



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

**STATEMENT OF REASONS OF
CHAIR SHANA M. BROUSSARD AND COMMISSIONER ELLEN L. WEINTRAUB**

Cambridge Analytica LLC, the disgraced data analytics company that dissolved in 2019 following a voter manipulation scandal involving the misuse of Facebook data,¹ worked on behalf of several high-profile campaigns and outside groups during the 2014 and 2016 election cycles. This work forms the basis of these Complaints, which allege that Cambridge and the Committees violated the foreign national prohibition.

The Federal Election Campaign Act provides that foreign nationals are prohibited from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, in connection with a federal, state, or local election.² Commission regulations further provide that:

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 . . . or decisions concerning the administration of a political committee.³

¹ Natasha Lomas, *Cambridge Analytica's former boss gets 7-year ban on being a business director*, TECHCRUNCH (Sept. 25, 2020, 4:49 A.M.), <https://techcrunch.com/2020/09/25/cambridge-analyticas-former-boss-gets-7-year-ban-on-being-a-business-director/>. Cambridge Analytica LLC was a limited liability company organized in Delaware. Its parent company, SCL Group Limited, was based in England and registered in the United Kingdom. Cambridge, and related companies “entered into administration in May 2018” and compulsory liquidation in the U.K. in April 2019. *See id.*

² 52 U.S.C. § 30121(a)(1); *see also* 11 C.F.R. § 110.20(b), (c), (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 expenditures. *See Bluman v. Federal Election Comm'n*, 800 F. Supp. 2d 281 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012).

³ 11 C.F.R. § 110.20(i) (emphases added). Moreover, this restriction bars foreign nationals from “involvement in the management of a political committee.” *See Contribution Limits and Prohibitions*, 67 Fed. Reg. 69928, 69946 (Nov. 19, 2002); *see also* Factual and Legal Analysis at 3-5, MUR 6959 (Cindy Nava) (while a foreign national could participate

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Cambridge was no small-time player. In 2014, Cambridge was retained by the Thom Tillis Committee, the John Bolton Super PAC, the North Carolina Republican Party, and Art Robinson for Congress. In 2016, Cruz for President, Donald J. Trump for President, Inc., and Make America Number 1, a super PAC supporting Trump's campaign, employed Cambridge's services. According to former Cambridge employees and internal documents, while the company was retained to provide data analysis-oriented services, it took on significantly greater roles in the campaigns, and embedded in the Committees foreign national employees who participated in, and in some instances directed, the Committees' election-related activities.⁴

For example, during the 2014 election cycle, Cambridge's primary service offered to clients was a form of voter targeting that it described as "psychological profiling to reach voters with individually tailored messages."⁵ Yet, according to Christopher Wylie, a Cambridge founder, former employee, and a foreign national, other foreign nationals working for Cambridge "weren't just working on messaging" but "were instructing campaigns on which messages go where and to who."⁶ Other Cambridge employees have supported this assertion, claiming that Cambridge "didn't handle only data" but also worked on message development and targeting strategy.⁷ Cambridge's work for Bolton PAC, the super PAC established by former Ambassador John Bolton, was even more extensive. Cambridge provided "[d]irection and feedback on all creative [content]" and the Bolton PAC's "creative teams were given further guidance based on which messages resonated most with target groups."⁸

in committee's activities as a volunteer without making a prohibited contribution, she was prohibited from participating in the committee's decisions regarding campaign activities and from managing or participating in the decisions of the Committee.).

⁴ 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"); Cambridge Analytica 2014 Activity Summary Report at 14, available at <https://web.archive.org/web/20180329190829/https://www.washingtonpost.com/apps/g/page/politics/2014-cambridge-analytica-report-on-congressional-and-legislative-races/2294/> ("2014 Report").

⁵ First Gen. Counsel's Rpt. at 8, MURs 7350, 7351, 7357, & 7382 (Cambridge Analytica LLC, *et al.*), dated Dec. 14, 2018 (citing 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-ca7f68bfff0fc_story.html (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-> ("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.") (Issenberg Article).

⁶ Schecter Article; 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> ("[Wylie] helped found Cambridge and worked there until late 2014.").

⁷ Timberg Article.

⁸ 2014 Report at 16; Issenberg Article ("[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.'"). Cambridge reportedly drafted talking points for

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During the 2016 election cycle, Cambridge's work—then on behalf of two presidential campaigns and a super PAC supporting Donald Trump—continued to sound alarm bells about potentially illegal foreign national involvement in U.S. campaigns at the highest levels. According to Alexander Nix, Cambridge's Chief Executive Officer, the company's work for the Trump Committee was comprehensive. In his own words, Cambridge's contract went from being originally just data, to “end to end coverage.”⁹ In doing so, however, Cambridge's foreign national employees' work went beyond providing vendor services to participating in and directing the election-related activities of the Trump presidential campaign, in violation of federal law. Likewise, for the Cruz Committee, Cambridge was reportedly part of Cruz's 2016 campaign from its inception and was “put in charge of the entire data and digital operation, embedding 12 of its employees in Houston.”¹⁰

This high-level involvement of Cambridge's foreign national employees during both the 2014 and 2016 election cycles, raises credible concerns that Cambridge and the Committee's impermissibly permitted foreign nationals to “direct, dictate, control, or directly or indirectly participate in the decision-making process”¹¹ on the Committees' election-related activities. This is an egregious violation of federal law.

The Commission voted to find reason to believe that *only* Cambridge's 2014 work on behalf of the Thom Tillis Committee, the John Bolton Super PAC, the North Carolina Republican Party, and Art Robinson for Congress violated the law and authorized an investigation.¹² Two previous Commissioners, who have since left the Commission, did not vote to move forward on the 2016-related conduct. They were willing to move forward only on the claims that were already imperiled under the statute of limitations, setting the Commission up for failure. Unfortunately, there is no public explanation of *why* they would not move forward on the later allegations. When they left the Commission, they left no Statement of Reasons behind to justify their votes. Instead, the American

Ambassador John Bolton to use to describe the services Cambridge was providing to his committee. First Gen. Counsel's Rpt. at 6-7.

⁹ Timberg Article (quoting from Mike Butcher, *Cambridge Analytica CEO Talks to TechCrunch about Trump, Hillary and the Future*, TECHCRUNCH (Nov. 6, 2017), available at https://techcrunch.com/2017/11/06/cambridge-analytica-ceo-talks-to-techcrunch-about-trump-hillaryand-the-future/?_ga=2.187013352.1114271172.1541530516-406248043.1541530516) (Nix: “So rather than having multiple vendors servicing [Trump's] campaign, as is traditional, as Hillary had, we walked in there and said, ‘We'll do your data analytics.’ And they were like: ‘There's no one doing research.’ [We said] we will do your research. ‘There's no doing digital’ We will do digital. ‘There's no one doing TV.’ ‘We'll do your TV.’ We'll do your donations. And so overnight it went from being originally just data, to end to end.”)).

¹⁰ Andy Kroll, *Cloak and Data: The Real Story Behind Cambridge Analytica's Rise and Fall*, MOTHER JONES (May/June 2018), available at <https://www.motherjones.com/politics/2018/03/cloak-and-data-cambridge-analytica-robert-mercier/>; *see also* Issenberg Article (“By the time [Cruz for President] transitioned this spring into a full-fledged presidential campaign, Cambridge Analytica was fully integrated into the Texas senator's political plans. Even before he formally announced his candidacy, opened his Houston office, or had a pollster in place, Cruz had [Cambridge] on call to tell him which Iowans were introverted and which were neurotic.”).

¹¹ 11 C.F.R. § 110.20(i).

¹² Commissioner Weintraub voted to find reason to believe violations occurred on both the 2014 and 2016-related activities. Certification in MURs 7350, 7351, 7357, & 7382 (Cambridge Analytica LLC, *et al.*), dated Apr. 12, 2019. This included a separate reason to believe finding that the Bolton PAC violated 52 U.S.C. §§ 30116(a) and 30118(a), and 11 C.F.R. § 109.21 by making coordinated communications using Cambridge as a “common vendor.” *Id.* Subsequently, the Commission unanimously agreed to move forward only on the 2014 activity. Certification in MURs 7350, 7351, 7357, & 7382 (Cambridge Analytica LLC, *et al.*), dated July 30, 2019.

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people are left in the dark as to why the Commission was unable to muster the necessary four votes to pursue these serious allegations of foreign intervention in the 2016 election.

Unfortunately, the Office of General Counsel's investigation of the 2014 activity never gained traction.¹³ After finding reason to believe on the 2014 activity in the summer of 2019, the Commission lost its quorum for the majority of the investigation period.¹⁴ Shortly before losing its quorum, the Commission issued a subpoena directed at Wylie, but he never responded, and it is unclear whether he received the subpoena.¹⁵ In addition to the Wylie subpoena, the Office of General Counsel sought documents from Cambridge in the United Kingdom for over a year without any success.¹⁶ At the end of a years-long investigation, the Office of General Counsel recommended that the Commission take no further action on the 2014 allegations that the Commission found reason to believe and dismiss the remaining allegations, including those that pertained to the 2016 activity.

Once again, the Commission has failed to take meaningful enforcement action on complaints alleging serious violations of the foreign national ban. Other agencies of the federal government were able and willing to take timely and meaningful action against Cambridge. The Federal Trade Commission, for example, filed an administrative complaint against Cambridge and settled with Nix and an app developer who worked for the company.¹⁷ These settlements had real consequences: Nix and the app developer were restricted on how they conduct business in the future.¹⁸ Despite the Commission's previous commitment to prioritizing foreign national matters,¹⁹ that commitment appears in retrospect to have been lip service as we continue to skirt our obligations to the American people.

November 4, 2021
 Date


 Shana M. Broussard
 Chair

November 4, 2021
 Date


 Ellen L. Weintraub
 Commissioner

¹³ The only information the Office of General Counsel received was from four domestic respondents and Alexander Nix, who submitted voluntary responses to the reason to believe findings. Second General Counsel's Rpt at 4.

¹⁴ *Id.* at 5. The Commission lost its quorum from August 30, 2019 to June 5, 2020, and again from July 3, 2020 to December 2020.

¹⁵ *Id.* at 5-6.

¹⁶ *Id.* at 6-8.

¹⁷ Press Release, FED. TRADE COMM'N, "FTC Sues Cambridge Analytica, Settles with Former CEO and App Developer," July 24, 2019, available at <https://www.ftc.gov/news-events/press-releases/2019/07/ftc-sues-cambridge-analytica-settles-former-ceo-app-developer>.

¹⁸ *Id.*

¹⁹ At the Commission's public meeting on September 15, 2016, FEC Commissioners unanimously directed the Office of General Counsel to prioritize cases involving allegations of foreign influence.