



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Kory Langhoffer and Thomas Basile
Statecraft PLLC
649 North Fourth Avenue, Suite B
Phoenix, Arizona 85003

AUG 27 2019

RE: **MURs 7350, 7351, and 7382**
Alexander Nix

Dear Mr. Langhoffer and Mr. Basile:

On March 29, 2018, March 30, 2018, and May 16, 2018, the Federal Election Commission ("Commission") notified your client, Alexander Nix, of complaints in the above-numbered matters under review ("MURs") alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations. Copies of the complaints were forwarded to your client. Upon review of the allegations contained in the complaints and your client's response submitted on July 7, 2018, the Commission, on August 20, 2019, found reason to believe that your client 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.

Your client 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 your client has 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 your client is interested in pursuing conciliation prior to a finding of probable cause to believe a violation has occurred, he 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

Letter to Kory Langhoffer and Thomas Basile re: MURs 7350, 7351, and 7382
Page 2 of 2

order to 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.

Requests for extensions of time are not routinely granted and may be conditioned on your client 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 30 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.

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.¹ 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 your client wishes 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

On behalf of the Commission,



Ellen L. Weintraub
Chair

Encl.
Questions
Factual and Legal Analysis

3

¹ 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 – ALEXANDER NIX

Please answer the following questions regarding Cambridge Analytica LLC's activities in connection with U.S. political committees based on your personal recollection, knowledge, and understanding. 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.

1. Describe your nationality, citizenship, and/or any U.S. immigration status you held during the time you were affiliated with Cambridge Analytica. Explain whether Cambridge Analytica or any U.S. political committee for which you provided services was aware of your nationality, citizenship, and/or U.S. immigration status. Provide documents related to your status, such as a passport or work authorization, and any knowledge Cambridge Analytica or any U.S. political committee for which you performed services had about your status.
2. Describe the establishment and operation of Cambridge Analytica, including your role in the establishment and operation of Cambridge Analytica and the relationship or affiliation between Cambridge Analytica LLC, Cambridge Analytica LTD, SCL Group LTD, SCL Elections, and SCL USA, including whether these entities shared officers or directors, employees, resources, or intellectual or physical property. Describe which of these entities provided services to U.S. political committees and what services they provided.
3. Describe each position you held at Cambridge Analytica, including job title, the scope of your duties and responsibilities, the identity of any supervisor or person you reported to, and the dates during which you held each position. Provide any contracts, employment agreements, work proposals, or other written description or discussion of your role with Cambridge Analytica.
4. Describe your current relationship with Cambridge Analytica, including the current status of the company. If you no longer have a relationship with Cambridge Analytica, describe the timing and circumstances in which the relationship ended, and your last interaction with Cambridge Analytica or anyone acting on behalf of Cambridge Analytica.
5. Describe your relationship and interactions with Stephen K. Bannon, Nigel Oakes, Rebekah Mercer, Mark Turnbull, Christopher Wylie, Brittany Kaiser, and Dr. Alexander

Taylor, the involvement of each in the establishment and day to day activities of Cambridge Analytica, and whether they were aware of, or involved with, foreign nationals providing services on behalf of Cambridge Analytica to U.S. political committees.

6. Identify any person employed by or affiliated with Cambridge Analytica who performed services for any U.S. political committee, including the person's full name, nationality, citizenship and/or U.S. immigration status, job title, current or last known business and residence addresses, current or last known telephone numbers, current or last known electronic mail addresses, and any known social media accounts. Provide documents related to the nationality, citizenship, and/or U.S. immigration status of each individual and to any knowledge Cambridge Analytica or any U.S. political committee had about their status.
7. For each U.S. political committee for which Cambridge Analytica provided services, identify the political committee and describe those services provided that are related to or included participation in the following areas:
 - a. Fundraising and solicitation of contributions for the political committee;
 - b. Determining how the political committee allocated actual or potential expenditures, including the authorization or directing of expenditures or the budgeting, prioritizing or spending for political committee communications or events;
 - c. Determining how the political committee allocated its resources or was administered, including managing or directing persons employed by, volunteering for, or affiliated with the political 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; and
 - e. Planning or implementing the travel, movement, or appearances of any federal candidate, surrogate, or agent.
8. For each U.S. political committee for which Cambridge Analytica provided services identified in response to Question 7, provide:
 - a. The identity of any officer, director, agent, or employee of Cambridge Analytica who provided services to the committee and the dates they provided such services;
 - b. The services provided, including the tasks and functions involved, goals and objectives, and deliverable products or recommendations provided;
 - c. The dates that Cambridge Analytica provided services to the committee;
 - d. The physical location, or, if more than one, locations at which Cambridge Analytica provided services;

- e. The person at the political committee who managed, supervised, or directed the services; and
 - f. The political committee's knowledge of the nationality, citizenship, and/or U.S. immigration status of the person at Cambridge Analytica who provided the services.
9. Provide any documents relating to your responses to Questions 7 and 8.
 10. Describe any formal or informal policies, procedures, trainings, or guidance prepared by or for Cambridge Analytica regarding the involvement of foreign nationals in the activities of U.S. political committees and provide us with documents reflecting these policies, procedures, trainings, or guidance. Describe any discussions involving any officer, director, agent, or employee of Cambridge Analytica regarding legal limitations on the involvement of foreign nationals in the activities of a U.S. political committee.
 11. Describe any instances where a U.S. political committee inquired regarding the nationality or ability to work in the U.S. of an individual employed by or affiliated with Cambridge Analytica. Produce all documents related to such inquiries.
 12. Describe how Cambridge Analytica charged for its services to each U.S. political committee. Provide all invoices sent to any U.S. political committee and documents related to the payments by U.S. political committees to Cambridge Analytica.
 13. Provide copies of any testimony or public statements you made discussing or relating to the services that Cambridge Analytica provided to U.S. political committees.

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Alexander Nix

MURs 7350, 7351, and 7382

I. INTRODUCTION

This matter was generated by complaints filed with the Federal Election Commission (“Commission”). *See* 52 U.S.C. § 30109(a)(1). These complaints allege that Alexander Nix, a foreign national and Chief Executive Officer of Cambridge Analytica LLC (“Cambridge”), violated the provisions of the Federal Election Campaign Act of 1971, as amended (“Act”), and Commission regulations that prohibit foreign nationals from directly or indirectly participating in the decision-making process of a political committee’s contributions or expenditures in connection with a federal election.

These allegations stem from services that Cambridge provided to four political committees during the 2014 election cycle — the Thom Tillis Committee and Collin McMichael in his official capacity as treasurer (“Tillis Committee”); the John Bolton Super PAC and Cabell Hobbs in his official capacity as treasurer (“Bolton PAC”); the North Carolina Republican Party and Jason Lemons in his official capacity as treasurer (“NCRP”); and Art Robinson for Congress and Art Robinson in his official capacity as treasurer (the “Robinson Committee”).¹

For the reasons explained fully below, the Commission finds reason to believe that Nix violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i).

¹ *See* MUR 7350 Compl. (Mar. 26, 2018); MUR 7351 Compl. (Mar. 26, 2018); MUR 7382 Compl. (May 10, 2018).

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Background**

3 Cambridge is a limited liability company organized in Delaware on December 31, 2013.²
4 SCL Group LTD (“SCL”) is based in England and registered in the United Kingdom on July 20,
5 2005.³ Cambridge reportedly began working for political committees in the U.S. during the
6 2014 election cycle.⁴ The Complaints allege, based on news reports, that Cambridge was
7 “effectively a shell” and “any contracts won by Cambridge . . . would be serviced by London-
8 based SCL and overseen by [Alexander] Nix, a British citizen,” who is a director of SCL and
9 chief executive of Cambridge.⁵ “Most SCL employees and contractors” were reportedly foreign
10 nationals from Canada or Europe.⁶

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

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

⁴ See MUR 7351 Compl. at ¶¶ 5, 13; 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 (“Timberg Article”) (cited in MUR 7351 Complaint) (“The company aggressively courted political work beginning in 2014[.]”).

⁵ See MUR 7351 Compl. at ¶ 16 (citing 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, <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).

⁶ NYT March 17 Article.

1 According to former employees quoted in media reports, during the 2014 election cycle,
2 Cambridge, like SCL, was “overwhelmingly staffed by non-U.S. citizens,”⁷ at least two of whom
3 “were still answering ultimately to [Alexander] Nix” while working for U.S. political
4 committees.⁸ Christopher Wylie, who worked for Cambridge during the 2014 election cycle and
5 is a foreign national, reportedly asserts that he and “many foreign nationals worked on the
6 campaigns, and many were embedded in the campaigns around the U.S.”⁹ Wylie also asserts
7 that he was personally part of “multiple conference calls in 2014” with Nix and Stephen K.
8 Bannon, a Cambridge board member, in which “strategic campaign matters were discussed.”¹⁰
9 According to Wylie, on some of these calls, Cambridge’s leaders discussed whether the company
10 was violating federal law by using foreign nationals to work on American political campaigns.¹¹

⁷ Timberg Article.

⁸ MUR 7350 Compl. at ¶ 23 (citing 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”)).

⁹ MUR 7351 Compl. at ¶ 26 (citing Anna R. Schecter, *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> (“Schecter 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. Schecter 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.”). The circumstances of Wylie’s departure are also controverted: Wylie claims that he resigned because of his growing unease with Cambridge, while Cambridge contends that Wylie departed to start a competing company and became disgruntled when Cambridge sued him to enforce its intellectual property rights. See Timberg Article at 4; Resp. of Alexander Nix, Ex. 1 ¶¶ 10-19 (July 10, 2018).

¹⁰ MUR 7351 Compl. at ¶ 30 (quoting 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 Schecter Article).

¹¹ Timberg Article.

1 However, Cambridge reportedly provided no compliance training for its foreign employees on
2 what conduct to avoid in order to comply with federal law while working for U.S. political
3 committees.¹²

4 The primary service that Cambridge offered its clients was a form of voter targeting that
5 it described as “psychological profiling to reach voters with individually tailored messages.”¹³
6 Cambridge allegedly employed many foreign national data scientists, including Dr. Alexander
7 Tayler, who led the data science team as the company’s Chief Data Officer.¹⁴ Cambridge
8 reportedly helped political committees “decide what voters to target with political messages and
9 what messages to deliver to them,” while also offering additional services such as “fundraising,
10 planning events, and providing communications strategy[.]”¹⁵ Wylie asserts that he and other
11 foreign nationals working for Cambridge “weren’t just working on messaging” but “were
12 instructing campaigns on which messages go where and to who.”¹⁶ Other employees have
13 supported this assertion, claiming that Cambridge “didn’t handle only data” but worked on
14 message development and targeting strategy.¹⁷

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

¹³ 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.”).

¹⁴ MUR 7350 Compl. at ¶ 22; MUR 7351 Compl. at ¶ 9.

¹⁵ MUR 7351 Compl. at ¶ 28 (quoting Timberg Article).

¹⁶ *Id.* at ¶ 26 (quoting Schechter Article).

¹⁷ Timberg Article.

1 During the 2014 election cycle, Cambridge worked for several political committees,
2 including the Bolton PAC, an independent-expenditure-only political committee (“IEOPC”); the
3 Tillis Committee, Thom Tillis’s authorized campaign committee for the U.S. Senate in North
4 Carolina; the NCRP, a state party committee supporting Tillis’s campaign; and the Robinson
5 Committee, Arthur Robinson’s authorized campaign committee in Oregon’s 4th Congressional
6 District.¹⁸

7 The Bolton PAC reportedly hired Cambridge to perform a variety of tasks, from data
8 modeling to designing “concepts for advertisements for candidates supported by Mr. Bolton’s
9 PAC, including the 2014 campaign of Thom Tillis[.]”¹⁹ According to Cambridge internal
10 documents that Wylie publicized, the Bolton PAC used Cambridge to “provide messaging and
11 communications support” and “made use of significant input from SCL on messaging and target
12 audiences.”²⁰ The Bolton PAC’s “media teams took direction well and worked with Harris
13 MacLeod (SCL) to ensure each message was tailored in a way that would resonate with its
14 target.”²¹ Cambridge also provided “[d]irection and feedback on all creative [content]” and the
15 Bolton PAC’s “creative teams were given further guidance based on which messages resonated

¹⁸ MUR 7351 Compl. at ¶ 13.

¹⁹ MUR 7351 Compl. at ¶ 33 (quoting Matthew Rosenberg, *Bolton Was Early Beneficiary of Cambridge Analytica’s Facebook Data*, N.Y. TIMES (Mar. 23, 2018), available at <https://www.nytimes.com/2018/03/23/us/politics/bolton-cambridge-analyticas-facebook-data.html> (“NYT March 23 Article”).

²⁰ Cambridge Analytica 2014 Activity Summary Report at 16, available at <https://www.washingtonpost.com/apps/g/page/politics/2014-cambridge-analytica-report-on-congressional-and-legislative-races/2294/> (“2014 Report”); see also Timberg Article (discussing and linking to 2014 Report, among other Cambridge documents).

²¹ 2014 Report at 16-17. MacLeod is allegedly a Canadian foreign national. See Issenberg Article at 2 (“Harris MacLeod [is] a Nova Scotian who worked as a political journalist in Ottawa [and] spent much of 2014 working for Cambridge Analytica’s marquee American clients. Harris worked for John Bolton’s super-PAC[.]”).

1 most with target groups.”²² Cambridge also reportedly drafted talking points for Ambassador
2 John Bolton to use to describe the services Cambridge was providing to his eponymous political
3 committee.²³

4 For Tillis’s 2014 U.S. Senate race in North Carolina, Wylie reportedly claims that “his
5 largely foreign team” crafted and targeted messaging for Tillis’s campaign.²⁴ Cambridge’s
6 documents detail that the company was also contracted by the NCRP to provide support for
7 Tillis, other Republican campaigns in North Carolina, and the NCRP.²⁵ The documents confirm
8 that Cambridge provided the NCRP and Tillis Committee with message targeting services,
9 noting that “local campaign staff had ideas about how they wanted their target universes defined,
10 but the [Cambridge] team was able to use their knowledge of the data to suggest more effective
11 targeting strategies.”²⁶ Cambridge’s modeling and targeting work for the NCRP and Tillis
12 Committee reportedly altered the content of those committees’ messages to focus on issues that
13 Cambridge had identified as resonating with potential voters, such as foreign terrorism, more
14 than issues previously prioritized by the committees, like state-wide education policy.²⁷

²² 2014 Report at 17; *see also* Issenberg Article at 8 (“[Cambridge Analytica] advised Bolton’s team on the design of six ads, thirty seconds each, with wildly different creative approaches. One ad, targeted at voters modeled to be conscientious and agreeable, was set to upbeat music and showed Bolton standing outdoors on a bright day, matter-of-factly addressing the need to ‘leave a stronger, safer America for our children.’”).

²³ MUR 7351 Compl. at ¶ 33 (quoting NYT March 23 Article).

²⁴ Schecter Article.

²⁵ 2014 Report at 12.

²⁶ *Id.* at 14.

²⁷ *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

1 For the Robinson Committee, Cambridge states that it took on a “comprehensive set of
2 responsibilities and effectively managed the campaign in its entirety, with strategic advice
3 channeled through US nationals on the [Cambridge-SCL] team.”²⁸ Cambridge’s 2014 internal
4 assessment report noted that although the Robinson Committee hired Cambridge to provide
5 “supportive intervention to augment an existing campaign infrastructure[,] . . . on the ground, it
6 became clear that no such professional ‘campaign team’ existed[.]”²⁹ As such, Cambridge
7 supplied a wide range of deliverables, such as “communications strategy, including key topics
8 and slogans[,] talking points, speeches, planning for events and candidate travels[,]” and
9 management of a range of campaign functions from canvassing to social media engagement.³⁰

10 B. Legal Analysis

11 1. Foreign Nationals May Not Directly or Indirectly Make Contributions, 12 Donations, Expenditures, or Disbursements

13 The Act and Commission regulations prohibit any “foreign national” from directly or
14 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
15 independent expenditure, or disbursement, in connection with a federal, state, or local election.³¹
16 The Act’s definition of “foreign national” includes an individual who is not a citizen or national

Bolton PAC’s desire to focus on national security and detailing successes based on national security-focused messaging).

²⁸ 2014 Report at 1; *see* MUR 7351 Compl. at ¶ 31 (quoting Timberg Article).

²⁹ 2014 Report at 2.

³⁰ *Id.* at 4.

³¹ 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 the United States and who is not lawfully admitted for permanent residence, as well as a
2 “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership,
3 association, corporation, organization, or other combination of persons organized under the laws
4 of or having its principal place of business in a foreign country.”³² Commission regulations
5 implementing the Act’s foreign national prohibition provide:

6 A foreign national shall not direct, dictate, control, or directly or indirectly
7 participate in the decision-making process of any person, such as a corporation,
8 labor organization, political committee, or political organization with regard to
9 such person’s Federal or non-Federal election-related activities, such as decisions
10 concerning the making of contributions, donations, expenditures, or
11 disbursements . . . or decisions concerning the administration of a political
12 committee.³³

13
14 The Commission has explained that this provision also bars foreign nationals from “involvement
15 in the management of a political committee.”³⁴

16 In light of these provisions, Commission regulations permit any person or company —
17 foreign or domestic — to provide goods or services to a political committee, without making a
18 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary
19 course of business, and at the usual and normal charge, as long as foreign nationals do not
20 directly or indirectly participate in any committee’s management or decision-making process in
21 connection with its election-related activities.³⁵ For example, in MUR 5998, the Commission

³² 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

³³ 11 C.F.R. § 110.20(i).

³⁴ 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.”).

³⁵ 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,

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.³⁶ 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.³⁷ 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.”³⁸

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.³⁹ 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

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 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.

³⁶ Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

³⁷ *Id.*

³⁸ *Id.* at 5.

³⁹ 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 to perform at a campaign fundraiser and agreeing to let the political committee use his name and
 2 likeness in its emails promoting the concert and soliciting support, where the record did not
 3 indicate that the foreign national had been involved in the committee's decision-making process
 4 in connection with the making of contributions, donations, expenditures, or disbursements.⁴⁰ By
 5 contrast, the Commission has consistently found a violation of the foreign national prohibition
 6 where foreign national officers or directors of a U.S. company participated in the company's
 7 decisions to make contributions or in the management of its separate segregated fund.⁴¹

8 2. There is Reason to Believe that Nix Violated 52 U.S.C. § 30121 and
 9 11 C.F.R. § 110.20(i) When He and Cambridge's Foreign National
 10 Employees Directly or Indirectly Participated in the Management and a
 11 Decision-Making Process Regarding the Election-Related Activities of
 12 Several Political Committees During the 2014 Election Cycle

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

⁴⁰ 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).

⁴¹ *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).

MURs 7350, 7351, and 7382 (Alexander Nix)

Factual and Legal Analysis

Page 11 of 14

1 directly or indirectly participate in any committee’s management or decision-making process in
2 connection with its election-related spending.

3 Wylie, a Cambridge foreign national employee, appears to have participated in the
4 decision-making processes of Cambridge’s clients with respect to their election-related activities.
5 Wylie reportedly admits that he “worked on all of the company’s U.S. political campaigns in
6 2014,”⁴² and that he was personally part of “multiple conference calls in 2014” with Nix and
7 Stephen K. Bannon, a Cambridge board member, in which “strategic campaign matters were
8 discussed.”⁴³ During this period of time, Cambridge not only provided political committees with
9 communications and targeting advice, *i.e.*, advice about how to effectively craft tailored
10 communications and target them to receptive voters in order to maximize the messages’ impact,
11 but “directed” the committees in their messaging.⁴⁴

12 According to Wylie and internal Cambridge documents, he and other foreign nationals
13 were embedded in political committees and were “instructing campaigns on which messages go
14 where and to who.”⁴⁵ By providing strategic advice to committees on both the content and target
15 audience for their campaign communications, these foreign nationals may have helped shape
16 political committees’ election-related spending decisions. Moreover, at least some of these
17 foreign nationals reportedly “were still answering ultimately to [Alexander] Nix” while working
18 for U.S. political committees.⁴⁶

⁴² Schecter Article.

⁴³ Timberg Article.

⁴⁴ *See, e.g.*, 2014 Report at 16-17 (describing Cambridge’s successful “direction” of the Bolton PAC).

⁴⁵ Schecter Article.

⁴⁶ MUR 7350 Compl. at ¶ 23 (citing Guardian Article).

1 The available information supports a finding that Cambridge, through its foreign national
2 employees, officers, and directors, including Nix, may have participated in the decision-making
3 processes with regard to election-related activities of the Robinson Committee. In contrast to the
4 circumstances presented in Advisory Opinion 2004-26, it appears that foreign nationals were
5 “managing or participating in the decisions” of the Robinson Committee, because Cambridge,
6 which employed mostly foreigners in 2014, assumed “comprehensive” responsibilities for the
7 Robinson Committee during the 2014 election cycle, including managing basic campaign
8 functions and providing strategic advice.⁴⁷ Robinson acknowledges that Cambridge, through its
9 foreign national employees, was at least indirectly participating in a decision-making process in
10 connection with the committee’s election-related spending.⁴⁸ Even if, as Robinson contends, the
11 Robinson Committee’s staff made all final decisions regarding the committee’s management and
12 electoral strategy, the record indicates that Nix and other Cambridge foreign national officers or
13 employees, participated, either directly or indirectly, in the Robinson Committee’s management
14 or decision-making process in connection with its expenditures.

15 The available information also supports a finding that Cambridge, through its foreign
16 national employees, officers, or directors, including Nix, may have participated, directly or
17 indirectly, in the management or decision-making processes in connection with election-related
18 spending of the Tillis Committee, Bolton PAC, and NCRP. Cambridge reportedly provided
19 “polling, focus groups and message development” services for these committees during Thom
20 Tillis’s 2014 campaign for the U.S. Senate in North Carolina.⁴⁹ Wylie reportedly claims to have

⁴⁷ Advisory Op. 2004-26 at 3; 2014 Report at 1.

⁴⁸ See Arthur Robinson Resp. at 1-2.

⁴⁹ NYT March 17 Article.

1 worked on all of Cambridge's political campaigns in 2014, including Thom Tillis's campaign.⁵⁰
2 Wylie reportedly admits that "his largely foreign team" of Cambridge employees instructed the
3 Tillis campaign on its messaging by crafting and targeting the messaging, and that "his" team
4 instructed campaigns on "which messages go where and to who."⁵¹

5 Wylie reportedly claims that "three or four full-time [Cambridge] staffers embedded in
6 Tillis's campaign on the ground in Raleigh [and all] of them were foreign nationals."⁵² Another
7 former Cambridge employee also claims that most of the Tillis campaign's messaging team was
8 composed of foreign nationals.⁵³ These assertions indicate that Wylie may have worked not only
9 with the Tillis Committee, but also the NCRP and Bolton PAC in support of Tillis's campaign
10 for the U.S. Senate. Wylie and other Cambridge employees may also have been embedded with
11 the NCRP to provide targeting advice used to create and distribute communications supporting
12 Tillis's campaign.⁵⁴ Wylie and another former Cambridge employee also contend that
13 Cambridge helped develop data models and message concepts for the Bolton PAC's
14 communications supporting Tillis during the 2014 election.⁵⁵

⁵⁰ Schechter Article.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* 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.").

⁵⁵ NYT March 23 Article.

1 Nix asserts that the available information is insufficient to support the allegations and that
2 he did not personally violate the law or authorize anyone else to violate the law.⁵⁶ He also attests
3 that Cambridge had a policy that foreign nationals not participate in providing strategic advice or
4 election-related decision-making, under which all work done by foreign nationals was supervised
5 by U.S. citizens with decision-making authority.⁵⁷

6 The key issue is not whether Nix, or any other foreign national had final decision-making
7 authority or final say regarding any analysis, but whether they participated, directly or indirectly,
8 in a Cambridge client's management or decision-making process in connection with its
9 "election-related activities, such as decisions concerning the making of contributions, donations,
10 expenditures, or disbursements . . . or decisions concerning the administration of a political
11 committee."⁵⁸ Despite Nix's assertions, the information in the record indicates that while Nix
12 served as the chief executive and day-to-day manager of Cambridge, he and other foreign
13 national employees of Cambridge may have done both by participating in committees' decision-
14 making in connection with their communications strategy and expenditures.

15 Based on the available information regarding Cambridge's conduct, through which
16 foreign nationals participated in Cambridge client committees' management or decision-making
17 processes in connection with their election-related spending, and Nix's personal involvement in
18 that conduct while serving as Cambridge's chief executive and day-to-day manager, the
19 Commission finds reason to believe that Nix violated 52 U.S.C. § 30121 and 11 C.F.R.
20 § 110.20(i).

⁵⁶ Nix Resp. at 1-8.

⁵⁷ *Id.*, Ex. 1 ¶¶ 29-30.

⁵⁸ 11 C.F.R. § 110.20(i).

- 2 -

conciliation is an agreement signed by the Commission and the respondent(s). The conciliation agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the conciliation agreement.

If the investigation warrants, and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of his/her intent to recommend that the Commission proceed to a vote on probable cause to believe that a violation of the Act has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief stating their position on the issues. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four Commissioners that there is probable cause to believe that a violation of the Act has been committed, or is about to be committed, conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the Act through conciliation the Office of the General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Act. Thereafter, the Commission may, upon an affirmative vote of four Commissioners, institute civil action for relief in the United States District court.

See 52 U.S.C. § 30109, 11 C.F.R. Part 111.