

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

MUR: 7271  
DATE COMPLAINT FILED: 08/15/2017  
DATE OF NOTIFICATION: 08/21/2017  
DATE OF LAST RESPONSE: 10/20/2017  
DATE ACTIVATED: 11/28/2017

EXPIRATION OF SOL: 3/29/2021 – 7/28/2021  
ELECTION CYCLE: 2016

**COMPLAINANT:** Matthew G. Whitaker,  
Foundation for Accountability & Civic Trust

**RESPONDENTS:** Democratic National Committee and William  
Derrough in his official capacity as treasurer  
Alexandra Chalupa  
Chalupa & Associates, LLC

**RELEVANT STATUTE AND REGULATIONS:** 52 U.S.C. § 30121(a)(2)  
11 C.F.R. § 100.52(d)(1)  
11 C.F.R. § 110.20(g)

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The Complaint alleges that the Democratic National Committee and William Derrough in his official capacity as treasurer (the “DNC”), DNC consultant Alexandra Chalupa, and her firm, Chalupa & Associates, LLC (“C&A”), violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by soliciting, accepting, or receiving contributions from foreign nationals during the 2016 election. Specifically, the Complaint alleges that Chalupa, while acting as an agent of the DNC, solicited a foreign national contribution when she requested that the Ukrainian Embassy arrange an interview in which Ukrainian President Petro Poroshenko would discuss ties between Paul Manafort, top campaign aide to then-candidate Donald J. Trump, and Russia; and

1 accepted and received a foreign national contribution when she “traded information and leads”  
2 with Ukrainian Embassy officials in connection with research into ties between Trump,  
3 Manafort, and Russia.

4 The DNC denies the allegations and argues that Chalupa’s consulting contract with the  
5 DNC specifically barred her from soliciting, accepting, or receiving foreign national  
6 contributions, and that any contact or communication she had with Ukrainian Embassy officials  
7 was separate and independent from her work for the DNC. Further, the DNC argues that the  
8 information that Chalupa allegedly sought was not a good or service and thus not a contribution  
9 at all. Likewise, Chalupa denies the allegations and argues that her actions were “issue speech”  
10 and, as a result, did not violate the Act.

11 As discussed below, the available information indicates that officials from the Ukrainian  
12 Embassy provided opposition research on Manafort and the Trump campaign to Chalupa at no  
13 charge and supports a reasonable inference that Chalupa passed on this research to DNC  
14 officials. Thus, we recommend that the Commission find reason to believe that Chalupa, C&A,  
15 and the DNC solicited, accepted, or received contributions from a foreign national in violation of  
16 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g).

## 17 **II. FACTUAL BACKGROUND**

18 The Complaint, relying exclusively upon a January 11, 2017, *Politico* article alleges that  
19 the DNC and Chalupa “sought and received political opposition research from Ukrainian  
20 government officials, knowing that it would be of value to the Democratic National Committee

1 and Hillary Clinton's presidential campaign."<sup>1</sup> Thus, the Complaint concludes that the DNC and  
2 Chalupa knowingly solicited, accepted, and received contributions from a foreign national.<sup>2</sup>

3 Chalupa is a Ukrainian-American Democratic operative who worked in the White House  
4 Office of Public Liaison during the Clinton administration.<sup>3</sup> Afterwards, she worked as a staffer  
5 and then consultant for the DNC.<sup>4</sup> According to Respondents, Chalupa was retained by the DNC  
6 in 2015 as an independent contractor to "engage in outreach" to ethnic communities around the  
7 United States.<sup>5</sup> C&A is Chalupa's firm, through which she was paid by the DNC to perform  
8 consulting services.<sup>6</sup>

9 The *Politico* article reports that "Ukrainian government officials tried to help Hillary  
10 Clinton and undermine Trump by publicly questioning his fitness for office," disseminating  
11 documents implicating a top Trump aide in corruption, and "help[ing] Clinton's allies research  
12 damaging information on Trump and his advisers."<sup>7</sup> Specifically, on this last point, the article  
13 concludes that Chalupa "met with top officials in the Ukrainian Embassy in Washington in an  
14 effort to expose ties between Trump, top campaign aide Paul Manafort and Russia."<sup>8</sup>

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<sup>1</sup> Compl. ¶ 26 (Aug. 15, 2017); *id.*, Attach. (Kenneth P. Vogel and David Stern, *Ukrainian Efforts to Sabotage Trump Backfire*, POLITICO, Jan. 11, 2017).

<sup>2</sup> Compl. ¶ 29.

<sup>3</sup> *Id.*, Attach. at 2-3.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> DNC Resp. at 2 (Oct. 23, 2017); *see* Chalupa and C&A Resp. at 1 (Oct. 11, 2017).

<sup>6</sup> *See* Chalupa and C&A Resp. at 1. During the 2016 election cycle, between June 18, 2015, and June 20, 2016, the DNC paid \$71,918 to C&A, but the consulting agreement was apparently between the DNC and Chalupa personally. *See* DNC Resp, Ex. A (copies of political consulting agreements).

<sup>7</sup> Compl., Attach. at 1.

<sup>8</sup> *Id.* at 2.

1           According to Chalupa's own statements to *Politico* for this article, in 2014, she began  
2 researching Manafort's work as a political adviser to Viktor Yanukovich (the former president  
3 of Ukraine and Putin ally) as well as Manafort's ties to the pro-Russian oligarchs who funded  
4 Yanukovich's political party.<sup>9</sup> Chalupa reportedly stated that her work for the DNC initially  
5 centered on mobilizing ethnic communities, but after Trump became a frontrunner for the  
6 Republican nomination, "she began focusing more on the research, and expanded it to include  
7 Trump's ties to Russia."<sup>10</sup> Chalupa explained that "[s]he occasionally shared her findings with  
8 officials from the DNC and Clinton's campaign."<sup>11</sup>

9           The day after the Trump campaign announced that it hired Manafort,<sup>12</sup> Chalupa briefed  
10 the DNC's communications staff on Manafort, Trump, and their connections to Russia,  
11 according to "an operative familiar with the situation."<sup>13</sup> That operative, as well as another  
12 unnamed "DNC staffer," both told *Politico* that, "with the DNC's encouragement," Chalupa  
13 asked Ukrainian Embassy staff to try to arrange an interview in which Ukrainian President Petro  
14 Poroshenko "might discuss Manafort's ties to Yanukovich."<sup>14</sup> The embassy reportedly declined

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<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* *But see* DNC Resp. at 1 (claiming that Chalupa's "duties did not include the sort of research in which she was supposed to have engaged on its behalf").

<sup>11</sup> Compl., Attach. at 4.

<sup>12</sup> Publicly available information indicates that the announcement occurred on March 28, 2016. Alexander Burns and Maggie Haberman, *Donald Trump Hires Paul Manafort to Lead Delegate Effort*, N.Y. TIMES, Mar. 28, 2016.

<sup>13</sup> Compl., Attach. at 5. The *Politico* article also quotes a "former DNC staffer" who claimed that it was an "informal conversation" and that the DNC was "not directing or driving her work on this." *Id.*

<sup>14</sup> *Id.*; *see also* Chalupa and C&A Resp. at 1-2 (acknowledging that, "[a]t the request of a DNC official," she asked an official at the Ukrainian Embassy if Poroshenko would field a question concerning Manafort at an event at the U.S. Capitol Visitor Center, which the embassy declined).

1 this request, but Chalupa told *Politico* that embassy officials became “helpful” in her efforts.<sup>15</sup>  
2 She explained that: “If I asked a question, they would provide guidance, or if there was someone  
3 I needed to follow up with,” but claimed that “[t]here were no documents given, nothing like  
4 that.”<sup>16</sup>

5 Oksana Shulyar, a top aide to Ukraine’s ambassador to the United States, Valeriy Chaluy,  
6 denied to *Politico* that the embassy assisted Chalupa with her research.<sup>17</sup> Shulyar claimed that  
7 her work with Chalupa centered on organizing a reception at the embassy.<sup>18</sup> However, Andrii  
8 Telizhenko, a political officer at the embassy, told *Politico* that Shulyar instructed him to help  
9 Chalupa research connections between Trump, Manafort, and Russia.<sup>19</sup> He claimed that the  
10 embassy was “coordinating an investigation” with Chalupa and “the Hillary team.”<sup>20</sup>

11 The *Politico* article also describes a May 2016 email in which Chalupa reportedly offered  
12 to share “offline” information about Manafort with DNC communications director Luis Miranda  
13 and DNC research director Lauren Dillon.<sup>21</sup> In this email, which was apparently hacked by  
14 Russian military intelligence services and then published by WikiLeaks,<sup>22</sup> Chalupa reportedly

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<sup>15</sup> Compl., Attach. at 5.

<sup>16</sup> *Id.* (“Chalupa said the embassy also worked directly with reporters researching Trump, Manafort and Russia to point them in the right directions.”).

<sup>17</sup> *Id.* Shulyar claimed that her work with Chalupa “didn’t involve the campaign,” and that the embassy has “never worked to research and disseminate damaging information about Donald Trump and Paul Manafort.” *Id.*

<sup>18</sup> *See id.*

<sup>19</sup> *Id.* at 6. (“Oksana said that if I had any information. or knew other people who did. then I should contact Chalupa.”).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 7. Chalupa’s concerns about sending the information via email arose out of a series of messages from Yahoo email administrators, warning her that “state-sponsored actors” were trying to hack into her email account. *Id.* at 6-7.

<sup>22</sup> *See* OFFICE OF THE DIR. OF NAT’L INTELLIGENCE, INTELLIGENCE COMMUNITY ASSESSMENT: ASSESSING RUSSIAN ACTIVITIES AND INTENTIONS IN RECENT US ELECTIONS at 2-3 (Jan. 6, 2017). The case law indicates that federal agencies may consider stolen documents in administrative proceedings, so long as the agency was not

1 sought to share “a big Trump component [Miranda] and [Dillon] need to be aware of that will hit  
 2 in next few weeks and something I’m working on you should be aware of.”<sup>23</sup> The article,  
 3 however, does not reveal the specific source of the information referenced in the email.

4 Chalupa ended her work for the DNC following the Democratic convention in July 2016  
 5 to “focus fulltime on her research into Manafort, Trump and Russia,” according to statements she  
 6 made to *Politico*.<sup>24</sup>

### 7 **III. LEGAL ANALYSIS**

#### 8 **A. There is Reason to Believe that Chalupa and C&A Solicited,** 9 **Accepted, or Received Contributions from a Foreign National**

10 The Act prohibits foreign nationals from “directly or indirectly” making a contribution or  
 11 making “an express or implied promise to make a contribution” in connection with an election.<sup>25</sup>

12 A “foreign national” includes an individual who is not a citizen of the United States or a national  
 13 of the United States and who is not lawfully admitted for permanent residence.<sup>26</sup> The Act also  
 14 prohibits any person from soliciting, accepting, or receiving a contribution from a foreign  
 15 national.<sup>27</sup> To solicit means “to ask, request, or recommend, explicitly or implicitly, that another

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involved in the underlying criminal act. *See, e.g., Nat’l Labor Relations Bd. v. S. Bay Daily Breeze*, 415 F.2d 360, 364 (9th Cir. 1969) (“There is no logic in excluding evidence to prevent the government from violating an individual’s constitutional rights in a case when the government is not guilty of such a violation.”); *Knoll Associates, Inc. v. Fed. Trade Comm’n*, 397 F.2d 530, 533 (7th Cir. 1968).

<sup>23</sup> Compl., Attach. at 7.

<sup>24</sup> *Id.* at 8.

<sup>25</sup> 52 U.S.C. § 30121(a)(1)(A).

<sup>26</sup> *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).

<sup>27</sup> 52 U.S.C. § 30121(a)(2).

1 person make a contribution, donation, transfer of funds, or otherwise provide anything of  
2 value.”<sup>28</sup>

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

5 It is fundamental to the definition of our national political community that foreign  
6 citizens do not have a constitutional right to participate in, and thus may be  
7 excluded from, activities of democratic self-government. It follows, therefore,  
8 that the United States has a compelling interest for purposes of First Amendment  
9 analysis in limiting the participation of foreign citizens in activities of American  
10 democratic self-government, and in thereby preventing foreign influence over the  
11 U.S. political process.<sup>29</sup>

12  
13 The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of  
14 money or anything of value made by any person for the purpose of influencing any election for  
15 Federal office.”<sup>30</sup> “[A]nything of value includes all in-kind contributions” such as “the provision  
16 of any goods or services without charge or at a charge that is less than the usual and normal  
17 charge.”<sup>31</sup> The Commission has recognized the “broad scope” of the foreign national  
18 contribution prohibition and found that even where the value of a good “may be nominal or  
19 difficult to ascertain,” such contributions are nevertheless banned.<sup>32</sup>

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<sup>28</sup> 11 C.F.R. § 110.20(a)(6) (citing 11 C.F.R. § 300.2(m)).

<sup>29</sup> 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012).

<sup>30</sup> 52 U.S.C. § 30101(8)(A)(i).

<sup>31</sup> 11 C.F.R. § 100.52(d)(1); *see* Advisory Op. 2007-22 at 5 (Hurysz) (“AO 2007-22”).

<sup>32</sup> AO 2007-22 at 6 (citing *Explanation and Justification for Regulations on 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* General 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”).

1           The available information, as reported in the *Politico* article, indicates that: (1) a top  
2 Ukrainian Embassy official, Oksana Shulyar, instructed embassy staff to “help Chalupa research  
3 connections between Trump, Manafort and Russia;” (2) Ukrainian Embassy officials “were  
4 coordinating” an investigation on Manafort with Chalupa and “the Hillary team;” and (3)  
5 Chalupa communicated with DNC officials about her work on Manafort and sought to share  
6 information about him with them.<sup>33</sup> The factual record does not indicate that the Ukrainian  
7 Embassy received any payment for the services relating to research on Manafort. Accordingly,  
8 the record before the Commission supports a reasonable inference that by seeking and obtaining  
9 the product of the Ukrainian Embassy’s research, which is a thing of value, to assist her and the  
10 DNC, at no cost, Chalupa solicited and received prohibited foreign national contributions.<sup>34</sup>

11           Indeed, Chalupa’s Response appears to be consistent with some of the reporting in the  
12 *Politico* article. For example, she admits that she “discussed with Embassy personnel then-  
13 Trump campaign official Paul Manafort’s activities in Ukraine.”<sup>35</sup> Further, she acknowledges  
14 that “[a]t the request of a DNC official,” she asked a Ukrainian Embassy official if the president  
15 of Ukraine could field a question about Manafort.<sup>36</sup>

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<sup>33</sup> Compl., Attach. at 4, 6-7. According to Andrii Telizhenko, a former political officer at the Ukrainian Embassy, “Oksana said that if I had any information, or knew other people who did, then I should contact Chalupa . . . They were coordinating an investigation with the Hillary team on Paul Manafort with Alexandra Chalupa . . . . Oksana was keeping it all quiet . . . the embassy worked very closely with [Chalupa].” *Id.* at 6.

<sup>34</sup> See Factual & Legal Analysis at 13-20, MUR 6414 (Carnahan) (explaining that a committee’s receipt of investigative or opposition research services without paying the usual or normal charge may result in an in-kind contribution); First General Counsel’s Rpt. at 10, MUR 5409 (Norquist) (finding reason to believe that respondent’s utilization of resources to obtain and compile materials regarding conservative activists was an in-kind contribution to a presidential campaign but taking no further action based on the limited value of the contribution); see also Certification, MUR 5409 (Oct. 20, 2004).

<sup>35</sup> Chalupa and C&A Resp. at 1.

<sup>36</sup> *Id.* at 1-2.

1           The DNC argues that merely talking to a foreign national, and presumably obtaining  
2 information from that talk, does not result in an in-kind contribution.<sup>37</sup> Similarly, citing *Bluman*  
3 *v. FEC*, Chalupa asserts that her sharing of information falls under “issue speech” in which  
4 foreign nationals can engage unless “the information provided unambiguously advocates the  
5 election or defeat of a clearly identified federal candidate.”<sup>38</sup> Chalupa argues that because her  
6 research was directed at Manafort, a non-candidate, it falls outside the scope of the Act.<sup>39</sup>

7           These arguments miss the mark, however, because the record does not indicate that the  
8 DNC simply received information from the Ukrainian officials, but instead that the Ukrainian  
9 Embassy reportedly utilized its resources and expended “funds for opposition research on a  
10 candidate that [was] provided to a political committee.”<sup>40</sup> Moreover, Chalupa’s reliance on  
11 *Bluman* is misconceived. In *Bluman*, the court stated that the Act, among other things, bars  
12 foreign nationals from: (1) making contributions to candidates or political parties; (2) making  
13 expenditures that expressly advocate the election or defeat of a candidate; and (3) making  
14 donations to outside groups who in turn make contributions to candidates or parties or make  
15 expenditures containing express advocacy.<sup>41</sup> Here, again, the issue is not that the Ukrainian  
16 Embassy made expenditures expressly advocating the election or defeat of a candidate, but that it  
17 made in-kind contributions to the DNC in the form of performing opposition research on the  
18 Trump campaign at no charge to the DNC. Accordingly, the alleged conduct falls squarely

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<sup>37</sup> See DNC Resp. at 5-6.

<sup>38</sup> Chalupa and C&A Resp. at 2-3 (citing *Bluman*, 800 F. Supp. 2d at 284 and 11 C.F.R. § 100.22).

<sup>39</sup> *Id.* at 3.

<sup>40</sup> See Compl. ¶ 26.

<sup>41</sup> *Bluman*, 800 F. Supp. 2d at 284.

1 within the prohibitions of section 30121 of the Act.<sup>42</sup> We therefore recommend that the  
 2 Commission find reason to believe that Chalupa and C&A violated 52 U.S.C. § 30121(a)(2) and  
 3 11 C.F.R. § 110.20(g) by soliciting, accepting, or receiving contributions from foreign nationals.

4 **B. There is Reason to Believe that the DNC Solicited, Accepted, or Received**  
 5 **Contributions from a Foreign National**

6 The Complaint alleges that Chalupa was acting as an agent of the DNC when she sought  
 7 the services of the Ukrainian Embassy. The DNC denies that Chalupa was its agent because she  
 8 was acting outside the scope of her written contract with the DNC, and therefore argues that it  
 9 cannot be held liable for Chalupa's actions.<sup>43</sup>

10 The Commission's regulations define agent as "any person who has actual authority,  
 11 either express or implied, . . . [t]o solicit, direct, or receive any contribution, donation, or transfer  
 12 of funds."<sup>44</sup> Based on the record before the Commission, there is a reasonable basis to infer that  
 13 Chalupa was acting with actual authority from the DNC when she allegedly received the in-kind  
 14 contributions from the Ukrainian Embassy.

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<sup>42</sup> Chalupa also argues that in AO 2007-22, the Commission "authorized the receipt of information . . . from foreign nationals." Chalupa and C&A Resp. at 3. That argument, again, mischaracterizes the allegation in the Complaint, which is that the Ukrainian Embassy made a prohibited in-kind contribution to the DNC by performing research on its behalf at no cost. Moreover, Chalupa misstates the opinion in AO 2007-22, which was that a campaign may expend official (or the candidate's personal) funds to obtain information from foreign nationals. *See* AO 2007-22 at 2-3 ("Question 2. May your authorized committee use campaign funds to obtain certain information from Canadians . . . ? Yes, your authorized committee may use campaign funds to obtain certain information from Canadians . . .").

<sup>43</sup> *See* DNC Resp. at 4-5; *id.*, Ex. A (Political Consulting Agreement between Chalupa and the DNC).

<sup>44</sup> 11 C.F.R. § 300.2(b)(1)(i); *Definitions of "Agent" for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures*, 71 Fed. Reg. 4975 (Jan. 31, 2006) ("[Agent means] 'any person who has actual authority, either express or implied' to perform certain actions.") ("Agency E&J"). Although the Commission has not defined agent in the context of the ban on foreign national contributions, applying the definition set forth in the soft money rules appears appropriate given that the Commission has also referred to the meaning of "to solicit" at section 300.2(m) of the soft money rules when defining that term for purposes of section 110.20. *See* 11 C.F.R. § 110.20(a)(6).

1 Chalupa admits in her Response that, “[a]t the request of a DNC official,” she asked the  
2 Ukrainian Embassy if President Poroshenko could field a question about Manafort.<sup>45</sup> Further,  
3 the *Politico* article quotes a former unnamed DNC official who described how Chalupa shared  
4 information on Manafort and the Trump campaign with the DNC one day after Manafort was  
5 hired.<sup>46</sup> This information indicates that the DNC was aware that Chalupa had been discussing  
6 Manafort with the Ukrainian Embassy and that it assented to her work with the Ukrainians while  
7 she was contracted to work for the DNC.

8 Chalupa's reported statements also indicate that her outreach efforts for the DNC  
9 transitioned into “focusing more on the research” and that she “occasionally shared her findings  
10 with officials from the DNC.”<sup>47</sup> Indeed, in the May 2016 email described in the *Politico* article,  
11 Chalupa informs DNC officials that she has important information concerning Manafort,  
12 described as a “big Trump component.”<sup>48</sup> Though Chalupa does not specify that she obtained  
13 information from the Ukrainian Embassy, this confirms that she was sharing the results of her  
14 research with the DNC.

15 In attempting to rebut the allegations, the DNC's Response does not directly deny that  
16 Chalupa obtained assistance from the Ukrainians nor that she passed on the Ukrainian Embassy's  
17 research to DNC officials. Moreover, rather than submitting statements from the DNC officials  
18 with the Response, the Response relies on statements that officials made to the press in response

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<sup>45</sup> Chalupa and C&A Resp. at 1-2. The *Politico* article, relying on two unnamed sources, contends that the request was not just a question but rather a full interview with the president to discuss Manafort's ties with Yanukovich. Compl., Attach. at 5.

<sup>46</sup> Compl., Attach. at 4-5.

<sup>47</sup> *Id.* at 4.

<sup>48</sup> *Id.* at 7.

1 to *Politico*'s investigation. For example, it quotes the DNC's research director, Lauren Dillon  
2 stating, "I've been director of research at the DNC for four years and had zero contact with  
3 foreign governments."<sup>49</sup> This statement, however, does not resolve the issue because while the  
4 DNC officials themselves may have avoided directly contacting the Ukrainians, the record  
5 suggests that they authorized Chalupa to act as an intermediary to solicit and receive negative  
6 information about the Trump campaign.

7       Finally, the fact that Chalupa's contract prohibited her from soliciting foreign national  
8 contributions for the DNC does not dispose of the allegations here, given the available  
9 information suggesting that the DNC expressly or impliedly authorized her cooperation with the  
10 Ukrainians. In its 2006 Explanation and Justification discussing the definition of agency, the  
11 Commission described the concept of actual authority, express or implied, noting that even if the  
12 principal does not expressly authorize an individual to raise non-federal funds, the principal may  
13 nonetheless grant such authority "by implication" by giving "indirect signals" to an individual.<sup>50</sup>  
14 Here, even if the DNC did not directly instruct Chalupa to obtain opposition research on the  
15 Trump campaign from the Ukrainian Embassy, the record suggests that the DNC was aware of or  
16 even encouraged Chalupa's contacts with the Ukrainian Embassy for the purpose of obtaining  
17 opposition research on Manafort's ties to Russia. Consequently, the existence of Chalupa's  
18 contract with the DNC alone does not insulate the DNC from liability resulting from Chalupa's  
19 actions.

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<sup>49</sup> DNC Resp. at 5 (citing Dan Merica, *Former DNC Contractor Denies Working With Ukrainian Officials on Anti-Trump Research*, CNN, July 14, 2017). The Response also cites to a news article with a statement by Chalupa in response to the *Politico* report, that: "I was not an opposition researcher for the DNC, and the DNC never asked me to go to the Ukrainian Embassy to collect information." *Id.* (citing Michelle Ye Hee Lee, *The White House's Facile Comparison of the Trump-Russia and Clinton-Ukraine Stories*, WASH. POST, July 25, 2017).

<sup>50</sup> Agency E&J at 4978-79 (addressing concerns that a principal could authorize an individual to act illegally through "the use of a 'wink and a nod'").

1           Accordingly, because the facts support the conclusion that Chalupa acted as an agent of  
2 the DNC when she sought opposition research from the Ukrainian Embassy, we recommend the  
3 Commission find reason to believe that the DNC violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R.  
4 § 110.20(g) by accepting or receiving in-kind contributions from a foreign national.

#### 5 **IV. INVESTIGATION**

6           The investigation would seek to obtain facts regarding the relationship between the DNC  
7 and Chalupa with respect to Chalupa's outreach to the Ukrainian Embassy in connection with the  
8 2016 presidential election. Further, we intend to determine the type of information that Chalupa  
9 obtained from the embassy and the resources that the embassy used to assist her and the DNC.  
10 Although we plan to begin by using informal investigative methods, we recommend that the  
11 Commission authorize the use of compulsory process.

#### 12 **V. RECOMMENDATIONS**

- 13           1. Find reason to believe that the Democratic National Committee and William  
14           Derrough in his official capacity as treasurer, Alexandra Chalupa, and Chalupa &  
15           Associates LLC violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g);
- 16           2. Approve the use of compulsory process;
- 17           3. Approve the attached Factual and Legal Analyses; and
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4. Approve the appropriate letters.

Date: 3/15/2019

*Lisa J. Stevenson*

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Lisa J. Stevenson  
Acting General Counsel

*Charles Kitcher*

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Charles Kitcher  
Acting Associate General Counsel  
for Enforcement

*Jim Lee*

\_\_\_\_\_  
Jim Lee  
Acting Assistant General Counsel

*Claudio Pavia*

\_\_\_\_\_  
Claudio J. Pavia  
Attorney

Attachments:

1. Factual and Legal Analysis for the DNC
2. Factual and Legal Analysis for Chalupa and Chalupa & Associates, LLC