998) (holding an employer liable for actions of an employee, relating to a campaign contribution reimburse scheme, motivated by a desire to benefit the employer).

³⁶⁹ *See* Special Counsel’s Report at 188-91. As discussed above, there is not a reasonable basis to conclude that WikiLeaks made a foreign national in-kind contribution to the Trump Committee by coordinating with Stone as to the email releases; we therefore make no recommendation as to the Trump Committee’s possible coordination with respect to WikiLeaks’s release of emails.

1 differences between criminal prosecutions and civil administrative enforcement discussed above
2 — including the burden of proof, *mens rea*, and valuation thresholds — the Special Counsel's
3 decision to not charge Stone or WikiLeaks is not a bar to civil enforcement of the Act against the
4 Trump Committee for soliciting foreign national contributions as alleged.³⁷⁰

5 Accordingly, we recommend that the Commission find reason to believe that the Trump
6 Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by soliciting an in-kind
7 foreign national contribution from WikiLeaks in the form of hacked documents pertaining to
8 Trump's opponent.

9 **F. The Commission Should Find Reason to Believe That the Russian Federation**
10 **Made, and an Unknown Congressional Candidate Solicited, Accepted or**
11 **Received, a Foreign National Contribution**

12 According to the Special Counsel's investigation, an unknown candidate for U.S.
13 Congress sought and received information that would benefit his or her candidacy from the
14 GRU. On August 15, 2016, "Guccifer 2.0," the online persona controlled by the GRU as part of
15 its larger hack-and-release operation targeting the 2016 election, "received a request for stolen
16 documents from a candidate for U.S. Congress . . . and sent the candidate stolen documents
17 related to the candidate's opponent."³⁷¹

18 The stolen documents Guccifer 2.0 provided to the candidate, at the candidate's request,
19 appear to have been things of value under the Act and Commission regulations, and thus qualify

³⁷⁰ See *supra* notes 324-330 and accompanying text. Additionally, neither Stone nor WikiLeaks is a respondent in these matters. Despite Stone's role in the solicitation of WikiLeaks, and WikiLeaks's role in the dissemination of hacked materials, we do not recommend notifying Stone or WikiLeaks given the impending expiration of the statute of limitations and WikiLeaks's likely claim to the press exemption. See, e.g., *DNC v. Russian Fed'n*, 392 F. Supp. 3d at 430-36 (assessing WikiLeaks's claimed press defense).

³⁷¹ GRU Indictment ¶ 43(a); see Special Counsel's Report at 43.

1 as an in-kind contribution because they were provided without charge.³⁷² The Special Counsel's
2 Report specifically describes the documents as "relating to the candidate's opponent" and, thus,
3 akin to opposition research.³⁷³ In prior matters, the Commission has determined that "opposition
4 research" conducted using foreign government resources may be a thing of value, and therefore
5 its provision without charge may be subject to the Act.³⁷⁴ In MUR 7271, a foreign embassy
6 reportedly "utilized its resources and expended funds for opposition research that was provided
7 to a political committee at no charge," alleged conduct that the Commission determined "falls
8 squarely within the prohibitions of section 30121 of the Act."³⁷⁵ Similarly, with respect to the
9 allegations raised in MUR 7207, the unknown candidate's solicitation of the GRU for stolen
10 documents that were obtained through the utilization of Russian Federation resources and
11 expenditure of its funds constitutes a prohibited solicitation of a foreign national contribution.
12 The GRU's hack-and-release operation involved the services of a dozen hackers, costing
13 thousands of dollars in wages and computer infrastructure.³⁷⁶

14 Commission regulations require that a person must "knowingly" solicit a foreign
15 national, and define knowingly to mean, *inter alia*, that a person must "[b]e aware of facts that

³⁷² See 52 U.S.C. § 30101(8)(A)(i) (defining contribution as including "anything of value"); *id.* § 30121(a)(2) (prohibiting foreign national from making a contribution or donation of money or "other thing of value"); 11 C.F.R. § 100.52(d)(1) (providing that "anything of value includes all in-kind contributions" such as "the provision of any goods or services").

³⁷³ See Special Counsel's Report at 43. Similarly, Guccifer 2.0 sent a state lobbyist and blogger "gigabytes of Florida-related data stolen from the DCCC," but it is unclear whether the information was election-related. *Id.*

³⁷⁴ F&LA at 10, MUR 7271 (DNC) (concluding that a national party committee's alleged solicitation and receipt of opposition research services compiled using foreign embassy staff resources may result in an in-kind contribution) (open matter); *see also* F&LA at 13-20, MUR 6414 (Carnahan) (explaining that a candidate committee's receipt of investigative/opposition research to gather negative information on the candidate's general election opponent without charge may result in an in-kind contribution).

³⁷⁵ F&LA at 7-8, MUR 7271 (DNC) (internal quotations omitted).

³⁷⁶ Special Counsel's Report at 36 n.109, 39, 41; GRU Indictment ¶ 39.

1 would lead a reasonable person to conclude that there is a substantial probability” that the person
2 being solicited is a foreign national.³⁷⁷ The request by the unknown candidate was made to
3 Guccifer 2.0, a fictitious online persona, and not directly to the GRU. However, the facts
4 nonetheless indicate that the candidate knowingly made the request to a foreign national. By
5 August 2016, when the request was made, there had been public reports attributing election
6 hacking to Russian state-sponsored actors and Guccifer 2.0 had publicly claimed to be
7 Romanian.³⁷⁸ These circumstances, which likely would have been known by anyone who
8 actually attempted to contact Guccifer 2.0 for assistance, would lead a reasonable person to
9 conclude that there is a substantial probability that the source of the contribution solicited,
10 accepted, or received was a foreign national.³⁷⁹ Therefore, the GRU’s provision of the stolen
11 documents, in response to the unknown candidate’s request, resulted in the making, acceptance,
12 and receipt of a foreign national contribution.

13 The identity of the candidate who solicited, accepted, and received a foreign national
14 contribution from the GRU is not publicly known or otherwise available from the information in
15 the Commission’s possession at this time.

16

17

³⁷⁷ 11 C.F.R. § 110.20(a)(4)(ii).

³⁷⁸ Special Counsel’s Report at 42, 45; Ellen Nakashima, *Russian Government Hackers Penetrated DNC, Stole Opposition Research on Trump*, WASH. POST, June 14, 2016; Dmitri Alperovitch, *CrowdStrike Blog, Bears in the Midst: Intrusion into the Democratic National Committee* (June 15, 2016); Lorenzo Franceschi-Bicchierai, *Here’s the Full Transcript of Our Interview With DNC Hacker Guccifer 2.0*, VICE, June 21, 2016.

³⁷⁹ 11 C.F.R. § 110.20(a)(4)(ii).

1 The Commission has previously authorized investigations in similar circumstances
2 where there is credible information suggesting an unknown respondent has violated the Act.³⁸⁰

3 Therefore, we recommend that the Commission find reason to believe that the Russian
4 Federation made, and the Unknown Congressional Candidate knowingly solicited, accepted or
5 received, a prohibited in-kind foreign national contribution in violation of 52 U.S.C. § 30121(a)
6 and 11 C.F.R. § 110.20(b), (g).³⁸¹

7 **G. The Commission Should Find Reason to Believe That Manafort and the**
8 **Trump Committee Violated the Act by Transferring Internal Campaign**
9 **Polling Data to Foreign Nationals**

10 The Complaint in MUR 7623 alleges that Paul Manafort's sharing of the Trump
11 Committee's polling data with foreign nationals is evidence that the Trump Committee and the
12 Russian Federation engaged in impermissible coordination.³⁸² According to the Special
13 Counsel's Report, on a periodic basis during the 2016 election, Manafort, Chief Strategist and
14 Campaign Chairman of the Trump Committee, directed the transfer of internal campaign polling
15 data to Russian and Ukrainian oligarchs.³⁸³ Further, Manafort tasked Konstantin Kilimnik, a
16 foreign national, who the Senate Intelligence Committee labeled as a "Russian intelligence
17 officer" with possible connections to the GRU's hack-and-release operation, with acting as an
18 intermediary to transfer the data, and Manafort also had discussions with Kilimnik about the
19 polling data and his "plan to win the election."³⁸⁴

³⁸⁰ *See, e.g.*, Certification at 1, MUR 6920 (American Conservative Union) (Jan. 26, 2017); Certification at 1, MUR 7194 (Unknown Respondent) (Feb. 12, 2018).

³⁸¹ For the reasons discussed above, we also recommend that the Commission take no further action as to the Russian Federation with respect to this violation, beyond the recommended reason to believe finding.

³⁸² Compl. at 13, MUR 7623.

³⁸³ Special Counsel's Report at 129-31, 135-36, 140.

³⁸⁴ *Id.* at 129-30, 140; *accord* Senate Intelligence Committee Report Vol. 5 at 28-29.

1 Although the Special Counsel did not ascertain whether Manafort shared the polling data
2 for personal or campaign-related purposes, in either case, the transfers would have violated the
3 Act.³⁸⁵ If his purpose was personal, *i.e.*, to convince Deripaska to drop the Pericles lawsuit or to
4 convince the Opposition Bloc to pay the \$2 million Manafort believed that he was owed, then
5 Manafort would have committed a personal use violation. If his purpose was campaign-related,
6 *i.e.*, to induce the recipients to take some action to benefit the Trump Committee, then Manafort
7 would have violated the Act by soliciting a foreign national contribution. Accordingly, as
8 explained below, we make recommendations under both theories, and note that it is possible that
9 Manafort could have simultaneously violated both the personal use and foreign national
10 prohibitions because he transferred the data to multiple recipients and could have had separate
11 reasons.³⁸⁶

12 1. Personal Use

13 Under the Act, a contribution accepted by a candidate may be used for, *inter alia*,
14 “otherwise authorized expenditures in connection with the campaign for Federal office of the

³⁸⁵ The Special Counsel's Report did not specifically analyze whether Manafort's sharing of polling data was a violation of the Act, but generally recognized that establishing a criminal violation requires evidence as to “issues of intent.” Special Counsel's Report at 185. By contrast, in the civil context, the respondent's intention or knowledge of wrongdoing is not an element of a violation of the Act. Though we do not know why the Special Counsel's Office might not have analyzed this issue for a potential violation of the Act, to the extent that prosecutors might have recognized potential violations here, the limited evidence regarding Manafort's intentions, *i.e.*, personal use or campaign-related, would have likely presented an impediment to criminal enforcement.

We also note President Trump granted a full and unconditional pardon to Manafort on December 23, 2020, but that it was directed towards his convictions in the United States District Court for the Eastern District of Virginia and in the United States District Court for the District of Columbia relating to crimes arising out of his political consulting work in Ukraine, unrelated to the 2016 election. See Paul J. Manafort, Jr., *Executive Grant of Clemency* (Dec. 23, 2020), <https://www.justice.gov/file/1349071/download>.

³⁸⁶ Cf. First Gen. Counsel's Rpt. at 4, 16, MUR 7272 (Party of Regions, *et al.*) (recommending dismissal with respect to alleged foreign national contributions, despite suspicious circumstances, given “alternative explanations” unrelated to a possible scheme). Here, the information indicates that Manafort acted with either a personal or campaign-related purpose, in both instances resulting in a violation. The voluminous record includes no obvious “alternative explanations” to explain Manafort's actions which do not result in a violation.

1 candidate,” “for ordinary and necessary expenses incurred in connection with duties of the
2 individual as a holder of Federal office,” as well as for “any other lawful purpose” not otherwise
3 prohibited under the Act.³⁸⁷ However, the Act prohibits the conversion of campaign funds by
4 any person to “personal use.”³⁸⁸ “Personal use” is the use of funds in a campaign account “to
5 fulfill a commitment, obligation or expense of any person that would exist irrespective of the
6 candidate’s campaign or duties as a Federal officeholder.”³⁸⁹ The Act and Commission
7 regulations list certain uses of campaign funds that constitute *per se* conversion to personal
8 use.³⁹⁰ For other payments, the “Commission will determine, on a case-by-case basis, whether
9 other uses” of campaign funds constitute personal use by applying the “irrespective test,” that is,
10 whether the payment fulfills a commitment, obligation, or expense that would exist irrespective
11 of the candidate’s campaign or duties as a federal officeholder.³⁹¹

12 The personal use prohibition applies to the use of campaign funds as well as to the
13 transfer of a “campaign committee asset.”³⁹² The “transfer of a campaign committee asset is not
14 personal use so long as the transfer is for fair market value.”³⁹³ This provision “seeks to limit

³⁸⁷ 52 U.S.C. § 30114(a).

³⁸⁸ *Id.* § 30114(b).

³⁸⁹ 11 C.F.R. § 113.1(g); *see also* 52 U.S.C. § 30114(b)(2).

³⁹⁰ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i).

³⁹¹ 11 C.F.R. § 113.1(g)(1)(ii).

³⁹² *Id.* § 113.1(g)(3).

³⁹³ *Id.* (“Any depreciation that takes place before the transfer must be allocated between the committee and the purchaser based on the useful life of the asset.”). Analogously, Commission regulations provide that the transfer of polling data to a political committee without charge is a *per se* in-kind contribution. 11 C.F.R. § 106.4(b); *see also* Advisory Op. 1990-12 (Strub) at 2; Advisory Op. 2006-04 (Tancredo for Congress Comm.) at 5-6; Advisory Op. 1998-18 (Wash. State Democratic Comm.) at 4; Factual & Legal Analysis at 4-6, MUR 5480 (Levetan for Congress).

1 indirect conversions of campaign funds to personal use.”³⁹⁴ The Commission has concluded that
2 non-tangible property, such as campaign mailing lists, social media accounts, and websites, are
3 campaign committee assets subject to the regulation.³⁹⁵

4 Here, if Manafort transferred the polling data without charge for any non-campaign
5 purpose, the transfer would violate 11 C.F.R. § 113.1(g)(3). The factual record provides an
6 explanation for why Manafort may have transferred the polling data without charge, unrelated to
7 the Trump campaign. It appears that Manafort may have transferred the polling data to resolve
8 business disputes with the Russian and Ukrainian oligarchs that long pre-dated his position with
9 the Trump Committee. In Deripaska’s case, Manafort apparently sought to induce the Russian
10 oligarch to drop the lawsuit against him and, in the case of the Ukrainian oligarchs, who were
11 leaders of the Opposition Bloc, Manafort apparently sought to induce their favor so as to secure
12 payment of the \$2 million that he claimed was still owed to him for his consulting work. Gates,
13 who Manafort tasked with collecting and preparing the polling data to be sent to the foreign
14 nationals, told investigators that he did not know why Manafort wanted him to send polling
15 information but thought it was a way for Manafort to showcase his work and open doors to jobs
16 after the 2016 election; Gates specifically believed that Manafort sent polling data to Deripaska
17 to convince him not to move forward with the lawsuit against Manafort.³⁹⁶

³⁹⁴ Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,869 (Feb. 9, 1995).

³⁹⁵ Advisory Op. 2014-06 (Ryan) at 8; Advisory Op. 2011-02 (Brown) at 6-7 (determining that more than *de minimis* use of a campaign’s website and social media accounts to promote a book would result in misuse of a campaign committee asset).

³⁹⁶ Special Counsel’s Report at 135-36 (citing Gates 2/2/18 FBI 302; Gates 9/27/18 FBI 302; Gates 2/12/18 FBI 302; Gates 1/31/18 FBI 302) (“Gates reported that Manafort said that being hired on the Campaign would be ‘good for business’ and increase the likelihood that Manafort would be paid the approximately \$2 million he was owed for previous political consulting work in Ukraine.”).

1 Although the Special Counsel could not conclusively determine Manafort's purpose in
2 sharing the polling data,³⁹⁷ there is information suggesting that Manafort did so to fulfill his
3 personal commitments, obligations, or expenses. For instance, in an April 2016 email from
4 Manafort to Kilimnik, sent shortly after Manafort transmitted the March 2016 memo announcing
5 his appointment to the Trump campaign, Manafort asked: "How do we use to get whole [with
6 Deripaska]?"³⁹⁸ In a July 2016 email from Manafort to Kilimnik, sent after Manafort had
7 already transferred some of the polling data, he asked if there "had been any movement" in
8 ending the Deripaska lawsuit.³⁹⁹ Further, when Manafort met with Kilimnik in August 2016,
9 they discussed the campaign's "internal polling data" as well as "the unresolved Deripaska
10 lawsuit and the funds that the Opposition Bloc owed to Manafort for his political consulting
11 work and how Manafort might be able to obtain payment."⁴⁰⁰ Accordingly, the current record
12 supports a reasonable inference that Manafort's transfer of the Trump Committee's polling data
13 to foreign national recipients may have been made to fulfill a commitment, obligation, or
14 expense that existed irrespective of Trump's campaign.⁴⁰¹

15 Therefore, we recommend that the Commission find reason to believe that Manafort and
16 the Trump Committee⁴⁰² violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g)(3).

³⁹⁷ *Id.* at 136.

³⁹⁸ *Id.* at 135 (quoting 4/11/2016 Emails, Manafort & Kilimnik).

³⁹⁹ *Id.* at 137 (citing 7/7/16 Email, Manafort to Kilimnik; Manafort 9/11/18 FBI 302).

⁴⁰⁰ *Id.* at 140-41 (citing Gates 1/30/18 FBI 302, at 2-4; Patten 5/22/18 FBI 302).

⁴⁰¹ 52 U.S.C. § 30114(b).

⁴⁰² As the Trump Committee's Campaign Chairman and Chief Strategist, Manafort appears to have acted within the scope of his responsibility in managing and directing the use of campaign assets and resources, including through directing Gates, the Deputy Campaign Manager, to transfer campaign assets; thus, Manafort's actions are imputed to the principal on whose behalf he acted. *See* RESTATEMENT (THIRD) OF AGENCY § 7.03 (Am. Law Inst. 2006); *cf.* Agency E&J, 71 Fed. Reg. at 4,978 ("a person may be an agent as a result of actual authority based on his or her position or title within a campaign organization").

1 2. Foreign National Prohibition

2 If Manafort transferred the polling data without charge to induce the Russian and
3 Ukrainian oligarchs to take some action with that data to the benefit of the Trump Committee,
4 the transfer would have resulted in a violation because Manafort would have solicited an in-kind
5 foreign national contribution.

6 As discussed above, Commission regulations state that “to solicit means to ask, request,
7 or recommend, *explicitly or implicitly*, that another person make a contribution, donation,
8 transfer of funds, or otherwise provide anything of value.”⁴⁰³ “A solicitation is an oral or written
9 communication that, construed as reasonably understood in the context in which it is made,
10 contains a clear message asking, requesting, or recommending that another person make a
11 contribution, donation, transfer of funds, or otherwise provide anything of value.”⁴⁰⁴

12 A reasonable inference can be made that Manafort would have only sent the highly-
13 specific and dense polling data to the foreign oligarchs if they had a use for that data and if
14 Manafort expected something in return.⁴⁰⁵ As detailed above, Manafort’s Deputy Campaign
15 Chairman, Richard Gates, who Manafort tasked with collecting and preparing the polling data
16 before it was sent by Kilimnik to the foreign national recipients, described the information as
17 “topline” data, and the Senate Intelligence Committee explained that the topline data generally
18 consisted of “all responses for each polled question on a questionnaire, which usually included

⁴⁰³ 11 C.F.R. § 300.2(m).

⁴⁰⁴ *Id.* (“The context includes the conduct of persons involved in the communication.”).

⁴⁰⁵ The Special Counsel’s Report does not describe the polling data in detail, but also does not include any limiting language that would imply anything but the actual, complete results were sent. Moreover, statements from Manafort’s criminal matter that appear to reference polling data suggest dense information was transmitted. *See* Tr. of Sealed Hearing at 89-90, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Feb. 4, 2019) (referring to what may be polling data as “very detailed . . . on a level that is very focused,” which “to me, is gibberish,” and “not easily understandable, unless you are [redacted] in my view”) (statement of attorney for Manafort).

1 approximately 100 questions,” and that “these questionnaires tested a variety of questions related
2 to Trump and Clinton.”⁴⁰⁶ Internal polling data is a campaign asset that can help the recipient
3 understand which messages are effective and can help develop a campaign strategy; such
4 information is generally, if not exclusively, geared towards helping the candidate and the
5 committee.⁴⁰⁷ Thus, it is reasonable to infer that Manafort sent the polling data to induce the
6 recipients to use the data to provide some election-related assistance to the campaign.⁴⁰⁸

7 Indeed, the foreign national recipients were politically-sophisticated actors with a track
8 record of involvement in other countries’ affairs.⁴⁰⁹ One of the recipients, Deripaska, is a
9 Russian oligarch “closely aligned” with Putin who was later sanctioned by the United States
10 Department of the Treasury for having acted or purported to act on behalf of the Russian
11 government in carrying out “malign activity around the globe.”⁴¹⁰ The other recipients were

⁴⁰⁶ Senate Intelligence Committee Report Vol. 5 at 71 n.391 (further explaining that, the campaign pollster “repeatedly produced ‘topline’ results throughout the campaign in a similar format, creating dozens of documents with thousands of pages of text,” but that “[i]t is unclear how much of this data Gates shared with Kilimnik”).

⁴⁰⁷ *See id.* at 78 (citing interview with Brad Parscale that “98 percent” of the Trump Committee’s resource “allocation was determined by the Campaign’s internal polling data as provided by its pollsters”). Polling data allows the recipient to “understand the public’s positions on issues or candidates, opponents’ vulnerabilities, which messages are effective, compare demographic groups and alternatives, and otherwise develop an effective political strategy.” Statement of Reasons at 6, Vice Chair Hunter and Commr’s Goodman and Petersen, MUR 6958 (McCaskill, *et al.*) (describing the value of polling data).

⁴⁰⁸ Manafort’s subjective intent is ultimately not dispositive, since sending dense polling data on a periodic basis during the election can be fairly interpreted as asking the recipient to take some action using the polling data. *See Solicitation E&J*, 71 Fed. Reg. at 13,928 (“the [solicit] definition sets forth an objective test that focuses on the communications in context, and does not turn on subjective interpretations by the person making the communication or its recipient”).

⁴⁰⁹ As noted above, the Special Counsel’s investigation “did not identify evidence of a connection between Manafort’s sharing polling data and Russia’s interference in the election.” Special Counsel’s Report at 131. However, this does not preclude the possibility that Deripaska or the Opposition Bloc leaders individually provided something of value to the campaign separate from the Russian government’s active measures described above, or that Manafort solicited their assistance but they rebuffed his request.

⁴¹⁰ Special Counsel’s Report at 131; U.S. Dep’t of the Treasury, *Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity* (Apr. 6, 2018), <https://home.treasury.gov/news/press-releases/sm0338>. In July 2016, Kilimnik told Manafort that Deripaska was paying “attention to the campaign”

1 senior officials for the Opposition Bloc, a Ukrainian political party and successor to the former
2 Party of Regions, which from 2012 to 2014 conducted a secret lobbying campaign in the United
3 States orchestrated by Manafort.⁴¹¹

4 Another circumstance indicating that Manafort solicited a foreign national in-kind
5 contribution is that at the same time that Manafort transferred polling data, he had in-person
6 meetings with Kilimnik who sent the polling data to the oligarchs on behalf of Manafort.⁴¹² At
7 one of the meetings, Manafort briefed Kilimnik “on the state of the Trump Campaign and [his]
8 plan to win the election,” which “included discussion of battleground states” and “encompassed
9 the Campaign’s messaging and its internal polling data.”⁴¹³

10 The Special Counsel’s Report states that the investigation had a “limited ability to gather
11 evidence on what happened to the polling data after it was sent to Kilimnik,” and therefore was
12 unable to determine “what Kilimnik (or others he may have given it to) did with [the polling
13 data].”⁴¹⁴ Accordingly, given the available information at this time, there is insufficient
14 information from which to conclude that the oligarchs made and Manafort and the Trump
15 Committee accepted an in-kind contribution from the oligarchs’ use of the Trump Committee

and “will be most likely looking for ways to reach out to you pretty soon.” Special Counsel’s Report at 137 (citing 7/08/16 Email, Kilimnik to Manafort) (recounting discussions with Deripaska’s deputy).

⁴¹¹ Special Counsel’s Report at 131-32; Superseding Criminal Information ¶¶ 9, 22-26, 43, *United States v. Paul J. Manafort, Jr.*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018) (explaining how Manafort took various steps “to keep the Ukraine lobbying as secret as possible”).

⁴¹² *Supra* notes 188-191 and accompanying text.

⁴¹³ Special Counsel’s Report at 140 (citing Manafort 9/11/18 FBI 302; Gates 1/30/18 FBI 302) (internal quotations omitted).

⁴¹⁴ Special Counsel’s Report at 131. It appears likely that the Russian and Ukrainian oligarchs received the polling data. Manafort sent the data over the course of several months, which would be unusual if he did not receive some indication that the transmissions had been received. *See id.* at 132, 135, 137. There is evidence that Kilimnik was in contact with Deripaska’s deputy, and that they spoke about Deripaska’s “attention to the campaign,” again making it unlikely that Manafort would have continuously sent the data without some indication it was received. *Id.* at 137 (quoting 7/8/16 Email, Kilimnik to Manafort) (recounting conversation with Deripaska’s deputy).

1 polling data provided by Manafort. However, given Manafort's pattern of sending the polling
2 data to politically-sophisticated recipients on a periodic basis over several months during the
3 election cycle, it can be inferred that Manafort was soliciting the recipients to take some action to
4 benefit the campaign. A recipient of such highly-specific and dense information as the polling
5 data, who received such information on a periodic basis, would have reasonably understood,
6 given the context described above, that Manafort was asking them to take some action⁴¹⁵ and,
7 because the data was specifically designed to benefit the Trump Committee, that the action was
8 to make a contribution in the form of using the data to the benefit of the Trump Committee in the
9 election.

10 Therefore, we recommend that the Commission find reason to believe that Manafort and
11 the Trump Committee⁴¹⁶ violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by
12 knowingly soliciting a prohibited foreign national in-kind contribution.

13 **H. The Commission Should Dismiss the Allegation That Cambridge Analytica,**
14 **LLC Violated the Act by Providing Information to the Russian Federation**

15 The Supplemental Complaint in MUR 7268 does not provide any factual basis in support
16 of its allegation that Cambridge Analytica "provided illegally sourced social profiles to the
17 Russians"⁴¹⁷ and we are not aware of any source that otherwise supports this allegation.
18 Therefore, because the Supplemental Complaint is vague, speculative, and unsupported by the
19 available information, we recommend that the Commission dismiss the allegation that
20 Cambridge Analytica, LLC violated the Act, as alleged.

⁴¹⁵ Solicitation E&J, 71 Fed. Reg. at 13,929 ("[T]he Commission's objective standard hinges on whether the recipient should have reasonably understood that a solicitation was made.").

⁴¹⁶ For the reasons discussed above, Manafort's actions are imputed to the Trump Committee, on whose behalf he acted. *See supra* note 402.

⁴¹⁷ Supp. Compl. at 1, MUR 7268 (Donald J. Trump).

1 **IV. INVESTIGATION**

2 As discussed above, the majority of the activity at issue in these matters has been
3 extensively investigated by the United States Intelligence Community, Special Counsel, and
4 Senate Intelligence Committee, among other investigative bodies. The only outstanding facts
5 necessary to ascertain prior to conciliation relate to the identity of the unknown congressional
6 candidate who allegedly solicited an in-kind contribution from the Russian Federation when he
7 or she contacted the Guccifer 2.0 persona controlled by the GRU and requested hacked
8 documents relating to his or her opponent.

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MURs 7207, 7268, 7274 & 7623 (Russian Federation, *et al.*)

First General Counsel's Report

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3 **VI. RECOMMENDATIONS**

4 1. Find reason to believe that the Russian Federation and the Internet Research
5 Agency violated 52 U.S.C. § 30121(a)(1)(C) and 11 C.F.R. § 110.20(f) by making
6 prohibited foreign national expenditures and independent expenditures in
7 connection with the influence campaign targeting the 2016 presidential election;

8 2. Find reason to believe that the Russian Federation and the Internet Research
9 Agency violated 52 U.S.C. § 30104(c) and 11 C.F.R. § 109.10(b) by failing to
10 report independent expenditures in connection with the influence campaign;

11 3. Find reason to believe that Donald J. Trump and Donald J. Trump for President,
12 Inc. and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C.
13 § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting or
14 receiving an in-kind contribution from the Russian Federation in connection with
15 Trump's press conference statement;

16 4. Find reason to believe that the Russian Federation violated 52 U.S.C.
17 § 30121(a)(1)(A) and 11 C.F.R. § 110.20(b) by making a prohibited in-kind
18 contribution to Donald J. Trump for President, Inc. by expending resources to
19 hack Clinton-related servers in response to Trump's press conference statement;

20 5. Find reason to believe that Donald J. Trump for President, Inc. and Bradley T.
21 Crate in his official capacity as treasurer violated 52 U.S.C. § 30121(a)(2) and 11
22 C.F.R. § 110.20(g) by knowingly soliciting a prohibited in-kind contribution from
23 WikiLeaks;

24 6. Find reason to believe that the Russian Federation made a prohibited in-kind
25 foreign national contribution in violation of 52 U.S.C. § 30121(a)(1)(A) and
26 11 C.F.R. § 110.20(b);

27 7. Find reason to believe that an Unknown Congressional Candidate knowingly
28 solicited, accepted or received a prohibited in-kind foreign national contribution
29 in violation of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g);

30 8. Find reason to believe that Paul Manafort and Donald J. Trump for President, Inc.
31 and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C.
32 § 30114(b) and 11 C.F.R. § 113.1(g)(3) by transferring a campaign committee
33 asset without charge;

34 9. Find reason to believe that Paul Manafort and Donald J. Trump for President, Inc.
35 and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C.

- 1 § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a prohibited in-
2 kind foreign national contribution;
- 3 10. Dismiss the allegation that Cambridge Analytica, LLC violated the Act by
4 providing information to the Russian Federation;
- 5 11. Take no further action as to the Russian Federation and the Internet Research
6 Agency;
- 7 12. Approve the attached Factual and Legal Analyses;
- 8 13. Authorize pre-probable cause conciliation with Donald J. Trump for President,
9 Inc. and Bradley T. Crate in his official capacity as treasurer, Donald J. Trump,
10 and Paul Manafort;
- 11 14. Approve the attached Conciliation Agreements; and

1 15. Approve the appropriate letters.

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February 23, 2021

Date

Lisa J. Stevenson /by CK
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Charles Kitcher
Acting Associate General Counsel
For Enforcement

Jin Lee
Jin Lee
Acting Assistant General Counsel

Claudio Pavia
Claudio J. Pavia
Acting Assistant General Counsel

Nicholas I. Bamman
Nicholas I. Bamman
Attorney

Amanda Andrade
Amanda Andrade
Attorney

Attachments:

6. Factual and Legal Analysis – Cambridge Analytica, LLC

APPENDIX

Exhibit 1 — Examples of Paid Social Media Ads Purchased by the IRA



... We know that you defend American Muslims now in your presidential campaign, but did you support us before campaign?

We didn't forget who supported the war in Iraq, we are Muslims and Americans, so we know your support to invade Iraq in 2003 have caused hundreds of American soldiers to die hundreds of miles away from their homes, and also millions of Iraqi Muslims, including innocent men, women and Children, to die in their homes, and for what?

Libya! You supported bombing and destroying the whole country just to kill Al-Gaddafi. You said in an interview: "We came, we saw, he died". Let's not forget about Benghazi, where you declined to increase the embassy security, and that caused the death of the US. Ambassador J. Christopher Stevens and US. Foreign Service Information Management Officer Sean Smith and CIA contractors Tyrone S. Woods and Glen Doherty and Ten others were also injured in the attacks.

You killed Saddam Hussein and Al-Gaddafi in Iraq and Lybia [*sic*] leaving the countries there in chaos, which led to the birth of ISIS, which is now a threat not only to the US. but the whole world!

You are supporting gun control, disarming the American Citizens and at the same time selling weapons to groups in the Middle East to fight their leaders, creating on the short run terrorist groups as we saw in Libya, Iraq, Afghanistan and Syria.

8 years ago you were against refugees, but now you support them. 10 years ago you were against same sex marriage, but now you support it. You Change your views very fast. You speak as a democrat and act as a republican. Sorry, but you can not be our representer, you can not be the president of the United States.

Sincerely,

United Muslims of America

Facebook Ad purchased by "United Muslims of America" which ran from March 18-21, 2016, at a cost of approx. \$89 (5,550 rubles) garnering 19,055 impressions (or views) and 2,445 clicks

Identifier in House Intelligence Committee Dataset: 1640

Heart of Texas shared their event.
Sponsored · 🌐

Fellow Texans! It's time to say a strong NO to the establishment robbers. It is unacceptable for us to see them ruin all we've been building for decades. For centuries. The establishment thinks they can treat us like stupid sheep but they are wrong. We won't put up with this anymore. The corrupt media does not talk about the crimes committed by Killary Rotten Clinton, neither does it mention the leaked emails but it would rather keep on kicking around some outdated tapes feat... [See More](#)



GET READY TO SECEDE!

NOV 5 Get Ready to Secede!
Sat 1 PM · Texas
517 people interested · 97 people going

★ Interested

1.9K Reactions 143 Comments

👍 Like 💬 Comment

... Fellow Texans! It's time to say a strong NO to the establishment robbers. It is unacceptable for us to see them ruin all we've been building for decades. For centuries. The establishment thinks they can treat us like stupid sheep but they are wrong. We won't put up with this anymore. The corrupt media does not talk about the crimes committed by Killary Rotten Clinton, neither does it mention the leaked emails but it would rather keep on kicking around some outdated tapes featuring Trump. Even Republicans are now offering her a victory by renouncing their nominee. What is this if not treason? No, no, no. We are free Citizens of Texas and we've had enough of this Cheap show on the screen. We're ready to prove our commitment to liberty, low taxes and gun rights. If Trump wins, there will be a possibility to secede peacefully but not without tension. What will happen if Hitlery becomes President? Higher taxes to feed undocumented aliens. More refugees, mosques, and terrorist attacks. Banned guns. Continuing economic depression. Let's remind them what Texas is made of and show that we're ready to SECEDE!

Use our page to team up with other locals. Invite your friends and family, spread the word and let's make this effort together! Get Ready to Secede!

Facebook Ad purchased by “Heart of Texas” which ran from November 2-3, 2016, at a cost of approx. \$67 (4,386 rubles) garnering 17,334 impressions and 1807 clicks

Identifier in House Intelligence Committee Dataset: 725

Instagram

_born__black_
Sponsored



#HillaryClintonForPrison2016

blackmattersus.com

[Learn More](#)

👍 💬 📌

_born__black_ JOIN our **#HillaryClintonForPrison2016** flashmob. Take a photo (you may use just a list of paper, or write it on the wall or whatever) and send it DM! ... more

... Please support us, we really try to make America better! Our followers are going to make their future better and encourage to support **#HillaryClintonForPrison2016** flashmob. BlackMattersUS Blackluive [*sic*]

Instagram Ad purchased by “_born__black_” which ran on April 19, 2016, until an unspecified end date at a cost of approx. \$49 (3,032 rubles) garnering 27,379 impressions and 54 clicks

Identifier in House Intelligence Committee Dataset: 1744

Donald Trump America
Sponsored · 🌐 Like Page

We call for disqualification and removal of Hillary Clinton from the presidential ballot as dynastic succession of the Clinton family in American politics breaches the core democratic principles laid out by our Founding Fathers. Sign the petition!



Disavow support for the Clinton political dynasty. Disqualify and remove Hillary Clinton from 2016 Presidential Ballot | We the People: Your Voice in Our...
PETITIONS.WHITEHOUSE.GOV

3.9K Reactions 654 Comments 380 Shares

Like Comment Share

Facebook Ad purchased by “Donald Trump America” which ran from August 2-5, 2016, at a cost of approx. \$254 (14,607 rubles) garnering 34,943 impressions and 6,276 clicks

Identifier in House Intelligence Committee Dataset: 1785

Being Patriotic
Sponsored · 🌐 Like Page

Saudi prince urged Americans not to vote for Trump last week. How wonderful, an Islamic dictator advises Americans how to run a Republic! Saudi Arabia is considered the main weapon and recruit provider to Islamic State terrorist organization.

No wonder radical Islamists are terrified by Trump, unlike Obama he is a strong confident man who'll deal with terrorism with no doubt. When terrorists' "official" leaders call to reject a Presidential candidate - you've got the man you need.



917 Reactions 130 Comments 452 Shares


Like Comment Share

Facebook Ad purchased by “Being Patriotic” which ran from May 10-11, 2016, at a cost of approx. \$12 (700 rubles) garnering 3,643 impressions and 730 clicks

Identifier in House Intelligence Committee Dataset: 471

Being Patriotic shared their event.
Sponsored · 🌐

We announce a patriotic flash mob in Florida on August, 20! We either win Florida or lose



AUG 20 Florida Goes Trump! patriotic state-wid...
Sat 2 PM EDT · Florida
1,617 people interested · 339 people going

4.7K Reactions 359 Comments


Like Comment

Facebook Ad purchased by “Being Patriotic” which ran from August 4-20, 2016, at a cost of approx. \$476 (27,402.97 rubles) garnering 59,025 impressions and 8,382 clicks

Identifier in House Intelligence Committee Dataset: 525

Being Patriotic shared their event. Sponsored · 🌐

Our country was drawing a blank for the last eight years. We need a strong leader who will



JUN 25 **March for Trump**
Sat 2 PM EDT · Trump Tower New York · New Yo...
417 people interested · 138 people going

800 Reactions 153 Comments

Like Comment

Facebook Ad purchased by “Being Patriotic” which ran on June 2-22, 2016, at a cost of approx. \$287 (16,533.91 rubles) garnering 18,915 impressions and 1,454 clicks

Identifier in House Intelligence Committee Dataset: 466

Being Patriotic shared their event. Sponsored · 🌐

Hillary Clinton is the co-author of Obama’s anti-police and anti-Constitutional propaganda



JUL 23 **Down With Hillary!**
Sat 1 PM EDT · 1 Pierrepont Plz, New York City, ...
180 people interested · 45 people going

765 Reactions 76 Comments


Like Comment

Facebook Ad purchased by “Being Patriotic” which ran from August 2-5, 2016, at a cost of approx. \$254 (14,606.52 rubles) garnering 34,943 impressions and 6,276 clicks

Identifier in House Intelligence Committee Dataset: 1785

Being Patriotic shared their event. Sponsored · 🌐

America has always been hinged on hard-working people. If you remove jobs, you’ll remove our country from the world map. The state of Pennsylvania rose owing to multiple enterprises mining coal, producing steel, and creating the need for other jobs, groceries, doctors, dentists, insurance, gas, vehicles, mechanics and the list goes on. As far as Mr. Trump pursues the goal of creating more jobs and supports the working class. He said he would put miners back to work. We could ... See More



OCT 2 **Miners for Trump: Unity day in Pennsylv...**
Sun 2 PM EDT · Pennsylvania
77 people interested · 16 people going

260 Reactions 27 Comments

Like Comment

... We could help Mr. Trump win Pennsylvania which is a battleground state. We'd like to organize a rally "Miners for Trump" in Pennsylvania.

Have something against coal industries? Please note then that burning coal is not more harmful than lumber. Alternative energy is only possible when subsidized by government for it is not lucrative. You cannot leave tens of thousands of people without a job just because of lobbyists' interests.

The current list of locations is being elaborated. Suggested Cities are Erie, Pittsburg, Scranton, Harrisburg, Allentown, and Philly.

Confirmed locations:
Marconi Plaza, Philadelphia. Miners for Trump:
Unity day in Pennsylvania

Facebook Ad purchased by "Being Patriotic" which ran from September 23 – October 1, 2016, at a cost of approx. \$124 (7,120.60 rubles) garnering 7,282 impressions and 457 clicks

Identifier in House Intelligence Committee Dataset: 470

APPENDIX

Exhibit 2 — Examples of Organic Social Media Posts by IRA-Controlled Accounts



Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



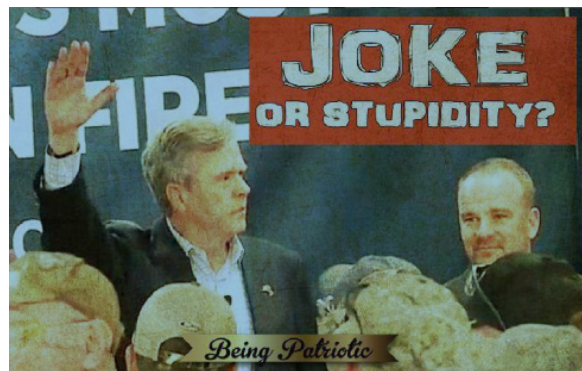
Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



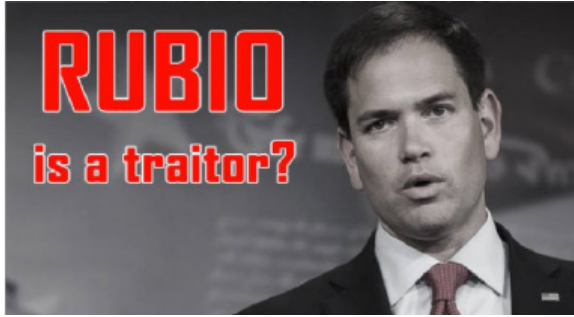
Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



New Knowledge White Paper Slide Deck at 37



Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



New Knowledge White Paper Slide Deck at 37



Post by "South United" Facebook account on March 9, 2016, garnering 986,203 engagements / New Knowledge White Paper Slide Deck at 47



Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 37



Post by "Being Patriotic" Facebook account on September 8, 2016, garnering 723,750 engagements / New Knowledge White Paper Slide Deck at 47



New Knowledge White Paper Slide Deck at 37



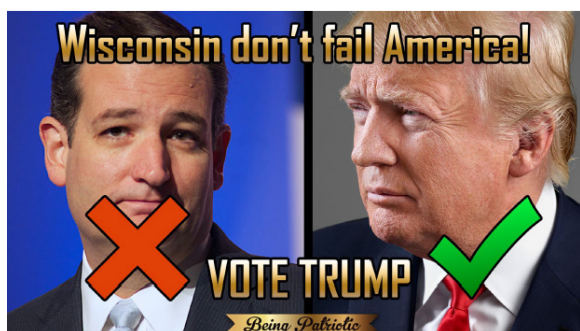
Post by "Secured Borders" Facebook account on October 7, 2016, garnering 102,253 engagements / New Knowledge White Paper Slide Deck at 51



Post by "Army of Jesus" / New Knowledge White Paper Slide Deck at 91



Post by "Blacktivist" in November 2016 / New Knowledge White Paper Slide Deck at 106



Post by "Being Patriotic" / New Knowledge White Paper Slide Deck at 100



Post by "Woke Blacks" in November 2016 / New Knowledge White Paper Slide Deck at 106



Post by "Born Liberal" in August 2016 / New Knowledge White Paper Slide Deck at 103



New Knowledge White Paper Slide Deck at 106



Post by "Blacktivist" / New Knowledge White Paper Slide Deck at 107



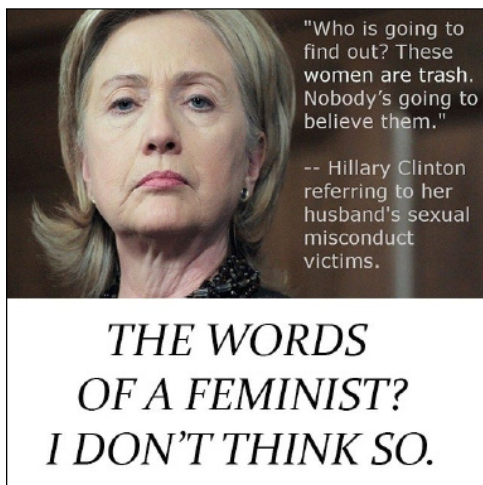
Post by "Army_of_Jesus" / New Knowledge White Paper Slide Deck at 91



Post by "Black Matters" / New Knowledge White Paper Slide Deck at 107



Post by "Blacktivist" / New Knowledge White Paper at 82



Post by @feminism_tag Instagram account / New Knowledge White Paper at 29



Post by "Williams & Kalvin" on November 7, 2016 / New Knowledge White Paper at 87

“Heads up: If you voted for Bernie in the Primaries, the Election Board will NOT let you vote for Hillary on Nov 8.”

Post by @Christ_Tegner Twitter account, on November 5, 2016, “repeatedly @-messaging individual Twitter users, including several famous influencers” / New Knowledge White Paper at 85

“Hillary is the first candidate in American history to be labeled a threat by American troops.”

Post by @TEN_GOP Twitter account (posing as the real Tennessee Democratic Party) on November 5, 2016 / New Knowledge White Paper at 85

“I say it as it is. When you decide to choose between two evil [sic], you are somehow condoning to whatever comes afterwards. The excuse that a lost Black vote for Hillary is a Trump win is bs. It could be late, but y’all might want to support Jill Stein instead.”

Portion of post by @Woke_Blacks Twitter account, on November 6, 2016 / New Knowledge White Paper at 86

“Hillary Clinton is a traitor! Hillary Clinton is a liar! Hillary Clinton is insane! I know that many black people support this old dirty bitch. I don’t know why they do this, still it’s their personal choice and we are a free country yet. But, listen to my word of truth and don’t let them fool you.”

Post by “Williams & Calvin” Facebook account on November 7, 2016 / New Knowledge White Paper at 87

“I cannot stand the level of corruption that surrounds this administration. Obama and Hillary have committed treasonous acts against our country. They both belong behind bars, not in the White House! Do you agree?”

Portion of post by “Secured Borders” on November 7, 2016, which garnered 4,891 engagements / New Knowledge White Paper at 89

“Tennessee GOP backs @realDonaldTrump period #makeAmericaGreatAgain #tngop #tennessee #gop.”

Post by @TEN_GOP Twitter account, on April 3, 2016 / Special Counsel’s Report at 22 n.46

“BREAKING: Thousands of names changed on voter rolls in Indiana. Police investigating #VoterFraud #DrainTheSwamp.”

Undated post by @TEN_GOP re-tweeted by Donald Trump, Jr. on October 26, 2016 / Special Counsel’s Report at 33

APPENDIX

Exhibit 3 — Examples of Rallies Organized by the IRA

Name	Location(s)	Date(s)	Notable Facts
(Pro-Trump Rally)	Trump Tower, New York	Unknown	“Matt Skiber” privately messaged dozens of pro-Trump Facebook groups asking for assistance in planning the rally ¹
“March for Trump”	New York	6/26/2016	“Matt Skiber” contacted a real U.S. person to assist with the rally, offering money for printing and megaphone; IRA sent press releases to NY media using allforusa@yahoo.com email address ²
“Support Hillary, Save American Muslims”	Washington, DC	7/09/2016	Apparent effort to <i>undermine</i> Clinton given IRA’s attempt to induce real U.S. person to hold a pro-Sharia Law sign at the event with image of Clinton; IRA coordinated with real U.S. person to order posters ³
“Down With Hillary”	Trump Tower, New York	7/23/2016	IRA offered money to real U.S. persons for expenses; “Josh Milton” sent press releases to over thirty media outlets ⁴
“Florida Goes Trump”	West Palm Beach Miami 13 unknown locations	8/20/2016	IRA-controlled accounts coordinated with the Trump campaign (hiding Russian links) and pro-Trump grassroots groups, and induced others to perform tasks at rallies such as building a cage for hired Clinton impersonator to ride in wearing a prison uniform ⁵
(Pro-Trump Rally)	New York	9/11/2016	Real U.S. person who impersonated Clinton at the West Palm Beach “Florida Goes Trump” rally apparently paid by IRA? to travel from Florida to appear at this rally ⁶
(Pro-Trump Rally)	Miami	9/11/2016	Apparently organized by real U.S. grassroots group, but coordinated with IRA groups, and IRA sent money to pay for materials ⁷
“Miners for Trump”	Pittsburgh & Philadelphia	10/02/2016	Promoted with IRA-created posters ⁸

Citations

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- ¹ Special Counsel's Report at 25.
- ² IRA Indictment ¶¶ 54, 61-62; *see* Special Counsel's Report at 31.
- ³ New Knowledge White Paper at 81.
- ⁴ IRA Indictment ¶¶ 54, 66-67.
- ⁵ *Id.* ¶¶ 55, 72, 76; Special Counsel's Report at 31-32, 35.
- ⁶ IRA Indictment ¶ 84.
- ⁷ *Id.* ¶ 82.
- ⁸ Special Counsel's Report at 31.

1 **FEDERAL ELECTION COMMISSION**
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3 **FACTUAL AND LEGAL ANALYSIS**
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7 RESPONDENT: Cambridge Analytica, LLC

MUR: 7268

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9 **I. INTRODUCTION**

10 The Complaint in this matter alleges that Cambridge Analytica, LLC, a former political
11 consulting company, provided illegally sourced social profiles to the Russian Federation.¹ The
12 allegation here is vague, speculative, and unsupported by the available information. Therefore,
13 the Commission dismisses the allegation that Cambridge Analytica, LLC, violated the Act, as
14 alleged.

15 **II. FACTUAL BACKGROUND**

16 Cambridge Analytica, LLC was a limited liability company organized in Delaware on
17 December 31, 2013.² Its parent company, SCL Group LTD, was based in England and
18 registered in the United Kingdom on July 20, 2005.³ Cambridge reportedly began working for
19 political committees in the United States during the 2014 election cycle, which continued
20 through the 2016 election cycle.⁴

21 The Supplemental Complaint in MUR 7268 alleges that “Cambridge Analytica . . .
22 provided illegally sourced social profiles to the Russians as reported in the British investigation

¹ Supp. Compl. at 1, MUR 7268 (Jan. 16, 2020) (“Supp. Compl.”).

² Cambridge Analytica LLC, Delaware Div. of Corps., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (viewed Feb. 18, 2021).

³ SCL Group Limited, U.K. Companies House Registration, Company No. 05514098, <https://beta.companieshouse.gov.uk/company/05514098> (last visited Feb. 18, 2021).

⁴ Craig Timberg and Tom Hamburger, *Former Cambridge Analytica Workers Say Firm Sent Foreigners to Advise U.S. Campaigns*, WASH. POST (Mar. 25, 2018).

1 of Cambridge Analytica.”⁵ The Supplemental Complaint does not provide any additional
2 information regarding the allegation or cite to a particular source.⁶

3 **III. LEGAL ANALYSIS**

4 The Supplemental Complaint in MUR 7268 does not provide any factual basis in support
5 of its allegation that Cambridge Analytica “provided illegally sourced social profiles to the
6 Russians”⁷ and we are not aware of any source that otherwise supports this allegation.

7 Therefore, because the Supplemental Complaint is vague, speculative, and unsupported by the
8 available information, the Commission dismisses the allegation that Cambridge Analytica, LLC
9 violated the Act, as alleged.

⁵ Supp. Compl. at 1.

⁶ The term “British investigation” may be a reference to an investigation conducted by the Information Commissioner’s Office of the United Kingdom into Cambridge Analytica, LLC. *See* Ltr from Elizabeth Denham CBE, UK Information Commissioner, to Julian Knight MP, Chair, Digital, Cultural and Media Sport Select Comm., House of Commons (Oct. 2, 2020) (announcing the findings of investigation into Cambridge Analytica, LLC’s alleged “use of personal information and political influence”), *available at* https://ico.org.uk/media/action-weve-taken/2618383/20201002_ico-o-ed-l-rtl-0181_to-julian-knight-mp.pdf. The Information Commissioner’s Office “referred details of reported possible Russia-located activity to access data linked to the investigation to the National Crime Agency,” but the findings as stated in the October 2, 2020, report do not describe any specifics or otherwise corroborate the Supplemental Complaint’s claim that Cambridge Analytica provided illegally sourced social profiles to Russian actors. *See id.* at 3.

⁷ Supp. Compl. at 1.