

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2

3 In the Matter of )

4 ) MUR 7207

5 Unknown Congressional Candidate )

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8 **SECOND GENERAL COUNSEL’S REPORT**

9 **I. INTRODUCTION**

10 On April 22, 2021, the Commission found reason to believe that an Unknown

11 Congressional Candidate violated 52 U.S.C. § 30121(a) of the Federal Election Campaign Act of

12 1971, as amended (the “Act”), and 11 C.F.R. § 110.20(g) of the Commission’s regulations, by

13 knowingly soliciting, accepting, or receiving a prohibited in-kind foreign national contribution in

14 the form of stolen documents related to the candidate’s opponent.<sup>1</sup> The allegations stemmed

15 from public information from the Department of Justice (“DOJ”) that, on August 15, 2016, a

16 candidate for Congress sent a request to “Guccifer 2.0,” an online persona controlled by Russian

17 military intelligence, for stolen documents and that Guccifer 2.0 responded by sending the

18 candidate documents related to the candidate’s opponent.

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21 As explained below, the

22 Unknown Congressional Candidate is H. Russell Taub, a 2016 candidate for Rhode Island’s 1st

23 Congressional District. A screenshot of a Twitter direct message exchange shows that Taub

24 contacted Guccifer 2.0 to request a “list of Republican donors” and explained that he would use

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<sup>1</sup> Certification ¶ 4(a), MURs 7207, 7268, 7274, and 7623 (Apr. 26, 2021).

the donor information to “raise some money to put against [his general election opponent David Cicilline].”<sup>3</sup> Guccifer 2.0 instead responded with an offer to send a “dossier on cicilline . . . via email.”<sup>4</sup> Taub provided his email address for receipt. Guccifer 2.0 sent ten documents relating to Cicilline, including professional research reports. Taub was notified of the allegations on May 18, 2021 but, as of the date of this Report, has not submitted a response.

We recommend that the Commission: (1) substitute the name H. Russell Taub in the place of “Unknown Congressional Candidate” in the Commission’s previous findings in this matter; (2) approve the attached Factual and Legal Analysis, which provides additional information regarding Taub’s actions to support the Commission’s reason-to-believe finding as to him; (3) enter into pre-probable cause conciliation with Taub; and (4) approve the proposed Conciliation Agreement.

## **II. FACTUAL BACKGROUND**

Official government reports, including those issued by the United States Intelligence Community and the Special Counsel for the Department of Justice, have uniformly concluded that the Russian Federation engaged in a wide-ranging campaign to influence the 2016 election.<sup>5</sup> Allegations of Russian efforts to influence the 2016 election garnered significant attention and media coverage beginning around June 14, 2016, when the Democratic National Committee (the “DNC”) publicly announced that it had been hacked and identified Russian military intelligence

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<sup>3</sup> *Infra* note 22.

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

<sup>5</sup> *See, e.g.*, 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); *see also* Indictment, *United States v. Netyksho, et al.*, 1:18-cr-00215 (D.D.C. July 13, 2018) (“*Netyksho* Indictment”).

1 as the most likely culprit.<sup>6</sup> The next day, June 15, 2016, “Guccifer 2.0,” an online persona that  
 2 purported to be a lone Romanian hacker,<sup>7</sup> opened a WordPress blog and claimed responsibility  
 3 for the DNC hacking.<sup>8</sup> On its blog, Guccifer 2.0 published select documents hacked from the  
 4 DNC, including an opposition research file on Donald Trump.<sup>9</sup> Thereafter, Guccifer 2.0 posted  
 5 thousands of additional stolen documents on its blog over several months.<sup>10</sup> Also on June 15,  
 6 2016, Guccifer 2.0 stated it had given the “main part” of the hacked documents to WikiLeaks.<sup>11</sup>  
 7 About a month later, on July 22, 2016, three days before the Democratic National Convention,  
 8 WikiLeaks released a tranche of over 20,000 documents stolen from the DNC.<sup>12</sup> On August 12,  
 9 2016, Guccifer 2.0 announced on its blog that it had hacked the Democratic Congressional  
 10 Campaign Committee (the “DCCC”).<sup>13</sup> In addition to its blog, Guccifer 2.0 operated a Twitter  
 11 account to communicate about its hacking activities.<sup>14</sup> Guccifer 2.0’s Twitter page stated “my  
 12 DM [Direct Message] is OPEN for EVERYONE!”<sup>15</sup>

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<sup>6</sup> See Special Counsel’s Report at 42; Ellen Nakashima, *Russian Government Hackers Penetrated DNC, Stole Opposition Research on Trump*, WASH. POST, June 14, 2016; 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.

<sup>7</sup> 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.

<sup>8</sup> Special Counsel’s Report at 41, 43; Intelligence Community Assessment at 3.

<sup>9</sup> 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) [hereinafter Guccifer 2.0, June 15, 2016 Blog Post].

<sup>10</sup> Special Counsel’s Report at 43 n.147; Intelligence Community Assessment at 2-3.

<sup>11</sup> Guccifer 2.0, June 15, 2016 Blog Post.

<sup>12</sup> Special Counsel’s Report at 46.

<sup>13</sup> Guccifer 2.0, *Guccifer 2.0 Hacked DCCC*, <https://web.archive.org/web/20160912021619/https://guccifer2.wordpress.com/2016/08/12/guccifer-2-0-hacked-dccc/> (archived version from September 12, 2016) [hereinafter Guccifer 2.0, August 12, 2016 Blog Post].

<sup>14</sup> Guccifer 2.0 (@GUCCIFER\_2) | Twitter, [https://web.archive.org/web/20160815231439if\\_/https://twitter.com/GUCCIFER\\_2](https://web.archive.org/web/20160815231439if_/https://twitter.com/GUCCIFER_2) (archived version of Twitter feed from August 15, 2016) [hereinafter Guccifer 2.0 Twitter Page]; see *Netyksho* Indictment ¶¶ 45(a), 64(b); Guccifer 2.0 August 12, 2016 Blog Post (providing link to Twitter account).

<sup>15</sup> Guccifer 2.0 Twitter Page (prominent tweet from June 22, 2016).

On May 17, 2017, the Deputy Attorney General appointed Robert S. Mueller III as Special Counsel to investigate the Russian Federation's "efforts to interfere in the 2016 presidential election" and "links and/or coordination between the Russian government and individuals associated with the campaign of President Donald Trump."<sup>16</sup> The Special Counsel determined, *inter alia*, that the Russian Federation's Main Intelligence Directorate of the General Staff (GRU) hacked the computers and email accounts of various organizations related to the 2016 U.S. election, including the DNC and DCCC, and disseminated stolen materials through fictitious online personas, including Guccifer 2.0.<sup>17</sup>

The Special Counsel's Report states that "on August 15, 2016, the Guccifer 2.0 persona sent a candidate for the U.S. Congress documents related to the candidate's opponent."<sup>18</sup> More details on the interaction between Guccifer 2.0 and the unnamed candidate are described in the *Netyksho* indictment, which states: "On or about August 15, 2016, the Conspirators, posing as Guccifer 2.0, received a request for stolen documents from a candidate for the U.S. Congress. The Conspirators responded using the Guccifer 2.0 persona and sent the candidate stolen documents related to the candidate's opponent."<sup>19</sup>

documents showing that H. Russell Taub was the candidate who contacted and received stolen documents from Guccifer 2.0 related to his opponent. Taub was the 2016 Republican candidate for Rhode Island's 1st Congressional

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<sup>16</sup> See Office of Deputy Att'y Gen., Order No. 3915-2017: *Appointment of Special Counsel to Investigate Russian Interference with the 2016 Presidential Election and Related Matters* (May 17, 2017).

<sup>17</sup> Special Counsel's Report at 36; see also *id.* at 42 (explaining factual circumstances that support DOJ's assessment that the GRU controlled the Guccifer 2.0 persona).

<sup>18</sup> *Id.* at 43.

<sup>19</sup> *Netyksho* Indictment ¶ 43(a) (charging Russian GRU officers with conspiracy to commit an offense against the United States).

District, and Russell Taub for Congress was his authorized committee.<sup>20</sup> Taub lost to David

Cicilline in the general election.<sup>21</sup> On August 15, 2016,

Taub contacted the Guccifer 2.0 persona via Twitter direct message, seeking assistance for his campaign. This occurred approximately two months after Guccifer 2.0 publicly claimed responsibility for the DNC hacking and announced that its Twitter direct message was “Open for Everyone,” three weeks after WikiLeaks released the tranche of DNC documents, and three days after Guccifer 2.0 announced that it had hacked the DCCC.

A transcript of the Twitter direct message conversation between Taub and Guccifer 2.0 is provided below.<sup>22</sup> We note that the transcript lists the “Twitter ID” number for each account, which is the unique value assigned to Twitter accounts, but not the Twitter handle, which is the public-facing name for the account.<sup>23</sup> However, source code available for archived versions of their Twitter pages, shows that the Twitter ID numbers belonged to @htaub814 or “H. Russell Taub” and @Guccifer\_2 or “Guccifer 2.0.”<sup>24</sup> The “H. Russell Taub” account, which joined Twitter in May 2013, displayed a headshot of Taub as the profile picture, identified Taub

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<sup>20</sup> H. Russell Taub, Statement of Candidacy (Feb. 11, 2015); Russell Taub for Congress, Statement of Org. (May 21, 2015).

<sup>21</sup> Russell Taub – Ballotpedia, BALLOTPEDIA.ORG, [https://ballotpedia.org/Russell\\_Taub](https://ballotpedia.org/Russell_Taub) (last accessed May 27, 2021).

<sup>22</sup> The original transcript [hereinafter Twitter Direct Message Transcript].

<sup>23</sup> See Twitter IDs | Docs | Twitter Developer Platform, <https://developer.twitter.com/en/docs/twitter-ids> (providing information on Twitter IDs) (last accessed May 27, 2021).

<sup>24</sup> <https://web.archive.org/web/20161111073521/https://twitter.com/htaub814> (archived version of @htaub814 Twitter page with metadata: data-user-id= "1470814424" data-screen-name="htaub814" data-name="H. Russell Taub") [hereinafter H. Russell Taub Twitter Page]; [https://web.archive.org/web/20160815231439if\\_/https://twitter.com/GUCCIFER\\_2](https://web.archive.org/web/20160815231439if_/https://twitter.com/GUCCIFER_2) (archived version of @Guccifer\_2 Twitter page with metadata: data-user-id= "744912907515854848" data-screen-name="GUCCIFER\_2" data-name="GUCCIFER 2.0"). The Twitter ID numbers 1470814424 and 744912907515854848 match the numbers listed on the transcript

1 as a “Candidate for 2016,” and linked to “russforcongress2016.com.”<sup>25</sup> The “Guccifer 2.0”  
2 account is the same account identified by the Special Counsel as having been operated by the  
3 GRU, and it is the same account linked to in Guccifer 2.0’s WordPress blog posts.<sup>26</sup>

4 As shown below, Taub sent a Twitter direct message to Guccifer 2.0, asking: “Can you  
5 get a list of Republican donors for me. I am running for office myself.” Taub said, “I could use  
6 your help to defeat cicilline.” He further explained that a donor list would help to “raise some  
7 money to put against [Cicilline] . . . if I had the resources I can win.” Guccifer 2.0 replied, “it  
8 seems i have a dossier on cicilline . . . I can send u a dossier via email.” Taub then provided the  
9 email address, info@russforcongress2016.com for receipt of the dossier.<sup>27</sup>

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<sup>25</sup> Russell Taub Twitter Page.

<sup>26</sup> Guccifer 2.0 August 12, 2016 Blog Post; Special Counsel’s Report at 46; *Netyksho* Indictment ¶ 45(a).

<sup>27</sup> the email address “info@russforcongress2016” was registered to “Harold Taub” with the recovery email: htaub814@gmail.com.

# 1                                      **Transcript of Taub/Guccifer 2.0 Twitter Conversation**

User	Date/Time	Message
@htaub814 – “H. Russell Taub”	2016-08-15 12:54:08 PM (EST)	Can you get a list of Republican donors for me. I am running for office myself.
@Guccifer_2 – “Guccifer 2.0	2016-08-15 02:19:38 PM (EST)	r u from rhode island?
@htaub814 – “H. Russell Taub”	2016-08-15 02:30:47 PM (EST)	Originally no nj
	2016-08-15 02:31:02 PM (EST)	But I could use your help to defeat cicilline
@Guccifer_2 – “Guccifer 2.0”	2016-08-15 02:34:19 PM (EST)	how republican donors list would help u?
	2016-08-15 02:34:38 PM (EST)	i'll have a look at what i have
@htaub814 – “H. Russell Taub”	2016-08-15 02:36:25 PM (EST)	I raise some money to put against him. He think he is a God and he thinks he is unbeatable but if I had the resources I can win. And I am only 28 to.
@Guccifer_2 – “Guccifer 2.0”	2016-08-15 02:37:59 PM (EST)	ho, it seems i have a dossier on cicilline
	2016-08-15 03:35:13 PM (EST)	i can send u a dossier via email
	2016-08-15 03:35:24 PM (EST)	do u have a pgp key?
@htaub814 – “H. Russell Taub	2016-08-15 03:54:14 PM (EST)	Sept 13, info@russforcongress2016.com

2                      About 15 minutes later, “Guccifer2 <guccifer2@protonmail.com>” sent an email to  
 3 info@russforcongress2016.com with a zipped file named “Cicilline\_David.7z,” but Taub  
 4 apparently could not open the documents in their compressed format,

5                      Two days later, on August 17, 2016, guccifer2@protonmail.com sent the files  
 6 again but not in the compressed format.

7                      The August 17, 2016 email from Guccifer 2.0 to Taub included 10 attachments, all of  
 8 which were documents related to Cicilline, apparently stolen from the GRU’s election-related  
 9 hacking targets.<sup>28</sup> Among the attached documents were three professionally produced opposition  
 10 research reports on Cicilline. The first was a 206-page self-opposition “Research Report”  
 11 prepared by Walsworth Landset Research for “Team Cicilline,” which highlighted  
 12 “vulnerabilities that Cicilline may encounter during his re-election campaign in 2012.”<sup>29</sup> It

<sup>28</sup>                      Copies of the email and attachments are placed in the                      folder for this matter.

<sup>29</sup>                      The Cicilline Committee paid Walsworth Landset Research \$15,000 during the 2012 cycle, shortly before and after the date of this report, for “Research” and “Research Services.” Cicilline Committee, April 2012 Quarterly

provided an overview of Cicilline's political career, described his voting patterns, and analyzed Cicilline's background and position on nearly three dozen major issues. The second was a 45-page self-opposition research "Vulnerability Report" prepared for Cicilline for Congress by 3rd Coast Research in May 2010.<sup>30</sup> It analyzed "Top Attacks" against Cicilline on numerous issues and provided in-depth background information about Cicilline. The report states that it is "an internal document and is not intended for public review or circulation."<sup>31</sup> The third is a 68-page "Polling Memo," dated April 26, 2010, apparently prepared for the campaign of Cicilline's 2010 Democratic primary challenger, Bill Lynch.<sup>32</sup> The report summarizes Cicilline's background and provides commentary on where Cicilline might be vulnerable to attacks.

The remaining documents consist of three documents with polling data from the 2010 election cycle, including the results of a "Master Questionnaire" apparently conducted by The Feldman Group, Inc. on behalf of the Cicilline Committee in September 2010.<sup>33</sup> There are also

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Rpt. at 172 (Apr. 15, 2012); Cicilline Committee, July 2012 Quarterly Rpt. at 204 (July 15, 2012). Between 2011 and 2020, 57 federal political committees reported numerous disbursements totaling \$1,233,259 to Walsworth Landset Research for "Research Consulting," "Research," "Research Services," "Opposition Research," among other similar purposes. [https://www.fec.gov/data/disbursements/?data\\_type=processed&recipient\\_name=Walsworth+Landset+Research+](https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Walsworth+Landset+Research+).

<sup>30</sup> The Cicilline Committee paid 3rd Coast Research \$19,313 during the 2010 cycle, shortly before or after the date of this report, for "Research." Cicilline Committee, July 2010 Quarterly Rpt. at 193 (July 15, 2010); Cicilline Committee, 2012 Pre-Primary Rpt. at 102 (Dec. 8, 2010). Between 2007 and 2013, 24 federal political committees reported disbursements totaling \$325,686 to 3rd Coast Research for "Research," "Research Fees," "Opposition Research," and "Campaign Research," among other similar purposes. [https://www.fec.gov/data/disbursements/?data\\_type=processed&recipient\\_name=3rd+Coast+Research](https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=3rd+Coast+Research)

<sup>31</sup> 3rd Coast Research, *David Cicilline RI-1 Vulnerability Report* at 2 (May 2010) (attached with file name "Cicilline Viability Report – May 2010.doc").

<sup>32</sup> The report is addressed to the "Lynch campaign" and identifies Cicilline as Lynch's opponent. *See also* William J. Lynch, Statement of Candidacy (Feb. 22, 2010) (listing Democratic party affiliation and candidacy in Rhode Island's 1st Congressional District). During the 2010 election cycle, Bill Lynch for Congress paid \$25,000 for "Research" and "Research Services" to The Maccabee Group. Bill Lynch for Congress, 2010 Pre-Primary Rpt. at 38 (Sept. 2, 2010); Bill Lynch for Congress, April 2010 Quarterly Rpt. at 54 (Apr. 15, 2010); Bill Lynch for Congress, 2010 July Quarterly Rpt. at 44-45 (July 15, 2010).

<sup>33</sup> The Cicilline Committee paid \$338,940 to The Feldman Group during the 2010 cycle, including payments of \$15,330 for "Research Expense" and \$33,842 for "Benchman (Polling)" shortly before and after the date of the polling data. Cicilline Committee, Amended 2010 Pre-Primary Rpt. at 158 (Dec. 8, 2010); Cicilline Committee,



news articles related to Cicilline and one of Cicilline's U.S. House of Representatives Financial Disclosure Statements.

Russell Taub for Congress terminated in 2018.<sup>34</sup> Following his bid for Congress, Taub solicited donations to organizations he called Keeping America in Republican Control ("KAIRC") and Keeping Ohio in Republican Control ("KOIRC").<sup>35</sup> On March 21, 2019, Taub pled guilty to using these organizations to commit wire fraud in violation of 18 U.S.C. § 1343 and failing to file reports with the Commission in violation of 52 U.S.C. §§ 30104 and 30106.<sup>36</sup> As part of his sentence, Taub was ordered to serve three years in prison and pay over \$1.1 million in restitution to his victims.<sup>37</sup> These activities were also the subject of MUR 7479 in which Taub was a respondent; on March 9, 2021, the Commission dismissed the allegations as an exercise of prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985).<sup>38</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any "foreign national" from directly or indirectly making a contribution or donation of money or other thing of value in connection with a federal, state, or local election.<sup>39</sup> Moreover, the Act and Commission regulations prohibit any

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2010 October Quarterly Rpt. at 166 (Oct. 15, 2010); [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00476564&recipient\\_name=the+feldman+group](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00476564&recipient_name=the+feldman+group).

<sup>34</sup> Termination Approval, Russell Taub for Congress (Feb. 9, 2018).

<sup>35</sup> See Information, *United States v. Harold Russell Taub*, No. CR 19-015 (D. RI Feb. 12, 2019); Waiver of Indictment, *United States v. Harold Russell Taub*, No. CR 19-015 (D. RI Feb. 22, 2019).

<sup>36</sup> Plea Agreement, *United States v. Harold Russell Taub*, No. CR 19-015 (D. RI Feb. 12, 2019); Criminal Docket, *United States v. Harold Russell Taub*, No. CR 19-015 (D. RI Feb. 22, 2019) (updated Mar. 21, 2019).

<sup>37</sup> Amended Judgment and Restitution List, *United States v. Harold Russell Taub*, No. CR 19-015 (D.R.I. Jul. 20, 2020). According to the Bureau of Prisons website, it appears Taub now resides at a residential reentry facility (halfway house).

<sup>38</sup> Certification ¶ 2(a), MUR 7479 (KAIRC PAC, *et al.*) (Apr. 5, 2021).

<sup>39</sup> 52 U.S.C. § 30121(a)(1)(A); 11 C.F.R. § 110.20(b); *see also* 52 U.S.C. § 30121(b) (defining "foreign national" to include an individual who is not a citizen or national of the United States and who is not lawfully

1 person from knowingly soliciting, accepting, or receiving any such contribution or donation from  
 2 a foreign national.<sup>40</sup> A “contribution” includes “any gift, subscription, loan, advance, or deposit  
 3 of money or anything of value made by any person for the purpose of influencing any election  
 4 for Federal office.”<sup>41</sup> Under Commission regulations, “anything of value” includes all in-kind  
 5 contributions, which include “the provision of any goods or services without charge or at a  
 6 charge that is less than the usual and normal charge for such goods or services.”<sup>42</sup>

7 Based on the available information, it appears that Taub solicited, accepted, and received  
 8 prohibited in-kind foreign national contributions. First, the information Taub initially solicited,  
 9 but did not receive, from Guccifer 2.0 — *i.e.*, “a list of Republican donors,” is a thing of value.  
 10 In making his request, Taub stated that the donor information would “help to defeat cicilline”  
 11 and explained that he would use the information to “raise some money.”<sup>43</sup> The Commission has  
 12 long recognized that “mailing lists are assets that have value,” and therefore the “list of  
 13 Republican donors” solicited by Taub is a thing of value falling squarely within that precedent.<sup>44</sup>

14 Second, the information that Taub ultimately accepted and received from Guccifer 2.0,  
 15 namely, three research reports, were also things of value. In MUR 6414 (Carnahan), the  
 16 Commission found that a committee’s receipt of investigative or opposition research services

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admitted for permanent residence, as well as a “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes “a government of a foreign country”).

<sup>40</sup> 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

<sup>41</sup> 52 U.S.C. § 30101(8)(A).

<sup>42</sup> 11 C.F.R. § 100.52(d).

<sup>43</sup> Twitter Direct Message Transcript.

<sup>44</sup> Advisory Op. 2014-06 (Ryan, *et al.*) at 8; *see* Advisory Op. 2014-09 (REED Marketing) at 4 n.6; Advisory Opinion 2011-02 (Brown) at 7-8; Advisory Op. 2002-14 (Libertarian Nat’l Comm.) at 5; Advisory Op. 1982-46 (Dellums) at 2.

without paying the usual or normal charge may result in an in-kind contribution.<sup>45</sup> In MUR 5409 (Norquist, *et al.*), the Commission concluded that a master contact list of political activists was “something of value, meeting the Act’s broad definition of contribution,” given that a corporation had “utilized its resources to obtain and compile” the materials; the materials contained “information that may [have been] of value in connection with the [] election”; and it appeared the materials were not “readily or publicly available.”<sup>46</sup>

As described above, Guccifer 2.0 sent Taub three research reports, two of which were prepared by commercial research services and not intended for public release.<sup>47</sup> The third may have also been prepared by a commercial research service and was nonetheless of professional quality.<sup>48</sup> The documents, which provide in-depth analysis on how Cicilline might be vulnerable to attacks and summarize Cicilline’s background, would have required expending a significant amount of resources to produce. Indeed, information about the vendors who prepared these reports suggest that they potentially cost between \$15,000 and \$25,000 to produce.<sup>49</sup> Additionally, the materials included polling data, which the Commission has also determined to be a thing of value.<sup>50</sup>

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<sup>45</sup> See Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (dismissing because of the low amount in violation); see Factual & Legal Analysis at 7-8, MUR 7271 (DNC) (finding reason to believe, on the basis of a pre-investigatory record, suggesting the Ukrainian Embassy may have “utilized its resources and expended funds for opposition research on a candidate that was provided to a political committee at no charge”).

<sup>46</sup> First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (internal quotations omitted); Certification ¶ 2, MUR 5409 (Oct. 19, 2004). The Commission found reason to believe but took no further action because the value of the materials at issue appeared to be limited. However, that matter did not involve a foreign national.

<sup>47</sup> *Supra* notes 29-30 and accompanying text.

<sup>48</sup> *Supra* note 32 and accompanying text.

<sup>49</sup> *Supra* notes 29-32.

<sup>50</sup> See 11 C.F.R. § 106.4(b) (“The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent acceptance of the poll results by a candidate or a candidate’s authorized political committee or agent or by another unauthorized political committee is a contribution

1           The provision of these materials relieved Taub and his campaign of expenses that might  
 2 otherwise have been incurred to obtain such materials from other sources.<sup>51</sup> And not only were  
 3 resources utilized to initially create and compile these materials, but Guccifer 2.0, or more  
 4 precisely the Russian actors controlling the persona, utilized resources to obtain the stolen  
 5 documents through hacking activities.<sup>52</sup> Even though the research files and polling data were  
 6 several years old, and their value may have depreciated,<sup>53</sup> the Commission has recognized the  
 7 “broad scope” of the foreign national contribution prohibition and found that even where the  
 8 value of a good “may be nominal or difficult to ascertain” such contributions are nevertheless  
 9 banned.<sup>54</sup> In any event, given the in-depth analyses provided within the reports covering dozens  
 10 of issues spanning Cicilline’s entire career and background,<sup>55</sup> they would have likely been of  
 11 significant value to Taub, a first-time, 28-year-old candidate. What is more, two of the research

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in-kind by the purchaser to the candidate or other political committee and an expenditure by the candidate or other political committee.”).

<sup>51</sup> See Advisory Op. 1992-33 (DNC) at 3 (“As a general rule, an in-kind donation for Federal elections is treated as if funds equal to the value of the donation were received by the committee and then the committee expended those funds to purchase the goods or services.”); Advisory Op. 2007-22 (Hurysz) at 6 (finding there to be a contribution where the provision of materials “would relieve [the] campaign of the expense that it would otherwise incur to obtain such materials”).

<sup>52</sup> The GRU made a variety of payments for the purchase or rental computer technology and resources, such as computer servers and domain names. Special Counsel’s Report at 39, 41; *Netyksho* Indictment ¶¶ 39, 57 (explaining how the GRU laundered more than \$95,000 in cryptocurrency).

<sup>53</sup> See 11 C.F.R. § 100.52(d)(2) (providing that the “usual and normal charge” is determined by “the rate prevailing at the time” the contribution was provided or when the services were rendered); Advisory Op. 2008-07 (Neugebauer) at 4.

<sup>54</sup> Advisory Op. 2007-22 (Hurysz) at 6 (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69940 (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 by foreign nationals.”) (emphasis added)); see also Gen. Counsel’s Brief at 24, MUR 4250 (Republican Nat’l Comm., *et al.*) (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”).

<sup>55</sup> *Supra* notes 29-32 and accompanying text.

reports and the polling data were prepared specifically for the Cicilline campaign,<sup>56</sup> and therefore had unique value since they were internal campaign documents.

Commission regulations require that a person must “knowingly” solicit a foreign national, and define knowingly to mean, *inter alia*, that a person must “[b]e aware of facts that would lead a reasonable person to conclude that there is a substantial probability” that the person being solicited is a foreign national.<sup>57</sup> It appears that the facts known to Taub at the time of his solicitation, acceptance, and receipt of the stolen documents should have led him to reasonably conclude he was communicating with a foreign national. By August 2016, when Taub contacted Guccifer 2.0, there had been widespread public reports attributing election hacking to Russian state-sponsored actors, specifically the DNC hacking — for which Guccifer 2.0 had claimed responsibility.<sup>58</sup> Guccifer 2.0 denied a Russian connection, but claimed to be Romanian,<sup>59</sup> and thus either way was a foreign national and a prohibited source. Under these circumstances, any person seeking out Guccifer 2.0 for assistance would have likely concluded that there was a substantial probability the source was a foreign national.<sup>60</sup>

Therefore, based on record before the Commission, it appears that Taub violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting, and receiving, prohibited in-kind foreign national contributions.<sup>61</sup>

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<sup>56</sup> *Supra* notes 29-30, 33 and accompanying text.

<sup>57</sup> 11 C.F.R. § 110.20(a)(4)(ii).

<sup>58</sup> *Supra* notes 7-11 and accompanying text.

<sup>59</sup> *Supra* note 7 and accompanying text.

<sup>60</sup> 11 C.F.R. § 110.20(a)(4)(ii).

<sup>61</sup> The GRU, which provided the thing of value to Taub, is an agent of the Russian Federation. The term “foreign principal,” incorporated in the Act’s definition of “foreign national,” includes the “government of a foreign country” and specifically “any group or agency” within the government of a foreign country, such as the GRU, a Russian military intelligence agency. *See* 52 U.S.C. 30121(b)(1); 22 U.S.C. § 611(b), (e). The Commission previously dismissed the Russian Federation from this matter, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).

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#### 17 **IV. RECOMMENDATIONS**

18 1. Substitute the name H. Russell Taub in the place of “Unknown Congressional  
19 Candidate” in the Commission’s previous findings in this matter;

20 2. Approve the attached Factual and Legal Analysis;

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Certification ¶ 4(c), MURs 7207, 7268, 7274, and 7623 (Apr. 26, 2021). Accordingly, we do not make any further recommendations as to the Russian Federation here.

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- 1           3.     Enter into pre-probable cause conciliation with H. Russell Taub;  
2           4.     Approve the proposed Conciliation Agreement; and  
3           5.     Approve the appropriate letters.

4  
5     June 1, 2021

6     Date

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