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by Kathryn Ross

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September 7, 2018

CONFIDENTIAL

VIA E-MAIL

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Kathryn Ross, Paralegal
Christal Dennis, Paralegal
999 E Street, NW
Washington, DC 20436

Re: MUR #7351, *Common Cause v. Cambridge Analytica, et al.*
MUR #7357, *Campaign Legal Center, et al v. John Bolton Super PAC*
MUR# 7382, *Wayne Goodwin v. Senator Thom Tillis, et al.*

Dear Ms. Dennis and Ms. Ross:

I have been retained as counsel for the John Bolton Super PAC and Cabell Hobbs, Treasurer, John Bolton Super PAC (collectively "Bolton") in the above-referenced matters.¹ In its Complaint, the North Carolina Democratic Party and its Chairman, Wayne Goodwin, Common Cause, and the Campaign Legal Center, among others (collectively "Complainants") allege that the John Bolton Super PAC violated the Federal Election Campaign Act of 1971 (the "Act") by: 1) allowing foreign nationals to participate in decisions involving election related activity;² and 2)

¹ Because each MUR is based on the same operative set of facts, the John Bolton Super PAC considered it most efficient to respond in one Response.

² This allegation is advanced by the Common Cause and the NC Democrat Complainants.

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

September 7, 2018

Page 2

making excessive, in-kind contributions to the Republican Party of North Carolina and the Thom Tillis Committee.³ The allegations in these Complaints, which are unsupported by any factual record and advanced only on “information and belief,” are frivolous allegations brought for political gain by Complainants.

The Commission should promptly dismiss these matters. At no time did foreign nationals participate in decisions involving election-related activities by Bolton. In addition, there was no coordination, direct or indirect, between Bolton and the Tillis campaign or Bolton and the North Carolina Republican Party. At no time did Bolton discuss any election-related, or other topics, with the Thom Tillis Committee or the North Carolina Republican Party, and no information was passed along by Cambridge Analytica.

The allegations in the complaint center around two facts: 1) the John Bolton Super PAC paid Cambridge Analytica money to perform data services and research, and 2) a former employee of Cambridge Analytica posted a video of a publicly available video paid for by Bolton to the Internet. The Complaints by the NC Democrats and Common Cause contain no factual allegations regarding any decision-making making performed by foreign nationals for the John Bolton Super PAC, the Republican Party of North Carolina, or the Tillis campaign. These Complaints contain no such allegations because foreign nationals had no such decision-making authority.

With respect to the coordination claim, news reports note that Cambridge Analytica was a common vendor that was employed by both the Thom Tillis Committee and the John Bolton Super PAC and pointed out that Mr. Glister’s Internet page boasted of work performed by this individual on behalf of “Thom Tillis’ successful senatorial campaign.” *See* Complaints of NC Democrats

³ This allegation is advanced by the NC Democrat and Campaign Legal Center Complainants.

September 7, 2018

Page 3

and Campaign Legal Center. At the same time, Mr. Glister posted a publicly available video of an advertisement created and paid for by the John Bolton Super PAC. On this basis alone, the NC Democrats and Campaign Legal Center argue that Mr. Glister, Cambridge Analytica, and the John Bolton Super PAC created a coordinated communication “under the Commissioner’s ‘common vendor’ standard, making the communications paid for by the John Bolton Super PAC unreported [and excessive] in-kind contributions to the Tillis Campaign and North Carolina Republican Party.” *See* Complaints of NC Democrats at 9; *see also* Complaint of Campaign Legal Center at 10. Bolton never coordinated with the Thom Tillis Campaign, never had any interaction with Mr. Glister, and, in fact, required that Cambridge Analytica impose a strict Firewall Policy to ensure that no such coordination could occur. Bolton never committed violation of the Commission’s rules and regulations, and this Complaint must be dismissed.

I. Background

Former United States Ambassador to the United Nations John R. Bolton organized the John Bolton Super PAC to advocate for the election of Senate and House candidates who share his dedication to American leadership in a world of growing international threats. Protecting our vital individual freedoms at home requires securing America’s interests in a challenging world. Candidates supported by the John Bolton Super PAC understand their profound obligation to restore Ronald Reagan’s commitment to “peace through strength” by urgently restoring our military strength and repairing devastating personnel, weapons and budget cuts. Moreover, they understand the importance of reinvigorating the inherent strength of the American economic system by slashing unnecessary and burdensome Federal regulations and reducing the national debt. America cannot have a strong international presence -- politically, diplomatically or

September 7, 2018
Page 4

militarily -- without a vibrant, growing domestic economy. Similarly, America cannot have that expanding economy without a strong presence around the world. *See* Declaration of Sarah Tinsley at ¶2 attached as Exhibit A.

Before suspending operations on March 31, 2018, the John Bolton Super PAC used independent expenditures and issue oriented education to support candidates who are committed to restoring strong American economic and national security. It supported leaders who believe that America's continuing presence in the world is good for America, good for our freedoms, good for our economy, and good for our future. The Super PAC believed that it is not American strength that is provocative, but American weakness, and it worked to refocus our national conversation on policies that make America strong so we can remain free. The John Bolton Super PAC never contributed directly to candidates, parties or PACs, but it aimed to make America's defense and foreign policy a significant factor in the federal elections. *See Id.* at ¶3.

To execute its strategy, the John Bolton Super PAC retained a number of vendors that had varying involvement in the activities of the John Bolton Super PAC. Some vendors provided strategic advice to the John Bolton Super PAC, and others, such as Cambridge Analytica, took on much smaller roles, never actively meeting with or advising the John Bolton Super PAC or having a role in decisions regarding election-related activity. *See Id.* at ¶4.

On or about July 1, 2014, the John Bolton Super PAC entered into a memorandum of understanding with SCL USA to serve as a data vendor under the direction of Campaign Solutions, the digital and political consultants for the John Bolton Super PAC. *See Id.* at ¶5. SCL USA served as partner of Cambridge Analytica, an entity also based in New York City, New York. *See Id.* at ¶6. The John Bolton Super PAC made three payments to Cambridge

September 7, 2018
Page 5

Analytica, all through City National Bank in Beverly Hill, California. *See Id.* at ¶7. At no time did the John Bolton Super PAC send any payment for services to any entity outside the United States or sign any contract with any entity outside the United States. *See Id.* at ¶8.

At no time did Cambridge Analytica, or any of its employees have any direct or indirect decision-making authority over the activities of the John Bolton Super PAC. *See Id.* at ¶9. In fact, Ambassador Bolton was the sole decision maker for the John Bolton Super PAC related to any activities of the John Bolton Super PAC. *See Id.* at ¶10. Any information conveyed to Ambassador Bolton from Cambridge Analytica was first analyzed and then delivered by Campaign Solutions and Ms. Tinsley. *See Id.* at ¶11.

When the John Bolton Super PAC retained SCL USA as its vendor, it was aware that SCL USA was retained by certain political campaigns in the United States. *See Id.* at ¶12. The John Bolton Super PAC had no knowledge, however, that either SCL USA or Cambridge Analytica had been retained by the Thom Tillis Committee or the Republican Party of North Carolina. *See Id.* at ¶13. Moreover, no individual or entity shared any information regarding any information regarding the strategies, plans, projects, activities, needs, or any other aspects of either the Thom Tillis Campaign or the Republican Party of North Carolina with Bolton. *See Id.* at ¶14. Nevertheless, Cambridge Analytica had a Firewall Policy in place that prevented “the improper disclosure (either intentional or inadvertent) of material information regarding the strategies, plans, projects, activities, or needs of federal candidates and/or political parties (national, state, and local) to other clients who might make use of that information to develop or distribute their own communications.” *See Id.* at ¶15. The John Bolton Super PAC received a copy of this policy. *See Id.* at ¶16.

September 7, 2018
Page 6

II. No Foreign National Had Any Role in the Decision-Making Process of the John Bolton Super PAC

The NC Democrats and Common Cause allege that the John Bolton Super PAC allowed foreign Nationals to participate in the decision-making process of the John Bolton Super PAC.

As explained in the Commission's regulations:

Participation by foreign nationals in decisions involving election-related activities. A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements in connection with elections for any Federal, State, or local office or decisions concerning the administration of a political committee.

See 11 C.F.R. § 110.20(i). As the Commission later explained in Advisory Opinion 2004-26, the Foreign National prohibition “encompasses foreign national involvement in the management of any political committee, and its decisions regarding its receipts and disbursements in connection with Federal and non-Federal elections.” *See* Ad. Op. 2004-26 at 3. At no time did the John Bolton Super PAC violate this provision of the Commission's regulations, including 11 C.F.R. § 110.20(i) and 52 U.S.C. § 30121(a)(1).

As explained herein, Cambridge Analytica was a data vendor hired by the John Bolton Super PAC that was managed on a day-to-day basis by Campaign Solutions, the general consultant for the John Bolton Super PAC. A New York-based entity, Cambridge Analytica was a partner with SCL USA, another New York-based entity. All payment were made to a bank in California. Consequently, there was no indication that any foreign national would even be working on the John Bolton Super PAC when the vendor was retained.

September 7, 2018
Page 7

At some point, an employee from Cambridge Analytica housed entirely at Campaign Solutions, the general consultant for the John Bolton Super PAC, may have been a foreign national. This individual, however, had no role in the decision-making processes and management at the John Bolton Super PAC. John Bolton himself made all decisions for the John Bolton Super PAC, and any activities of the organization were under his sole control. At no time did any employee of Cambridge Analytica directly advise Ambassador Bolton, and, at all times, both employees of Campaign Solutions and Sarah Tinsley, all U.S. citizens, had final say over any analysis. In addition, any information that was conveyed to the decision-maker, Ambassador Bolton, was by Ms. Tinsley. Consequently, at no time, did a foreign national have any role in the management of the John Bolton Super PAC, and no foreign national made any decisions regarding receipts or disbursements in connection with any election. This claim by Common Cause and the NC Democrats should be dismissed.

III. The John Bolton Super PAC Has Not Made any In-Kind Contribution in the Form of a Coordinated Communication

The Campaign Legal Center and the NC Democrats allege that Bolton has made an excessive, in-kind contribution by making expenditures on behalf of the Thom Tillis Committee and the Republican Party of North Carolina in violation of 52 U.S.C. § 30116(a)(7)(B)(i) and (ii). Specifically, the Complaints refer only to one page of an online portfolio created by a former employee of Cambridge Analytica, an employee who never did any work for the John Bolton Super PAC. Although the John Bolton Super PAC is unclear what activities Cambridge Analytica performed for either the Thom Tillis Committee or the Republican Party of North Carolina, or any other entity, the John Bolton Super PAC never made any expenditure “in cooperation, consultation or concert, with, or at the request or suggestion of, a candidate, his authorized political committee,

September 7, 2018
Page 8

or their agents” nor “a national, State, or local committee of a political party.” *See* 52 U.S.C. § 30116(a)(7)(B)(i) and (ii).

1. *The John Bolton Super PAC Never Received Information Regarding the Plans, Projects, Activities, or Needs of the Campaign or State Party*⁴

The John Bolton Super PAC never received any information regarding the plans, projects, activities, or needs of the Thom Tillis Committee or the Republican Party of North Carolina. The John Bolton Super PAC never had any communications or other interactions with Tim Glistner, the former employee who placed the publicly available advertisement created by the John Bolton Super PAC on his personal web page. Moreover, no other individual at Cambridge Analytica communicated any “[i]nformation about the campaign plans, projects, activities, or needs of the clearly identified candidate, the candidate's opponent, or a political party committee, and that information is material to the creation, production, or distribution of the communication.” *See* 11 C.F.R. §109.21(d)(4)(iii)(A). Consequently, the Conduct Standard has not been satisfied under Part A of the Common Vendor standard.

2. *The John Bolton Super PAC Never Received Information Used Previously by Cambridge Analytica in Providing Services to the Campaign or State Party*

The John Bolton Super PAC never received any information used previously by Cambridge Analytica in providing services to the Thom Tillis Committee or the Republican Party of North Carolina. As stated previously, Tim Glistner, who apparently had access to such information, never had any interactions with the John Bolton Super PAC. Moreover, no other person at Cambridge Analytica provided “[i]nformation used previously by the commercial vendor in providing services

⁴ Bolton concedes that the first two prongs of the 11 C.F.R. §109.21(a) have been satisfied.

September 7, 2018

Page 9

to the candidate who is clearly identified in the communication, or the candidate's authorized committee, the candidate's opponent, the opponent's authorized committee, or a political party committee, and that information is material to the creation, production, or distribution of the communication.” See 11 C.F.R. §109.21(d)(4)(iii)(B). Consequently, the Conduct Standard has not been satisfied under Part B of the Common Vendor standard.

3. *Cambridge Analytica Operated Under a Stringent Firewall Policy*

Cambridge Analytica had a stringent firewall policy in place, providing a safe harbor to the John Bolton Super PAC. As explained above, no “information about the candidate's or political party committee's campaign plans, projects, activities, or needs that is material to the creation, production, or distribution of the communication was used or conveyed” to the John Bolton Super PAC. See 11 C.F.R. §109.21(h). Consequently, the safe harbor is available to the John Bolton Super PAC. Importantly, the Firewall Policy implemented by Cambridge Analytica “prohibit[ed] the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to the candidate who is clearly identified in the communication, or the candidate's authorized committee, the candidate's opponent, the opponent's authorized committee, or a political party committee.” See 11 C.F.R. §109.21(h)(1). In addition, this policy was “described in a written policy that is distributed to all relevant employees, consultants, and clients affected by the policy.” See 11 C.F.R. §109.21(h)(2).

This claim should be dismissed without further action.

September 7, 2018
Page 10

IV. Conclusion

For the foregoing reasons, the Complaints should be dismissed, and the Commission should take no further action.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Mark Braden". The signature is written in a cursive, flowing style.

E. Mark Braden

Attachment

EXHIBIT A

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Declaration of Sarah Tinsley

I, Sarah Tinsley, declare under penalty of perjury that the following is true and accurate.

1. I was the Director of the John Bolton Super PAC. My business address was 1730 M Street, NW, Suite 611, Washington, DC 20036. The statements in this declaration are based upon my personal knowledge.
2. Former United States Ambassador to the United Nations John R. Bolton organized the John Bolton Super PAC to advocate for the election of Senate and House candidates who share his dedication to American leadership in a world of growing international threats. Protecting our vital individual freedoms at home requires securing America's interests in a challenging world. Candidates supported by the John Bolton Super PAC understand their profound obligation to restore Ronald Reagan's commitment to "peace through strength" by urgently restoring our military strength and repairing devastating personnel, weapons and budget cuts. Moreover, they understand the importance of reinvigorating the inherent strength of the American economic system by slashing unnecessary and burdensome Federal regulations and reducing the national debt. America cannot have a strong international presence -- politically, diplomatically or militarily -- without a vibrant, growing domestic economy. Similarly, America cannot have that expanding economy without a strong presence around the world.
3. Before suspending operations on March 31, 2018, the John Bolton Super PAC used independent expenditures and issue-oriented education to support candidates who are committed to restoring strong American economic and national security. It supported

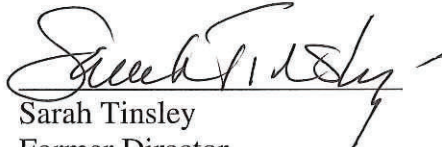
leaders who believe that America's continuing presence in the world is good for America, good for our freedoms, good for our economy, and good for our future. The Super PAC believed that it is not American strength that is provocative, but American weakness, and it worked to refocus our national conversation on policies that make America strong so we can remain free. The John Bolton Super PAC never contributed directly to candidates, parties or PACs, but it aimed to make America's defense and foreign policy a significant factor in the federal elections.

4. To execute its strategy, the John Bolton Super PAC retained a number of vendors that had varying involvement in the activities of the John Bolton Super PAC. Some vendors provided strategic advice to the John Bolton Super PAC, and others, such as Cambridge Analytica, took on much smaller roles, never actively meeting with or advising the John Bolton Super PAC or having a role in decisions regarding election-related activity.
5. On or about July 1, 2014, the John Bolton Super PAC entered into a memorandum of understanding with SCL USA to serve as a data vendor under the direction of Campaign Solutions, the digital and political consultants for the John Bolton Super PAC.
6. SCL USA served as partner of Cambridge Analytica, an entity also based in New York City, New York.
7. The John Bolton Super PAC made three payments to Cambridge Analytica, all through City National Bank in Beverly Hill, California.
8. At no time did the John Bolton Super PAC send any payment for services to any entity outside the United States or sign any contract with any entity outside the United States.
9. At no time did Cambridge Analytica, or any of its employees have any direct or indirect decision-making authority over the activities of the John Bolton Super PAC.

10. In fact, Ambassador Bolton was the sole decision maker for the John Bolton Super PAC related to any activities of the John Bolton Super PAC.
11. Any information conveyed to Ambassador Bolton from Cambridge Analytica was first analyzed and then delivered by Campaign Solutions and Ms. Tinsley.
12. When the John Bolton Super PAC retained SCL USA as its vendor, it was aware that SCL USA was retained by certain political campaigns in the United States.
13. The John Bolton Super PAC had no knowledge, however, that either SCL USA or Cambridge Analytica had been retained by the Thom Tillis Committee or the Republican Party of North Carolina.
14. Moreover, no individual or entity shared any information regarding any information regarding the strategies, plans, projects, activities, needs, or any other aspects of either the Thom Tillis Campaign or the Republican Party of North Carolina with Bolton.
15. Nevertheless, Cambridge Analytica had a Firewall Policy in place that prevented "the improper disclosure (either intentional or inadvertent) of material information regarding the strategies, plans, projects, activities, or needs of federal candidates and/or political parties (national, state, and local) to other clients who might make use of that information to develop or distribute their own communications."
16. The John Bolton Super PAC received a copy of this policy.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

By:


Sarah Tinsley
Former Director
John Bolton Super PAC

Date: September 6, 2018