



FEDERAL ELECTION COMMISSION
Washington, DC 20463

FIRST CLASS MAIL INTERNATIONAL
RETURN RECEIPT REQUESTED

SEP 12 2019

H&M Corporate Office Headquarters
ATTN: Christopher Wylie
Drottninggatan 56
111 21 Stockholm
Sweden

RE: MURs 7350 and 7351

Dear Mr. Wylie:

On July 24, 2019, the Federal Election Commission ("Commission") found reason to believe that you violated 52 U.S.C. § 30121, a provision of the Act, and the Commission's regulation at 11 C.F.R. § 110.20(i). We previously sent a letter notifying you of the Commission's finding on August 1, 2019, but that letter was returned as undeliverable. Enclosed is a copy of that letter, the Factual and Legal Analysis that formed a basis for the Commission's finding, and a brief description of the Commission's procedures for handling possible violations of the Act.

Pursuant to its investigation of this matter, the Commission has issued the attached Subpoena to Produce Documents and Order to Submit Written Answers requiring you to provide information that will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, *U.S. Code*.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notification or other communications from the Commission. It is required that you submit all answers to questions under oath within 30 days of your receipt of this subpoena and order.

Letter to Christopher Wylie re: MURs 7350 and 7351
Page 2 of 2

If you have any questions, please contact me at (202) 694-1643 or sghosh@fec.gov.

Sincerely,

Saurav Ghosh

Saurav Ghosh
Attorney

Enclosures

Subpoena to Produce Documents and Order to Submit Written Answers
RTB Notification Letter
Factual and Legal Analysis
Procedures
Designation of Counsel Form

cc: H&M Corporate Office Headquarters HQ
ATTN: Christopher Wylie
215 Park Avenue
15th Floor
New York, NY 10003
United States of America

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
 Christopher Wylie) MURs 7350 and 7351
)

SUBPOENA TO PRODUCE DOCUMENTS AND
ORDER TO SUBMIT WRITTEN ANSWERS


TO: Christopher Wylie

Pursuant to 52 U.S.C. § 30107(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

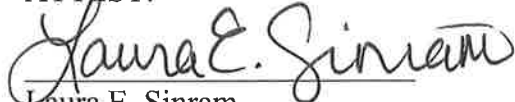
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 1050 First Street, N.E., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Subpoena and Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 11th day of Sept., 2019.

On behalf of the Commission,


 Ellen L. Weintraub
 Chairman

ATTEST:


 Laura E. Sinram

Acting Secretary and Clerk of the Commission

Attachments

Instructions and Definitions

Questions and Document Requests

INSTRUCTIONS

1. In answering these written questions and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that are in your possession, known by or otherwise available to you, including documents and information appearing in your records.
2. Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.
3. The response to each question propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those persons who provided informational, documentary or other input, and those who assisted in drafting the written response.
4. If you cannot answer the following questions in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.
5. Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following questions and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.
6. Mark each page with identification and consecutive document control numbers (*i.e.*, Bates numbers).
7. The following questions and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.
8. All responses must be submitted under oath or affirmation under penalty of perjury, including any response that you have no responsive documents.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

1. "Cambridge Analytica" shall mean Cambridge Analytica LLC as well as any parent, subsidiary, or affiliated company — including Cambridge Analytica LTD, SCL Group LTD, SCL Elections, and SCL USA — and any officers, employees, agents, and other persons acting on behalf of Cambridge Analytica LLC or any parent, subsidiary, or affiliated company.
2. "Committee" shall be deemed to include both singular and plural and shall mean a political committee as defined at 52 U.S.C. § 30101(4), including but not limited to all officers, employees, staff, volunteers, surrogates, or agents thereof.
3. "Committee communication" shall mean all electioneering communications, political advertising, other communications intended to be viewed by the public, and any conveyance or expression of information or views of any kind to the public, including all drafts thereof. The term Committee communication includes, but is not limited to, broadcast, cable, or satellite television and radio signal, newspaper, magazine, book, outdoor advertising facility, mass mailing, electronic or print mailing, leaflets, flyers, telephone bank, text messages sent on a uniform bases to group of public persons, internet site or posting, social media site or posting, rally, speech, interview, or any other form of public communication.
4. "Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, electronic mail, social media postings, messages sent via Twitter, instant messages, text messages, contracts, notes, diaries, log books, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, financial records, calendar entries, appointment records, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer printouts, and all other writings and other data compilations from which information can be obtained. If the document request calls for a document that is maintained on or in a magnetic, optical, or electronic medium (for example, but not limited to, computer bard drive, USB drive, or CD-ROM), provide both "hard" (i.e., paper) and "soft" (i.e., in the magnetic or electronic medium) copies, including drafts, and identify the name (e.g., Microsoft Word for Windows, WordPerfect) and version numbers of the software by which the document(s) will be most easily retrieved.
5. "Foreign national" shall be deemed to include both singular and plural and shall mean any person who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence in the United States, or a foreign principal as defined at 22 U.S.C. § 611(b).

6. "Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.
7. "Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the corresponding telephone numbers, e-mail addresses, the present occupation or position of such person, the occupation or position of such person during the relevant time period, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.
8. "Person" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization, group, or entity.
9. "Relate" and "Relating" shall mean referencing, discussing, describing, concerning, pertaining, involving, referring, recounting, portraying, depicting, presenting, reporting, or conveying.
10. "Training" shall be deemed to include both singular and plural and shall mean any formal or informal act, process, or method of presenting, supplying, or providing information, guidance, advice, caution, skill or ability development, know-how, means, or wherewithal.
11. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these questions and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.
12. "Communication" shall be deemed to include both singular and plural, and to include written, oral, telephonic, and electronic communications.

QUESTIONS AND DOCUMENT REQUESTS

1. State your nationality, citizenship, and any U.S. immigration status you held during the time you were employed by Cambridge Analytica, and produce documents related to your status, such as a passport or work authorization.
2. State whether Cambridge Analytica or any U.S. political committee for which you provided services was aware of your nationality, citizenship, and/or U.S. immigration status. Produce all documents related to any knowledge Cambridge Analytica or any U.S. political committee for which you performed services had about your status.
3. Describe each position you held at Cambridge Analytica, including job title, the scope of your duties and responsibilities, the identity of any supervisor or person you reported to, and the dates during which you held each position. Produce all contracts, employment agreements, work proposals, or other written description or discussion of the work you were hired to perform for Cambridge Analytica and the terms of engagement.
4. Describe and produce all documents related to:
 - a. Your involvement in the establishment of Cambridge Analytica;
 - b. Your involvement in the day-to-day operations of Cambridge Analytica;
 - c. The timing and circumstances of your departure from Cambridge Analytica; and
 - d. Your interactions with Cambridge Analytica after your departure.
5. Describe the relationship or affiliation between Cambridge Analytica LLC, Cambridge Analytica LTD, SCL Group LTD, SCL Elections, and SCL USA, including whether these entities shared officers or directors, employees, resources, or intellectual or physical property. In addition:
 - a. Produce documents related to the organizational structure and relationship of these entities;
 - b. Explain what types of services each of these entities offered and where each provided services; and
 - c. Describe which of these entities provided services to U.S. political committees, what services they provided, and when they provided services.
6. With respect to Alexander Nix, Stephen K. Bannon, and Dr. Alexander Tayler, describe and produce documents relating to:
 - a. Your relationship and interactions with each;
 - b. The involvement of each in the establishment and day-to-day activities of Cambridge Analytica; and

- c. Whether each was aware of, or involved with, foreign nationals providing services on behalf of Cambridge Analytica to U.S. political committees.
7. For each U.S. political committee to which Cambridge Analytica provided services, identify the committee and describe whether those services included participation in decisions regarding the following:
 - a. Fundraising and solicitation of contributions for the political committee;
 - b. Determining how the political committee allocated actual or potential expenditures, including the authorization or directing of expenditures, or the budgeting, prioritizing or spending for political committee communications or events;
 - c. Determining how the political committee allocated its resources, or otherwise participating in decisions concerning the political committee's administration, including managing or directing persons employed by, volunteering for, affiliated with, or acting on behalf of or under the direction or control of the political committee;
 - d. Developing, disseminating, or targeting committee communications, including determining the subject matter, theme, message, or content of communications and identifying or determining the target audience for communications;
 - e. Planning or implementing the travel, movement, or appearances of any federal candidate, surrogate, or agent; and
 - f. Any other services performed by Cambridge Analytica for or on behalf of the Committee that were not covered in response to subparts 7.a. through 7.e.
8. For each U.S. political committee to which Cambridge Analytica provided services identified in response to Question 7, identify the committee and describe:
 - a. The services provided, including the tasks and functions involved, goals and objectives, and products or recommendations provided;
 - b. The identity of any officer, director, agent, or employee of Cambridge Analytica who provided services to the committee, the specific functions or tasks they performed, and the dates they provided services;
 - c. The dates that Cambridge Analytica provided services to the committee;
 - d. The physical location, or, if more than one, locations at which Cambridge Analytica provided services;
 - e. The person at the political committee who managed, supervised, or directed the services; and
 - f. The political committee's knowledge of the nationality, citizenship, and/or U.S. immigration status of the person at Cambridge Analytica who provided the services.

9. Identify each person — who you either know is a foreign national or whose nationality, citizenship and/or U.S. immigration status is unknown to you — that was employed by Cambridge Analytica and performed services for a U.S. political committee. Regarding each person identified in your answer, state:
 - a. The person's nationality, citizenship and/or U.S. immigration status;
 - b. The dates during which each person performed services for or on behalf of the Committee;
 - c. The services performed by each person;
 - d. The physical location or, if more than one, locations at which the person performed services for or on behalf of the Committee; and
 - e. The person at the Committee who managed, supervised, or directed the services the person performed for or on behalf of the Committee.
10. Produce all documents relating to your responses to Questions 7, 8, and 9.
11. Describe and produce all documents relating to any formal or informal policies, procedures, trainings, or guidance prepared by or for Cambridge Analytica that you received, or were aware of, regarding the involvement of foreign nationals in the activities of U.S. political committees and produce documents reflecting these policies, procedures, trainings, or guidance.
12. Describe whether you participated in, or were aware of, any discussions regarding legal limitations on the participation of foreign nationals in the activities of a U.S. political committee, and produce all documents relating to any such discussions.
13. In a March 17, 2018, recorded interview with Channel 4 News UK (available at <https://www.channel4.com/news/cambridge-analytica-facebook-profiles-whistle-blower-chris-wylie-election>), you refer to a legal action or suit that Cambridge Analytica filed against you. Please describe that legal action or suit, including its resolution, and describe any other current or past legal action or suit between you and Cambridge Analytica, including the resolution of each such legal action or suit.
14. Produce all documents referenced or relied upon in answering this Subpoena to Produce Documents and Order to Submit Written Answers.



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Christopher Wylie

AUG 01 2019

Victoria, BC V8X 1T5
Canada

RE: MURs 7350 and 7351

Dear Mr. Wylie:

On March 29, 2018, and March 30, 2018, the Federal Election Commission (“Commission”) notified you of complaints in the above-numbered matters under review (“MURs”) alleging violations of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission regulations. Copies of the complaints were forwarded to you at that time. Upon review of the allegations contained in the complaints, the Commission, on July 24, 2019, found reason to believe that you violated 52 U.S.C. § 30121, a provision of the Act, and the Commission’s regulation at 11 C.F.R. § 110.20(i). The Factual and Legal Analysis, which formed a basis for the Commission’s finding, is enclosed.

You may submit any factual or legal materials that you believe are relevant to the Commission’s further consideration of this matter. Please submit such materials, along with responses to the enclosed questions and document requests, to the Office of the General Counsel within 15 days of receiving this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. *See* 52 U.S.C. § 30109(a)(4).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission. Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in pursuing conciliation prior to finding of probable cause to believe a violation has occurred, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receiving such a request, the Office of the General Counsel will recommend either that the Commission enter into an agreement in settlement of the matter or decline to pursue pre-probable cause conciliation at this time. The Office of the General Counsel may recommend not pursuing pre-probable cause conciliation in order to

Letter to Christopher Wylie re: MURs 7350 and 7351

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complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondents.

Requests for extensions of time are not routinely granted and may be conditioned on you entering into a tolling agreement with the Commission. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Saurav Ghosh, the attorney assigned to this matter, at (202) 694-1643 or sghosh@fec.gov

On behalf of the Commission,



Ellen L. Weintraub
Chair

Encl.

Questions

Factual and Legal Analysis

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Christopher Wylie

MURs 7350 and 7351

I. INTRODUCTION

This matter was generated by complaints filed with the Federal Election Commission (“Commission”). *See* 52 U.S.C. § 30109(a)(1). These complaints allege that Christopher Wylie, a foreign national employee of Cambridge Analytica LLC (“Cambridge”), violated the provisions of the Federal Election Campaign Act of 1971, as amended (“Act”), and Commission regulations that prohibit foreign nationals from directly or indirectly participating in the decision-making process of a political committee’s contributions or expenditures in connection with a federal election.

These allegations stem from services that Cambridge provided to four political committees during the 2014 election cycle: the Thom Tillis Committee and Collin McMichael in his official capacity as treasurer (“Tillis Committee”); the John Bolton Super PAC and Cabell Hobbs in his official capacity as treasurer (“Bolton PAC”); the North Carolina Republican Party and Jason Lemons in his official capacity as treasurer (“NCRP”); and Art Robinson for Congress and Art Robinson in his official capacity as treasurer (the “Robinson Committee”).¹

For the reasons explained fully below, the Commission finds reason to believe that Wylie violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i).

¹ *See* MUR 7350 Compl. (Mar. 26, 2018); MUR 7351 Compl. (Mar. 26, 2018).

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Background**

3 Cambridge is a limited liability company organized in Delaware on December 31, 2013.²
4 SCL Group LTD (“SCL”) is based in England and registered in the United Kingdom on July 20,
5 2005.³ Cambridge reportedly began working for political committees in the U.S. during the
6 2014 election cycle.⁴ The Complaints allege, based on news reports, that Cambridge was
7 “effectively a shell” and “any contracts won by Cambridge . . . would be serviced by London-
8 based SCL and overseen by [Alexander] Nix, a British citizen,” who is a director of SCL and
9 chief executive of Cambridge.⁵ “Most SCL employees and contractors” were reportedly foreign
10 nationals from Canada or Europe.⁶

² Cambridge Analytica LLC, Delaware Div. of Corps., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (viewed July 19, 2018).

³ SCL Group Limited, U.K. Companies House Registration, Company No. 05514098, <https://beta.companieshouse.gov.uk/company/05514098> (last visited Oct. 29, 2018).

⁴ See MUR 7351 Compl. at ¶¶ 5, 13; Craig Timberg and Tom Hamburger, *Former Cambridge Analytica Workers Say Firm Sent Foreigners to Advise U.S. Campaigns*, WASH. POST (Mar. 25, 2018), available at https://www.washingtonpost.com/politics/former-cambridge-analytica-workers-say-firm-sent-foreigners-to-advise-us-campaigns/2018/03/25/6a0d7d90-2fa2-11e8-911f-ca7f68bff0fc_story.html (“Timberg Article”) (cited in MUR 7351 Complaint) (“The company aggressively courted political work beginning in 2014[.]”).

⁵ See MUR 7351 Compl. at ¶ 16 (citing Matthew Rosenberg, Nicholas Confessore and Carole Cadwalladr, *How Trump Consultants Exploited the Facebook Data of Millions*, N.Y. TIMES (Mar. 17, 2018), available at <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html> (“NYT March 17 Article”)); Matthew Rosenberg, *Cambridge Analytica Suspends C.E.O. Amid Facebook Data Scandal*, N.Y. TIMES (Mar. 20, 2018), available at <https://www.nytimes.com/2018/03/20/world/europe/cambridge-analytica-ceo-suspended.html> (“[The SCL Group and Cambridge Analytica] were set up with a convoluted corporate structure, and their operations are deeply intertwined. Mr. Nix, for instance, holds dual appointments at the two companies. Cambridge Analytica is registered in Delaware . . . but it is effectively a shell — it holds intellectual property rights to its psychographic modeling tools, yet its clients are served by the staff at London-based SCL and overseen by Mr. Nix, who is a British citizen.”); see also SCL Group Limited, U.K. Companies House Registration, Company No. 05514098, <https://beta.companieshouse.gov.uk/company/05514098/officers> (last visited Oct. 29, 2018) (listing Nix as SCL director from 2005-2012 and from 2016-2018).

⁶ NYT March 17 Article.

MURs 7350 and 7351 (Christopher Wylie)
Factual and Legal Analysis
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1 According to former employees quoted in media reports, during the 2014 election cycle,
2 Cambridge, like SCL, was “overwhelmingly staffed by non-U.S. citizens,”⁷ at least two of whom
3 “were still answering ultimately to [Alexander] Nix” while working for U.S. political
4 committees.⁸ Wylie, who worked for Cambridge during the 2014 election cycle and is a foreign
5 national, reportedly asserts that he and “many foreign nationals worked on the campaigns, and
6 many were embedded in the campaigns around the U.S.”⁹ Wylie also asserts that he was
7 personally part of “multiple conference calls in 2014” with Nix and Stephen K. Bannon, a
8 Cambridge board member, in which “strategic campaign matters were discussed.”¹⁰ According
9 to Wylie, on some of these calls, Cambridge’s leaders discussed whether the company was
10 violating federal law by using foreign nationals to work on American political campaigns.¹¹
11 However, Cambridge reportedly provided no compliance training for its foreign employees on

⁷ Timberg Article.

⁸ MUR 7350 Compl. at ¶ 23 (citing Carole Cadwalladr and Emma Graham-Harrison, *Staff Claim Cambridge Analytica Ignored US Ban on Foreigners Working on Elections*, GUARDIAN (Mar. 17, 2018), available at <https://www.theguardian.com/uk-news/2018/mar/17/cambridge-analytica-non-american-employees-political> (“Guardian Article”)).

⁹ MUR 7351 Compl. at ¶ 26 (citing Anna R. Schechter, *Wylie: Foreigners Worked for Cambridge Analytica on NC Senate Campaign*, NBC NEWS (Mar. 23, 2018), available at <https://www.nbcnews.com/politics/elections/wylie-foreigners-worked-cambridge-analytica-nc-senate-campaign-n859526> (“Schechter Article”)). Wylie apparently played a significant role in founding Cambridge. See NYT March 17 Article (“[Wylie] helped found Cambridge and worked there until late 2014.”). Wylie reportedly left Cambridge at the end of the 2014 election cycle, although there is some dispute as to precisely when he left the company. Schechter Article (“Cambridge has said that Wylie left the company in July 2014. Wylie [claims that] while he gave notice in July, he continued to work for the company until just before the elections on Nov. 4, 2014.”). The circumstances of Wylie’s departure are also controverted: Wylie claims that he resigned because of his growing unease with Cambridge, while Cambridge contends that Wylie departed to start a competing company and became disgruntled when Cambridge sued him to enforce its intellectual property rights. See Timberg Article at 4.

¹⁰ MUR 7351 Compl. at ¶ 30 (quoting Timberg Article). Both Nix and Bannon, along with three others, are described by an internal Cambridge legal memorandum as “managers” of Cambridge; the memorandum notes that “Cambridge is currently being managed day to day by Mr. Nix,” a foreign national. CONFIDENTIAL MEMORANDUM FROM LAURENCE LEVY TO REBEKAH MERCER, STEVE BANNON, AND ALEXANDER NIX at 6 (July 22, 2014), available at <http://cdn.cnn.com/cnn/2018/images/03/26/levy.memo.pdf> (discussed in Schechter Article).

¹¹ Timberg Article.

MURs 7350 and 7351 (Christopher Wylie)
Factual and Legal Analysis
Page 4 of 13

1 what conduct to avoid in order to comply with federal law while working for U.S. political
2 committees.¹²

3 The primary service that Cambridge offered its clients was a form of voter targeting that
4 it described as “psychological profiling to reach voters with individually tailored messages.”¹³
5 Cambridge allegedly employed many foreign national data scientists, including Dr. Alexander
6 Tayler, who led the data science team as the company’s Chief Data Officer.¹⁴ Cambridge
7 reportedly helped political committees “decide what voters to target with political messages and
8 what messages to deliver to them,” while also offering additional services such as “fundraising,
9 planning events, and providing communications strategy[.]”¹⁵ Wylie asserts that he and other
10 foreign nationals working for Cambridge “weren’t just working on messaging” but “were
11 instructing campaigns on which messages go where and to who.”¹⁶ Other employees have
12 supported this assertion, claiming that Cambridge “didn’t handle only data” but worked on
13 message development and targeting strategy.¹⁷

14 During the 2014 election cycle, Cambridge worked for several political committees,

¹² Guardian Article (“There were no briefings on the kind of work that non-US citizens should avoid, or warnings about the legal risks.”).

¹³ Timberg Article; *see also* Sasha Issenberg, *Cruz-Connected Data Miner Aims to Get Inside U.S. Voters’ Heads*, BLOOMBERG (Nov. 12, 2015), *available at* <https://www.bloomberg.com/news/features/2015-11-12/is-the-republican-party-s-killer-data-app-for-real-> (“Issenberg Article”) (“Cambridge Analytica’s trophy product is ‘psychographic profiles’ of every potential voter in the U.S. interwoven with more conventional political data. The emphasis on psychology helps to differentiate the Brits from other companies that specialized in ‘microtargeting,’ a catch-all term typically used to describe any analysis that uses statistical modeling to predict voter intent at the individual level.”).

¹⁴ MUR 7350 Compl. at ¶ 22; MUR 7351 Compl. at ¶ 9.

¹⁵ MUR 7351 Compl. at ¶ 28 (quoting Timberg Article).

¹⁶ *Id.* at ¶ 26 (quoting Schechter Article).

¹⁷ Timberg Article.

1 including the Bolton PAC, an independent-expenditure-only political committee (“IEOPC”); the
2 Tillis Committee, Thom Tillis’s authorized campaign committee for the U.S. Senate in North
3 Carolina; the NCRP, a state party committee supporting Tillis’s campaign; and the Robinson
4 Committee, Arthur Robinson’s authorized campaign committee in Oregon’s 4th Congressional
5 District.¹⁸

6 The Bolton PAC reportedly hired Cambridge to perform a variety of tasks, from data
7 modeling to designing “concepts for advertisements for candidates supported by Mr. Bolton’s
8 PAC, including the 2014 campaign of Thom Tillis[.]”¹⁹ According to Cambridge internal
9 documents that Wylie publicized, the Bolton PAC used Cambridge to “provide messaging and
10 communications support” and “made use of significant input from SCL on messaging and target
11 audiences.”²⁰ The Bolton PAC’s “media teams took direction well and worked with Harris
12 MacLeod (SCL) to ensure each message was tailored in a way that would resonate with its
13 target.”²¹ Cambridge also provided “[d]irection and feedback on all creative [content]” and the
14 Bolton PAC’s “creative teams were given further guidance based on which messages resonated
15 most with target groups.”²² Cambridge also reportedly drafted talking points for Ambassador

¹⁸ MUR 7351 Compl. at ¶ 13.

¹⁹ *Id.* at ¶ 33 (quoting Matthew Rosenberg, *Bolton Was Early Beneficiary of Cambridge Analytica’s Facebook Data*, N.Y. TIMES (Mar. 23, 2018), available at <https://www.nytimes.com/2018/03/23/us/politics/bolton-cambridge-analyticas-facebook-data.html> (“NYT March 23 Article”).

²⁰ Cambridge Analytica 2014 Activity Summary Report at 16, available at <https://www.washingtonpost.com/apps/g/page/politics/2014-cambridge-analytica-report-on-congressional-and-legislative-races/2294/> (“2014 Report”); see also Timberg Article (discussing and linking to 2014 Report, among other Cambridge documents).

²¹ 2014 Report at 16-17. MacLeod is allegedly a Canadian foreign national. See Issenberg Article at 2 (“Harris MacLeod [is] a Nova Scotian who worked as a political journalist in Ottawa [and] spent much of 2014 working for Cambridge Analytica’s marquee American clients. Harris worked for John Bolton’s super-PAC[.]”).

²² 2014 Report at 17; see also Issenberg Article at 8 (“[Cambridge Analytica] advised Bolton’s team on the design of six ads, thirty seconds each, with wildly different creative approaches. One ad, targeted at voters modeled

1 John Bolton to use to describe the services Cambridge was providing to his eponymous political
2 committee.²³

3 For Tillis's 2014 U.S. Senate race in North Carolina, Wylie reportedly claims that "his
4 largely foreign team" crafted and targeted messaging for Tillis's campaign.²⁴ Cambridge's
5 documents detail that the company was also contracted by the NCRP to provide support for
6 Tillis, other Republican campaigns in North Carolina, and the NCRP.²⁵ The documents confirm
7 that Cambridge provided the NCRP and Tillis Committee with message targeting services,
8 noting that "local campaign staff had ideas about how they wanted their target universes defined,
9 but the [Cambridge] team was able to use their knowledge of the data to suggest more effective
10 targeting strategies."²⁶ Cambridge's modeling and targeting work for the NCRP and Tillis
11 Committee reportedly altered the content of those committees' messages to focus on issues that
12 Cambridge had identified as resonating with potential voters, such as foreign terrorism, more
13 than issues previously prioritized by the committees, like state-wide education policy.²⁷

14 For the Robinson Committee, Cambridge states that it took on a "comprehensive set of

to be conscientious and agreeable, was set to upbeat music and showed Bolton standing outdoors on a bright day, matter-of-factly addressing the need to 'leave a stronger, safer America for our children.'").

²³ MUR 7351 Compl. at ¶ 33 (quoting NYT March 23 Article).

²⁴ Schecter Article.

²⁵ 2014 Report at 12.

²⁶ *Id.* at 14.

²⁷ See Issenberg Article ("In North Carolina, where the company was paid \$150,000 by the state party and \$30,000 by Tillis's campaign, Cambridge Analytica developed models to predict individual support, turnout likelihoods, and issues of concern that would recalibrate continuously based on interactions with voters[, and] that dynamic process allowed Tillis's campaign to identify a sizable cluster of North Carolinians who prioritized foreign affairs — which encouraged Tillis to shift the conversation from state-level debates over education policy to charges that incumbent Kay Hagan had failed to take ISIS's rise seriously."); 2014 Report at 13 (discussing changing committee messaging to more "salient" issues such as national security); see also *id.* at 16, 19 (discussing Bolton PAC's desire to focus on national security and detailing successes based on national security-focused messaging).

1 responsibilities and effectively managed the campaign in its entirety, with strategic advice
2 channeled through US nationals on the [Cambridge-SCL] team.”²⁸ Cambridge’s 2014 internal
3 assessment report noted that although the Robinson Committee hired Cambridge to provide
4 “supportive intervention to augment an existing campaign infrastructure[,] . . . on the ground, it
5 became clear that no such professional ‘campaign team’ existed[.]”²⁹ As such, Cambridge
6 supplied a wide range of deliverables, such as “communications strategy, including key topics
7 and slogans[,] talking points, speeches, planning for events and candidate travels[,]” and
8 management of a range of campaign functions from canvassing to social media engagement.³⁰

9 **B. Legal Analysis**

10 1. Foreign Nationals May Not Directly or Indirectly Make Contributions,
11 Donations, Expenditures, or Disbursements

12 The Act and Commission regulations prohibit any “foreign national” from directly or
13 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
14 independent expenditure, or disbursement, in connection with a federal, state, or local election.³¹
15 The Act’s definition of “foreign national” includes an individual who is not a citizen or national
16 of the United States and who is not lawfully admitted for permanent residence, as well as a
17 “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership,

²⁸ 2014 Report at 1; *see* MUR 7351 Compl. at ¶ 31 (quoting Timberg Article).

²⁹ 2014 Report at 2.

³⁰ *Id.* at 4.

³¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

1 association, corporation, organization, or other combination of persons organized under the laws
2 of or having its principal place of business in a foreign country.”³² Commission regulations
3 implementing the Act’s foreign national prohibition provide:

4 A foreign national shall not direct, dictate, control, or directly or indirectly
5 participate in the decision-making process of any person, such as a corporation,
6 labor organization, political committee, or political organization with regard to
7 such person’s Federal or non-Federal election-related activities, such as decisions
8 concerning the making of contributions, donations, expenditures, or
9 disbursements . . . or decisions concerning the administration of a political
10 committee.³³

11
12 The Commission has explained that this provision also bars foreign nationals from “involvement
13 in the management of a political committee.”³⁴

14 In light of these provisions, Commission regulations permit any person or company —
15 foreign or domestic — to provide goods or services to a political committee, without making a
16 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary
17 course of business, and at the usual and normal charge, as long as foreign nationals do not
18 directly or indirectly participate in any committee’s management or decision-making process in
19 connection with its election-related activities.³⁵ For example, in MUR 5998, the Commission

³² 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

³³ 11 C.F.R. § 110.20(i).

³⁴ Contribution Limits and Prohibitions, 67 Fed. Reg. 69,928, 69,946 (Nov. 19, 2002); *see also* Advisory Op. 2004-26 at 2-3 (Weller) (noting that foreign national prohibition at section 110.20(i) is broad and concluding that, while a foreign national fiancé of the candidate could participate in committees’ activities as a volunteer without making a prohibited contribution, she “must not participate in [the candidate’s] decisions regarding his campaign activities” and “must refrain from managing or participating in the decisions of the Committees”).

³⁵ 11 C.F.R. § 114.2(f)(1); *see* 11 C.F.R. § 116.1(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Goods or services provided at the usual and normal charge do not constitute a contribution under the Act. However, soliciting, accepting, or receiving information in connection with an election

1 found that the foreign national owners of a venue did not make or facilitate a contribution to a
2 political committee by allowing the committee to rent the venue for a fundraising event.³⁶ The
3 venue at issue was rented out for events in the ordinary course of business, and the owners
4 charged the committee the usual and normal amount for the service.³⁷ The Commission noted
5 that there was no available information to suggest — and the foreign nationals and political
6 committee expressly denied — that the foreign nationals had any “decision-making role in the
7 event.”³⁸

8 The Commission has found that not all participation by foreign nationals in the election-
9 related activities of others will violate the Act. In MUR 6959, for example, the Commission
10 found no reason to believe that a foreign national violated 52 U.S.C. § 30121 by performing
11 clerical duties, such as online research and translations, during a one month-long internship with
12 a party committee.³⁹ Similarly, in MURs 5987, 5995, and 6015, the Commission found no
13 reason to believe that a foreign national violated 52 U.S.C. § 30121 by volunteering his services
14 to perform at a campaign fundraiser and agreeing to let the political committee use his name and
15 likeness in its emails promoting the concert and soliciting support, where the record did not

from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for a federal campaign, could potentially result in the receipt of a prohibited in-kind contribution.

³⁶ Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

³⁷ *Id.*

³⁸ *Id.* at 5.

³⁹ Factual and Legal Analysis at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* at 4-5 (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 1982-04 (Apodaca)).

1 indicate that the foreign national had been involved in the committee's decision-making process
 2 in connection with the making of contributions, donations, expenditures, or disbursements.⁴⁰ By
 3 contrast, the Commission has consistently found a violation of the foreign national prohibition
 4 where foreign national officers or directors of a U.S. company participated in the company's
 5 decisions to make contributions or in the management of its separate segregated fund.⁴¹

6 2. There is Reason to Believe that Wylie Violated 52 U.S.C. § 30121 and
 7 11 C.F.R. § 110.20(i) When He Participated in the Decision-Making
 8 Process Regarding Election-Related Activities of Several Political
 9 Committees During the 2014 Election Cycle

10 Cambridge's usual and normal business involved providing data analytics and message
 11 targeting services, and there is no specific information suggesting that Cambridge charged any
 12 committee less than its usual and normal rate for such services. Even if Cambridge, which was
 13 organized under the laws of Delaware and therefore appears to be a domestic company, was,
 14 *arguendo*, a foreign company, it could provide services to a political committee as a commercial
 15 vendor without thereby making a contribution to that committee, but foreign nationals may not
 16 directly or indirectly participate in any committee's management or decision-making process in
 17 connection with its election-related spending.

18 Wylie, a Cambridge foreign national employee, appears to have participated in the

⁴⁰ Factual and Legal Analysis at 6-9, MURs 5987, 5995, and 6015 (Sir Elton John); *see also* Factual and Legal Analysis at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Op. 2004-26 (Weller).

⁴¹ *See, e.g.*, Conciliation Agreement, MUR 6093 (Transurban Grp.) (U.S. subsidiary violated Act by making contributions after its foreign parent company's board of directors directly participated in determining whether to continue political contributions policy of its U.S. subsidiaries); Conciliation Agreement, MUR 6184 (Skyway Concession Company, LLC) (U.S. company violated Act by making contributions after its foreign national CEO participated in company's election-related activities by vetting campaign solicitations or deciding which nonfederal committees would receive company contributions, authorizing release of company funds to make contributions, and signing contribution checks); Conciliation Agreement, MUR 7122 (American Pacific International Capital, Inc. ("APIC")) (U.S. corporation owned by foreign company violated Act by making contribution after its board of directors, which included foreign nationals, approved proposal by U.S. citizen corporate officer to contribute).

1 decision-making processes of Cambridge’s clients with respect to their election-related activities.
2 Wylie reportedly admits that he “worked on all of the company’s U.S. political campaigns in
3 2014,”⁴² and that he was personally part of “multiple conference calls in 2014” with Nix and
4 Stephen K. Bannon, a Cambridge board member, in which “strategic campaign matters were
5 discussed.”⁴³ During this period of time, Cambridge not only provided political committees with
6 communications and targeting advice, *i.e.*, advice about how to effectively craft tailored
7 communications and target them to receptive voters in order to maximize the messages’ impact,
8 but “directed” the committees in their messaging.⁴⁴

9 According to Wylie and internal Cambridge documents, he and other foreign nationals
10 were embedded in political committees and were “instructing campaigns on which messages go
11 where and to who.”⁴⁵ By providing strategic advice to committees on both the content and target
12 audience for their campaign communications, Wylie may have helped shape political
13 committees’ election-related spending decisions.

14 The available information supports a finding that Wylie may have participated in the
15 decision-making processes with regard to election-related activities of the Robinson Committee.
16 In contrast to the circumstances presented in Advisory Opinion 2004-26, it appears that foreign
17 nationals were “managing or participating in the decisions” of the Robinson Committee, because
18 Cambridge, which employed mostly foreigners in 2014, assumed “comprehensive”
19 responsibilities for the Robinson Committee during the 2014 election cycle, including managing

⁴² Schechter Article.

⁴³ Timberg Article.

⁴⁴ *See, e.g.*, 2014 Report at 16-17 (describing Cambridge’s successful “direction” of the Bolton PAC).

⁴⁵ Schechter Article.

1 basic campaign functions and providing strategic advice.⁴⁶ Even if the Robinson Committee's
2 staff made all final decisions regarding the committee's management and electoral strategy, the
3 record indicates that Wylie participated, either directly or indirectly, in the Committee's
4 management or decision-making process in connection with the its expenditures.

5 The available information also supports a finding that Wylie may have participated in the
6 decision-making processes in connection with election-related spending of the Tillis Committee,
7 Bolton PAC, and NCRP. Cambridge reportedly provided "polling, focus groups and message
8 development" services for these committees during Thom Tillis's 2014 campaign for the U.S.
9 Senate in North Carolina.⁴⁷ Wylie reportedly claims to have worked on all of Cambridge's
10 political campaigns in 2014, including Thom Tillis's campaign.⁴⁸ Wylie reportedly admits that
11 "his largely foreign team" instructed the Tillis campaign on its messaging by crafting and
12 targeting the messaging, and that "his" team instructed campaigns on "which messages go where
13 and to who."⁴⁹

14 Wylie reportedly claims that "three or four full-time [Cambridge] staffers embedded in
15 Tillis's campaign on the ground in Raleigh [and all] of them were foreign nationals."⁵⁰ Another
16 former Cambridge employee also claims that most of the Tillis campaign's messaging team was
17 composed of foreign nationals.⁵¹ These assertions indicate that Wylie may have worked with not

⁴⁶ Advisory Op. 2004-26 at 3; 2014 Report at 1.

⁴⁷ NYT March 17 Article.

⁴⁸ Schechter Article.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

1 only the Tillis Committee, but also the NCRP and Bolton PAC in support of Tillis’s campaign
2 for the U.S. Senate. Wylie and other Cambridge employees may also have been embedded with
3 the NCRP to provide targeting advice used to create and distribute communications supporting
4 Tillis’s campaign.⁵² Wylie and another former Cambridge employee also contend that
5 Cambridge helped develop data models and message concepts for the Bolton PAC’s
6 communications supporting Tillis during the 2014 election.⁵³

7 The key issue is not whether Wylie had final decision-making authority or final say
8 regarding any analysis, but whether he participated, directly or indirectly, in a Cambridge client’s
9 management or decision-making process in connection with its “election-related activities, such
10 as decisions concerning the making of contributions, donations, expenditures, or
11 disbursements . . . or decisions concerning the administration of a political committee.”⁵⁴ Here,
12 the available information supports the conclusion that Wylie may have done both by
13 participating in the committees’ decision-making regarding their communications strategy and
14 expenditures.

15 Based on all of the available information regarding Cambridge’s conduct, and Wylie’s
16 personal involvement in that conduct while working for Cambridge, the Commission finds
17 reason to believe that Wylie violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i).

⁵² *Id.* Both the Tillis Committee and NCRP rejected Wylie’s claim that Cambridge employees were embedded with Tillis’s authorized committee, asserting instead that Cambridge employees were embedded with the NCRP. *Id.*; see Timberg Article (“Cambridge Analytica documents show it advised a congressional candidate in Oregon, state legislative candidates in Colorado and, on behalf of the North Carolina Republican Party, the winning campaign for Sen. Thom Tillis.”).

⁵³ NYT March 23 Article.

⁵⁴ 11 C.F.R. § 110.20(i).