



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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**AUG 01 2019**

RE: MUR 7382  
North Carolina Republican Party and  
Jason Lemons in his official  
capacity as treasurer

Dear Mr. Knight:

On May 16, 2018, the Federal Election Commission (“Commission”) notified your clients, the North Carolina Republican Party and Jason Lemons in his official capacity as treasurer (the “NCRP”), of a complaint in the above-numbered matter under review (“MUR”) alleging violations of the Federal Election Campaign Act of 1971, as amended (“the Act”) and Commission regulations. A copy of the complaint was forwarded to your clients at that time. Upon review of the allegations contained in the complaint and your clients’ response, the Commission, on July 24, 2019, found reason to believe that the NCRP violated 52 U.S.C. § 30121, a provision of the Act, and the Commission’s regulation at 11 C.F.R. § 110.20(i). The Factual and Legal Analysis, which formed a basis for the Commission’s finding, is enclosed.

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

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

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

Letter to Roger W. Knight, Esq. re: MUR 7382

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

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

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

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

On behalf of the Commission,



Ellen L. Weintraub  
Chair

Encl.

Questions  
Factual and Legal Analysis

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

**QUESTIONS AND DOCUMENT REQUESTS**  
**NORTH CAROLINA REPUBLICAN PARTY**

Please answer these questions regarding the activities of the North Carolina Republican Party, and Cambridge Analytica's involvement with that political committee. Identify any individuals with personal recollection, knowledge, or understanding of the answers and provide us with any communications, documents, records, or other information that provide a basis for your answers. If you do not know the complete answer to any question, please answer to the extent possible and indicate your inability to answer the remainder of the question. If you believe you cannot answer any question based on a legal limitation or claim of privilege, please state the basis for your belief that you cannot answer and provide as much information as you believe you can provide.

In each of these questions and document requests, unless otherwise specified, any reference to "Cambridge Analytica" means Cambridge Analytica LLC as well as any parent, subsidiary, or affiliated company — including Cambridge Analytica LTD, SCL Group LTD, SCL Elections, and SCL USA — and any officers, employees, agents, and other persons acting on behalf of Cambridge Analytica LLC or any parent, subsidiary, or affiliated company; and any reference to "Committee" means the North Carolina Republican Party.

1. Identify any person employed by or acting on behalf of Cambridge Analytica who provided services to the Committee, including the person's name; their nationality, citizenship and/or U.S. immigration status; their job title; and a current or last known mailing address, telephone number, and email address. For each person, also describe:
  - a. The dates during which the person provided services to the Committee;
  - b. The services provided, including the tasks and functions involved, goals and objectives, and deliverable products or recommendations provided;
  - c. The physical location or, if more than one, locations at which the person provided services to the Committee;
  - d. The person's supervisor or manager at Cambridge Analytica; and
  - e. The person at the Committee who managed, supervised, or directed the services the person at Cambridge Analytica who provided services to the Committee.
2. Describe how Cambridge Analytica became known to and retained by the Committee, including who participated in the Committee's decision to retain Cambridge Analytica.
3. Provide all documents, records, or communications related to the Committee's decision to retain Cambridge Analytica.
4. Describe and identify any person employed by or acting on behalf of Cambridge Analytica who advised on, provided services related to, or participated in any of the following areas or decisions:

Questions and Document Requests – North Carolina Republican Party  
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- a. Fundraising and solicitation of contributions for the Committee;
  - b. Determining how the Committee allocated actual or potential expenditures, including the authorization or directing of expenditures or the budgeting, prioritizing or spending for Committee communications or events;
  - c. Determining how the Committee allocated its resources or was otherwise administered, including managing or directing persons employed by, volunteering for, affiliated with, or acting on behalf of or under the direction or control of the Committee;
  - d. Developing, disseminating, or targeting communications, including determining the subject matter, theme, message, or content of communications and identifying or determining the target audience for communications;
  - e. Planning or implementing the travel, movement, or appearances of any federal candidate, surrogate, or agent.
5. Provide all documents relating to Cambridge Analytica's involvement in the Committee's activities described in response to Request 4.
  6. Describe any formal or informal policies, procedures, trainings, or guidance that the Committee adopted or implemented regarding the participation of foreign nationals in the Committee's activities, as well as any discussions between the Committee and Cambridge Analytica regarding any such policies, procedures, trainings, or guidance.
  7. Provide all documents relating to the Committee's policies, procedures, trainings, or guidance described in response to Request 6.
  8. Describe how Cambridge Analytica charged for its services to the Committee, including how the Committee's disbursements were allocated for Cambridge Analytica's services.
  9. Provide all documents related to the Committee's payments to Cambridge Analytica.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: North Carolina Republican Party and MUR 7382  
4 Jason Lemons in his official capacity  
5 as treasurer

6 **I. INTRODUCTION**

7 This matter was generated by complaints filed with the Federal Election Commission  
8 (“Commission”). *See* 52 U.S.C. § 30109(a)(1). The complaints allege that the North Carolina  
9 Republican Party and Jason Lemons in his official capacity as treasurer (“NCRP”) violated the  
10 provisions of the Federal Election Campaign Act of 1971, as amended (“Act”), and Commission  
11 regulations that prohibit foreign nationals from directly or indirectly participating in the decision-  
12 making process of a political committee’s contributions or expenditures in connection with a  
13 federal election. These allegations stem from services that Cambridge Analytica LLC  
14 (“Cambridge”) provided to the NCRP during the 2014 election cycle.<sup>1</sup> For the reasons explained  
15 fully below, the Commission finds reason to believe that the NCRP violated 52 U.S.C. § 30121  
16 and 11 C.F.R. § 110.20(i).

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 **A. Background**

19 Cambridge is a limited liability company organized in Delaware on December 31, 2013.<sup>2</sup>  
20 SCL Group LTD (“SCL”) is based in England and registered in the United Kingdom on July 20,

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<sup>1</sup> *See* MUR 7382 Compl. (May 10, 2018).

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

1 2005.<sup>3</sup> Cambridge reportedly began working for political committees in the U.S. during the  
2 2014 election cycle.<sup>4</sup> The Complaints allege, based on news reports, that Cambridge was  
3 “effectively a shell” and “any contracts won by Cambridge . . . would be serviced by London-  
4 based SCL and overseen by [Alexander] Nix, a British citizen,” who is a director of SCL and  
5 chief executive of Cambridge.<sup>5</sup> “Most SCL employees and contractors” were reportedly foreign  
6 nationals from Canada or Europe.<sup>6</sup>

7 According to former employees quoted in media reports, during the 2014 election cycle,  
8 Cambridge, like SCL, was “overwhelmingly staffed by non-U.S. citizens,”<sup>7</sup> at least two of whom  
9 “were still answering ultimately to [Alexander] Nix” while working for U.S. political

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

<sup>4</sup> See Craig Timberg and Tom Hamburger, *Former Cambridge Analytica Workers Say Firm Sent Foreigners to Advise U.S. Campaigns*, WASH. POST (Mar. 25, 2018), available at [https://www.washingtonpost.com/politics/former-cambridge-analytica-workers-say-firm-sent-foreigners-to-advise-us-campaigns/2018/03/25/6a0d7d90-2fa2-11e8-911f-ca7f68bff0fc\\_story.html](https://www.washingtonpost.com/politics/former-cambridge-analytica-workers-say-firm-sent-foreigners-to-advise-us-campaigns/2018/03/25/6a0d7d90-2fa2-11e8-911f-ca7f68bff0fc_story.html) (“Timberg Article”) (“The company aggressively courted political work beginning in 2014[.]”).

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

<sup>6</sup> NYT March 17 Article.

<sup>7</sup> Timberg Article.

1 committees.<sup>8</sup> Christopher Wylie, who worked for Cambridge during the 2014 election cycle and  
2 is a foreign national, reportedly asserts that he and “many foreign nationals worked on the  
3 campaigns, and many were embedded in the campaigns around the U.S.”<sup>9</sup> Wylie also asserts  
4 that he was personally part of “multiple conference calls in 2014” with Nix and Stephen K.  
5 Bannon, a Cambridge board member, in which “strategic campaign matters were discussed.”<sup>10</sup>  
6 According to Wylie, on some of these calls, Cambridge’s leaders discussed whether the company  
7 was violating federal law by using foreign nationals to work on American political campaigns.<sup>11</sup>  
8 However, Cambridge reportedly provided no compliance training for its foreign employees on  
9 what conduct to avoid in order to comply with federal law while working for U.S. political  
10 committees.<sup>12</sup>

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

<sup>9</sup> Anna R. Schechter, *Wylie: Foreigners Worked for Cambridge Analytica on NC Senate Campaign*, NBC NEWS (Mar. 23, 2018), available at <https://www.nbcnews.com/politics/elections/wylie-foreigners-worked-cambridge-analytica-nc-senate-campaign-n859526> (“Schechter Article”). Wylie apparently played a significant role in founding Cambridge. See NYT March 17 Article (“[Wylie] helped found Cambridge and worked there until late 2014.”). Wylie reportedly left Cambridge at the end of the 2014 election cycle, although there is some dispute as to precisely when he left the company. Schechter Article (“Cambridge has said that Wylie left the company in July 2014. Wylie [claims that] while he gave notice in July, he continued to work for the company until just before the elections on Nov. 4, 2014.”).

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

<sup>11</sup> Timberg Article.

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

1           The primary service that Cambridge offered its clients was a form of voter targeting that  
2 it described as “psychological profiling to reach voters with individually tailored messages.”<sup>13</sup>  
3 Cambridge reportedly helped political committees “decide what voters to target with political  
4 messages and what messages to deliver to them,” while also offering additional services such as  
5 “fundraising, planning events, and providing communications strategy[.]”<sup>14</sup> Wylie asserts that he  
6 and other foreign nationals working for Cambridge “weren’t just working on messaging” but  
7 “were instructing campaigns on which messages go where and to who.”<sup>15</sup> Other employees have  
8 supported this assertion, claiming that Cambridge “didn’t handle only data” but worked on  
9 message development and targeting strategy.<sup>16</sup>

10           During the 2014 election cycle, Cambridge worked for several political committees,  
11 including the NCRP, a state party committee supporting Thom Tillis’s 2014 U.S. Senate race in  
12 North Carolina.<sup>17</sup> Wylie reportedly claims that “his largely foreign team” crafted and targeted  
13 messaging for Tillis’s campaign.<sup>18</sup> Cambridge’s own internal documents detail that the company  
14 was also contracted by the NCRP to provide support for Tillis, other Republican campaigns in

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

<sup>14</sup> Timberg Article.

<sup>15</sup> Schechter Article.

<sup>16</sup> Timberg Article.

<sup>17</sup> *See* Cambridge Analytica 2014 Activity Summary Report at 12, *available at* <https://www.washingtonpost.com/apps/g/page/politics/2014-cambridge-analytica-report-on-congressional-and-legislative-races/2294/> (“2014 Report”).

<sup>18</sup> Schechter Article.



1 North Carolina, and the NCRP itself.<sup>19</sup> The documents confirm that Cambridge provided the  
2 NCRP with message targeting services, noting that “local campaign staff had ideas about how  
3 they wanted their target universes defined, but the [Cambridge] team was able to use their  
4 knowledge of the data to suggest more effective targeting strategies.”<sup>20</sup> Cambridge’s modeling  
5 and targeting work for the NCRP reportedly altered the content of the committee’s messages to  
6 focus on issues that Cambridge had identified as resonating with potential voters, such as foreign  
7 terrorism, more than issues previously prioritized by the committees, like state-wide education  
8 policy.<sup>21</sup>

9 For its part, the NCRP denies that any Cambridge employees were involved in decisions  
10 regarding spending or messaging, asserting that Cambridge provided only data modeling  
11 services.<sup>22</sup> The NCRP submitted a sworn affidavit from its 2014 Executive Director attesting  
12 that he hired Cambridge “to provide data and micro-targeting information” that NCRP combined  
13 with other data from other sources to identify swing voters and “Republican voters who may

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<sup>19</sup> 2014 Report.

<sup>20</sup> *Id.* at 14. *See also* Issenberg Article (“I met with two of the employees Nix identified as the firm’s ‘message people’ to understand what that [targeted] communication might look like. Tim Glister is a former copywriter and one-time literary agent from Newcastle . . . . Glister was dispatched to North Carolina, where he was tasked with helping the state Republican party on behalf of Thom Tillis’s ultimately successful campaign to defeat Senator Kay Hagan. ‘I was English enough to be an entertaining curiosity,’ he said.”)

<sup>21</sup> *See* Issenberg Article (“In North Carolina, where the company was paid \$150,000 by the state party and \$30,000 by Tillis’s campaign, Cambridge Analytica developed models to predict individual support, turnout likelihoods, and issues of concern that would recalibrate continuously based on interactions with voters[, and] that dynamic process allowed Tillis’s campaign to identify a sizable cluster of North Carolinians who prioritized foreign affairs — which encouraged Tillis to shift the conversation from state-level debates over education policy to charges that incumbent Kay Hagan had failed to take ISIS’s rise seriously.”); 2014 Report at 13 (discussing changing committee messaging to more “salient” issues such as national security); *see also* 2014 Report at 16, 19 (discussing Bolton PAC’s desire to focus on national security and detailing successes based on national security-focused messaging).

<sup>22</sup> Resp. of NCRP at 5 (July 10, 2018).

1 need a ‘push’ or additional reason to go to the polls and vote,” but that “every single decision  
2 with respect to campaign communications” was the Executive Director’s alone and that “no one  
3 from Cambridge Analytica made decisions on behalf of [NCRP] campaign communications.”<sup>23</sup>  
4 The sworn affidavit further attests that NCRP hired Cambridge after it “already had its campaign  
5 communications plan” and that NCRP did not use messages or communications prepared by  
6 Cambridge.<sup>24</sup>

## 7 **B. Legal Analysis**

### 8 1. Foreign Nationals May Not Directly or Indirectly Make Contributions, 9 Donations, Expenditures, or Disbursements

10 The Act and Commission regulations prohibit any “foreign national” from directly or  
11 indirectly making a contribution or donation of money or other thing of value, or an expenditure,  
12 independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>25</sup>  
13 The Act’s definition of “foreign national” includes an individual who is not a citizen or national  
14 of the United States and who is not lawfully admitted for permanent residence, as well as a  
15 “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership,  
16 association, corporation, organization, or other combination of persons organized under the laws

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<sup>23</sup> *Id.*, Ex. 1 ¶¶ 4-5 (Poole Affidavit).

<sup>24</sup> *See id.*, Poole Affidavit, ¶¶ 5-6. The affidavit also attests that the contract indicated that Cambridge was a Delaware corporation. *See id.*, Poole Affidavit, ¶ 2.

<sup>25</sup> 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

1 of or having its principal place of business in a foreign country.”<sup>26</sup> Commission regulations  
2 implementing the Act’s foreign national prohibition provide:

3 A foreign national shall not direct, dictate, control, or directly or indirectly  
4 participate in the decision-making process of any person, such as a corporation,  
5 labor organization, political committee, or political organization with regard to  
6 such person’s Federal or non-Federal election-related activities, such as decisions  
7 concerning the making of contributions, donations, expenditures, or  
8 disbursements . . . or decisions concerning the administration of a political  
9 committee.<sup>27</sup>

10  
11 The Commission has explained that this provision also bars foreign nationals from “involvement  
12 in the management of a political committee.”<sup>28</sup>

13 In light of these provisions, Commission regulations permit any person or company —  
14 foreign or domestic — to provide goods or services to a political committee, without making a  
15 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary  
16 course of business, and at the usual and normal charge, as long as foreign nationals do not  
17 directly or indirectly participate in any committee’s management or decision-making process in  
18 connection with its election-related activities.<sup>29</sup> For example, in MUR 5998, the Commission

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<sup>26</sup> 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

<sup>27</sup> 11 C.F.R. § 110.20(i).

<sup>28</sup> Contribution Limits and Prohibitions, 67 Fed. Reg. 69,928, 69,946 (Nov. 19, 2002); *see also* Advisory Op. 2004-26 at 2-3 (Weller) (noting that foreign national prohibition at section 110.20(i) is broad and concluding that, while a foreign national fiancé of the candidate could participate in committees’ activities as a volunteer without making a prohibited contribution, she “must not participate in [the candidate’s] decisions regarding his campaign activities” and “must refrain from managing or participating in the decisions of the Committees”).

<sup>29</sup> 11 C.F.R. § 114.2(f)(1); *see* 11 C.F.R. § 116.1(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Goods or services provided at the usual and normal charge do not constitute a contribution under the Act. However, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign

1 found that the foreign national owners of a venue did not make or facilitate a contribution to a  
2 political committee by allowing the committee to rent the venue for a fundraising event.<sup>30</sup> The  
3 venue at issue was rented out for events in the ordinary course of business, and the owners  
4 charged the committee the usual and normal amount for the service.<sup>31</sup> The Commission noted  
5 that there was no available information to suggest — and the foreign nationals and political  
6 committee expressly denied — that the foreign nationals had any “decision-making role in the  
7 event.”<sup>32</sup>

8           The Commission has found that not all participation by foreign nationals in the election-  
9 related activities of others will violate the Act. In MUR 6959, for example, the Commission  
10 found no reason to believe that a foreign national violated 52 U.S.C. § 30121 by performing  
11 clerical duties, such as online research and translations, during a one month-long internship with  
12 a party committee.<sup>33</sup> Similarly, in MURs 5987, 5995, and 6015, the Commission found no  
13 reason to believe that a foreign national violated 52 U.S.C. § 30121 by volunteering his services  
14 to perform at a campaign fundraiser and agreeing to let the political committee use his name and  
15 likeness in its emails promoting the concert and soliciting support, where the record did not

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national in a bona fide commercial transaction to perform services for a federal campaign, could potentially result in the receipt of a prohibited in-kind contribution.

<sup>30</sup> Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 5.

<sup>33</sup> Factual and Legal Analysis at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* at 4-5 (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 1982-04 (Apodaca)).

1 indicate that the foreign national had been involved in the committee's decision-making process  
2 in connection with the making of contributions, donations, expenditures, or disbursements.<sup>34</sup> By  
3 contrast, the Commission has consistently found a violation of the foreign national prohibition  
4 where foreign national officers or directors of a U.S. company participated in the company's  
5 decisions to make contributions or in the management of its separate segregated fund.<sup>35</sup>

6           2.     There is Reason to Believe that the NCRP Violated 52 U.S.C. § 30121 and  
7                    11 C.F.R. § 110.20(i) When Foreign Nationals Directly or Indirectly  
8                    Participated in a Decision-Making Process In Connection With the  
9                    Committee's Election-Related Spending

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

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<sup>34</sup> Factual and Legal Analysis at 6-9, MURs 5987, 5995, and 6015 (Sir Elton John); *see also* Factual and Legal Analysis at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Op. 2004-26 (Weller).

<sup>35</sup> *See, e.g.*, Conciliation Agreement, MUR 6093 (Transurban Grp.) (U.S. subsidiary violated Act by making contributions after its foreign parent company's board of directors directly participated in determining whether to continue political contributions policy of its U.S. subsidiaries); Conciliation Agreement, MUR 6184 (Skyway Concession Company, LLC) (U.S. company violated Act by making contributions after its foreign national CEO participated in company's election-related activities by vetting campaign solicitations or deciding which nonfederal committees would receive company contributions, authorizing release of company funds to make contributions, and signing contribution checks); Conciliation Agreement, MUR 7122 (American Pacific International Capital, Inc. ("APIC")) (U.S. corporation owned by foreign company violated Act by making contribution after its board of directors, which included foreign nationals, approved proposal by U.S. citizen corporate officer to contribute).

1           Wylie, a Cambridge foreign national employee, appears to have participated in the  
2 decision-making processes of Cambridge’s clients in connection with their management or  
3 election-related spending. Wylie reportedly admits that he “worked on all of the company’s U.S.  
4 political campaigns in 2014,”<sup>36</sup> and that he was personally part of “multiple conference calls in  
5 2014” with Nix and Stephen K. Bannon, a Cambridge board member, in which “strategic  
6 campaign matters were discussed.”<sup>37</sup> During this period of time, Cambridge not only provided  
7 political committees with communications and targeting advice, *i.e.*, advice about how to  
8 effectively craft tailored communications and target them to receptive voters in order to  
9 maximize the messages’ impact, but “directed” the committees in their messaging.<sup>38</sup>

10           According to Wylie and internal Cambridge documents, he and other foreign nationals  
11 were embedded in political committees and were “instructing campaigns on which messages go  
12 where and to who.”<sup>39</sup> By providing strategic advice to committees on both the content and target  
13 audience for their campaign communications, these foreign nationals may have helped shape  
14 political committees’ election-related spending decisions.

15           The available information supports a finding that Wylie or other foreign national  
16 Cambridge employees may have directly or indirectly participated in the NCRP’s management  
17 or decision-making process in connection with its election-related spending. Cambridge  
18 reportedly provided “polling, focus groups and message development” services for committees

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<sup>36</sup>       Schecter Article.

<sup>37</sup>       Timberg Article.

<sup>38</sup>       *See, e.g.*, 2014 Report at 16-17 (describing Cambridge’s successful “direction” of the Bolton PAC).

<sup>39</sup>       Schecter Article.

1 supporting Thom Tillis’s 2014 campaign for the U.S. Senate in North Carolina.<sup>40</sup> Wylie  
2 reportedly claims to have worked on all of Cambridge’s political campaigns in 2014.<sup>41</sup> Wylie  
3 also reportedly claims that “three or four full-time [Cambridge] staffers embedded in Tillis’s  
4 campaign on the ground in Raleigh [and all] of them were foreign nationals.”<sup>42</sup> Internal  
5 Cambridge documents establish that the firm was retained by the NCRP to help Tillis’s  
6 campaign, and Wylie and other Cambridge employees may have been embedded with the NCRP  
7 to provide targeting advice used to create and distribute communications supporting Tillis’s  
8 campaign.<sup>43</sup> These factual circumstances indicate that Cambridge’s foreign national employees  
9 were working with the NCRP in support of Tillis’s campaign for the U.S. Senate.

10 The NCRP asserts, in a sworn affidavit from its Executive Director at the time it hired  
11 Cambridge in 2014, that the Executive Director alone made “every single decision with respect  
12 to campaign communications,” and denies that it “used” Cambridge’s “messages or  
13 communications” or that anyone from Cambridge made decisions with respect to NCRP  
14 communications.<sup>44</sup> However, the key issue is not whether NCRP’s Executive Director, rather  
15 than Wylie or any other foreign national, had final decision-making authority or final say  
16 regarding any communication, but whether any foreign national participated, directly or

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<sup>40</sup> NYT March 17 Article.

<sup>41</sup> Schechter Article.

<sup>42</sup> *Id.*; Issenberg Article.

<sup>43</sup> 2014 Report; Schechter Article. Both the Tillis Committee and NCRP rejected Wylie’s claim that Cambridge employees were embedded with Tillis’s authorized committee, asserting instead that Cambridge employees were embedded with the NCRP. *Id.*; see Timberg Article (“Cambridge Analytica documents show it advised a congressional candidate in Oregon, state legislative candidates in Colorado and, on behalf of the North Carolina Republican Party, the winning campaign for Sen. Thom Tillis.”).

<sup>44</sup> Resp. of NCRP, Ex. 1 ¶¶ 5-6 (Poole Affidavit).

1 indirectly, in the NCRP’s management or decision-making process in connection with its  
2 “election-related activities, such as decisions concerning the making of contributions, donations,  
3 expenditures, or disbursements . . . or decisions concerning the administration of a political  
4 committee.”<sup>45</sup> Here, the available information — including Cambridge’s internal report and the  
5 reported statements by Wylie and other Cambridge employees — specifically indicates that,  
6 contrary to the affidavit submitted by the NCRP, Wylie and other foreign national Cambridge  
7 employees may have participated in the NCRP’s decision-making regarding both their  
8 communications strategy and expenditures. On balance, the overall record sufficiently supports  
9 the allegation that foreign nationals directly or indirectly participated in the NCRP’s  
10 management or decision-making process in connection with its election-related spending,  
11 warranting further investigation.

12           Accordingly, the Commission finds reason to believe that the NCRP violated 52 U.S.C.  
13 § 30121 and 11 C.F.R. § 110.20(i).

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11 C.F.R. § 110.20(i).