

BEFORE THE FEDERAL ELECTION COMMISSION

J. WHITFIELD LARRABEE and the )  
 RESISTANCE COMMITTEE ACTION FUND )  
*Complainants* )  
 )  
 v. )  
 )  
 DONALD J. TRUMP, DONALD J. TRUMP FOR )  
 PRESIDENT, INC., ALEXANDER NIX, )  
 CAMBRIDGE ANALYTICA and MAKE )  
 AMERICA NUMBER 1, )  
*Respondents* )  
 \_\_\_\_\_ )

MUR NO. 7350

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OFFICE OF  
GENERAL COUNSEL

COMPLAINT

1. This complaint is based on information and belief that Donald J. Trump (“Trump”), and Donald J. Trump for President, Inc. (“the Trump campaign”) violated reporting requirements, contribution limits and other restrictions of the Federal Election Campaign Act, 52 U.S.C., § 30101, et. seq. (“FECA”). Trump and the Trump campaign received valuable support from foreign nationals paid by and working for Cambridge Analytica in knowing and wilful violation of FECA’s restrictions set forth at 52 U.S.C. § 30121 and 11 CFR 110.20. Trump, the Trump campaign, Alexander Nix, Cambridge Analytica and Make America Number 1 conspired to violate and participated in violating 52 U.S.C. § 30121, 11 CFR 110.20 and other reporting requirements and contribution limits under FECA.

PARTIES

2. Complainant J. Whitfield Larrabee of 251 Harvard Street, Suite 9, Brookline, Massachusetts 02446 is an attorney licensed to practice law in the Commonwealth of Massachusetts and in several federal courts, including the Supreme Court of the United States. He is the founder, treasurer and executive director of the Resistance Committee Action Fund.
3. The Resistance Committee Action Fund is a non-profit political action committee located at 251 Harvard Street, Suite 9, Brookline, Massachusetts 02446.
4. Donald J. Trump is President of the United States and resides at the White House, 1600 Pennsylvania Ave NW, Washington, DC 20500.
5. Donald J. Trump for President, Inc. is located at Trump Tower, 725 5th Avenue, New York NY 10022-2519.

6. Alexander Nix (full name Alexander James Ashburner Nix) has a last known address of 13 St James's Gardens, London, United Kingdom, W11 4RD. An alternative address is Alexander Nix, c/o Cambridge Analytica, 55 New Oxford Street, London, England WC1A 1BS. Nix is the suspended CEO of Cambridge Analytica. Nix is not a US resident. He is a British foreign national with citizenship in the United Kingdom. He is a director of the Strategic Communication Laboratories Group, reported to be the parent company of Cambridge Analytica. Nix was recently suspended as Cambridge Analytica CEO in response to controversial news reports.
7. Cambridge Analytica is a “data mining” and political communications company based in England. It has offices at 55 New Oxford Street, London, England WC1A 1BS. One of its U.S. addresses is 1901 Pennsylvania Ave NW, Suite 902, Washington, DC 20006.
8. Make America Number 1 is a super-PAC. Its address is Jacqueline James, Treasurer, Make America Number 1, 2 Roosevelt Avenue, Port Jefferson Station, NY 10022.

#### **FACTUAL AND LEGAL BASIS FOR THE COMPLAINT**

9. The preceding allegations are incorporated as if fully set forth herein.
10. The Act and Commission regulations include a broad prohibition on foreign national activity in connection with elections in the United States. 52 U.S.C. § 30121 and generally, 11 CFR 110.20. Individuals who knowingly and willfully engage in these activities may be subject to an FEC enforcement action, criminal prosecution, or both.
11. The Federal Election Campaign Act, 52 U.S.C. § 30121 makes it unlawful for:
  - a foreign national, directly or indirectly, to make—a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election...or [for] a person to solicit, accept, or receive a contribution or donation ...from a foreign national.
12. Commission regulations prohibit foreign nationals from directing, dictating, controlling, or directly or indirectly participating in the decision-making process of any person (such as a corporation, labor organization, political committee, or political organization) with regard to any election-related activities. 11 CFR 110.20.
13. Commission regulations prohibit foreign nationals from providing paid work or assistance to political committees, candidates and candidate committees with regard to any election-related activities. 11 CFR 110.20.

14. Under Commission regulations, it is unlawful to knowingly provide “substantial assistance” to foreign nationals making contributions or donations in connection with any U.S. election. Further, no person may provide substantial assistance in the making of any expenditure, independent expenditure, or disbursement by a foreign national. "Substantial assistance" refers to active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with the intent of facilitating the successful completion of the transaction. This prohibition includes, but is not limited to individuals who act as conduits or intermediaries. 11 CFR 110.20.
15. Pertinent facts that should cause the recipient of a contribution, a donation, items of value or paid services to question whether it was given by a foreign national include, but are not limited to the following: a donor or contributor uses a foreign passport, provides a foreign address, makes a contribution from a foreign bank, or resides abroad.
16. On or about March 19, 2018, Channel 4, a British news organization, published a documentary containing video and audio recordings of Nix and other employees of Cambridge Analytica meeting and communicating with under-cover reporters posing as a potential foreign client.<sup>1</sup>
17. In the recordings, Nix asserted that Cambridge Analytica “ran all the digital campaign, the television campaign and our data informed all the strategy” for the Trump campaign. Nix said that he had met Trump “many times.” Nix was a highly paid executive of Cambridge Analytica. The Trump campaign reported to the FEC that it paid over \$5 million to Cambridge Analytica in the 2015-2016 election cycle .
18. Nix’s statements and other information in this complaint provide reasonable grounds to conclude that he was directing, dictating, controlling, or directly or indirectly participating in the decision-making process of the Trump campaign with regard to election-related activities in violation of 52 U.S.C. § 30121, 11 CFR 110.20 and FEC decisions interpreting these laws and regulations.
19. Mark Turnbull (“Turnball”) is and was Cambridge Analytica’s managing director at times relevant to this complaint. He is a foreign national and a British citizen based on information and belief.
20. In the recordings made by Channel 4, Turnbull told the undercover reporters with Channel 4 that they had created something called the “Defeat Crooked Hillary” ad campaign. The following exchange was recorded:

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<sup>1</sup> Four News, Revealed: Trump’s election consultants filmed saying they use bribes and sex workers to entrap politicians, March 19, 2018, <https://www.channel4.com/news/cambridge-analytica-revealed-trumps-election-consultants-filmed-saying-they-use-bribes-and-sex-workers-to-entrap-politicians-investigation>

Turnbull: “The brand was ‘Defeat Crooked Hillary’. You’ll remember this of course? ‘Crooked Hillary’ - and the zeros, the OO of crooked were a pair of hand-cuffs and it was all about....”

Reporter: “Like prisoner?”

Turnbull: “She belongs behind bars...”

Reporter: “And you have created this?”

Turnbull: “Defeat Crooked Hillary. And then, we made creative, hundreds of different kinds of creative, and we put it online.”

21. Turnbull’s statements provide additional reasonable grounds to conclude that he and Nix were directing, dictating, controlling, or directly or indirectly participating in the decision-making process of the Trump campaign and related campaigns with regard to election-related activities in violation of 52 U.S.C. § 30121, 11 CFR 110.20. and FEC decision interpreting these laws and regulations. Nix and Turnbull violated 52 U.S.C. § 30121 and 11 CFR 110.20. by providing paid work or assistance to Trump, the Trump campaign and to related political committees.
22. Alex Tayler, when he was the chief data officer for Cambridge Analytica, as recorded by Channel 4, stated: "When you think about the fact that Donald Trump lost the popular vote by 3 million votes, but won the Electoral College, that's down to the data and the research." Tayler further stated, "That's how he won the election." Tayler is a foreign national, a UK citizen and a London resident.
23. In the 2014 midterm elections and in the Trump campaign, Cambridge Analytica was staffed mainly by Britons and Canadians. The company’s staff informed investigative reporters at The Guardian that the company ignored the US ban on foreigners working on elections in the United States for many years.<sup>2</sup>
24. The Guardian reported: “Two employees confirmed that they were still answering ultimately to Nix throughout the mid-term election campaigns that ended in November 2014. In total, more than a dozen foreigners, including Britons and Canadians, filled strategic roles in campaigns across the US.” “We were really speaking directly to the voters in a number of states,” said one former employee, who served on a team with several people who were not US citizens or green card holders.

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<sup>2</sup> The Guardian, Staff claim Cambridge Analytica ignored US ban on foreigners working on elections, March 18, 2018.  
<https://www.theguardian.com/uk-news/2018/mar/17/cambridge-analytica-non-american-employees-political>

25. In meeting with Nix and allowing Nix to provide paid assistance to the Trump campaign, Trump and his campaign accepted and received items of value from foreign nationals in violation of 52 U.S.C. § 30121, 11 CFR 110.20 and FEC decisions interpreting these laws and regulations. By allowing Nix to actively participate in and run digital campaigns, Trump and the Trump campaign knowingly provided “substantial assistance” to foreign nationals making contributions or donations in connection with the 2016 U.S. election. The involvement of foreign nationals from Cambridge Analytica in the Trump campaign and in other US elections in 2014 violated prohibitions on foreign nationals participation in US elections.
26. Nix, an Englishman, speaks with a easily discernable accent. He resides in London and was at the time actively serving as the CEO Cambridge Analytica, an offshoot of the British data company SCL Group. If Trump had meetings with Nix, as Nix stated, his accent would have alerted Trump to the possibility that he was a foreign national and to his potential illegal participation in the U.S. election campaign. The fact that Nix resided in London alerted Trump and campaign manager Steve Bannon (“Bannon”) that Nix should not have been working for and assisting with the campaign. As a Vice President and founder of Cambridge Analytica, Bannon was well aware of Nix’s nationality and residence.
27. Cambridge Analytica staff were embedded in the Trump campaign, closely working with Brad Parscale (“Parscale”), the campaign’s digital media director. Parscale was active with the Trump campaign from its inception. In June 2016, Parscale was named digital media director for the Trump campaign. Parscale oversaw digital media, online fundraising, media strategy, radio and television placements. Parscale brought Cambridge Analytica into the Trump campaign in June 2016. Parscale coordinated work with Cambridge Analytica executives to identify voters who were undecided and use social media to motivate them to support Trump over Hillary Clinton. Three Cambridge Analytica employees, including two data scientists, immediately moved to San Antonio to embed with Parscale's firm and by August, the number of full time Cambridge Analytica staffers in Texas ballooned to 13. Cambridge Analytica was involved in daily polling for the campaign, known as tracking polls, helping supplement the two other sets of polling data that Parscale would examine at any one time. Cambridge Analytica helped streamline the decision-making process so the campaign could determine where to invest its resources. Cambridge Analytica also used RNC data to build data visualization tools that helped determine where to send Trump for campaign rallies, according to a source familiar with the arrangement. In a December 2016 forum hosted by Google, Parscale stated: "Cambridge actually provided a full time employee that could sit next to me all day" and help digest data.<sup>3 4</sup>

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<sup>3</sup> Sarah Murray, et. al., Inside the Trump campaign's ties with Cambridge Analytica, CNN, March 21, 2018 , <https://www.cnn.com/2018/03/21/politics/trump-campaign-cambridge-analytica/index.html>

28. Information illegally obtained from Facebook by paid Cambridge Analytica employee Christopher Wylie (“Wylie”) was used by the Trump campaign at least through September 2016. Wylie is not a US resident. He is a citizen of Canada. Wylie, through Cambridge Analytica, aided and assisted the Trump campaign in violation of 52 U.S.C. § 30121 and 11 CFR 110.20. Trump, the Trump campaign and supporting political committees violated 52 U.S.C. § 30121 and 11 CFR 110.20 by knowingly accepting illegal aid and assistance from Wylie, Cambridge Analytica and other foreign nationals. Nix and Turnbull were aware of, facilitated an approved of this aid and assistance.
29. Cambridge Analytica was founded by Bannon and billionaire Robert Mercer. Robert Mercer’s daughter, Rebekah Mercer, was intimately involved in the transactions involving Bannon, Cambridge Analytica and the Trump Campaign. Bannon was one of Trump’s closest advisors throughout the campaign and served for a time as the Trump campaign manager. Bannon reportedly divested his holdings in the Cambridge Analytica in April of 2017 as required by his role as White House Chief Strategist.
30. Although they were well aware of the law, Bannon, Cambridge Analytica and the Trump Campaign knowingly and wilfully violated the law. The Guardian reports: “The company’s responsibilities under US law were laid out in a lawyer’s memo to the company’s vice-president, Steve Bannon, British CEO Alexander Nix and Rebekah Mercer, daughter of billionaire owner Robert Mercer, in July 2014. It made it clear that most senior and mid-level positions involving strategy, planning, fundraising or campaigning needed to be filled by US citizens.”
31. On or about October 6, 2016, the Campaign Legal Center filed a complaint in the matter of Campaign Legal Center, et. al. v. Make America Number 1, Donald Trump for President, Inc., et. al, FEC MUR No. 7147. That complaint asserted that Make America Number 1 had made illegal in-kind contributions to Donald Trump for President, Inc. by paying Bannon, the manager of the Trump Campaign, via Cambridge Analytica and another company that were acting as a common vendor. The allegations in that complaint and in supplementary materials provided to the FEC by the Campaign Legal Center in support of that complaint are incorporated herein by reference.

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<sup>4</sup> Katherine Faulders, et. al., Special Counsel studies Trump campaign ties to Cambridge Analytica, sources say, ABC News, March 21, 2017, <http://abcnews.go.com/Politics/special-counsel-studies-trump-campaign-ties-cambridge-analytica/story?id=53903252>

32. Cambridge Analytica provided services - such as identifying voters and developing the content of communications - to both the Trump Campaign and to Make America Number 1. There are good grounds to believe that Nix, Turbull, Wilie, and other foreign staff provided paid election related services to Make America Number 1 in the same manner as they provided these services to Trump and the Trump Campaign in violation of 52 U.S.C. § 30121 and 11 CFR 110.20.
33. The paid services and items of value received by the Trump campaign and Make America Number 1 should have been, but were not, reported and disclosed to the Federal Election Commission in violation of the reporting and disclosure requirements of FECA. Furthermore, the value of the illegally paid services and items of value provided by foreign nationals to the Trump campaign and Make America Number 1 likely exceeded contribution limits provided for under FECA.
34. The complainants file this complaint under the authority of 52 U.S.C. § 30109 (a)(1).
35. If the Commission, upon receiving a complaint.... has reason to believe that a person has committed, or is about to commit, a violation of [the F.E.C.A.]...[t]he Commission shall make an investigation of such alleged violation..." 52 U.S.C. § 30109 (a)(2).

WHEREFORE, the complainants demand:

- A. that the Federal Election Commission find reason to believe that each of the Respondents violated 52 U.S.C. §§ 30101, et. seq., including but not limited to 52 U.S.C. §§ 30121 and the regulations promulgated thereunder;
- B. that the Federal Election Commission conduct an immediate investigation of this complaint under 52 U.S.C. § 30109(a)(2);
- C. that the Federal Election Commission impose appropriate sanctions for any and all violations;
- D. that the Federal Election Commission enjoin the Respondents from any and all violations in the future;
- E. that the Federal Election Commission refer the knowing and wilful violations of FECA for criminal prosecution to the Department of Justice, and that the commission take other appropriate steps to advance criminal prosecutions; and,
- F. that the Federal Election Commission impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

I affirm that to the best of my knowledge and ability all evidence submitted was not obtained in violation of any law, rule, or regulation. I acknowledge that Section 1001 of title 18 of the United States Code (popularly known as the False Statements Act) applies to the information provided.

DATED: March 22, 2018

Respectfully submitted,

J. Whitfield Larrabee

J. Whitfield Larrabee, individually and on behalf of the Resistance Committee Action Fund  
Law Office of J. Whitfield Larrabee  
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Brookline, MA 02446  
jw.larrabee@verizon.net  
(617) 566-3670

VERIFICATION

The complainant, J. Whitfield Larrabee listed below, verifies under the penalties of perjury that the statements made in the attached complaint are, upon their information and belief, true.

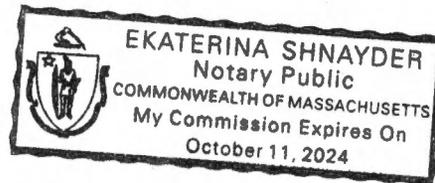
Sworn pursuant to 18 U.S.C. sec. 1001.

J. Whitfield Larrabee

J. Whitfield Larrabee

Sworn and subscribed before me this 22<sup>nd</sup> day of March, 2018.

[Signature]  
Notary Public



VERIFICATION

The complainant, the Resistance Committee Action Fund, by its treasurer and executive director, J. Whitfield Larrabee, verifies under the penalties of perjury that the statements made in the attached complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. sec. 1001.

J. Whitfield Larrabee  
J. Whitfield Larrabee, Treasurer

Sworn and subscribed before me this 22<sup>nd</sup> day of March, 2018.

E. Shnyder  
Notary Public

