

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 7265

DATE COMPLAINT FILED: July 10, 2017

DATE OF NOTIFICATIONS: July 17, 2017

RESPONSE RECEIVED: Sept. 14, 2017

DATE ACTIVATED: Oct. 2, 2017

EXPIRATION OF SOL: June 9, 2021

ELECTION CYCLE: 2016

COMPLAINANTS:

Common Cause

Paul S. Ryan

RESPONDENTS:

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

Crate in his official capacity as treasurer

Donald Trump Jr.

MUR: 7266¹

DATE COMPLAINT FILED: July 13, 2017

DATE OF SUPPLEMENT: Apr. 30, 2019

DATES OF NOTIFICATIONS: July 20, 2017

May 2, 2019

LAST RESPONSE RECEIVED: July 23, 2019

DATE ACTIVATED: Oct. 2, 2017

EXPIRATION OF SOL: June 9, 2021

ELECTION CYCLE: 2016

COMPLAINANTS:

Common Cause

Campaign Legal Center

Democracy 21

Paul S. Ryan

Catherine Hinckley Kelley

Robert C. Sinnot

Russell S. Kussman

RESPONDENTS:

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

Crate in his official capacity as treasurer

¹ We administratively severed allegations that Donald J. Trump for President, Donald Trump Jr., Jared Kushner, and Paul Manafort met with Russian nationals on June 9, 2016, to obtain opposition research, and merged them into MUR 7266, which contains similar allegations against these Respondents. As a result of the merger, the complainants , Robert C. Sinnot and Russell S. Kussman, respectively, have been added to MUR 7266.

MURs 7265 / 7266 (Donald J. Trump for President, *et al.*)

First General Counsel's Report

Page 2 of 37

Donald Trump Jr.

Paul Manafort

Jared Kushner

Rob Goldstone

RELEVANT STATUTES

52 U.S.C. § 30121(a)

AND REGULATIONS:

11 C.F.R. § 110.20(g), (h)

INTERNAL REPORTS

Disclosure Reports

CHECKED:

FEDERAL AGENCIES

CHECKED:

I. INTRODUCTION

The Complaints in these matters allege that Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”), the authorized committee of 2016 presidential candidate Donald J. Trump, as well as several representatives of the Trump Committee, solicited a prohibited foreign national contribution by seeking damaging information on Trump’s general election opponent, Hillary R. Clinton, from Russian nationals in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Specifically,

1 these Complaints concern a meeting held on June 9, 2016 (the “June 9 meeting”) organized by
2 Trump’s son and senior campaign advisor, Donald Trump Jr., that occurred at Trump Tower in
3 New York City.

4 Based on the available information, it appears that Trump Jr., in his capacity as an agent
5 of the Trump Committee, solicited opposition research on candidate Trump’s opponent from
6 individuals he knew to be Russian nationals. In these circumstances, the damaging information
7 solicited by Trump Jr. constitutes a thing of value under Commission precedent. Accordingly,
8 we recommend that the Commission find reason to believe that Donald Trump Jr., and the
9 Trump Committee violated 52 U.S.C. § 30121(a)(2), by knowingly soliciting a contribution from
10 a foreign national. Further, we recommend that the Commission notify as Respondents Aras
11 Agalarov and Emin Agalarov, the Russian nationals who apparently offered the damaging
12 information. Finally, we recommend that the Commission take no action at this time with regard
13 to Rob Goldstone, in light of Goldstone’s overall role, and with regard to Jared Kushner and Paul
14 Manafort because we lack sufficient information regarding their involvement. If we learn of
15 additional information regarding Goldstone, Kushner, and Manafort in the course of resolving
16 these matters as to the other Respondents, we will make the appropriate recommendation.

17 **II. FACTUAL BACKGROUND**

18 The allegations in these matters concern the June 9 meeting at Trump Tower, a subject of
19 investigation by other investigative bodies, including both the Office of the Special Counsel³ and

³ SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION, Vol. 1 at 110-123 (Mar. 22, 2019) (“Special Counsel’s Report”); *see also* Supp. Compl., MUR 7266 (Apr. 30, 2019) (updating allegations with findings from the Special Counsel’s Report).

the Senate Select Committee on Intelligence.⁴ The June 9 meeting participants were Trump Jr., Campaign Chairman Manafort, senior campaign advisor Kushner, a contingent of Russian nationals led by former Russian prosecutor Natalia Veselnitskaya including lobbyist Rinat Akhmetshin, Irakli “Ike” Kaveladze, and Anatoli Samochornov, and, finally, Rob Goldstone, who worked for Emin Agalarov.⁵

The background to this meeting began several years prior to the 2016 election, with the introduction of the Trump family to the Agalarov family. According to the Special Counsel's Report, “Aras Agalarov is a Russian real-estate developer with ties to [Russian President Vladimir] Putin and other members of the Russian government.”⁶ In 2013, through their respective organizations, the Crocus Group and the Trump Organization, Aras Agalarov worked with Donald Trump in connection with the Miss Universe pageant held in Moscow.⁷ Shortly thereafter, Agalarov's firm, the Crocus Group, and the Trump Organization entered into

⁴ U.S. SENATE SELECT COMM. ON INTELLIGENCE, RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, VOLUME 5: COUNTERINTELLIGENCE, THREATS AND VULNERABILITIES at 345-395 (Aug. 18, 2020) (“Senate Intelligence Committee Report”). The Senate Intelligence Committee explained that its “investigation focused on the counterintelligence threat posed by the Russian intelligence services” while the Special Counsel focused on criminal activity. *Id.* at 4.

⁵ Special Counsel's Report at 6, 111, 117 (describing Goldstone as a publicist to Emin Agalarov); Senate Intelligence Committee Report at 322, 364; *see also* Compl. at 2-4, MUR 7265 (July 10, 2017) (alleging same); Senate Intelligence Committee Report at 270 (describing Goldstone as Emin's “aide” and promoter). Goldstone appears to be a British national. *See, e.g.*, Rosalind S. Helderman, *How a British Music Publicist Ended up in the Middle of the Russia Storm*, WASH. POST (Sept. 22, 2018), https://www.washingtonpost.com/politics/how-a-british-music-publicist-ended-up-in-the-middle-of-the-russia-storm/2018/09/21/d1449a40-ba83-11e8-a8aa-860695e7f3fc_story.html.

⁶ Special Counsel's Report at 110; *see also* Senate Intelligence Committee Report at 261 (detailing Aras Agalarov's construction and real estate businesses, connections to Putin, and associations with Russian organized crime).

⁷ Special Counsel's Report at 67 n.291; Senate Intelligence Committee Report at 259; *see also* Senate Intelligence Committee Report at 271, 275-79 (detailing Miss Universe planning emails between Trump Organization employees and Goldstone, for the Agalarovs).

1 discussions regarding a potential Trump Moscow real-estate project.⁸ The Special Counsel's
 2 Report states that Trump Jr. served as "the primary negotiator for the Trump Organization,"
 3 while Emin Agalarov, Agalarov's son, and Ike Kaveladze "represented the Crocus Group during
 4 negotiations."⁹ Emin Agalarov and Trump Jr. signed "preliminary terms of an agreement for the
 5 Trump Tower Moscow project" in December 2013 and negotiated a letter of intent in early 2014,
 6 but the project never "developed past" the planning stage; the last apparent communication
 7 between the two groups about the project occurred in late November 2014.¹⁰

8 Despite the failed real estate deal, the Agalarovs and the Trumps remained on friendly
 9 terms.¹¹ For instance, on June 16, 2015, the day Trump announced his candidacy, Goldstone
 10 emailed Trump Jr. asking him to pass on his and Emin Agalarov's congratulations.¹² On
 11 February 29, 2016, Aras Agalarov reportedly sent Trump and Trump Jr. a letter to congratulate
 12 candidate Trump on winning the Republican primary and to offer his "support and that of many

⁸ Special Counsel's Report at 67-68 ("From January 2014 through November 2014, the Trump Organization and Crocus Group discussed development plans for the Moscow project."); *id.* at 110-11 (describing how Agalarov, as president of the Crocus Group, "worked with Trump in connection with the 2013 Miss Universe pageant in Moscow and a potential Trump Moscow real-estate project").

⁹ *Id.* at 67; *see also* Senate Intelligence Committee Report at 267 (stating that Emin Agalarov is "Executive Vice President of Crocus group"); *id.* at 301 (citing November 19, 2013, email from Trump Jr. to Emin Agalarov introducing himself "for the first time" and expressing interest in Trump Tower Moscow project).

¹⁰ Special Counsel's Report at 67-68; Senate Intelligence Committee Report at 307-09 (describing several meetings from winter to spring 2014, including meetings between Trump Jr., Emin Agalarov, and Goldstone in January 2014 in New York City and in Doral, Florida in March 2014, but concluding that discussions "slowed" by late summer to fall 2014).

¹¹ *See* Senate Intelligence Committee Report at 310-11, n.2027 (describing several meetings between Trump, Emin Agalarov, and Goldstone at Trump Tower in early 2015 that Goldstone described, in testimony to the Senate Committee, as "personal" and about which Emin Agalarov reportedly said "We kind of hang out"). Goldstone and Emin Agalarov both testified to the Senate committee that, in a meeting at Trump Tower in May 2015, Trump discussed running for president. *Id.* at 311.

¹² *Id.* at 312.

of his important Russian friends and colleagues[,] especially with reference to U.S./Russian relations.”¹³ Trump apparently responded with a handwritten letter.¹⁴

According to both the Special Counsel's and Senate Intelligence Committee reports, what ultimately became the June 9 meeting originated from a June 3, 2016, phone call from Emin Agalarov to Goldstone.¹⁵ The Special Counsel's Report, in a heavily-redacted section, describes the phone call as follows: “Goldstone understood [redacted] a Russian political connection, and Emin Agalarov indicated that the attorney was a prosecutor. Goldstone recalled that the information that might interest the Trumps involved Hillary Clinton. The [redacted] mentioned by Emin Agalarov was Natalia Veselnitskaya.”¹⁶ Goldstone also described the call in testimony to the Senate Intelligence Committee: “[Emin] asked if I could possibly contact ‘the Trumps’ . . . because his father had met with a well-connected government lawyer in his office, who had some interesting information about illicit Russian funding to the Democrats and its candidate; and

¹³ Special Counsel's Report at 111 (quoting Email from Goldstone, on behalf of Aras Agalarov, Feb. 29, 2016, which the Special Counsel's Report labels as sent to “Trump Jr. et al.”) (alteration in original). During Trump's candidacy, Goldstone also continued to propose commercial transactions with Trump Jr., though it is not clear whether the Agalarovs were engaged in these proposals. *See* Senate Intelligence Committee Report at 313-18 (quoting emails between Goldstone, Trump Jr and others about Goldstone's proposal that the Trump Committee use Russian social media company VK).

¹⁴ Senate Intelligence Committee Report at 321-22; *see also id.* at 319-21 (detailing multiple communications between Trumps and Agalarovs and including images of handwritten notes).

¹⁵ Special Counsel's Report at 111 (citing Goldstone 2/8/18 FBI 302; Call Records of Robert Goldstone); Senate Intelligence Committee Report at 345.

¹⁶ *Id.* at 111-12. The Senate Intelligence Committee describes Veselnitskaya as “a Russian lawyer who previously worked for, and remains in contact with, senior individuals in the Russian government” and states that she had “significant and concerning connections to Russian . . . intelligence officials.” Senate Intelligence Committee Report at 329, 333. Veselnitskaya told the committee she had done work for Aras Agalarov since 2013 or 2014. *Id.* at 338. In January 2019, DOJ unsealed an indictment against Veselnitskaya for obstruction of justice by submitting false declarations in an unrelated matter. *See* DOJ, Russian Attorney Natalya Veselnitskaya Charged with Obstruction of Justice in Connection with Civil Money Laundering and Forfeiture Action (Jan. 8, 2019), <https://www.justice.gov/usao-sdny/pr/russian-attorney-natalya-veselnitskaya-charged-obstruction-justice-connection-civil>.

could I pass that on and get the meeting.”¹⁷ Goldstone further testified that, when he indicated to Emin that he did not know “what you’re asking me to convey,” Emin replied: “There’s information, it’s potentially damaging to the Democrats and Hillary, and I think you should contact the Trumps; my dad would really like this meeting to take place.”¹⁸ Goldstone testified that Emin said, “Please, just ask for the meeting. You don’t need to do anything else.”¹⁹

Shortly after this phone call, Goldstone sent Trump Jr. the following email with the subject “Russia — Clinton — private and confidential”:

Good morning

Emin just called and asked me to contact you with something very interesting.

The Crown prosecutor of Russia met with his father Aras this morning and in their meeting offered to provide the Trump campaign with some official documents and information that would incriminate Hillary and her dealings with Russia and would be very useful to your father.

This is obviously very high level and sensitive information but is part of Russia and its government’s support for Mr. Trump — helped along by Aras and Emin.

What do you think is the best way to handle this information and would you be able to speak to Emin about it directly?

I can also send this info to your father via Rhona, but it is ultra sensitive so wanted to send to you first.

¹⁷ Senate Intelligence Committee Report at 345.

¹⁸ *Id.* at 346. Emin Agalarov testified that he did what his father had requested because, “When my father asks, I cannot say no.” *Id.*

¹⁹ *Id.* Goldstone also said that Aras Agalarov “never” directly tasked him to do things, but that he “would be asked to do things through a ‘chain of command’” through staff or Emin. *Id.* at n.2213.

Best,

Rob Goldstone.²⁰

Minutes later, Trump Jr. responded: “Thanks Rob I appreciate that. I am on the road at the moment but perhaps I just speak to Emin first. Seems we have some time and if it’s what you say I love it especially later in the summer.”²¹ Trump Jr. testified to the Senate Intelligence Committee that he wanted to speak with Emin first because he had received “a rather sensational email from Rob, who I know to be a rather sensational kind of guy” and as a result, Trump Jr. “didn’t know what to make of it.”²² In a subsequent interview, Trump Jr. acknowledged that the purpose of following up on Goldstone’s message was to obtain the opposition research, stating that if “someone has information on our opponent . . . maybe this is something. I should hear them out.”²³

Manafort testified to the Senate Intelligence Committee that, at some point between June 3 and June 6, 2016, Trump Jr. told him that foreign nationals with whom he worked for the Miss Universe pageant “had some information that they wanted to share that could be helpful to the campaign.”²⁴ At a regularly scheduled “Family Meeting” on June 6, 2016, for senior campaign

²⁰ Special Counsel’s Report at 113 (citing Email from Goldstone to Trump Jr., 6/3/16 10:36am; @DonaldTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347; Compl. at 7, MUR 7266 (July 13, 2017).

²¹ Special Counsel’s Report at 113 (citing Email from Trump Jr. to Goldstone, 6/3/16 10:53am; @DonaldTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

²² Senate Intelligence Committee Report at 348.

²³ Special Counsel’s Report at 119 (Hannity, *Transcript-Donald Trump Jr.*, FOX NEWS (July 11, 2017) (“Hannity Transcript”)).

²⁴ Senate Intelligence Committee Report at 348 (indicating that Manafort recalled Trump Jr. said the foreign nationals were from Azerbaijan); *see also id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia “and that they had derogatory information about Hillary Clinton”).

officials and Trump family members, Trump Jr. discussed a “lead” on negative information about Clinton from foreign nationals.²⁵ That same day and again the next day, June 7, 2016, Trump Jr. appears to have had several phone calls with Emin Agalarov; the current information we have does not indicate the substance of those phone calls.²⁶

On June 7, 2016, Goldstone emailed Trump Jr. again, writing: “Emin asked that I schedule a meeting with you and [t]he Russian government attorney who is flying over from Moscow for this Thursday.”²⁷ Trump Jr. responded “Great” and said the attendees from the Trump campaign side would “likely be Paul Manafort (campaign boss) my brother in law [Jared Kushner] and me.”²⁸ The next day, Goldstone again emailed, asking to change the time of the meeting and Trump Jr. agreed; Trump Jr. forwarded this email, which included the email chain with Goldstone, to Manafort and Kushner with the subject line “FW: Russia — Clinton — private and confidential.”²⁹ Both Manafort and Kushner received the emails, with Manafort responding “See you then” and Kushner forwarding the message to his assistant.³⁰ Rick Gates, who was then the Deputy Campaign Chairman, told the Special Counsel’s Office that Trump Jr.

²⁵ *Id.* at 349 (indicating that Deputy Campaign Manager Gates recalled Trump Jr. said the foreign nationals were from Kyrgyzstan and that Trump Jr. testified that he did not recall this discussion).

²⁶ *Id.* at 350-52.

²⁷ Special Counsel’s Report at 114 (citing Email from Goldstone to Trump Jr., 6/7/16 4:20pm; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>); Senate Intelligence Committee Report at 352.

²⁸ Special Counsel’s Report at 114 (citing Email from Trump, Jr. to Goldstone, 6/7/16 6:14pm; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>); Senate Intelligence Committee Report at 352. Between the emails sent at 4:20pm and 6:14pm, Trump Jr. and Goldstone sent additional emails to settle on the time and place for the meeting. @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>.

²⁹ Senate Intelligence Committee Report at 355-56; Special Counsel’s Report at 115 (citing Email from Trump, Jr. to Kushner and Manafort, 6/8/16).

³⁰ Special Counsel’s Report at 115.

1 announced the meeting to senior campaign staff, and that Manafort warned it would likely not
2 yield “vital information” and that they should be careful.³¹ Manafort told the Senate
3 Intelligence Committee that Trump Jr. would not have invited him to attend “unless Trump Jr.
4 thought the meeting would potentially be important.”³²

5 The June 9 meeting apparently lasted about 30 minutes.³³ Veselnitskaya reportedly
6 introduced herself as “a private attorney,” Akhmetshin was introduced as a lobbyist, and
7 Samochornov as a translator.³⁴ Trump Jr. reportedly began the meeting by asking Veselnitskaya,
8 “what brings you here? We hear you have some important information for the campaign.”³⁵
9 Veselnitskaya stated that certain Americans with business in Russia had broken Russian laws
10 and donated their profits to the Democratic National Committee (the “DNC”) or the Clinton
11 campaign.³⁶ According to several witnesses, Veselnitskaya had previously shown Akhmetshin
12 some documents reflecting this alleged financial misconduct.³⁷ After Veselnitskaya made her
13 statements, Trump Jr. apparently followed-up by asking whether the alleged payments could be
14 tied to the Clinton campaign, but Veselnitskaya responded that the money could not be traced

³¹ *Id.* (Kushner told the Special Counsel's Office he did not recall whether this happened); Senate Intelligence Committee Report at 349 (indicating this was in the “Family Meeting”).

³² Senate Intelligence Committee Report at 349.

³³ *Id.* at 370. Goldstone accompanied the Russian delegation to the Trump offices and testified that he had not planned or intended to attend the meeting, but stayed at Trump Jr.'s request so as to more easily accompany the Russians out after the meeting. *Id.* at 364.

³⁴ *Id.* at 365.

³⁵ *Id.* at 366.

³⁶ Special Counsel's Report at 117.

³⁷ *Id.*

1 once it entered the United States.³⁸ Veselnitskaya and Akhmetshin then discussed U.S. sanctions
 2 imposed under the Magnitsky Act and Russia's response to the law.³⁹ Akhmetshin and
 3 Kaveladze reported to the Special Counsel that Trump Jr. followed up with specific questions
 4 about Clinton;⁴⁰ as Trump Jr. himself said in a later press interview, "I was probably pressing
 5 [Veselnitskaya] because the pretext of the meeting was, 'Hey, I have information about your
 6 opponent.'"⁴¹ Indeed, Trump Jr. later testified to the Senate Intelligence Committee that the
 7 Russians in the meeting were lobbying "about some sort of policy" and the "meeting really
 8 wasn't about anything that he said it was going to be about."⁴² Kushner apparently asked "what
 9 are we doing here?," sent Manafort an iMessage stating "waste of time," and emailed his
 10 assistants with a request that he be telephoned in order to leave the meeting.⁴³

11 Over a year later, news of the June 9 meeting broke and became the subject of
 12 widespread news reporting.⁴⁴ On July 11, 2017, Trump Jr. released a statement on Twitter,
 13 writing that he took the meeting based on his relationship with Emin Agalarov and that "[t]he
 14 information they suggested they had about Hillary Clinton I thought was Political Opposition

³⁸ *Id.* at 118; Senate Intelligence Committee Report at 367 (quoting Akhmetshin's testimony that Trump Jr. said, "That's very interesting, but so could you show how money goes to Hillary's campaign? . . . Could you show us how the money goes to Hillary's campaign?").

³⁹ Special Counsel's Report at 118; Compl. at 3-4, MUR 7265 (citing Jo Becker, Matt Apuzzo and Adam Goldman, *Trump's Son Met With Russian Lawyer After Being Promised Damaging Information on Clinton*, N.Y. TIMES, July 9, 2017).

⁴⁰ Special Counsel's Report at 118.

⁴¹ MUR 7266 Compl. at 9 (quoting Hannity Transcript).

⁴² Senate Intelligence Committee Report at 370.

⁴³ Special Counsel's Report at 118-19; Senate Intelligence Committee Report at 367.

⁴⁴ *See, e.g.*, Jo Becker, Matt Apuzzo, Adam Goldman, *Trump Team Met with Lawyer Linked to Kremlin During Campaign*, N.Y. TIMES, July 8, 2017 (cited in MUR 7266 Complaint at 4); Liam Stack, *Donald Trump Jr.'s Two Different Explanations for Russian Meeting*, N.Y. TIMES, July 9, 2017 (cited in MUR 7266 Complaint at 5).

Research.”⁴⁵ In the same tweet, he released his correspondence with Goldstone setting up the meeting, some of which is quoted earlier in this report.⁴⁶ The full text of Trump Jr.’s statement is as follows:

To everyone, in order to be totally transparent, I am releasing the entire email chain of my emails with Rob Goldstone about the meeting on June 9, 2016. The first email on June 3, 2016 was from Rob, who was relating a request from Emin, a person I knew from the 2013 Ms. Universe Pageant near Moscow. Emin and his father have a very highly respected company in Moscow. The information they suggested they had about Hillary Clinton I thought was Political Opposition Research. I first wanted to just have a phone call but when that didn’t work out, they said the woman would be in New York and asked if I would meet. I decided to take the meeting. The woman, as she has said publicly, was not a government official. And, as we have said, she had no information to provide and wanted to talk about adoption policy and the Magnitsky Act. To put this in context, this occurred before the current Russian fever was in vogue. As Rob Goldstone said just today in the press, the entire meeting was “the most inane nonsense I ever heard. And I was actually agitated by it.”

The Complaints allege that Trump Jr., as an agent of the Trump Committee, violated the Act by soliciting a contribution from foreign nationals in the course of setting up and attending this meeting.⁴⁷ In addition, the Complaint in MUR 7266 alleges that Kushner and Manafort either solicited a prohibited foreign national contribution or substantially assisted in such a solicitation,⁴⁸ and that Goldstone substantially assisted in a prohibited solicitation.⁴⁹ The Trump

⁴⁵ @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>. Prior to Trump Jr.’s release of his statement, his counsel, and counsel for the Trump Organization spoke with or emailed Goldstone and Kaveladze “to coordinate and draft a public statement.” Senate Intelligence Committee Report at 395. The record does not make clear whether Trump Jr.’s statement quoted above is that statement.

⁴⁶ *Supra* notes 20-21.

⁴⁷ Compl. at 6, MUR 7265; Compl. at 12-15, MUR 7266; Compl. at 1-2, (Aug. 8, 2017); Compl. at 8, 10, 15 (July 22, 2019).

⁴⁸ Compl. at 15-16, MUR 7266 (“On June 8, 2016, Trump Jr. forwarded the email chain between himself and Goldstone to Kushner and Manafort, with the subject line ‘FW: Russia – Clinton – private and confidential.’ . . . By Kushner and Manafort participating in Trump Jr.’s arrangements to accept the foreign national contribution at an in-person meeting at Trump campaign headquarters, and by attending the meeting at which they had been told the contribution would be discussed, Kushner and Manafort solicited a contribution from a foreign national.”).

⁴⁹ *Id.* at 16 (“Goldstone, by working to connect Russian nationals with Donald J. Trump for President Inc. officials for the purpose of effecting an in-kind contribution, and by providing substantial assistance to Trump Jr. in

Committee filed a Response that does not dispute any of the foregoing information, but instead argues that the allegations do not constitute a violation of the Act⁵⁰ and that the meeting is protected political speech under the First Amendment.⁵¹ Kushner also filed a Response to the MUR 7266 Complaint, which likewise does not dispute the factual record, but instead argues that the allegations fail to make out a violation of the Act and that Kushner's involvement in the meeting was insufficient to constitute either a solicitation or substantial assistance in a solicitation.⁵² Following the release of the Special Counsel's Report, the Complainants in MUR 7266 submitted a Supplemental Complaint, contending that the Report "confirmed every material factual and legal allegation in our complaint."⁵³ The Trump Committee, Kushner, and Trump Jr. filed Responses to that Supplemental Complaint arguing that the Special Counsel's Report supports dismissal of these matters.⁵⁴ Goldstone and Manafort did not submit any responses.

III. LEGAL ANALYSIS

A. The Commission Should Find Reason to Believe That Donald Trump Jr. Impermissibly Solicited a Contribution from Russian Nationals

As discussed below, the contemplated free opposition research at issue in these matters constitutes a thing of value and its provision to the Trump Committee, if it had in fact been

arranging the meeting at which that contribution was to be discussed and solicited, violated the prohibition on any person knowingly providing substantial assistance in the solicitation or making of a contribution or donation from a foreign national.") (internal quotation marks omitted).

⁵⁰ Trump Committee Resp., MURs 7265, 7266, at 5-7, 9-15 (Sept. 14, 2017).

⁵¹ *Id.* at 7-9; *see also* Trump Committee Resp., (referring to response in MURs 7265, 7266

⁵² Kushner Resp., MUR 7266 at 4-8 (Sept. 14, 2017).

⁵³ Supp. Compl. at 1, MUR 7266. The Supplemental Complaint focuses on a legal argument rather than presenting new or updated factual allegations.

⁵⁴ Kushner Supp. Resp., MUR 7266 (May 13, 2019); Trump Committee Supp. Resp., MUR 7266 (June 12, 2019); Trump Jr. Resp., MUR 7266 (July 19, 2019).

made, would have constituted a contribution under the Act. Through his communications prior to and during the June 9 meeting, Trump Jr. requested that foreign nationals provide that information to the Trump Committee. Therefore, the information before the Commission indicates there is reason to believe that that Trump Jr. knowingly solicited a prohibited foreign national contribution by requesting the damaging information on Clinton.

1. Opposition Research is a Thing of Value and its Provision Without Charge is a Contribution Under the Act

The Act prohibits foreign nationals from “directly or indirectly” making a contribution or making “an express or implied promise to make a contribution” in connection with a federal, state, or local election.⁵⁵ A “foreign national” includes an individual 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.⁵⁶ The Act and Commission regulations also prohibit any person from knowingly soliciting, accepting, or receiving a contribution from a foreign national.⁵⁷ To solicit means “to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.”⁵⁸

In affirming the constitutionality of the Act’s ban on foreign national contributions, the court in *Bluman v. FEC* held:

It is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right

⁵⁵ 52 U.S.C. § 30121(a)(1)(A).

⁵⁶ *Id.* § 30121(b)(2). The term “foreign national” also includes “a foreign principal,” which is defined as, among other things, “a government of a foreign country.” *Id.* § 30121(b)(1) (citing 22 U.S.C. § 611(b)); *see also* 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).

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

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

to participate in, and thus may be excluded from, activities of democratic self-government. It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.⁵⁹

The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁶⁰ “[A]nything of value 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.”⁶¹

Although goods or services provided by a person — foreign or domestic — at the usual and normal charge do not constitute a contribution under the Act, “soliciting, accepting, or receiving information in connection with an election 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 the political committee, could potentially result in the receipt of a prohibited in-kind contribution.”⁶² Indeed, the Commission has recognized the “broad scope” of the foreign national contribution prohibition and found that even where the value of a good “may be nominal or difficult to ascertain,” such contributions are nevertheless banned.⁶³

⁵⁹ 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d*, 565 U.S. 1104 (2012).

⁶⁰ 52 U.S.C. § 30101(8)(A)(i).

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

⁶²

⁶³ AO 2007-22 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

1
2
3
4
5
6
7
8

9 In other contexts, the Commission has likewise concluded that the provision of certain
10 information, including a contact list, research, and descriptions and analysis of poll results, may
11 be things of value within the definition of “contribution.”⁶⁶ For instance, in MUR 5409
12 (Norquist, *et al.*), the Commission concluded that a master contact list of political activists was
13 “something of value, meeting the Act’s broad definition of contribution,” given that a
14 corporation had “utilized its resources to obtain and compile” the materials; the materials

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”).

⁶⁶ See Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (research services); Advisory Op. 1990-12 at 2 (Strub) (“AO 1992-12”) (description and analysis of poll results); First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (list of activists 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”); Cert., MUR 5409 ¶ 2 (Norquist, *et al.*) (Oct. 20, 2004).

1 contained “information that may [have been] of value in connection with the [] election”; and it
2 appeared the materials were not “readily or publicly available.”⁶⁷

3 The current record in these matters, as set forth in the Special Counsel's Report and
4 Senate Intelligence Committee Report as well as Trump Jr.'s own statement and release of
5 relevant email messages, indicates that the derogatory Clinton information that was offered by
6 the Agalarovs in Goldstone's initial email and sought by Trump Jr. is a thing of value under the
7 Act. When Goldstone first reached out to Trump Jr. on June 3, Goldstone explicitly referred to
8 “official documents and information that would incriminate Hillary and her dealings with
9 Russia” that would be shared at the meeting as “part of Russia and its government's support for
10 Mr. Trump.”⁶⁸

⁶⁷ First Gen. Counsel's Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (internal quotation marks omitted); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*) (Oct. 20, 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 10-11, MUR 5409 (Norquist, *et al.*); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*). MUR 5409, however, did not involve a foreign national contribution.

⁶⁸ Special Counsel's Report at 113 (citing Email from Goldstone to Trump, Jr., 6/3/16 10:36am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

1 The record in

2 the instant matters indicates that the offered and sought material would have required similar
3 utilization of resources.⁷² In characterizing the information as “official” and coming from the
4 Russian “Crown prosecutor” as part of part of “Russia and its government’s support for Mr.
5 Trump,”⁷³ Goldstone indicated that the Agalarovs were offering information obtained or
6 compiled by compensated personnel from the Russian government

7
8 Further, the information offered and sought in these matters was not “readily or publicly
9 available,” which was a critical factor the Commission considered in MUR 5409 (Norquist)
10 when concluding that a compilation of materials was something of value.⁷⁴ Goldstone conveyed
11 in his initial email, under the subject “Russia — Clinton — private and confidential,” that the
12 documents and information being offered were “ultra sensitive,” conveying that, like the
13 information in MUR 5409, the proffered derogative information about Clinton was not readily or
14 publicly available.⁷⁵

15 The Response from the Trump Committee characterizes the offer and seeking of the
16 damaging information about Clinton, as well as the June 9 meeting as a “conversation” and
17 argues that such “pure speech” cannot be a contribution; more specifically, it argues that it

⁷² See Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347 (quoting Goldstone’s email that damaging information was “part of Russia and its government’s support for Mr. Trump”).

⁷³ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁷⁴ First Gen. Counsel’s Report at 8-10, MUR 5409 (Norquist) (adopted as dispositive).

⁷⁵ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

cannot be a “thing of value” because its value cannot be appraised monetarily.⁷⁶ Similarly, Kushner’s Response argues that information exchanged or sought to be exchanged can constitute a “thing of value” or “contribution” only when offered by a commercial vendor or having “actual monetary value.”⁷⁷ The Trump Committee Response relies on a Statement of Reasons from three Commissioners in MUR 6958 (McCaskill, *et al.*), in which those Commissioners explained that they voted against pursuing a matter in which one committee shared high-level poll results with another committee at no charge.⁷⁸ In that Statement of Reasons, which is not a precedential opinion from the Commission, the three Commissioners reasoned that sharing “broad generalities” about a poll in a conversation was not the sharing of “opinion poll results” as that phrase is used 11 C.F.R. § 106.4;⁷⁹ those Commissioners further reasoned on prudential grounds that if the conversation constituted the acceptance of opinion poll results, the Commission should decline to expend further resources in the matter due to the difficulty and uncertainty in determining whether the value of the information conveyed would exceed the contribution limitation.⁸⁰ Those considerations would not apply in these matters because, while MUR 6958 involved a question of whether domestic respondents exceeded the legal contribution thresholds, these matters concern the Act’s outright prohibition on contributions from foreign nationals — a prohibition the Commission has publicly prioritized as a focus.⁸¹ The Commission has also

⁷⁶ Trump Committee Resp., MURs 7265, 7266, at 9-12; Supp. Resp., MUR 7266 at 2.

⁷⁷ Kushner Resp., MUR 7266 at 4-5 (citing Factual & Legal Analysis, MUR 6414 (Carnahan)).

⁷⁸ Trump Committee Resp., MURs 7265, 7266, at 10 (citing Statement of Reasons of Caroline C. Hunter, Lee E. Goodman, and Matthew S. Peterson, MUR 6958 (McCaskill, *et al.*)).

⁷⁹ Statement of Reasons of Caroline C. Hunter, Lee E. Goodman, and Matthew S. Peterson at 6, MUR 6958 (McCaskill, *et al.*).

⁸⁰ *Id.* at 7-8.

⁸¹ See Ltr. to House Comm. on Appropriations and Senate Comm. on Appropriations, Fed. Election Comm’n at 1, 17-18 (Sept. 18, 2018) (reporting on Commission’s role “in enforcing the foreign national prohibition,

1 recognized that even contributions from foreign nationals that “may be nominal or difficult to
 2 ascertain” are nevertheless still prohibited.⁸² Moreover, as the Trump Committee recognizes in
 3 its Response, these matters do not concern a conversation about opinion poll results, as that
 4 phrase is used in 11 C.F.R. § 106.4 and was analyzed in the Statement of Reasons in MUR 6958,
 5 but the broader definition of “contribution.”⁸³

6 Although the Trump Committee characterizes the June 9 meeting as a conversation with
 7 “no ascertainable commercial value,”⁸⁴ Trump Jr. himself publicly stated that the “pretext of the
 8 meeting” was the provision of “information about your opponent”⁸⁵ and further characterized the
 9 information he expected to receive as “Political Opposition Research,”⁸⁶ the provision of which
 10 the Commission has recognized is a service that campaigns pay for.⁸⁷

including how it identifies foreign contributions to elections, and what it plans to do in the future” as required by Explanatory Statement for 2018 Appropriations Act); *Explanatory Statement to Consolidated Appropriations Act, 2018*, 164 Cong. Rec. at H2520.

⁸² AO 2007-22 at 6 (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. at 69940 (“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”).

⁸³ Trump Committee Resp., MURs 7265, 7266, at 10.

⁸⁴ *Id.* at 11-12.

⁸⁵ Compl. at 9, MUR 7266 (quoting Hannity Transcript).

⁸⁶ @DonaldTrumpJr, TWITTER (July 11, 2017, 11:00a m.) (giving his statement on the Trump Tower meeting in connection with his public release of his email correspondence with Goldstone).

⁸⁷

In another matter, the Commission found that free opposition research provided by a domestic firm could be a thing of value, but dismissed the matter because of the small amount in violation. Factual & Legal Analysis at 16-19, MUR 6414 (Russ Carnahan in Congress Committee, *et al.*).

The difficulty in ascribing a monetary value to the research is not a bar to enforcement, as the Commission has made clear that even contributions whose value “may be nominal or difficult to ascertain” are prohibited.⁸⁸ Likewise, the Commission has found that indicia of paid personnel resources can support a pre-investigatory finding of reason to believe that information is a thing of value under the Act.⁸⁹

There does not appear to be any question that the research at issue was being offered for less than its usual and normal cost; indeed, it was unambiguously being offered for free as “part of Russia and its government’s support for Mr. Trump — helped along by Aras and Emin.”⁹⁰ The Response does not argue that this was a standard business transaction, and the communications leading up to the meeting made no suggestion of a commercial transaction. There is likewise no indication in any of the investigative reports that Trump Jr. or the Trump Committee intended to pay for the opposition research. Thus, it appears that Trump Jr. was seeking something of value without charge rather than attempting to purchase the information.

Finally, the Trump Committee’s Response argues that conversations and information — in the form of both white papers and meetings funded by prohibited sources — are so widely and

⁸⁸ AO 2007-22 at 6.

⁸⁹

⁹⁰ First Gen. Counsel’s Report at 8 n.12, MUR 5409 (“It is difficult to ascertain a market value for unique goods such as the materials [Respondent] provided to the Committee. *The lack of a market*, and thus the lack of a “usual and normal charge,” however, *does not necessarily equate to a lack of value.*” (emphasis added)).

⁹⁰ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

1 freely given to candidates and committees that to consider them all contributions would be
 2 absurd.⁹¹ This point is overstated, however, because the Commission's precedent does not
 3 identify all forms of information as "contributions." Information that is a thing of value is a
 4 contribution only when a gift, subscription, loan, advance, or deposit of it is made "for the
 5 purpose of influencing an election."⁹²

6 Whether a purported "contribution" is made for the purpose of influencing a federal
 7 election may be clear on its face, as in a third party's payments for coordinated communication,
 8 or inferred from the surrounding circumstances.⁹³ Here, the purported information at issue was
 9 offered to and sought by "the Trump campaign"⁹⁴ with an explicit focus on derogatory
 10 information "that could be helpful to the campaign."⁹⁵ Goldstone not only told Trump Jr. that the
 11 research was intended to help the Trump campaign, but also specifically stated that the
 12 information would "incriminate" Trump's opponent and "be very useful to your father."⁹⁶ The
 13 overall record in these matters suggests that the proposed provision of "official documents and

⁹¹ Trump Committee Resp., MURs 7265, 7266, at 2-4, 9-12.

⁹² 52 U.S.C. 30101(8)(A)(i).

⁹³ 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 "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 "uncompensated fundraising and campaign management assistance" and "advertising assistance[.]" including spending "several million dollars" on coordinated advertisements).

⁹⁴ Special Counsel's Report at 113; Senate Intelligence Committee Report at 347.

⁹⁵ Special Counsel's Report at 113; Senate Intelligence Committee Report at 347; see also *id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia "and that they had derogatory information about Hillary Clinton").

⁹⁶ Special Counsel's Report at 113; Senate Intelligence Committee Report at 347.

information” would not have been offered or sought but for Trump’s status as a federal candidate and the desire to obtain an electoral advantage.⁹⁷

Because the opposition research was a thing of value, offered at no cost, and for the purpose of influencing an election, if provided it would have been a contribution under the Act.

2. Trump Jr. Knowingly Solicited the Opposition Research From Foreign Nationals

The available information similarly indicates that Trump Jr.’s efforts to obtain information from individuals he knew to be Russian nationals constituted a solicitation of a contribution. Commission regulations define “solicit” to mean “ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.”⁹⁸

A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication.⁹⁹

Commission regulations include examples of statements that would constitute solicitations, including but not limited to: “I will not forget those who contribute at this crucial stage”;¹⁰⁰ “[t]he candidate will be very pleased if we can count on you for \$10,000”;¹⁰¹ and “[y]our contribution to this campaign would mean a great deal to the entire party and to me

⁹⁷ See AO 2000-08 (Harvey) at 1, 3 (concluding gift would be a contribution because it “would not be made but for the recipient’s status as a Federal candidate”).

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

⁹⁹ *Id.* § 300.2(m).

¹⁰⁰ *Id.* § 300.2(m)(2)(xi).

¹⁰¹ *Id.* § 300.2(m)(2)(xii).

1 personally.”¹⁰² The Commission has also identified certain communications that qualify as
 2 “solicitations,” such as “providing a separate card, envelope, or reply device that contains an
 3 address to which funds may be sent.”¹⁰³

4 Considering the overall context, Trump Jr.’s communications both leading up to the June
 5 9 meeting and in the meeting itself contained a clear message requesting the damaging
 6 information on Clinton that Goldstone offered to provide on behalf of the Agalarovs or the
 7 Russian government. His response to Goldstone’s initial message, “I love it,”¹⁰⁴ is similar to the
 8 example solicitation phrase in the Commission’s regulations that “the candidate will be very
 9 pleased.”¹⁰⁵ In a subsequent press interview, Trump Jr. acknowledged that the purpose of
 10 following up on Goldstone’s message was to obtain the opposition research, stating that if
 11 “someone has information on our opponent . . . maybe this is something. I should hear them
 12 out.”¹⁰⁶

13 Critically, witnesses who were present at the June 9 meeting testified before a grand jury
 14 as part of the Special Counsel’s investigation and the Senate Intelligence Committee that Trump
 15 Jr. asked at the meeting about the damaging information about Clinton.¹⁰⁷ Akhmetshin testified
 16 to the Senate Intelligence Committee that Trump Jr. explicitly asked the Russian nationals to
 17 provide the derogatory information during the June 9 meeting, asking “could you show us how

¹⁰² *Id.* § 300.2(m)(2)(xiii).

¹⁰³ *See id.* § 300.2(m)(1) (listing examples).

¹⁰⁴ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

¹⁰⁵ 11 C.F.R. § 300.2(m)(2)(xii).

¹⁰⁶ Special Counsel’s Report at 119 (citing Hannity Transcript).

¹⁰⁷ Special Counsel’s Report at 118 (citing testimony of Akhmetshin for his testimony that Trump Jr. asked how specific payments could be tied to the Clinton campaign and Kaveladze for his testimony that Trump Jr. asked what the Russians had on Clinton); Senate Intelligence Committee Report at 349.

1 the money goes to Hillary's campaign?"¹⁰⁸ And Trump Jr. himself publicly acknowledged in a
 2 media interview that "I was probably pressing [Veselnitskaya for information] because the
 3 pretext of the meeting was, 'Hey, I have information about your opponent.'"¹⁰⁹ When
 4 considered in the context that the stated purpose of the June 9 meeting was to obtain the
 5 information promised by the Agalarovs, Trump Jr.'s communications — including, in his own
 6 words, "pressing" Veselnitskaya for "information about [Donald Trump's] opponent" — and by
 7 asking, "Could you show us how the money goes to Hillary's campaign?" — constituted a
 8 request for such information, which as set forth above, was something of value for the purpose of
 9 influencing an election and, therefore, a contribution. Accordingly, Trump Jr.'s communications
 10 constitute an improper solicitation of a prohibited contribution under the Act.¹¹⁰

11 3. The Response's First Amendment Argument Does Not Negate the
 12 Prohibited Solicitation
 13

14 The Trump Committee's Response does not seriously dispute that Trump Jr. requested
 15 damaging information on Clinton from the Russian nationals.¹¹¹ Instead, the Trump Committee
 16 observes that "general expressions of political support are not a contribution that can be
 17 solicited."¹¹² The Response does not identify any such expressions of political support sought by
 18 Trump Jr., but argues that the meeting between Trump Jr. and the Russian nationals was political

¹⁰⁸ Senate Intelligence Committee Report at 367.

¹⁰⁹ Compl. at 9, MUR 7266 (quoting Hannity Transcript); *see also* Senate Intelligence Committee Report at 370 (quoting Trump Jr. that the "meeting really wasn't about anything that [Goldstone] said it was going to be about.")

¹¹⁰ 52 U.S.C. § 30121(a)(2).

¹¹¹ Trump Committee Resp., MURs 7265, 7266, at 14 (arguing that "as we have established, nothing of value was provided and therefore nothing could have been solicited as the term 'to solicit' is defined in the Act and regulations.").

¹¹² *Id.*; *see also* 11 C.F.R. § 300.2(m).

1 issue speech — like an endorsement or an editorial in which a candidate's voting record is
 2 criticized — and therefore is protected by the First Amendment and cannot be a contribution or
 3 solicitation.¹¹³ However, in its Explanation and Justification of the revised definition of "solicit"
 4 at section 300.2(m), the Commission provided examples of "mere statements of political support
 5 . . . such as a request to vote for, or volunteer on behalf of, a candidate."¹¹⁴ As discussed above
 6 and contrary to the Response's generalized First Amendment argument, Trump Jr.'s
 7 communications with the Russian nationals were not limited to seeking political advice or
 8 general support, such as an endorsement, but rather included clear messages that, in context,
 9 asked the Russian nationals to provide something of value to the campaign.¹¹⁵ To the contrary,
 10 Trump Jr. testified to the Senate Intelligence Committee that the Russians' lobbying "about some
 11 sort of policy" in the June 9 meeting "really wasn't about anything that [Goldstone] said [the
 12 meeting] was going to be about."¹¹⁶

¹¹³ *Id.* at 8 (arguing that "American citizens unquestionably have a First Amendment right to 'receive information and ideas' from foreign nationals. It follows that the First Amendment protects the right of American citizens to talk to anyone, foreign nationals included, about the fitness of a political candidate for office.") (italics omitted) (quoting *Kleindeinst v. Mandel*, 408 U.S. 753, 762 (1972)).

¹¹⁴ Definitions of "Solicit" and "Direct," 71 Fed. Reg. 13926, 13928 (Mar. 20, 2006) (explaining that "solicit" may also exclude "a candidate's request for electoral or legislative support" unaccompanied by a "clear message asking, requesting, or recommending that another person provide funds or something of value.").

¹¹⁵ *See, e.g.*, Senate Intelligence Committee Report at 367 ("show us how the money goes to Hillary's campaign"); Special Counsel's Report at 113 ("I love it").

¹¹⁶ Senate Intelligence Committee Report at 370; *see also* Hannity Transcript (Trump Jr. explaining, "the pretext of the meeting was, 'Hey, I have information about your opponent.'").

4. The Department of Justice's Decision Not to Prosecute Does Not Preclude Civil Enforcement

The Trump Committee, Kushner, and Trump Jr. argue that the Special Counsel's Report confirms that no violation of the Act occurred in connection with the June 9 meeting.¹¹⁸

However, the Special Counsel's Report does not reach that conclusion. Instead, the Report explains:

There are reasonable arguments that the offered information would constitute a "thing of value" within the meaning of [the Act], but the [Special Counsel's] Office determined that the government would not be likely to obtain and sustain a conviction for two other reasons: first, the [Special Counsel's] Office did not obtain admissible evidence likely to meet the government's burden to prove beyond a reasonable doubt that these individuals acted "willfully," *i.e.*, with general knowledge of the illegality of their conduct; and, second, the government would likely encounter difficulty in proving beyond a reasonable doubt that the value of the promised information exceeded the threshold for a criminal violation [\$25,000 for felony punishment].¹¹⁹

In fact, when the Special Counsel's Office examined Commission precedent regarding "thing of value," that Office came to the legal conclusion that "[t]hese authorities would support the view that candidate-related opposition research given to a campaign for the purpose of influencing an election could constitute a contribution to which the foreign-source ban could apply."¹²⁰

¹¹⁸ Trump Committee Supp. Resp., MUR 7266 at 1; Trump Jr. Resp., MUR 7266 at 1; Kushner Supp. Resp., MUR 7266 at 2.

¹¹⁹ Special Counsel's Report at 186.

¹²⁰ *Id.* at 187.

1 The Special Counsel's decision not to prosecute anyone in connection with the June 9
 2 meeting, as explained above, was based on considerations that are materially distinct from the
 3 Commission's consideration of these matters in an administrative and civil context. While a
 4 criminal prosecution for a violation of the Act would need to prove beyond a reasonable doubt
 5 that the violation was knowing and willful, the Commission in a civil proceeding would only
 6 have to establish a violation of the Act based upon a preponderance of the evidence¹²¹ —
 7 regardless of whether the respondent was aware of the illegality.¹²² Indeed, in previous cases
 8 where the Department of Justice was unable to secure criminal convictions for a violation of the
 9 Act, the Commission has successfully conciliated with respondents on a non-knowing and
 10 willful basis to ensure that the interests of the Act were served.¹²³ Moreover, for the
 11 Commission to find reason to believe in these administrative proceedings at this stage, the
 12 information before the Commission need only raise a reasonable inference, *i.e.*, credibly allege,
 13 that a violation occurred.¹²⁴

¹²¹ See *Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) (“In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.”).

¹²² See *FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tx. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); see also *FEC v. Malenick*, 301 F.Supp.2d 230, 237 n.9 (D.D.C. 2004) (holding that a “knowing” violation of the Act “as opposed to a ‘knowing and willful’ one, does not require knowledge that one is violating the law, but merely requires an intent to act.”) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)), rev'd on motion for reconsideration in part on other grounds, 2005 WL 588222 (Mar. 7, 2005).

¹²³ See Conciliation Agreement, MUR 7221 (James Laurita, Jr.) (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 (Fieger, Fieger, 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).

¹²⁴ 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.”).

With regard to valuation, the Special Counsel's Office noted that the \$25,000 value of the opposition research necessary to establish a felony criminal charge would be difficult to determine in part because no actual valuable information was provided.¹²⁵ This difficulty in valuing the information would not be a barrier to Commission action, as even contributions that are "nominal" or "difficult to ascertain" would still be prohibited in the civil context, and the Act provides for statutory penalties, which are well suited for solicitation matters such as the ones at issue.¹²⁶ Consequently, the Special Counsel's decision not to file suit against respondents is not a bar to civil enforcement of the Act. Pursuing civil enforcement here would serve to vindicate the Act's purpose of limiting foreign influence over the U.S. political process.¹²⁷

* * *

Because the available information indicates that Trump Jr. solicited a contribution from a foreign national without charge for the purpose of influencing a federal election, we recommend that the Commission find reason to believe that Trump Jr. violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national.

B. Because Trump Jr. Acted as an Agent of the Trump Committee, the Commission Should Find Reason to Believe That the Trump Committee Also Impermissibly Solicited a Contribution from Russian Nationals

In the soft money context, Commission regulations define "agent" as "any person who has actual authority, either express or implied, . . . [t]o solicit, receive, direct, transfer, or spend

¹²⁵ Special Counsel's Report at 188.

¹²⁶ AO 2007-22 at 6; *cf.* MUR 7048 (Cruz) (conciliating statutory penalty for soft money solicitation violation).

¹²⁷ *See Bluman*, 800 F. Supp. 2d at 288 (recognizing that "the United States has a compelling interest . . . in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process").

1 funds in connection with any election.”¹²⁸ Actual authority is created by manifestations of
 2 consent, express or implied, by the principal to the agent about the agent’s authority to act on the
 3 principal’s behalf.¹²⁹ In its revised Explanation and Justification for the definition of “agent” at
 4 section 300.2(b), the Commission stated that “the candidate/principal may also be liable for any
 5 impermissible solicitations by the agent, despite specific instructions not to do so.”¹³⁰ The
 6 Commission has explained that the definition of agent must cover “implied” authority because
 7 “[o]therwise, agents with actual authority would be able to engage in activities that would not be
 8 imputed to their principals so long as the principal was careful enough to confer authority
 9 through conduct or a mix of conduct and spoken words.”¹³¹ The Commission has extended
 10 agency principles to individuals beyond official campaign members and includes “volunteers” in
 11 its definition of an agent.¹³²

12 There is a reasonable basis to infer that Trump Jr. was an agent of the Trump Committee
 13 with actual authority to solicit a contribution from the Russian nationals by arranging and
 14 participating in the June 9 meeting. The Special Counsel’s and Senate Intelligence Committee’s
 15 Reports indicate, through the information assembled in the course of their investigations, that

¹²⁸ 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).

¹²⁹ Agency E&J, 71 Fed. Reg. at 4975-76; Advisory Op. 2007-05 (Iverson) at 3.

¹³⁰ 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).

¹³¹ Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49082 (July 29, 2002) (Explanation and Justification).

¹³² Agency E&J at 4977; *see also* Factual & Legal Analysis at 4-6, MUR 7048 (Cruz for President) (concluding volunteer fundraiser was an agent of candidate’s campaign committee, which became liable for volunteer’s improper solicitation).

Trump Jr. announced the upcoming meeting to “senior campaign staff and Trump family members.”¹³³ Deputy Campaign Chairman Gates specifically recalled that Trump Jr. discussed a “lead” on procuring negative information about Clinton from foreign nationals at that “Family Meeting.”¹³⁴ Moreover, two senior staff attended the meeting at Trump Jr.’s request, including the Campaign Chairman who testified that Trump Jr. specifically told him that foreign nationals “had some information that they wanted to share that could be helpful to the campaign” and that he believed that Trump Jr. would not have invited him to attend if the meeting with the Russians if it were not potentially important.¹³⁵ This information indicates that the Trump Committee was both aware of Trump Jr.’s actions and consented to them. Therefore, because the record supports a conclusion that Trump Jr. acted as an agent of the Trump Committee when he knowingly solicited a contribution from foreign nationals, we recommend the Commission find reason to believe that the Trump Committee, through its agent, violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national.

C. The Commission Should Take No Action at this Time Regarding the Allegation that Rob Goldstone Substantially Assisted in the Solicitation and Generate Aras Agalarov and Emin Agalarov as Respondents

As set forth above, Goldstone, at the Agalarovs’ request, set up the meeting between the Trump campaign and the Russian delegation. Commission regulations provide that “[n]o person shall knowingly provide substantial assistance in the solicitation . . . of a contribution or donation” by a foreign national.¹³⁶ Because his efforts were necessary to arranging the meeting,

¹³³ Special Counsel’s Report at 115 (citing to the testimony of Rick Gates, the deputy campaign chairman); Senate Intelligence Committee Report at 349 (describing the “Family Meeting”).

¹³⁴ Senate Intelligence Committee Report at 349.

¹³⁵ *Id.* at 348-49.

¹³⁶ 11 C.F.R. § 110.20(h)(1).

1 it appears likely that Goldstone violated 11 C.F.R. § 110.20(h) by substantially assisting in the
2 solicitation of a foreign national contribution.

3 The unique circumstances of these matters, however, counsel against taking further
4 action regarding Goldstone at this time. Goldstone appears to have been acting entirely at the
5 direction of his principals, Aras and Emin Agalarov, who are not currently respondents in these
6 matters. Goldstone, who is an agent in the entertainment industry and appears to be an employee
7 or aide to the Agalarov family, testified to the Senate Intelligence Committee that he was
8 reluctant to set up the meeting, but did so based entirely on Emin Agalarov's insistence,¹³⁷ and
9 there is nothing in the record at this time to indicate he did anything more than act as a go-
10 between for Trump Jr. and Emin Agalarov.¹³⁸

11 Consequently, before making a definitive recommendation as to Goldstone, we
12 recommend generating Emin Agalarov and Aras Agalarov as respondents in these matters
13 because they were the individuals who apparently instructed Goldstone to send the offer of
14 opposition research to the Trump Committee. The Act prohibits foreign nationals from making
15 "an express or implied promise to make a contribution."¹³⁹ The text of the email from Goldstone
16 to Trump Jr. specifically described Aras Agalarov as "offer[ing] to provide the Trump campaign
17 with some official documents and information that would incriminate Hillary and her dealings
18 with Russia and would be useful to your father," and how that information, which apparently

¹³⁷ Senate Intelligence Committee Report at 345-46.

¹³⁸ Goldstone noted on several occasions that he was acting on Emin's behalf. *See, e.g.*, Special Counsel's Report at 114 ("Emin asked that I schedule a meeting with you and [t]he Russian government attorney. . . ."). Similarly, Goldstone did not plan to attend the June 9 meeting, and stayed only at the request of Trump Jr. at the meeting itself. Senate Intelligence Committee Report at 364.

¹³⁹ 52 U.S.C. § 30121(a)(1)(A).

1 originated from the “Crown prosecutor of Russia” would be “helped along by Aras and
 2 Emin.”¹⁴⁰ Thus, it appears that the Agalarovs, through their agent Goldstone, may have made a
 3 promise to make a prohibited foreign national contribution to the Trump Committee in violation
 4 of 52 U.S.C. § 30121(a)(1)(A). Accordingly, we recommend that the Commission generate Aras
 5 and Emin Agalarov as Respondents in these matters.¹⁴¹ Further, we recommend that the
 6 Commission take no action at this time as to Goldstone, in light of the proposed notification of
 7 the Agalarovs as Respondents.¹⁴² Once we have provided the Agalarovs the opportunity to
 8 respond to the allegations in these matters, we will make the appropriate recommendation as to
 9 Goldstone.

10 **D. The Commission Should Take No Action at this Time Regarding the**
 11 **Allegations that Jared Kushner and Paul Manafort Solicited a Contribution**
 12 **from a Foreign National**

13 The Complaint in MUR 7266 alleges that Kushner and Manafort solicited a foreign
 14 national contribution or provided substantial assistance in soliciting such a contribution by
 15 participating in the June 9th meeting.¹⁴³ There is no dispute that Kushner and Manafort attended
 16 that meeting. They also acknowledged receipt of the email chain from Trump Jr. with the
 17 subject line “FW: Russia — Clinton — private and confidential,” and the Deputy Campaign

¹⁴⁰ Special Counsel's Report at 113 (quoting email from Goldstone to Trump Jr.).

¹⁴¹ The statute of limitations for any violation stemming from this communication would appear to run on June 3, 2021. Given that the factual record has largely been established by the Special Counsel's Office and the Senate Intelligence Committee, a lengthy investigation is not necessary. If the Commission were to notify the Agalarovs in February 2021, the Commission would have time to find reason to believe as to the respondents and enter into pre-probable cause conciliation.

¹⁴² *See, e.g.*, MUR 7048 (Cruz) (conciliating pre-probable cause with Committee for agent's solicitation but not agent); First Gen. Counsel's Rpt. at 14, MUR 7048 (Cruz for President, *et al.*) (recommending that the Commission take no action with regard to one respondent pending conciliation with a different respondent).

¹⁴³ Compl. at 15-16, MUR 7266.

1 Chairman stated that the meeting was discussed at a senior campaign staff meeting
2 beforehand.¹⁴⁴

3 The available information, however, does not currently support a reason-to-believe
4 finding that Manafort or Kushner solicited a contribution in these matters as defined by 11
5 C.F.R. § 300.2(m). This regulation requires that a solicitation include “an oral or written
6 communication” made “directly or indirectly,”¹⁴⁵ and the current record does not indicate that
7 either Kushner or Manafort made any such communication inquiring about damaging
8 information on Clinton. The Special Counsel’s and Senate Intelligence Committee Reports do
9 not state that either Kushner or Manafort actually spoke at the meeting, other than Kushner
10 asking “what are we doing here?”¹⁴⁶

11 We also lack sufficient information regarding whether Kushner and Manafort
12 substantially assisted in the solicitation of a contribution in the form of valuable information
13 from the Russian nationals, as alleged.¹⁴⁷ According to the Special Counsel’s Report, Trump Jr.
14 informed Manafort and Kushner about and invited them to the June 9th meeting, and Manafort
15 understood the invitation from Trump Jr. to mean that the meeting must be important. But no
16 information currently available suggests that Manafort or Kushner provided substantial
17 assistance to Trump Jr. either in requesting the meeting or requesting information at the meeting.
18 On the other hand, neither the Special Counsel’s nor the Senate Intelligence Committee Report
19 specifies all of the communications that Trump Jr. had with Manafort and Kushner about the

¹⁴⁴ Special Counsel’s Report at 115.

¹⁴⁵ 11 C.F.R. § 300.2(m).

¹⁴⁶ Special Counsel’s Report at 118 (citing Kaveladze 11/16/17 302, at 8); Senate Intelligence Committee Report at 367.

¹⁴⁷ Compl. at 15-16, MUR 7266.

1 June 9 meeting. For example, on June 8, 2016, the day after Goldstone emailed Trump Jr. about
 2 scheduling the upcoming meeting, Kushner emailed his assistant asking her to discuss the June
 3 9th meeting with Trump Jr.¹⁴⁸ It is unclear how Kushner first learned about the meeting because
 4 Trump Jr. forwarded his emails with Goldstone to Manafort and Kushner later that day.¹⁴⁹

5 In his unsworn response, Kushner states that he “had nothing to do with setting up the
 6 meeting,” was not “a party to any communication arranging the meeting with the foreign
 7 national,” “did not know any of the attendees” other than Trump Jr. and Manafort or speak or
 8 interact with them after the meeting, and, to the extent his attendance “assisted” the meeting, it
 9 was not “substantial.”¹⁵⁰

10 Given the limited information we have as to Kushner and Manafort’s roles in the June 9
 11 meeting, we recommend that the Commission take no action at this time with respect to them.
 12 Because we are recommending that the Commission find reason to believe that the Trump
 13 Committee and Trump Jr. violated 52 U.S.C. § 30121(a)(2), it is possible that additional
 14 information regarding Kushner and Manafort’s participation in the June 9 meeting may surface
 15 during the conciliation proposed below or in response to the notification of the Agalarovs as
 16 Respondents, as proposed above.¹⁵¹ If we learn of any relevant information, we will make the
 17 appropriate recommendation.

¹⁴⁸ Special Counsel’s Report at 114-15.

¹⁴⁹ *Id.* at 115.

¹⁵⁰ Kushner Resp. at 6-8, MUR 7266 (citing First Gen. Counsel’s Rpt. at 7, MUR 6962 (Hillary for America, *et al.*) for the proposition that assistance is “substantial” only when the contribution would not be made “but for” the assistance).

¹⁵¹ *See, e.g.*, First Gen. Counsel’s Rpt. at 5, MUR 7568 (Alpha Marine Services Holdings, LLC, *et al.*) (open matter) (recommending that the Commission take no action with regard to one respondent pending conciliation with a different respondent); First Gen. Counsel’s Rpt. at 14, MUR 7048 (Cruz for President, *et al.*) (same).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

V. RECOMMENDATIONS

1. Find reason to believe that Donald J. Trump for President and Bradley T. Crate in his official capacity as treasurer, and Donald J. Trump Jr. violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national;
2. Take no action at this time with regard to the allegation that Rob Goldstone violated 11 C.F.R. § 110.20(h) by substantially assisting the solicitation of a contribution from a foreign national;
3. Generate Aras Agalarov and Emin Agalarov as respondents in these matters;
4. Take no action at this time regarding the allegations that Jared Kushner and Paul Manafort violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g), (h) by knowingly soliciting a contribution from a foreign national or substantially assisting in the solicitation of a contribution from a foreign national;
5. Approve the attached Factual and Legal Analyses;

- 1 6. Authorize pre-probable cause conciliation with Donald J. Trump for President and
2 Bradley T. Crate in his official capacity as treasurer, and Donald J. Trump Jr.
3 prior to a finding of probable cause to believe;
- 4 7. Approve the attached proposed conciliation agreements; and
- 5 8. Approve the appropriate letters.

6
7 February 5, 2021

8
9 Date

Lisa J. Stevenson

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

38
39 Attachments:

- 40 1) Factual and Legal Analysis for Donald Trump, Jr.
41 2) Factual and Legal Analysis for Donald J. Trump for President
42
43

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Donald Trump, Jr.

MUR 7265, 7266

I. INTRODUCTION

The Complaints in these matters allege that Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”), the authorized committee of 2016 presidential candidate Donald J. Trump, as well as several representatives of the Trump Committee, solicited a prohibited foreign national contribution by seeking damaging information on Trump’s general election opponent, Hillary R. Clinton, from Russian nationals in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Specifically, these Complaints concern a meeting held on June 9, 2016 (the “June 9 meeting”) organized by Trump’s son and senior campaign advisor, Donald Trump Jr., that occurred at Trump Tower in New York City.

Based on the available information, it appears that Trump Jr. solicited opposition research on candidate Trump’s opponent from individuals he knew to be Russian nationals. In these circumstances, the damaging information solicited by Trump Jr. constitutes a thing of value under Commission precedent. Accordingly, the Commission finds reason to believe that Donald Trump Jr. violated 52 U.S.C. § 30121(a)(2) by knowingly soliciting a contribution from a foreign national.

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

II. FACTUAL BACKGROUND

The allegations in these matters concern the June 9 meeting at Trump Tower, a subject of investigation by other investigative bodies, including both the Office of the Special Counsel¹ and the Senate Select Committee on Intelligence.² The June 9 meeting participants were Trump Jr., Campaign Chairman Manafort, senior campaign advisor Kushner, a contingent of Russian nationals led by former Russian prosecutor Natalia Veselnitskaya including lobbyist Rinat Akhmetshin, Irakli “Ike” Kaveladze, and Anatoli Samochornov, and, finally, Rob Goldstone, who worked for Emin Agalarov.³

The background to this meeting began several years prior to the 2016 election, with the introduction of the Trump family to the Agalarov family. According to the Special Counsel’s Report, “Aras Agalarov is a Russian real-estate developer with ties to [Russian President Vladimir] Putin and other members of the Russian government.”⁴ In 2013, through their

¹ SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION, Vol. 1 at 110-123 (Mar. 22, 2019) (“Special Counsel’s Report”); *see also* Supp. Compl., MUR 7266 (Apr. 30, 2019) (updating allegations with findings from the Special Counsel’s Report).

² U.S. SENATE SELECT COMM. ON INTELLIGENCE, RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, VOLUME 5: COUNTERINTELLIGENCE, THREATS AND VULNERABILITIES at 345-395 (Aug. 18, 2020) (“Senate Intelligence Committee Report”). The Senate Intelligence Committee explained that its “investigation focused on the counterintelligence threat posed by the Russian intelligence services” while the Special Counsel focused on criminal activity. *Id.* at 4.

³ Special Counsel’s Report at 6, 111, 117 (describing Goldstone as a publicist to Emin Agalarov); Senate Intelligence Committee Report at 322, 364; *see also* Compl. at 2-4, MUR 7265 (July 10, 2017) (alleging same); Senate Intelligence Committee Report at 270 (describing Goldstone as Emin’s “aide” and promoter). Goldstone appears to be a British national. *See, e.g.*, Rosalind S. Helderman, *How a British Music Publicist Ended up in the Middle of the Russia Storm*, WASH. POST (Sept. 22, 2018), https://www.washingtonpost.com/politics/how-a-british-music-publicist-ended-up-in-the-middle-of-the-russia-storm/2018/09/21/d1449a40-ba83-11e8-a8aa-860695e7f3fc_story.html.

⁴ Special Counsel’s Report at 110; *see also* Senate Intelligence Committee Report at 261 (detailing Aras Agalarov’s construction and real estate businesses, connections to Putin, and associations with Russian organized crime).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 respective organizations, the Crocus Group and the Trump Organization, Aras Agalarov worked
 2 with Donald Trump in connection with the Miss Universe pageant held in Moscow.⁵ Shortly
 3 thereafter, Agalarov’s firm, the Crocus Group, and the Trump Organization entered into
 4 discussions regarding a potential Trump Moscow real-estate project.⁶ The Special Counsel’s
 5 Report states that Trump Jr. served as “the primary negotiator for the Trump Organization,”
 6 while Emin Agalarov, Agalarov’s son, and Ike Kaveladze “represented the Crocus Group during
 7 negotiations.”⁷ Emin Agalarov and Trump Jr. signed “preliminary terms of an agreement for the
 8 Trump Tower Moscow project” in December 2013 and negotiated a letter of intent in early 2014,
 9 but the project never “developed past” the planning stage; the last apparent communication
 10 between the two groups about the project occurred in late November 2014.⁸

11 Despite the failed real estate deal, the Agalarovs and the Trumps remained on friendly
 12 terms.⁹ For instance, on June 16, 2015, the day Trump announced his candidacy, Goldstone

⁵ Special Counsel’s Report at 67 n.291; Senate Intelligence Committee Report at 259; *see also* Senate Intelligence Committee Report at 271, 275-79 (detailing Miss Universe planning emails between Trump Organization employees and Goldstone, for the Agalarovs).

⁶ Special Counsel’s Report at 67-68 (“From January 2014 through November 2014, the Trump Organization and Crocus Group discussed development plans for the Moscow project.”); *id.* at 110-11 (describing how Agalarov, as president of the Crocus Group, “worked with Trump in connection with the 2013 Miss Universe pageant in Moscow and a potential Trump Moscow real-estate project”).

⁷ *Id.* at 67; *see also* Senate Intelligence Committee Report at 267 (stating that Emin Agalarov is “Executive Vice President of Crocus group”); *id.* at 301 (citing November 19, 2013, email from Trump Jr. to Emin Agalarov introducing himself “for the first time” and expressing interest in Trump Tower Moscow project).

⁸ Special Counsel’s Report at 67-68; Senate Intelligence Committee Report at 307-09 (describing several meetings from winter to spring 2014, including meetings between Trump Jr., Emin Agalarov, and Goldstone in January 2014 in New York City and in Doral, Florida in March 2014, but concluding that discussions “slowed” by late summer to fall 2014).

⁹ *See* Senate Intelligence Committee Report at 310-11, n.2027 (describing several meetings between Trump, Emin Agalarov, and Goldstone at Trump Tower in early 2015 that Goldstone described, in testimony to the Senate Committee, as “personal” and about which Emin Agalarov reportedly said “We kind of hang out”). Goldstone and Emin Agalarov both testified to the Senate committee that, in a meeting at Trump Tower in May 2015, Trump discussed running for president. *Id.* at 311.

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 emailed Trump Jr. asking him to pass on his and Emin Agalarov's congratulations.¹⁰ On
 2 February 29, 2016, Aras Agalarov reportedly sent Trump and Trump Jr. a letter to congratulate
 3 candidate Trump on winning the Republican primary and to offer his "support and that of many
 4 of his important Russian friends and colleagues[,] especially with reference to U.S./Russian
 5 relations."¹¹ Trump apparently responded with a handwritten letter.¹²

6 According to both the Special Counsel's and Senate Intelligence Committee reports, what
 7 ultimately became the June 9 meeting originated from a June 3, 2016, phone call from Emin
 8 Agalarov to Goldstone.¹³ The Special Counsel's Report, in a heavily-redacted section, describes
 9 the phone call as follows: "Goldstone understood [redacted] a Russian political connection, and
 10 Emin Agalarov indicated that the attorney was a prosecutor. Goldstone recalled that the
 11 information that might interest the Trumps involved Hillary Clinton. The [redacted] mentioned
 12 by Emin Agalarov was Natalia Veselnitskaya."¹⁴ Goldstone also described the call in testimony

¹⁰ *Id.* at 312.

¹¹ Special Counsel's Report at 111 (quoting Email from Goldstone, on behalf of Aras Agalarov, Feb. 29, 2016, which the Special Counsel's Report labels as sent to "Trump Jr. et al.") (alteration in original). During Trump's candidacy, Goldstone also continued to propose commercial transactions with Trump Jr., though it is not clear whether the Agalarovs were engaged in these proposals. *See* Senate Intelligence Committee Report at 313-18 (quoting emails between Goldstone, Trump Jr and others about Goldstone's proposal that the Trump Committee use Russian social media company VK).

¹² Senate Intelligence Committee Report at 321-22; *see also id.* at 319-21 (detailing multiple communications between Trumps and Agalarovs and including images of handwritten notes).

¹³ Special Counsel's Report at 111 (citing Goldstone 2/8/18 FBI 302; Call Records of Robert Goldstone); Senate Intelligence Committee Report at 345.

¹⁴ *Id.* at 111-12. The Senate Intelligence Committee describes Veselnitskaya as "a Russian lawyer who previously worked for, and remains in contact with, senior individuals in the Russian government" and states that she had "significant and concerning connections to Russian . . . intelligence officials." Senate Intelligence Committee Report at 329, 333. Veselnitskaya told the committee she had done work for Aras Agalarov since 2013 or 2014. *Id.* at 338. In January 2019, DOJ unsealed an indictment against Veselnitskaya for obstruction of justice by submitting false declarations in an unrelated matter. *See* DOJ, Russian Attorney Natalya Veselnitskaya Charged with Obstruction of Justice in Connection with Civil Money Laundering and Forfeiture Action (Jan. 8, 2019), <https://www.justice.gov/usao-sdny/pr/russian-attorney-natalya-veselnitskaya-charged-obstruction-justice-connection-civil>.

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 to the Senate Intelligence Committee: “[Emin] asked if I could possibly contact ‘the Trumps’. . .
 2 because his father had met with a well-connected government lawyer in his office, who had some
 3 interesting information about illicit Russian funding to the Democrats and its candidate; and
 4 could I pass that on and get the meeting.”¹⁵ Goldstone further testified that, when he indicated to
 5 Emin that he did not know “what you’re asking me to convey,” Emin replied: “There’s
 6 information, it’s potentially damaging to the Democrats and Hillary, and I think you should
 7 contact the Trumps; my dad would really like this meeting to take place.”¹⁶ Goldstone testified
 8 that Emin said, “Please, just ask for the meeting. You don’t need to do anything else.”¹⁷

9 Shortly after this phone call, Goldstone sent Trump Jr. the following email with the
 10 subject “Russia — Clinton — private and confidential”:

11 Good morning

12 Emin just called and asked me to contact you with something very
 13 interesting.

14 The Crown prosecutor of Russia met with his father Aras this
 15 morning and in their meeting offered to provide the Trump
 16 campaign with some official documents and information that
 17 would incriminate Hillary and her dealings with Russia and would
 18 be very useful to your father.

19 This is obviously very high level and sensitive information but is
 20 part of Russia and its government’s support for Mr. Trump —
 21 helped along by Aras and Emin.

22 What do you think is the best way to handle this information and
 23 would you be able to speak to Emin about it directly?

¹⁵ Senate Intelligence Committee Report at 345.

¹⁶ *Id.* at 346. Emin Agalarov testified that he did what his father had requested because, “When my father asks, I cannot say no.” *Id.*

¹⁷ *Id.* Goldstone also said that Aras Agalarov “never” directly tasked him to do things, but that he “would be asked to do things through a ‘chain of command’” through staff or Emin. *Id.* at n.2213.

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 I can also send this info to your father via Rhona, but it is ultra
 2 sensitive so wanted to send to you first.

3 Best,

4 Rob Goldstone.¹⁸

5 Minutes later, Trump Jr. responded: “Thanks Rob I appreciate that. I am on the road at the
 6 moment but perhaps I just speak to Emin first. Seems we have some time and if it’s what you
 7 say I love it especially later in the summer.”¹⁹ Trump Jr. testified to the Senate Intelligence
 8 Committee that he wanted to speak with Emin first because he had received “a rather
 9 sensational email from Rob, who I know to be a rather sensational kind of guy” and as a result,
 10 Trump Jr. “didn’t know what to make of it.”²⁰ In a subsequent interview, Trump Jr.
 11 acknowledged that the purpose of following up on Goldstone’s message was to obtain the
 12 opposition research, stating that if “someone has information on our opponent . . . maybe this is
 13 something. I should hear them out.”²¹

14 Manafort testified to the Senate Intelligence Committee that, at some point between June
 15 3 and June 6, 2016, Trump Jr. told him that foreign nationals with whom he worked for the Miss
 16 Universe pageant “had some information that they wanted to share that could be helpful to the

¹⁸ Special Counsel’s Report at 113 (citing Email from Goldstone to Trump Jr., 6/3/16 10:36am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347; Compl. at 7, MUR 7266 (July 13, 2017).

¹⁹ Special Counsel’s Report at 113 (citing Email from Trump Jr. to Goldstone, 6/3/16 10:53am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

²⁰ Senate Intelligence Committee Report at 348.

²¹ Special Counsel’s Report at 119 (Hannity, *Transcript-Donald Trump Jr.*, FOX NEWS (July 11, 2017) (“Hannity Transcript”)).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

campaign.”²² At a regularly scheduled “Family Meeting” on June 6, 2016, for senior campaign officials and Trump family members, Trump Jr. discussed a “lead” on negative information about Clinton from foreign nationals.²³ That same day and again the next day, June 7, 2016, Trump Jr. appears to have had several phone calls with Emin Agalarov; the current information does not indicate the substance of those phone calls.²⁴

On June 7, 2016, Goldstone emailed Trump Jr. again, writing: “Emin asked that I schedule a meeting with you and [t]he Russian government attorney who is flying over from Moscow for this Thursday.”²⁵ Trump Jr. responded “Great” and said the attendees from the Trump campaign side would “likely be Paul Manafort (campaign boss) my brother in law [Jared Kushner] and me.”²⁶ The next day, Goldstone again emailed, asking to change the time of the meeting and Trump Jr. agreed; Trump Jr. forwarded this email, which included the email chain with Goldstone, to Manafort and Kushner with the subject line “FW: Russia — Clinton — private and confidential.”²⁷ Both Manafort and Kushner received the emails, with Manafort

²² Senate Intelligence Committee Report at 348 (indicating that Manafort recalled Trump Jr. said the foreign nationals were from Azerbaijan); *see also id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia “and that they had derogatory information about Hillary Clinton”).

²³ *Id.* at 349 (indicating that Deputy Campaign Manager Gates recalled Trump Jr. said the foreign nationals were from Kyrgyzstan and that Trump Jr. testified that he did not recall this discussion).

²⁴ *Id.* at 350-52.

²⁵ Special Counsel’s Report at 114 (citing Email from Goldstone to Trump Jr., 6/7/16 4:20pm; @realDonaldTrump, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/realDonaldTrump/status/884789418455953413>); Senate Intelligence Committee Report at 352.

²⁶ Special Counsel’s Report at 114 (citing Email from Trump, Jr. to Goldstone, 6/7/16 6:14pm; @realDonaldTrump, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/realDonaldTrump/status/884789418455953413>); Senate Intelligence Committee Report at 352. Between the emails sent at 4:20pm and 6:14pm, Trump Jr. and Goldstone sent additional emails to settle on the time and place for the meeting. @realDonaldTrump, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/realDonaldTrump/status/884789418455953413>.

²⁷ Senate Intelligence Committee Report at 355-56; Special Counsel’s Report at 115 (citing Email from Trump, Jr. to Kushner and Manafort, 6/8/16).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 responding “See you then” and Kushner forwarding the message to his assistant.²⁸ Rick Gates,
 2 who was then the Deputy Campaign Chairman, told the Special Counsel’s Office that Trump Jr.
 3 announced the meeting to senior campaign staff, and that Manafort warned it would likely not
 4 yield “vital information” and that they should be careful.²⁹ Manafort told the Senate
 5 Intelligence Committee that Trump Jr. would not have invited him to attend “unless Trump Jr.
 6 thought the meeting would potentially be important.”³⁰

7 The June 9 meeting apparently lasted about 30 minutes.³¹ Veselnitskaya reportedly
 8 introduced herself as “a private attorney,” Akhmetshin was introduced as a lobbyist, and
 9 Samochornov as a translator.³² Trump Jr. reportedly began the meeting by asking Veselnitskaya,
 10 “what brings you here? We hear you have some important information for the campaign.”³³
 11 Veselnitskaya stated that certain Americans with business in Russia had broken Russian laws
 12 and donated their profits to the Democratic National Committee (the “DNC”) or the Clinton
 13 campaign.³⁴ According to several witnesses, Veselnitskaya had previously shown Akhmetshin
 14 some documents reflecting this alleged financial misconduct.³⁵ After Veselnitskaya made her
 15 statements, Trump Jr. apparently followed-up by asking whether the alleged payments could be

²⁸ Special Counsel’s Report at 115.

²⁹ *Id.* (Kushner told the Special Counsel’s Office he did not recall whether this happened); Senate Intelligence Committee Report at 349 (indicating this was in the “Family Meeting”).

³⁰ Senate Intelligence Committee Report at 349.

³¹ *Id.* at 370. Goldstone accompanied the Russian delegation to the Trump offices and testified that he had not planned or intended to attend the meeting, but stayed at Trump Jr.’s request so as to more easily accompany the Russians out after the meeting. *Id.* at 364.

³² *Id.* at 365.

³³ *Id.* at 366.

³⁴ Special Counsel’s Report at 117.

³⁵ *Id.*

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 tied to the Clinton campaign, but Veselnitskaya responded that the money could not be traced
 2 once it entered the United States.³⁶ Veselnitskaya and Akhmetshin then discussed U.S. sanctions
 3 imposed under the Magnitsky Act and Russia's response to the law.³⁷ Akhmetshin and
 4 Kaveladze reported to the Special Counsel that Trump Jr. followed up with specific questions
 5 about Clinton;³⁸ as Trump Jr. himself said in a later press interview, "I was probably pressing
 6 [Veselnitskaya] because the pretext of the meeting was, 'Hey, I have information about your
 7 opponent.'"³⁹ Indeed, Trump Jr. later testified to the Senate Intelligence Committee that the
 8 Russians in the meeting were lobbying "about some sort of policy" and the "meeting really
 9 wasn't about anything that he said it was going to be about."⁴⁰ Kushner apparently asked "what
 10 are we doing here?," sent Manafort an iMessage stating "waste of time," and emailed his
 11 assistants with a request that he be telephoned in order to leave the meeting.⁴¹

12 Over a year later, news of the June 9 meeting broke and became the subject of
 13 widespread news reporting.⁴² On July 11, 2017, Trump Jr. released a statement on Twitter,
 14 writing that he took the meeting based on his relationship with Emin Agalarov and that "[t]he

³⁶ *Id.* at 118; Senate Intelligence Committee Report at 367 (quoting Akhmetshin's testimony that Trump Jr. said, "That's very interesting, but so could you show how money goes to Hillary's campaign? . . . Could you show us how the money goes to Hillary's campaign?").

³⁷ Special Counsel's Report at 118; Compl. at 3-4, MUR 7265 (citing Jo Becker, Matt Apuzzo and Adam Goldman, *Trump's Son Met With Russian Lawyer After Being Promised Damaging Information on Clinton*, N.Y. TIMES, July 9, 2017).

³⁸ Special Counsel's Report at 118.

³⁹ MUR 7266 Compl. at 9 (quoting Hannity Transcript).

⁴⁰ Senate Intelligence Committee Report at 370.

⁴¹ Special Counsel's Report at 118-19; Senate Intelligence Committee Report at 367.

⁴² *See, e.g.*, Jo Becker, Matt Apuzzo, Adam Goldman, *Trump Team Met with Lawyer Linked to Kremlin During Campaign*, N.Y. TIMES, July 8, 2017 (cited in MUR 7266 Complaint at 4); Liam Stack, *Donald Trump Jr.'s Two Different Explanations for Russian Meeting*, N.Y. TIMES, July 9, 2017 (cited in MUR 7266 Complaint at 5).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

information they suggested they had about Hillary Clinton I thought was Political Opposition Research.”⁴³ In the same tweet, he released his correspondence with Goldstone setting up the meeting, some of which is quoted earlier in this report.⁴⁴ The full text of Trump Jr.’s statement is as follows:

To everyone, in order to be totally transparent, I am releasing the entire email chain of my emails with Rob Goldstone about the meeting on June 9, 2016. The first email on June 3, 2016 was from Rob, who was relating a request from Emin, a person I knew from the 2013 Ms. Universe Pageant near Moscow. Emin and his father have a very highly respected company in Moscow. The information they suggested they had about Hillary Clinton I thought was Political Opposition Research. I first wanted to just have a phone call but when that didn’t work out, they said the woman would be in New York and asked if I would meet. I decided to take the meeting. The woman, as she has said publicly, was not a government official. And, as we have said, she had no information to provide and wanted to talk about adoption policy and the Magnitsky Act. To put this in context, this occurred before the current Russian fever was in vogue. As Rob Goldstone said just today in the press, the entire meeting was “the most inane nonsense I ever heard. And I was actually agitated by it.”

The Complaints allege that Trump Jr., as an agent of the Trump Committee, violated the Act by soliciting a contribution from foreign nationals in the course of setting up and attending this meeting.⁴⁵ In addition, the Complaint in MUR 7266 alleges that Kushner and Manafort either solicited a prohibited foreign national contribution or substantially assisted in such a

⁴³ @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>. Prior to Trump Jr.’s release of his statement, his counsel, and counsel for the Trump Organization spoke with or emailed Goldstone and Kaveladze “to coordinate and draft a public statement.” Senate Intelligence Committee Report at 395. The record does not make clear whether Trump Jr.’s statement quoted above is that statement.

⁴⁴ *Supra* notes 18-19.

⁴⁵ Compl. at 6, MUR 7265; Compl. at 12-15, MUR 7266; Compl. at 1-2,

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

solicitation,⁴⁶ and that Goldstone substantially assisted in a prohibited solicitation.⁴⁷ Following the release of the Special Counsel’s Report, the Complainants in MUR 7266 submitted a Supplemental Complaint, contending that the Report “confirmed every material factual and legal allegation in our complaint.”⁴⁸ Trump Jr. filed a Response to that Supplemental Complaint arguing that the Special Counsel’s Report supports dismissal of these matters.⁴⁹

III. LEGAL ANALYSIS

A. The Commission Finds Reason to Believe That Donald Trump Jr. Impermissibly Solicited a Contribution from Russian Nationals

As discussed below, the contemplated free opposition research at issue in these matters constitutes a thing of value and its provision to the Trump Committee, if it had in fact been made, would have constituted a contribution under the Act. Through his communications prior to and during the June 9 meeting, Trump Jr. requested that foreign nationals provide that information to the Trump Committee. Therefore, the information before the Commission indicates there is reason to believe that that Trump Jr. knowingly solicited a prohibited foreign national contribution by requesting the damaging information on Clinton.

⁴⁶ Compl. at 15-16, MUR 7266 (“On June 8, 2016, Trump Jr. forwarded the email chain between himself and Goldstone to Kushner and Manafort, with the subject line ‘FW: Russia – Clinton – private and confidential.’ . . . By Kushner and Manafort participating in Trump Jr.’s arrangements to accept the foreign national contribution at an in-person meeting at Trump campaign headquarters, and by attending the meeting at which they had been told the contribution would be discussed, Kushner and Manafort solicited a contribution from a foreign national.”).

⁴⁷ *Id.* at 16 (“Goldstone, by working to connect Russian nationals with Donald J. Trump for President Inc. officials for the purpose of effecting an in-kind contribution, and by providing substantial assistance to Trump Jr. in arranging the meeting at which that contribution was to be discussed and solicited, violated the prohibition on any person knowingly providing substantial assistance in the solicitation or making of a contribution or donation from a foreign national.”) (internal quotation marks omitted).

⁴⁸ Supp. Compl. at 1, MUR 7266. The Supplemental Complaint focuses on a legal argument rather than presenting new or updated factual allegations.

⁴⁹ Trump Jr. Resp., MUR 7266 (July 19, 2019).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 1. Opposition Research is a Thing of Value and its Provision Without Charge
 2 is a Contribution Under the Act

3
 4 The Act prohibits foreign nationals from “directly or indirectly” making a contribution or
 5 making “an express or implied promise to make a contribution” in connection with a federal,
 6 state, or local election.⁵⁰ A “foreign national” includes an individual who is not a citizen of the
 7 United States or a national of the United States and who is not lawfully admitted for permanent
 8 residence.⁵¹ The Act and Commission regulations also prohibit any person from knowingly
 9 soliciting, accepting, or receiving a contribution from a foreign national.⁵² To solicit means “to
 10 ask, request, or recommend, explicitly or implicitly, that another person make a contribution,
 11 donation, transfer of funds, or otherwise provide anything of value.”⁵³

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

14 It is fundamental to the definition of our national political
 15 community that foreign citizens do not have a constitutional right
 16 to participate in, and thus may be excluded from, activities of
 17 democratic self-government. It follows, therefore, that the United
 18 States has a compelling interest for purposes of First Amendment
 19 analysis in limiting the participation of foreign citizens in activities
 20 of American democratic self-government, and in thereby
 21 preventing foreign influence over the U.S. political process.⁵⁴
 22

⁵⁰ 52 U.S.C. § 30121(a)(1)(A).

⁵¹ *Id.* § 30121(b)(2). The term “foreign national” also includes “a foreign principal,” which is defined as, among other things, “a government of a foreign country.” *Id.* § 30121(b)(1) (citing 22 U.S.C. § 611(b)); *see also* 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).

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

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

⁵⁴ 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d*, 565 U.S. 1104 (2012).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of
 2 money or anything of value made by any person for the purpose of influencing any election for
 3 Federal office.”⁵⁵ “[A]nything of value includes all in-kind contributions” such as “the provision
 4 of any goods or services without charge or at a charge that is less than the usual and normal
 5 charge.”⁵⁶

6 Although goods or services provided by a person — foreign or domestic — at the usual
 7 and normal charge do not constitute a contribution under the Act, soliciting, accepting, or
 8 receiving information in connection with an election from a foreign national, as opposed to
 9 purchasing the information at the usual and normal charge or hiring a foreign national in a bona
 10 fide commercial transaction to perform services for the political committee, could potentially
 11 result in the receipt of a prohibited in-kind contribution. Indeed, the Commission has recognized
 12 the “broad scope” of the foreign national contribution prohibition and found that even where the
 13 value of a good “may be nominal or difficult to ascertain,” such contributions are nevertheless
 14 banned.⁵⁷

15 In other contexts, the Commission has concluded that the provision of certain
 16 information, including a contact list, research, and descriptions and analysis of poll results, may

⁵⁵ 52 U.S.C. § 30101(8)(A)(i).

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

⁵⁷ AO 2007-22 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”).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 be things of value within the definition of “contribution.”⁵⁸ For instance, in MUR 5409
 2 (Norquist, *et al.*), the Commission concluded that a master contact list of political activists was
 3 “something of value, meeting the Act’s broad definition of contribution,” given that a
 4 corporation had “utilized its resources to obtain and compile” the materials; the materials
 5 contained “information that may [have been] of value in connection with the [] election”; and it
 6 appeared the materials were not “readily or publicly available.”⁵⁹

7 The current record in these matters, as set forth in the Special Counsel’s Report and
 8 Senate Intelligence Committee Report as well as Trump Jr.’s own statement and release of
 9 relevant email messages, indicates that the derogatory Clinton information that was offered by
 10 the Agalarovs in Goldstone’s initial email and sought by Trump Jr. is a thing of value under the
 11 Act. When Goldstone first reached out to Trump Jr. on June 3, Goldstone explicitly referred to
 12 “official documents and information that would incriminate Hillary and her dealings with
 13 Russia” that would be shared at the meeting as “part of Russia and its government’s support for
 14 Mr. Trump.”⁶⁰ Thus the record in the instant matters indicates that the offered and sought
 15 material would have required utilization of resources. In characterizing the information as

⁵⁸ See Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (research services); Advisory Op. 1990-12 at 2 (Strub) (“AO 1992-12”) (description and analysis of poll results); First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (list of activists 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”); Cert., MUR 5409 ¶ 2 (Norquist, *et al.*) (Oct. 20, 2004).

⁵⁹ First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (internal quotation marks omitted); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*) (Oct. 20, 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 10-11, MUR 5409 (Norquist, *et al.*); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*). MUR 5409, however, did not involve a foreign national contribution.

⁶⁰ Special Counsel’s Report at 113 (citing Email from Goldstone to Trump, Jr., 6/3/16 10:36am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

MURs 7265 / 7266
Donald Trump, Jr.
Factual and Legal Analysis

1 “official” and coming from the Russian “Crown prosecutor” as part of part of “Russia and its
2 government’s support for Mr. Trump,”⁶¹ Goldstone indicated that the Agalarovs were offering
3 information obtained or compiled by compensated personnel from the Russian government.

4 Further, the information offered and sought in these matters was not “readily or publicly
5 available,” which was a critical factor the Commission considered in MUR 5409 (Norquist)
6 when concluding that a compilation of materials was something of value.⁶² Goldstone conveyed
7 in his initial email, under the subject “Russia — Clinton — private and confidential,” that the
8 documents and information being offered were “ultra sensitive,” conveying that, like the
9 information in MUR 5409, the proffered derogative information about Clinton was not readily or
10 publicly available.⁶³

11 There does not appear to be any question that the research at issue was being offered for
12 less than its usual and normal cost; indeed, it was unambiguously being offered for free as “part
13 of Russia and its government’s support for Mr. Trump — helped along by Aras and Emin.”⁶⁴
14 There is no indication in any of the investigative reports that Trump Jr. or the Trump Committee
15 intended to pay for the opposition research. Thus, it appears that Trump Jr. was seeking
16 something of value without charge rather than attempting to purchase the information.

17 Whether a purported “contribution” is made for the purpose of influencing a federal
18 election may be clear on its face, as in a third party’s payments for coordinated communication,

⁶¹ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶² First Gen. Counsel’s Report at 8-10, MUR 5409 (Norquist) (adopted as dispositive).

⁶³ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶⁴ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

or inferred from the surrounding circumstances.⁶⁵ Here, the purported information at issue was offered to and sought by “the Trump campaign”⁶⁶ with an explicit focus on derogatory information “that could be helpful to the campaign.”⁶⁷ Goldstone not only told Trump Jr. that the research was intended to help the Trump campaign, but also specifically stated that the information would “incriminate” Trump’s opponent and “be very useful to your father.”⁶⁸ The overall record in these matters suggests that the proposed provision of “official documents and information” would not have been offered or sought but for Trump’s status as a federal candidate and the desire to obtain an electoral advantage.⁶⁹

Because the opposition research was a thing of value, offered at no cost, and for the purpose of influencing an election, if provided it would have been a contribution under the Act.

2. Trump Jr. Knowingly Solicited the Opposition Research From Foreign Nationals

The available information similarly indicates that Trump Jr.’s efforts to obtain information from individuals he knew to be Russian nationals constituted a solicitation of a

⁶⁵ 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 “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 “uncompensated fundraising and campaign management assistance” and “advertising assistance[,]” including spending “several million dollars” on coordinated advertisements).

⁶⁶ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶⁷ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347; *see also id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia “and that they had derogatory information about Hillary Clinton”).

⁶⁸ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶⁹ See AO 2000-08 (Harvey) at 1, 3 (concluding gift would be a contribution because it “would not be made but for the recipient’s status as a Federal candidate”).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 contribution. Commission regulations define “solicit” to mean “ask, request, or recommend,
 2 explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or
 3 otherwise provide anything of value.”⁷⁰

4 A solicitation is an oral or written communication that, construed
 5 as reasonably understood in the context in which it is made,
 6 contains a clear message asking, requesting, or recommending that
 7 another person make a contribution, donation, transfer of funds, or
 8 otherwise provide anything of value. A solicitation may be made
 9 directly or indirectly. The context includes the conduct of persons
 10 involved in the communication.⁷¹

11 Commission regulations include examples of statements that would constitute solicitations,
 12 including but not limited to: “I will not forget those who contribute at this crucial stage”;⁷²
 13 “[t]he candidate will be very pleased if we can count on you for \$10,000”;⁷³ and “[y]our
 14 contribution to this campaign would mean a great deal to the entire party and to me
 15 personally.”⁷⁴ The Commission has also identified certain communications that qualify as
 16 “solicitations,” such as “providing a separate card, envelope, or reply device that contains an
 17 address to which funds may be sent.”⁷⁵

18 Considering the overall context, Trump Jr.’s communications both leading up to the June
 19 9 meeting and in the meeting itself contained a clear message requesting the damaging
 20 information on Clinton that Goldstone offered to provide on behalf of the Agalarovs or the

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

⁷¹ *Id.* § 300.2(m).

⁷² *Id.* § 300.2(m)(2)(xi).

⁷³ *Id.* § 300.2(m)(2)(xii).

⁷⁴ *Id.* § 300.2(m)(2)(xiii).

⁷⁵ *See id.* § 300.2(m)(1) (listing examples).

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 Russian government. His response to Goldstone’s initial message, “I love it,”⁷⁶ is similar to the
 2 example solicitation phrase in the Commission’s regulations that “the candidate will be very
 3 pleased.”⁷⁷ In a subsequent press interview, Trump Jr. acknowledged that the purpose of
 4 following up on Goldstone’s message was to obtain the opposition research, stating that if
 5 “someone has information on our opponent . . . maybe this is something. I should hear them
 6 out.”⁷⁸

7 Critically, witnesses who were present at the June 9 meeting testified before a grand jury
 8 as part of the Special Counsel’s investigation and the Senate Intelligence Committee that Trump
 9 Jr. asked at the meeting about the damaging information about Clinton.⁷⁹ Akhmetshin testified to
 10 the Senate Intelligence Committee that Trump Jr. explicitly asked the Russian nationals to
 11 provide the derogatory information during the June 9 meeting, asking “could you show us how
 12 the money goes to Hillary’s campaign?”⁸⁰ And Trump Jr. himself publicly acknowledged in a
 13 media interview that “I was probably pressing [Veselnitskaya for information] because the
 14 pretext of the meeting was, ‘Hey, I have information about your opponent.’”⁸¹ When considered
 15 in the context that the stated purpose of the June 9 meeting was to obtain the information
 16 promised by the Agalarovs, Trump Jr.’s communications — including, in his own words,

⁷⁶ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁷⁷ 11 C.F.R. § 300.2(m)(2)(xii).

⁷⁸ Special Counsel’s Report at 119 (citing Hannity Transcript).

⁷⁹ Special Counsel’s Report at 118 (citing testimony of Akhmetshin for his testimony that Trump Jr. asked how specific payments could be tied to the Clinton campaign and Kaveladze for his testimony that Trump Jr. asked what the Russians had on Clinton); Senate Intelligence Committee Report at 349.

⁸⁰ Senate Intelligence Committee Report at 367.

⁸¹ Compl. at 9, MUR 7266 (quoting Hannity Transcript); *see also* Senate Intelligence Committee Report at 370 (quoting Trump Jr. that the “meeting really wasn’t about anything that [Goldstone] said it was going to be about.”)

MURs 7265 / 7266
 Donald Trump, Jr.
 Factual and Legal Analysis

1 “pressing” Veselnitskaya for “information about [Donald Trump’s] opponent” and by asking,
 2 “Could you show us how the money goes to Hillary’s campaign?” — constituted a request for
 3 such information, which as set forth above, was something of value for the purpose of
 4 influencing an election and, therefore, a contribution. Accordingly, Trump Jr.’s communications
 5 constitute an improper solicitation of a prohibited contribution under the Act.⁸²

6 3. The Department of Justice’s Decision Not to Prosecute Does Not Preclude
 7 Civil Enforcement

8 Trump Jr. argues that the Special Counsel’s Report confirms that no violation of the Act
 9 occurred in connection with the June 9 meeting.⁸³ However, the Special Counsel’s Report does
 10 not reach that conclusion. Instead, the Report explains:

11 There are reasonable arguments that the offered information would
 12 constitute a “thing of value” within the meaning of [the Act], but the
 13 [Special Counsel’s] Office determined that the government would not be
 14 likely to obtain and sustain a conviction for two other reasons: first, the
 15 [Special Counsel’s] Office did not obtain admissible evidence likely to
 16 meet the government’s burden to prove beyond a reasonable doubt that
 17 these individuals acted “willfully,” *i.e.*, with general knowledge of the
 18 illegality of their conduct; and, second, the government would likely
 19 encounter difficulty in proving beyond a reasonable doubt that the value of
 20 the promised information exceeded the threshold for a criminal violation
 21 [\$25,000 for felony punishment].⁸⁴

22 In fact, when the Special Counsel’s Office examined Commission precedent regarding “thing of
 23 value,” that Office came to the legal conclusion that “[t]hese authorities would support the view
 24 that candidate-related opposition research given to a campaign for the purpose of influencing an
 25 election could constitute a contribution to which the foreign-source ban could apply.”⁸⁵

⁸² 52 U.S.C. § 30121(a)(2).

⁸³ Trump Jr. Resp., MUR 7266 at 1.

⁸⁴ Special Counsel’s Report at 186.

⁸⁵ *Id.* at 187.

MURs 7265 / 7266
Donald Trump, Jr.
Factual and Legal Analysis

1 The Special Counsel’s decision not to prosecute anyone in connection with the June 9
2 meeting, as explained above, was based on considerations that are materially distinct from the
3 Commission’s consideration of these matters in an administrative and civil context. While a
4 criminal prosecution for a violation of the Act would need to prove beyond a reasonable doubt
5 that the violation was knowing and willful, the Commission in a civil proceeding would only
6 have to establish a violation of the Act based upon a preponderance of the evidence⁸⁶ —
7 regardless of whether the respondent was aware of the illegality.⁸⁷ Indeed, in previous cases
8 where the Department of Justice was unable to secure criminal convictions for a violation of the
9 Act, the Commission has successfully conciliated with respondents on a non-knowing and
10 willful basis to ensure that the interests of the Act were served.⁸⁸ Moreover, for the Commission
11 to find reason to believe in these administrative proceedings at this stage, the information before
12 the Commission need only raise a reasonable inference, *i.e.*, credibly allege, that a violation
13 occurred.⁸⁹

⁸⁶ See *Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) (“In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.”).

⁸⁷ See *FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tx. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); see also *FEC v. Malenick*, 301 F.Supp.2d 230, 237 n.9 (D.D.C. 2004) (holding that a “knowing” violation of the Act “as opposed to a ‘knowing and willful’ one, does not require knowledge that one is violating the law, but merely requires an intent to act.”) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)), rev’d on motion for reconsideration in part on other grounds, 2005 WL 588222 (Mar. 7, 2005).

⁸⁸ See Conciliation Agreement, MUR 7221 (James Laurita, Jr.) (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 (Fieger, Fieger, 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).

⁸⁹ 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.”).

MURs 7265 / 7266
Donald Trump, Jr.
Factual and Legal Analysis

With regard to valuation, the Special Counsel’s Office noted that the \$25,000 value of the opposition research necessary to establish a felony criminal charge would be difficult to determine in part because no actual valuable information was provided.⁹⁰ This difficulty in valuing the information would not be a barrier to Commission action, as even contributions that are “nominal” or “difficult to ascertain” would still be prohibited in the civil context, and the Act provides for statutory penalties, which are well suited for solicitation matters such as the ones at issue.⁹¹ Consequently, the Special Counsel’s decision not to file suit against respondents is not a bar to civil enforcement of the Act. Pursuing civil enforcement here would serve to vindicate the Act’s purpose of limiting foreign influence over the U.S. political process.⁹²

* * *

Because the available information indicates that Trump Jr. solicited a contribution from a foreign national without charge for the purpose of influencing a federal election, the Commission finds reason to believe that Trump Jr. violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national.

⁹⁰ Special Counsel’s Report at 188.

⁹¹ AO 2007-22 at 6; *cf.* MUR 7048 (Cruz) (conciliating statutory penalty for soft money solicitation violation).

⁹² *See Bluman*, 800 F. Supp. 2d at 288 (recognizing that “the United States has a compelling interest . . . in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process”).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Donald J. Trump for President, Inc. and
Bradley T. Crate in his official
capacity as treasurer

MUR 7265, 7266

I. INTRODUCTION

The Complaints in these matters allege that Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”), the authorized committee of 2016 presidential candidate Donald J. Trump, as well as several representatives of the Trump Committee, solicited a prohibited foreign national contribution by seeking damaging information on Trump’s general election opponent, Hillary R. Clinton, from Russian nationals in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Specifically, these Complaints concern a meeting held on June 9, 2016 (the “June 9 meeting”) organized by Trump’s son and senior campaign advisor, Donald Trump Jr., that occurred at Trump Tower in New York City.

Based on the available information, it appears that Trump Jr., in his capacity as an agent of the Trump Committee, solicited opposition research on candidate Trump’s opponent from individuals he knew to be Russian nationals. In these circumstances, the damaging information solicited by Trump Jr. constitutes a thing of value under Commission precedent. Accordingly, the Commission finds reason to believe that the Trump Committee violated 52 U.S.C. § 30121(a)(2) by knowingly soliciting a contribution from a foreign national.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

II. FACTUAL BACKGROUND

The allegations in these matters concern the June 9 meeting at Trump Tower, a subject of investigation by other investigative bodies, including both the Office of the Special Counsel¹ and the Senate Select Committee on Intelligence.² The June 9 meeting participants were Trump Jr., Campaign Chairman Manafort, senior campaign advisor Kushner, a contingent of Russian nationals led by former Russian prosecutor Natalia Veselnitskaya including lobbyist Rinat Akhmetshin, Irakli “Ike” Kaveladze, and Anatoli Samochornov, and, finally, Rob Goldstone, who worked for Emin Agalarov.³

The background to this meeting began several years prior to the 2016 election, with the introduction of the Trump family to the Agalarov family. According to the Special Counsel’s Report, “Aras Agalarov is a Russian real-estate developer with ties to [Russian President Vladimir] Putin and other members of the Russian government.”⁴ In 2013, through their

¹ SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION, Vol. 1 at 110-123 (Mar. 22, 2019) (“Special Counsel’s Report”); *see also* Supp. Compl., MUR 7266 (Apr. 30, 2019) (updating allegations with findings from the Special Counsel’s Report).

² U.S. SENATE SELECT COMM. ON INTELLIGENCE, RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, VOLUME 5: COUNTERINTELLIGENCE, THREATS AND VULNERABILITIES at 345-395 (Aug. 18, 2020) (“Senate Intelligence Committee Report”). The Senate Intelligence Committee explained that its “investigation focused on the counterintelligence threat posed by the Russian intelligence services” while the Special Counsel focused on criminal activity. *Id.* at 4.

³ Special Counsel’s Report at 6, 111, 117 (describing Goldstone as a publicist to Emin Agalarov); Senate Intelligence Committee Report at 322, 364; *see also* Compl. at 2-4, MUR 7265 (July 10, 2017) (alleging same); Senate Intelligence Committee Report at 270 (describing Goldstone as Emin’s “aide” and promoter). Goldstone appears to be a British national. *See, e.g.*, Rosalind S. Helderman, *How a British Music Publicist Ended up in the Middle of the Russia Storm*, WASH. POST (Sept. 22, 2018), https://www.washingtonpost.com/politics/how-a-british-music-publicist-ended-up-in-the-middle-of-the-russia-storm/2018/09/21/d1449a40-ba83-11e8-a8aa-860695e7f3fc_story.html.

⁴ Special Counsel’s Report at 110; *see also* Senate Intelligence Committee Report at 261 (detailing Aras Agalarov’s construction and real estate businesses, connections to Putin, and associations with Russian organized crime).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 respective organizations, the Crocus Group and the Trump Organization, Aras Agalarov worked
 2 with Donald Trump in connection with the Miss Universe pageant held in Moscow.⁵ Shortly
 3 thereafter, Agalarov’s firm, the Crocus Group, and the Trump Organization entered into
 4 discussions regarding a potential Trump Moscow real-estate project.⁶ The Special Counsel’s
 5 Report states that Trump Jr. served as “the primary negotiator for the Trump Organization,”
 6 while Emin Agalarov, Agalarov’s son, and Ike Kaveladze “represented the Crocus Group during
 7 negotiations.”⁷ Emin Agalarov and Trump Jr. signed “preliminary terms of an agreement for the
 8 Trump Tower Moscow project” in December 2013 and negotiated a letter of intent in early 2014,
 9 but the project never “developed past” the planning stage; the last apparent communication
 10 between the two groups about the project occurred in late November 2014.⁸

11 Despite the failed real estate deal, the Agalarovs and the Trumps remained on friendly
 12 terms.⁹ For instance, on June 16, 2015, the day Trump announced his candidacy, Goldstone

⁵ Special Counsel’s Report at 67 n.291; Senate Intelligence Committee Report at 259; *see also* Senate Intelligence Committee Report at 271, 275-79 (detailing Miss Universe planning emails between Trump Organization employees and Goldstone, for the Agalarovs).

⁶ Special Counsel’s Report at 67-68 (“From January 2014 through November 2014, the Trump Organization and Crocus Group discussed development plans for the Moscow project.”); *id.* at 110-11 (describing how Agalarov, as president of the Crocus Group, “worked with Trump in connection with the 2013 Miss Universe pageant in Moscow and a potential Trump Moscow real-estate project”).

⁷ *Id.* at 67; *see also* Senate Intelligence Committee Report at 267 (stating that Emin Agalarov is “Executive Vice President of Crocus group”); *id.* at 301 (citing November 19, 2013, email from Trump Jr. to Emin Agalarov introducing himself “for the first time” and expressing interest in Trump Tower Moscow project).

⁸ Special Counsel’s Report at 67-68; Senate Intelligence Committee Report at 307-09 (describing several meetings from winter to spring 2014, including meetings between Trump Jr., Emin Agalarov, and Goldstone in January 2014 in New York City and in Doral, Florida in March 2014, but concluding that discussions “slowed” by late summer to fall 2014).

⁹ *See* Senate Intelligence Committee Report at 310-11, n.207 (describing several meetings between Trump, Emin Agalarov, and Goldstone at Trump Tower in early 2015 that Goldstone described, in testimony to the Senate Committee, as “personal” and about which Emin Agalarov reportedly said “We kind of hang out”). Goldstone and Emin Agalarov both testified to the Senate committee that, in a meeting at Trump Tower in May 2015, Trump discussed running for president. *Id.* at 311.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 emailed Trump Jr. asking him to pass on his and Emin Agalarov's congratulations.¹⁰ On
 2 February 29, 2016, Aras Agalarov reportedly sent Trump and Trump Jr. a letter to congratulate
 3 candidate Trump on winning the Republican primary and to offer his "support and that of many
 4 of his important Russian friends and colleagues[,] especially with reference to U.S./Russian
 5 relations."¹¹ Trump apparently responded with a handwritten letter.¹²

6 According to both the Special Counsel's and Senate Intelligence Committee reports, what
 7 ultimately became the June 9 meeting originated from a June 3, 2016, phone call from Emin
 8 Agalarov to Goldstone.¹³ The Special Counsel's Report, in a heavily-redacted section, describes
 9 the phone call as follows: "Goldstone understood [redacted] a Russian political connection, and
 10 Emin Agalarov indicated that the attorney was a prosecutor. Goldstone recalled that the
 11 information that might interest the Trumps involved Hillary Clinton. The [redacted] mentioned
 12 by Emin Agalarov was Natalia Veselnitskaya."¹⁴ Goldstone also described the call in testimony

¹⁰ *Id.* at 312.

¹¹ Special Counsel's Report at 111 (quoting Email from Goldstone, on behalf of Aras Agalarov, Feb. 29, 2016, which the Special Counsel's Report labels as sent to "Trump Jr. et al.") (alteration in original). During Trump's candidacy, Goldstone also continued to propose commercial transactions with Trump Jr., though it is not clear whether the Agalarovs were engaged in these proposals. *See* Senate Intelligence Committee Report at 313-18 (quoting emails between Goldstone, Trump Jr and others about Goldstone's proposal that the Trump Committee use Russian social media company VK).

¹² Senate Intelligence Committee Report at 321-22; *see also id.* at 319-21 (detailing multiple communications between Trumps and Agalarovs and including images of handwritten notes).

¹³ Special Counsel's Report at 111 (citing Goldstone 2/8/18 FBI 302; Call Records of Robert Goldstone); Senate Intelligence Committee Report at 345.

¹⁴ *Id.* at 111-12. The Senate Intelligence Committee describes Veselnitskaya as "a Russian lawyer who previously worked for, and remains in contact with, senior individuals in the Russian government" and states that she had "significant and concerning connections to Russian . . . intelligence officials." Senate Intelligence Committee Report at 329, 333. Veselnitskaya told the committee she had done work for Aras Agalarov since 2013 or 2014. *Id.* at 338. In January 2019, DOJ unsealed an indictment against Veselnitskaya for obstruction of justice by submitting false declarations in an unrelated matter. *See* DOJ, Russian Attorney Natalya Veselnitskaya Charged with Obstruction of Justice in Connection with Civil Money Laundering and Forfeiture Action (Jan. 8, 2019), <https://www.justice.gov/usao-sdny/pr/russian-attorney-natalya-veselnitskaya-charged-obstruction-justice-connection-civil>.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 to the Senate Intelligence Committee: “[Emin] asked if I could possibly contact ‘the Trumps’. . .
 2 because his father had met with a well-connected government lawyer in his office, who had some
 3 interesting information about illicit Russian funding to the Democrats and its candidate; and
 4 could I pass that on and get the meeting.”¹⁵ Goldstone further testified that, when he indicated to
 5 Emin that he did not know “what you’re asking me to convey,” Emin replied: “There’s
 6 information, it’s potentially damaging to the Democrats and Hillary, and I think you should
 7 contact the Trumps; my dad would really like this meeting to take place.”¹⁶ Goldstone testified
 8 that Emin said, “Please, just ask for the meeting. You don’t need to do anything else.”¹⁷

9 Shortly after this phone call, Goldstone sent Trump Jr. the following email with the
 10 subject “Russia — Clinton — private and confidential”:

11 Good morning

12 Emin just called and asked me to contact you with something very
 13 interesting.

14 The Crown prosecutor of Russia met with his father Aras this
 15 morning and in their meeting offered to provide the Trump
 16 campaign with some official documents and information that
 17 would incriminate Hillary and her dealings with Russia and would
 18 be very useful to your father.

19 This is obviously very high level and sensitive information but is
 20 part of Russia and its government’s support for Mr. Trump —
 21 helped along by Aras and Emin.

22 What do you think is the best way to handle this information and
 23 would you be able to speak to Emin about it directly?

¹⁵ Senate Intelligence Committee Report at 345.

¹⁶ *Id.* at 346. Emin Agalarov testified that he did what his father had requested because, “When my father asks, I cannot say no.” *Id.*

¹⁷ *Id.* Goldstone also said that Aras Agalarov “never” directly tasked him to do things, but that he “would be asked to do things through a ‘chain of command’” through staff or Emin. *Id.* at n.2213.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 I can also send this info to your father via Rhona, but it is ultra
 2 sensitive so wanted to send to you first.

3 Best,

4 Rob Goldstone.¹⁸

5 Minutes later, Trump Jr. responded: “Thanks Rob I appreciate that. I am on the road at the
 6 moment but perhaps I just speak to Emin first. Seems we have some time and if it’s what you
 7 say I love it especially later in the summer.”¹⁹ Trump Jr. testified to the Senate Intelligence
 8 Committee that he wanted to speak with Emin first because he had received “a rather
 9 sensational email from Rob, who I know to be a rather sensational kind of guy” and as a result,
 10 Trump Jr. “didn’t know what to make of it.”²⁰ In a subsequent interview, Trump Jr.
 11 acknowledged that the purpose of following up on Goldstone’s message was to obtain the
 12 opposition research, stating that if “someone has information on our opponent . . . maybe this is
 13 something. I should hear them out.”²¹

14 Manafort testified to the Senate Intelligence Committee that, at some point between June
 15 3 and June 6, 2016, Trump Jr. told him that foreign nationals with whom he worked for the Miss
 16 Universe pageant “had some information that they wanted to share that could be helpful to the

¹⁸ Special Counsel’s Report at 113 (citing Email from Goldstone to Trump Jr., 6/3/16 10:36am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347; Compl. at 7, MUR 7266 (July 13, 2017).

¹⁹ Special Counsel’s Report at 113 (citing Email from Trump Jr. to Goldstone, 6/3/16 10:53am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

²⁰ Senate Intelligence Committee Report at 348.

²¹ Special Counsel’s Report at 119 (Hannity, *Transcript-Donald Trump Jr.*, FOX NEWS (July 11, 2017) (“Hannity Transcript”)).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

campaign.”²² At a regularly scheduled “Family Meeting” on June 6, 2016, for senior campaign officials and Trump family members, Trump Jr. discussed a “lead” on negative information about Clinton from foreign nationals.²³ That same day and again the next day, June 7, 2016, Trump Jr. appears to have had several phone calls with Emin Agalarov; the current information does not indicate the substance of those phone calls.²⁴

On June 7, 2016, Goldstone emailed Trump Jr. again, writing: “Emin asked that I schedule a meeting with you and [t]he Russian government attorney who is flying over from Moscow for this Thursday.”²⁵ Trump Jr. responded “Great” and said the attendees from the Trump campaign side would “likely be Paul Manafort (campaign boss) my brother in law [Jared Kushner] and me.”²⁶ The next day, Goldstone again emailed, asking to change the time of the meeting and Trump Jr. agreed; Trump Jr. forwarded this email, which included the email chain with Goldstone, to Manafort and Kushner with the subject line “FW: Russia — Clinton — private and confidential.”²⁷ Both Manafort and Kushner received the emails, with Manafort

²² Senate Intelligence Committee Report at 348 (indicating that Manafort recalled Trump Jr. said the foreign nationals were from Azerbaijan); *see also id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia “and that they had derogatory information about Hillary Clinton”).

²³ *Id.* at 349 (indicating that Deputy Campaign Manager Gates recalled Trump Jr. said the foreign nationals were from Kyrgyzstan and that Trump Jr. testified that he did not recall this discussion).

²⁴ *Id.* at 350-52.

²⁵ Special Counsel’s Report at 114 (citing Email from Goldstone to Trump Jr., 6/7/16 4:20pm; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>); Senate Intelligence Committee Report at 352.

²⁶ Special Counsel’s Report at 114 (citing Email from Trump, Jr. to Goldstone, 6/7/16 6:14pm; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>); Senate Intelligence Committee Report at 352. Between the emails sent at 4:20pm and 6:14pm, Trump Jr. and Goldstone sent additional emails to settle on the time and place for the meeting. @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>.

²⁷ Senate Intelligence Committee Report at 355-56; Special Counsel’s Report at 115 (citing Email from Trump, Jr. to Kushner and Manafort, 6/8/16).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 responding “See you then” and Kushner forwarding the message to his assistant.²⁸ Rick Gates,
 2 who was then the Deputy Campaign Chairman, told the Special Counsel’s Office that Trump Jr.
 3 announced the meeting to senior campaign staff, and that Manafort warned it would likely not
 4 yield “vital information” and that they should be careful.²⁹ Manafort told the Senate
 5 Intelligence Committee that Trump Jr. would not have invited him to attend “unless Trump Jr.
 6 thought the meeting would potentially be important.”³⁰

7 The June 9 meeting apparently lasted about 30 minutes.³¹ Veselnitskaya reportedly
 8 introduced herself as “a private attorney,” Akhmetshin was introduced as a lobbyist, and
 9 Samochornov as a translator.³² Trump Jr. reportedly began the meeting by asking Veselnitskaya,
 10 “what brings you here? We hear you have some important information for the campaign.”³³
 11 Veselnitskaya stated that certain Americans with business in Russia had broken Russian laws
 12 and donated their profits to the Democratic National Committee (the “DNC”) or the Clinton
 13 campaign.³⁴ According to several witnesses, Veselnitskaya had previously shown Akhmetshin
 14 some documents reflecting this alleged financial misconduct.³⁵ After Veselnitskaya made her
 15 statements, Trump Jr. apparently followed-up by asking whether the alleged payments could be

²⁸ Special Counsel’s Report at 115.

²⁹ *Id.* (Kushner told the Special Counsel’s Office he did not recall whether this happened); Senate Intelligence Committee Report at 349 (indicating this was in the “Family Meeting”).

³⁰ Senate Intelligence Committee Report at 349.

³¹ *Id.* at 370. Goldstone accompanied the Russian delegation to the Trump offices and testified that he had not planned or intended to attend the meeting, but stayed at Trump Jr.’s request so as to more easily accompany the Russians out after the meeting. *Id.* at 364.

³² *Id.* at 365.

³³ *Id.* at 366.

³⁴ Special Counsel’s Report at 117.

³⁵ *Id.*

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 tied to the Clinton campaign, but Veselnitskaya responded that the money could not be traced
 2 once it entered the United States.³⁶ Veselnitskaya and Akhmetshin then discussed U.S. sanctions
 3 imposed under the Magnitsky Act and Russia's response to the law.³⁷ Akhmetshin and
 4 Kaveladze reported to the Special Counsel that Trump Jr. followed up with specific questions
 5 about Clinton;³⁸ as Trump Jr. himself said in a later press interview, "I was probably pressing
 6 [Veselnitskaya] because the pretext of the meeting was, 'Hey, I have information about your
 7 opponent.'" ³⁹ Indeed, Trump Jr. later testified to the Senate Intelligence Committee that the
 8 Russians in the meeting were lobbying "about some sort of policy" and the "meeting really
 9 wasn't about anything that he said it was going to be about."⁴⁰ Kushner apparently asked "what
 10 are we doing here?," sent Manafort an iMessage stating "waste of time," and emailed his
 11 assistants with a request that he be telephoned in order to leave the meeting.⁴¹

12 Over a year later, news of the June 9 meeting broke and became the subject of
 13 widespread news reporting.⁴² On July 11, 2017, Trump Jr. released a statement on Twitter,
 14 writing that he took the meeting based on his relationship with Emin Agalarov and that "[t]he

³⁶ *Id.* at 118; Senate Intelligence Committee Report at 367 (quoting Akhmetshin's testimony that Trump Jr. said, "That's very interesting, but so could you show how money goes to Hillary's campaign? . . . Could you show us how the money goes to Hillary's campaign?").

³⁷ Special Counsel's Report at 118; Compl. at 3-4, MUR 7265 (citing Jo Becker, Matt Apuzzo and Adam Goldman, *Trump's Son Met With Russian Lawyer After Being Promised Damaging Information on Clinton*, N.Y. TIMES, July 9, 2017).

³⁸ Special Counsel's Report at 118.

³⁹ MUR 7266 Compl. at 9 (quoting Hannity Transcript).

⁴⁰ Senate Intelligence Committee Report at 370.

⁴¹ Special Counsel's Report at 118-19; Senate Intelligence Committee Report at 367.

⁴² *See, e.g.*, Jo Becker, Matt Apuzzo, Adam Goldman, *Trump Team Met with Lawyer Linked to Kremlin During Campaign*, N.Y. TIMES, July 8, 2017 (cited in MUR 7266 Complaint at 4); Liam Stack, *Donald Trump Jr.'s Two Different Explanations for Russian Meeting*, N.Y. TIMES, July 9, 2017 (cited in MUR 7266 Complaint at 5).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 information they suggested they had about Hillary Clinton I thought was Political Opposition
 2 Research.”⁴³ In the same tweet, he released his correspondence with Goldstone setting up the
 3 meeting, some of which is quoted earlier in this report.⁴⁴ The full text of Trump Jr.’s statement
 4 is as follows:

To everyone, in order to be totally transparent, I am releasing the entire email chain of my emails with Rob Goldstone about the meeting on June 9, 2016. The first email on June 3, 2016 was from Rob, who was relating a request from Emin, a person I knew from the 2013 Ms. Universe Pageant near Moscow. Emin and his father have a very highly respected company in Moscow. The information they suggested they had about Hillary Clinton I thought was Political Opposition Research. I first wanted to just have a phone call but when that didn’t work out, they said the woman would be in New York and asked if I would meet. I decided to take the meeting. The woman, as she has said publicly, was not a government official. And, as we have said, she had no information to provide and wanted to talk about adoption policy and the Magnitsky Act. To put this in context, this occurred before the current Russian fever was in vogue. As Rob Goldstone said just today in the press, the entire meeting was “the most inane nonsense I ever heard. And I was actually agitated by it.”

5
 6 The Complaints allege that Trump Jr., as an agent of the Trump Committee, violated the
 7 Act by soliciting a contribution from foreign nationals in the course of setting up and attending
 8 this meeting.⁴⁵ In addition, the Complaint in MUR 7266 alleges that Kushner and Manafort
 9 either solicited a prohibited foreign national contribution or substantially assisted in such a

⁴³ @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00am), <https://twitter.com/DonaldJTrumpJr/status/884789418455953413>. Prior to Trump Jr.’s release of his statement, his counsel, and counsel for the Trump Organization spoke with or emailed Goldstone and Kaveladze “to coordinate and draft a public statement.” Senate Intelligence Committee Report at 395. The record does not make clear whether Trump Jr.’s statement quoted above is that statement.

⁴⁴ *Supra* notes 18-19.

⁴⁵ Compl. at 6, MUR 7265; Compl. at 12-15, MUR 7266; Compl. at 1-2,

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

solicitation,⁴⁶ and that Goldstone substantially assisted in a prohibited solicitation.⁴⁷ The Trump Committee filed a Response that does not dispute any of the foregoing information, but instead argues that the allegations do not constitute a violation of the Act⁴⁸ and that the meeting is protected political speech under the First Amendment.⁴⁹ Following the release of the Special Counsel’s Report, the Complainants in MUR 7266 submitted a Supplemental Complaint, contending that the Report “confirmed every material factual and legal allegation in our complaint.”⁵⁰ The Trump Committee filed a Response to that Supplemental Complaint arguing that the Special Counsel’s Report supports dismissal of these matters.⁵¹

III. LEGAL ANALYSIS

A. The Commission Finds Reason to Believe That Donald Trump Jr. Impermissibly Solicited a Contribution from Russian Nationals

As discussed below, the contemplated free opposition research at issue in these matters constitutes a thing of value and its provision to the Trump Committee, if it had in fact been made, would have constituted a contribution under the Act. Through his communications prior

⁴⁶ Compl. at 15-16, MUR 7266 (“On June 8, 2016, Trump Jr. forwarded the email chain between himself and Goldstone to Kushner and Manafort, with the subject line ‘FW: Russia – Clinton – private and confidential.’ . . . By Kushner and Manafort participating in Trump Jr.’s arrangements to accept the foreign national contribution at an in-person meeting at Trump campaign headquarters, and by attending the meeting at which they had been told the contribution would be discussed, Kushner and Manafort solicited a contribution from a foreign national.”).

⁴⁷ *Id.* at 16 (“Goldstone, by working to connect Russian nationals with Donald J. Trump for President Inc. officials for the purpose of effecting an in-kind contribution, and by providing substantial assistance to Trump Jr. in arranging the meeting at which that contribution was to be discussed and solicited, violated the prohibition on any person knowingly providing substantial assistance in the solicitation or making of a contribution or donation from a foreign national.”) (internal quotation marks omitted).

⁴⁸ Trump Committee Resp., MURs 7265, 7266, at 5-7, 9-15 (Sept. 14, 2017).

⁴⁹ *Id.* at 7-9; *see also* Trump Committee Resp., (referring to response in MURs 7265, 7266,

⁵⁰ Supp. Compl. at 1, MUR 7266. The Supplemental Complaint focuses on a legal argument rather than presenting new or updated factual allegations.

⁵¹ Trump Committee Supp. Resp., MUR 7266 (June 12, 2019).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 to and during the June 9 meeting, Trump Jr. requested that foreign nationals provide that
 2 information to the Trump Committee. Therefore, the information before the Commission
 3 indicates there is reason to believe that that Trump Jr. knowingly solicited a prohibited foreign
 4 national contribution by requesting the damaging information on Clinton.

5 1. Opposition Research is a Thing of Value and its Provision Without Charge
 6 is a Contribution Under the Act
 7

8 The Act prohibits foreign nationals from “directly or indirectly” making a contribution or
 9 making “an express or implied promise to make a contribution” in connection with a federal,
 10 state, or local election.⁵² A “foreign national” includes an individual who is not a citizen of the
 11 United States or a national of the United States and who is not lawfully admitted for permanent
 12 residence.⁵³ The Act and Commission regulations also prohibit any person from knowingly
 13 soliciting, accepting, or receiving a contribution from a foreign national.⁵⁴ To solicit means “to
 14 ask, request, or recommend, explicitly or implicitly, that another person make a contribution,
 15 donation, transfer of funds, or otherwise provide anything of value.”⁵⁵

16 In affirming the constitutionality of the Act’s ban on foreign national contributions, the
 17 court in *Bluman v. FEC* held:

18 It is fundamental to the definition of our national political
 19 community that foreign citizens do not have a constitutional right
 20 to participate in, and thus may be excluded from, activities of

⁵² 52 U.S.C. § 30121(a)(1)(A).

⁵³ *Id.* § 30121(b)(2). The term “foreign national” also includes “a foreign principal,” which is defined as, among other things, “a government of a foreign country.” *Id.* § 30121(b)(1) (citing 22 U.S.C. § 611(b)); *see also* 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).

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

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

democratic self-government. It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.⁵⁶

The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁵⁷ “[A]nything of value 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.”⁵⁸

Although goods or services provided by a person — foreign or domestic — at the usual and normal charge do not constitute a contribution under the Act, soliciting, accepting, or receiving information in connection with an election 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 the political committee, could potentially result in the receipt of a prohibited in-kind contribution. Indeed, the Commission has recognized the “broad scope” of the foreign national contribution prohibition and found that even where the value of a good “may be nominal or difficult to ascertain,” such contributions are nevertheless banned.⁵⁹

⁵⁶ 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d*, 565 U.S. 1104 (2012).

⁵⁷ 52 U.S.C. § 30101(8)(A)(i).

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

⁵⁹ AO 2007-22 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”).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 In other contexts, the Commission has concluded that the provision of certain
 2 information, including a contact list, research, and descriptions and analysis of poll results, may
 3 be things of value within the definition of “contribution.”⁶⁰ For instance, in MUR 5409
 4 (Norquist, *et al.*), the Commission concluded that a master contact list of political activists was
 5 “something of value, meeting the Act’s broad definition of contribution,” given that a
 6 corporation had “utilized its resources to obtain and compile” the materials; the materials
 7 contained “information that may [have been] of value in connection with the [] election”; and it
 8 appeared the materials were not “readily or publicly available.”⁶¹

9 The current record in these matters, as set forth in the Special Counsel’s Report and
 10 Senate Intelligence Committee Report as well as Trump Jr.’s own statement and release of
 11 relevant email messages, indicates that the derogatory Clinton information that was offered by
 12 the Agalarovs in Goldstone’s initial email and sought by Trump Jr. is a thing of value under the
 13 Act. When Goldstone first reached out to Trump Jr. on June 3, Goldstone explicitly referred to
 14 “official documents and information that would incriminate Hillary and her dealings with
 15 Russia” that would be shared at the meeting as “part of Russia and its government’s support for

⁶⁰ See Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (research services); Advisory Op. 1990-12 at 2 (Strub) (“AO 1992-12”) (description and analysis of poll results); First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (list of activists 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”); Cert., MUR 5409 ¶ 2 (Norquist, *et al.*) (Oct. 20, 2004).

⁶¹ First Gen. Counsel’s Rpt. at 8-10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (internal quotation marks omitted); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*) (Oct. 20, 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 10-11, MUR 5409 (Norquist, *et al.*); Cert. ¶ 2, MUR 5409 (Norquist, *et al.*). MUR 5409, however, did not involve a foreign national contribution.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

Mr. Trump.”⁶² Thus the record in the instant matters indicates that the offered and sought material would have required utilization of resources. In characterizing the information as “official” and coming from the Russian “Crown prosecutor” as part of part of “Russia and its government’s support for Mr. Trump,”⁶³ Goldstone indicated that the Agalarovs were offering information obtained or compiled by compensated personnel from the Russian government.

Further, the information offered and sought in these matters was not “readily or publicly available,” which was a critical factor the Commission considered in MUR 5409 (Norquist) when concluding that a compilation of materials was something of value.⁶⁴ Goldstone conveyed in his initial email, under the subject “Russia — Clinton — private and confidential,” that the documents and information being offered were “ultra sensitive,” conveying that, like the information in MUR 5409, the proffered derogative information about Clinton was not readily or publicly available.⁶⁵

The Response from the Trump Committee characterizes the offer and seeking of the damaging information about Clinton, as well as the June 9 meeting as a “conversation” and argues that such “pure speech” cannot be a contribution; more specifically, it argues that it cannot be a “thing of value” because its value cannot be appraised monetarily.⁶⁶ The Trump Committee Response relies on a Statement of Reasons from three Commissioners in MUR 6958

⁶² Special Counsel’s Report at 113 (citing Email from Goldstone to Trump, Jr., 6/3/16 10:36am; @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:01am), <https://twitter.com/DonaldJTrumpJr/status/884789839522140166>); Senate Intelligence Committee Report at 347.

⁶³ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶⁴ First Gen. Counsel’s Report at 8-10, MUR 5409 (Norquist) (adopted as dispositive).

⁶⁵ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁶⁶ Trump Committee Resp., MURs 7265, 7266, at 9-12; Supp. Resp., MUR 7266 at 2.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 (McCaskill, *et al.*), in which those Commissioners explained that they voted against pursuing a
 2 matter in which one committee shared high-level poll results with another committee at no
 3 charge.⁶⁷ In that Statement of Reasons, which is not a precedential opinion from the
 4 Commission, the three Commissioners reasoned that sharing “broad generalities” about a poll in
 5 a conversation was not the sharing of “opinion poll results” as that phrase is used 11 C.F.R. §
 6 106.4;⁶⁸ those Commissioners further reasoned on prudential grounds that if the conversation
 7 constituted the acceptance of opinion poll results, the Commission should decline to expend
 8 further resources in the matter due to the difficulty and uncertainty in determining whether the
 9 value of the information conveyed would exceed the contribution limitation.⁶⁹ Those
 10 considerations would not apply in these matters because, while MUR 6958 involved a question
 11 of whether domestic respondents exceeded the legal contribution thresholds, these matters
 12 concern the Act’s outright prohibition on contributions from foreign nationals — a prohibition
 13 the Commission has publicly prioritized as a focus.⁷⁰ The Commission has also recognized that
 14 even contributions from foreign nationals that “may be nominal or difficult to ascertain” are
 15 nevertheless still prohibited.⁷¹ Moreover, as the Trump Committee recognizes in its Response,

⁶⁷ Trump Committee Resp., MURs 7265, 7266, at 10 (citing Statement of Reasons of Caroline C. Hunter, Lee E. Goodman, and Matthew S. Peterson, MUR 6958 (McCaskill, *et al.*)).

⁶⁸ Statement of Reasons of Caroline C. Hunter, Lee E. Goodman, and Matthew S. Peterson at 6, MUR 6958 (McCaskill, *et al.*).

⁶⁹ *Id.* at 7-8.

⁷⁰ See Ltr. to House Comm. on Appropriations and Senate Comm. on Appropriations, Fed. Election Comm’n at 1, 17-18 (Sept. 18, 2018) (reporting on Commission’s role “in enforcing the foreign national prohibition, including how it identifies foreign contributions to elections, and what it plans to do in the future” as required by Explanatory Statement for 2018 Appropriations Act); *Explanatory Statement to Consolidated Appropriations Act, 2018*, 164 Cong. Rec. at H2520.

⁷¹ AO 2007-22 at 6 (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. at 69940 (“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.”))

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

these matters do not concern a conversation about opinion poll results, as that phrase is used in 11 C.F.R. § 106.4 and was analyzed in the Statement of Reasons in MUR 6958, but the broader definition of “contribution.”⁷²

Although the Trump Committee characterizes the June 9 meeting as a conversation with “no ascertainable commercial value,”⁷³ Trump Jr. himself publicly stated that the “pretext of the meeting” was the provision of “information about your opponent”⁷⁴ and further characterized the information he expected to receive as “Political Opposition Research,”⁷⁵ the provision of which the Commission has recognized is a service that campaigns pay for.⁷⁶ The difficulty in ascribing a monetary value to the research is not a bar to enforcement, as the Commission has made clear that even contributions whose value “may be nominal or difficult to ascertain” are prohibited.⁷⁷ Likewise, the Commission has found that indicia of paid personnel resources can support a pre-investigatory finding of reason to believe that information is a thing of value under the Act.⁷⁸

(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”).

⁷² Trump Committee Resp., MURs 7265, 7266, at 10.

⁷³ *Id.* at 11-12.

⁷⁴ Compl. at 9, MUR 7266 (quoting Hannity Transcript).

⁷⁵ @DonaldJTrumpJr, TWITTER (July 11, 2017, 11:00a m.) (giving his statement on the Trump Tower meeting in connection with his public release of his email correspondence with Goldstone).

⁷⁶ *See* Factual & Legal Analysis at 16-19, MUR 6414 (Russ Carnahan in Congress Committee, *et al.*) (finding that free opposition research provided by a domestic firm could be a thing of value but dismissing the matter because of the small amount in violation).

⁷⁷ AO 2007-22 at 6.

⁷⁸ First Gen. Counsel’s Report at 8 n.12, MUR 5409 (“It is difficult to ascertain a market value for unique goods such as the materials [Respondent] provided to the Committee. *The lack of a market*, and thus the lack of a “usual and normal charge,” however, *does not necessarily equate to a lack of value.*” (emphasis added)).

1 There does not appear to be any question that the research at issue was being offered for
2 less than its usual and normal cost; indeed, it was unambiguously being offered for free as “part
3 of Russia and its government’s support for Mr. Trump — helped along by Aras and Emin.”⁷⁹
4 The Response does not argue that this was a standard business transaction, and the
5 communications leading up to the meeting made no suggestion of a commercial transaction.
6 There is likewise no indication in any of the investigative reports that Trump Jr. or the Trump
7 Committee intended to pay for the opposition research. Thus, it appears that Trump Jr. was
8 seeking something of value without charge rather than attempting to purchase the information.

9 Finally, the Trump Committee’s Response argues that conversations and information —
10 in the form of both white papers and meetings funded by prohibited sources — are so widely and
11 freely given to candidates and committees that to consider them all contributions would be
12 absurd.⁸⁰ This point is overstated, however, because the Commission’s precedent does not
13 identify all forms of information as “contributions.” Information that is a thing of value is a
14 contribution only when a gift, subscription, loan, advance, or deposit of it is made “for the
15 purpose of influencing an election.”⁸¹

16 Whether a purported “contribution” is made for the purpose of influencing a federal
17 election may be clear on its face, as in a third party’s payments for coordinated communication,
18 or inferred from the surrounding circumstances.⁸² Here, the purported information at issue was

⁷⁹ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁸⁰ Trump Committee Resp., MURs 7265, 7266, at 2-4, 9-12.

⁸¹ 52 U.S.C. 30101(8)(A)(i).

⁸² *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

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 offered to and sought by “the Trump campaign”⁸³ with an explicit focus on derogatory
 2 information “that could be helpful to the campaign.”⁸⁴ Goldstone not only told Trump Jr. that the
 3 research was intended to help the Trump campaign but also specifically stated that the
 4 information would “incriminate” Trump’s opponent and “be very useful to your father.”⁸⁵ The
 5 overall record in these matters suggests that the proposed provision of “official documents and
 6 information” would not have been offered or sought but for Trump’s status as a federal candidate
 7 and the desire to obtain an electoral advantage.⁸⁶

8 Because the opposition research was a thing of value, offered at no cost, and for the
 9 purpose of influencing an election, if provided it would have been a contribution under the Act.

10 2. Trump Jr. Knowingly Solicited the Opposition Research From Foreign
 11 Nationals
 12

13 The available information similarly indicates that Trump Jr.’s efforts to obtain
 14 information from individuals he knew to be Russian nationals constituted a solicitation of a
 15 contribution. Commission regulations define “solicit” to mean “ask, request, or recommend,

candidates or their agents, thereby made contributions “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 “uncompensated fundraising and campaign management assistance” and “advertising assistance[,]” including spending “several million dollars” on coordinated advertisements).

⁸³ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁸⁴ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347; *see also id.* at 348 n.2224 (indicating that Manafort recalled Trump Jr. said they were from Russia “and that they had derogatory information about Hillary Clinton”).

⁸⁵ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

⁸⁶ *See* AO 2000-08 (Harvey) at 1, 3 (concluding gift would be a contribution because it “would not be made but for the recipient’s status as a Federal candidate”).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.”⁸⁷

A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication.⁸⁸

Commission regulations include examples of statements that would constitute solicitations, including but not limited to: “I will not forget those who contribute at this crucial stage”;⁸⁹ “[t]he candidate will be very pleased if we can count on you for \$10,000”;⁹⁰ and “[y]our contribution to this campaign would mean a great deal to the entire party and to me personally.”⁹¹ The Commission has also identified certain communications that qualify as “solicitations,” such as “providing a separate card, envelope, or reply device that contains an address to which funds may be sent.”⁹²

Considering the overall context, Trump Jr.’s communications both leading up to the June 9 meeting and in the meeting itself contained a clear message requesting the damaging information on Clinton that Goldstone offered to provide on behalf of the Agalarovs or the Russian government. His response to Goldstone’s initial message, “I love it,”⁹³ is similar to the

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

⁸⁸ *Id.* § 300.2(m).

⁸⁹ *Id.* § 300.2(m)(2)(xi).

⁹⁰ *Id.* § 300.2(m)(2)(xii).

⁹¹ *Id.* § 300.2(m)(2)(xiii).

⁹² *See id.* § 300.2(m)(1) (listing examples).

⁹³ Special Counsel’s Report at 113; Senate Intelligence Committee Report at 347.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 example solicitation phrase in the Commission’s regulations that “the candidate will be very
 2 pleased.”⁹⁴ In a subsequent press interview, Trump Jr. acknowledged that the purpose of
 3 following up on Goldstone’s message was to obtain the opposition research, stating that if
 4 “someone has information on our opponent . . . maybe this is something. I should hear them
 5 out.”⁹⁵

6 Critically, witnesses who were present at the June 9 meeting testified before a grand jury
 7 as part of the Special Counsel’s investigation and the Senate Intelligence Committee that Trump
 8 Jr. asked at the meeting about the damaging information about Clinton.⁹⁶ Akhmetshin testified to
 9 the Senate Intelligence Committee that Trump Jr. explicitly asked the Russian nationals to
 10 provide the derogatory information during the June 9 meeting, asking “could you show us how
 11 the money goes to Hillary’s campaign?”⁹⁷ And Trump Jr. himself publicly acknowledged in a
 12 media interview that “I was probably pressing [Veselnitskaya for information] because the
 13 pretext of the meeting was, ‘Hey, I have information about your opponent.’”⁹⁸ When considered
 14 in the context that the stated purpose of the June 9 meeting was to obtain the information
 15 promised by the Agalarovs, Trump Jr.’s communications — including, in his own words,
 16 “pressing” Veselnitskaya for “information about [Donald Trump’s] opponent” and by asking,

⁹⁴ 11 C.F.R. § 300.2(m)(2)(xii).

⁹⁵ Special Counsel’s Report at 119 (citing Hannity Transcript).

⁹⁶ Special Counsel’s Report at 118 (citing testimony of Akhmetshin for his testimony that Trump Jr. asked how specific payments could be tied to the Clinton campaign and Kaveladze for his testimony that Trump Jr. asked what the Russians had on Clinton); Senate Intelligence Committee Report at 349.

⁹⁷ Senate Intelligence Committee Report at 367.

⁹⁸ Compl. at 9, MUR 7266 (quoting Hannity Transcript); *see also* Senate Intelligence Committee Report at 370 (quoting Trump Jr. that the “meeting really wasn’t about anything that [Goldstone] said it was going to be about.”)

1 “Could you show us how the money goes to Hillary’s campaign?” — constituted a request for
2 such information, which as set forth above, was something of value for the purpose of
3 influencing an election and, therefore, a contribution. Accordingly, Trump Jr.’s communications
4 constitute an improper solicitation of a prohibited contribution under the Act.⁹⁹

5 3. The Response’s First Amendment Argument Does Not Negate the
6 Prohibited Solicitation
7

8 The Trump Committee’s Response does not seriously dispute that Trump Jr. requested
9 damaging information on Clinton from the Russian nationals.¹⁰⁰ Instead, the Trump Committee
10 observes that “general expressions of political support are not a contribution that can be
11 solicited.”¹⁰¹ The Response does not identify any such expressions of political support sought by
12 Trump Jr., but argues that the meeting between Trump Jr. and the Russian nationals was political
13 issue speech — like an endorsement or an editorial in which a candidate’s voting record is
14 criticized — and therefore is protected by the First Amendment and cannot be a contribution or
15 solicitation.¹⁰² However, in its Explanation and Justification of the revised definition of “solicit”
16 at section 300.2(m), the Commission provided examples of “mere statements of political support
17 . . . such as a request to vote for, or volunteer on behalf of, a candidate.”¹⁰³ As discussed above

⁹⁹ 52 U.S.C. § 30121(a)(2).

¹⁰⁰ Trump Committee Resp., MURs 7265, 7266, at 14 (arguing that “as we have established, nothing of value was provided and therefore nothing could have been solicited as the term ‘to solicit’ is defined in the Act and regulations.”).

¹⁰¹ *Id.*; see also 11 C.F.R. § 300.2(m).

¹⁰² *Id.* at 8 (arguing that “American citizens unquestionably have a First Amendment right to ‘receive information and ideas’ from foreign nationals. It follows that the First Amendment protects the right of American citizens to talk to anyone, foreign nationals included, about the fitness of a political candidate for office.”) (italics omitted) (quoting *Kleindeinst v. Mandel*, 408 U.S. 753, 762 (1972)).

¹⁰³ Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13926, 13928 (Mar. 20, 2006) (explaining that “solicit” may also exclude “a candidate’s request for electoral or legislative support” unaccompanied by a “clear message asking, requesting, or recommending that another person provide funds or something of value.”).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 and contrary to the Response’s generalized First Amendment argument, Trump Jr.’s
 2 communications with the Russian nationals were not limited to seeking political advice or
 3 general support, such as an endorsement, but rather included clear messages that, in context,
 4 asked the Russian nationals to provide something of value to the campaign.¹⁰⁴ To the contrary,
 5 Trump Jr. testified to the Senate Intelligence Committee that the Russians’ lobbying “about some
 6 sort of policy” in the June 9 meeting “really wasn’t about anything that [Goldstone] said [the
 7 meeting] was going to be about.”¹⁰⁵

8 4. The Department of Justice’s Decision Not to Prosecute Does Not Preclude
 9 Civil Enforcement

10 The Trump Committee argues that the Special Counsel’s Report confirms that no
 11 violation of the Act occurred in connection with the June 9 meeting.¹⁰⁶ However, the Special
 12 Counsel’s Report does not reach that conclusion. Instead, the Report explains:

13 There are reasonable arguments that the offered information would
 14 constitute a “thing of value” within the meaning of [the Act], but the
 15 [Special Counsel’s] Office determined that the government would not be
 16 likely to obtain and sustain a conviction for two other reasons: first, the
 17 [Special Counsel’s] Office did not obtain admissible evidence likely to
 18 meet the government’s burden to prove beyond a reasonable doubt that
 19 these individuals acted “willfully,” *i.e.*, with general knowledge of the
 20 illegality of their conduct; and, second, the government would likely
 21 encounter difficulty in proving beyond a reasonable doubt that the value of
 22 the promised information exceeded the threshold for a criminal violation
 23 [\$25,000 for felony punishment].¹⁰⁷

¹⁰⁴ See, e.g., Senate Intelligence Committee Report at 367 (“show us how the money goes to Hillary’s campaign”); Special Counsel’s Report at 113 (“I love it”).

¹⁰⁵ Senate Intelligence Committee Report at 370; see also Hannity Transcript (Trump Jr. explaining, “the pretext of the meeting was, ‘Hey, I have information about your opponent.’”).

¹⁰⁶ Trump Committee Supp. Resp., MUR 7266 at 1.

¹⁰⁷ Special Counsel’s Report at 186.

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 In fact, when the Special Counsel’s Office examined Commission precedent regarding “thing of
 2 value,” that Office came to the legal conclusion that “[t]hese authorities would support the view
 3 that candidate-related opposition research given to a campaign for the purpose of influencing an
 4 election could constitute a contribution to which the foreign-source ban could apply.”¹⁰⁸

5 The Special Counsel’s decision not to prosecute anyone in connection with the June 9
 6 meeting, as explained above, was based on considerations that are materially distinct from the
 7 Commission’s consideration of these matters in an administrative and civil context. While a
 8 criminal prosecution for a violation of the Act would need to prove beyond a reasonable doubt
 9 that the violation was knowing and willful, the Commission in a civil proceeding would only
 10 have to establish a violation of the Act based upon a preponderance of the evidence¹⁰⁹ —
 11 regardless of whether the respondent was aware of the illegality.¹¹⁰ Indeed, in previous cases
 12 where the Department of Justice was unable to secure criminal convictions for a violation of the
 13 Act, the Commission has successfully conciliated with respondents on a non-knowing and
 14 willful basis to ensure that the interests of the Act were served.¹¹¹ Moreover, for the

¹⁰⁸ *Id.* at 187.

¹⁰⁹ *See Herman & MacLean v. Huddleston*, 459 U.S. 375, 387 (1983) (“In a typical civil suit for money damages, plaintiffs must prove their case by a preponderance of the evidence.”).

¹¹⁰ *See FEC v. Novacek*, 739 F. Supp. 2d 957, 966 (N.D. Tx. 2010) (finding that Commission need not establish intent where Commission seeks civil penalties on a non-knowing and willful basis); *see also FEC v. Malenick*, 301 F.Supp.2d 230, 237 n.9 (D.D.C. 2004) (holding that a “knowing” violation of the Act “as opposed to a ‘knowing and willful’ one, does not require knowledge that one is violating the law, but merely requires an intent to act.”) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J.1986)), *rev’d on motion for reconsideration in part on other grounds*, 2005 WL 588222 (Mar. 7, 2005).

¹¹¹ *See* Conciliation Agreement, MUR 7221 (James Laurita, Jr.) (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 (Fieger, Fieger, 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).

Commission to find reason to believe in these administrative proceedings at this stage, the information before the Commission need only raise a reasonable inference, *i.e.*, credibly allege, that a violation occurred.¹¹²

With regard to valuation, the Special Counsel’s Office noted that the \$25,000 value of the opposition research necessary to establish a felony criminal charge would be difficult to determine in part because no actual valuable information was provided.¹¹³ This difficulty in valuing the information would not be a barrier to Commission action, as even contributions that are “nominal” or “difficult to ascertain” would still be prohibited in the civil context, and the Act provides for statutory penalties, which are well suited for solicitation matters such as the ones at issue.¹¹⁴ Consequently, the Special Counsel’s decision not to file suit against respondents is not a bar to civil enforcement of the Act. Pursuing civil enforcement here would serve to vindicate the Act’s purpose of limiting foreign influence over the U.S. political process.¹¹⁵

B. Because Trump Jr. Acted as an Agent of the Trump Committee, the Commission Finds Reason to Believe That the Trump Committee Impermissibly Solicited a Contribution from Russian Nationals

In the soft money context, Commission regulations define “agent” as “any person who has actual authority, either express or implied, . . . [t]o solicit, receive, direct, transfer, or spend

¹¹² 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.”).

¹¹³ Special Counsel’s Report at 188.

¹¹⁴ AO 2007-22 at 6; *cf.* MUR 7048 (Cruz) (conciliating statutory penalty for soft money solicitation violation).

¹¹⁵ See *Bluman*, 800 F. Supp. 2d at 288 (recognizing that “the United States has a compelling interest . . . in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process”).

MURs 7265 / 7266
 Donald J. Trump for President
 Factual and Legal Analysis

1 funds in connection with any election.”¹¹⁶ Actual authority is created by manifestations of
 2 consent, express or implied, by the principal to the agent about the agent’s authority to act on the
 3 principal’s behalf.¹¹⁷ In its revised Explanation and Justification for the definition of “agent” at
 4 section 300.2(b), the Commission stated that “the candidate/principal may also be liable for any
 5 impermissible solicitations by the agent, despite specific instructions not to do so.”¹¹⁸ The
 6 Commission has explained that the definition of agent must cover “implied” authority because
 7 “[o]therwise, agents with actual authority would be able to engage in activities that would not be
 8 imputed to their principals so long as the principal was careful enough to confer authority
 9 through conduct or a mix of conduct and spoken words.”¹¹⁹ The Commission has extended
 10 agency principles to individuals beyond official campaign members and includes “volunteers” in
 11 its definition of an agent.¹²⁰

12 There is a reasonable basis to infer that Trump Jr. was an agent of the Trump Committee
 13 with actual authority to solicit a contribution from the Russian nationals by arranging and
 14 participating in the June 9 meeting. The Special Counsel’s and Senate Intelligence Committee’s

¹¹⁶ 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).

¹¹⁷ Agency E&J, 71 Fed. Reg. at 4975-76; Advisory Op. 2007-05 (Iverson) at 3.

¹¹⁸ 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).

¹¹⁹ Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49082 (July 29, 2002) (Explanation and Justification).

¹²⁰ Agency E&J at 4977; see also Factual & Legal Analysis at 4-6, MUR 7048 (Cruz for President) (concluding volunteer fundraiser was an agent of candidate’s campaign committee, which became liable for volunteer’s improper solicitation).

MURs 7265 / 7266
Donald J. Trump for President
Factual and Legal Analysis

1 Reports indicate, through the information assembled in the course of their investigations, that
2 Trump Jr. announced the upcoming meeting to “senior campaign staff and Trump family
3 members.”¹²¹ Deputy Campaign Chairman Gates specifically recalled that Trump Jr. discussed
4 a “lead” on procuring negative information about Clinton from foreign nationals at that “Family
5 Meeting.”¹²² Moreover, two senior staff attended the meeting at Trump Jr.’s request, including
6 the Campaign Chairman who testified that Trump Jr. specifically told him that foreign nationals
7 “had some information that they wanted to share that could be helpful to the campaign” and that
8 he believed that Trump Jr. would not have invited him to attend if the meeting with the Russians
9 if it were not potentially important.¹²³ This information indicates that the Trump Committee
10 was both aware of Trump Jr.’s actions and consented to them. Therefore, because the record
11 supports a conclusion that Trump Jr. acted as an agent of the Trump Committee when he
12 knowingly solicited a contribution from foreign nationals, the Commission finds reason to
13 believe that the Trump Committee, through its agent, violated 52 U.S.C. § 30121(a)(2) and 11
14 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national.

¹²¹ Special Counsel’s Report at 115 (citing to the testimony of Rick Gates, the deputy campaign chairman); Senate Intelligence Committee Report at 349 (describing the “Family Meeting”).

¹²² Senate Intelligence Committee Report at 349.

¹²³ *Id.* at 348-49.