



MUR # 7382

May 2, 2018

The Honorable Caroline C. Hunter, Chair
 Federal Election Commission
 1050 First Street, NE
 Washington, DC 20463
VIA FED EX

OFFICE OF
 GENERAL COUNSEL
 2018 MAY 10 PM 1:59

Re: Federal Election Campaign Act Violations
 United States Senate Election
 2014 North Carolina
 Complaint Seeking Immediate Investigation

Dear Ms. Hunter:

As Chairman of the Democratic Party of North Carolina and as a registered voter of North Carolina, I am writing pursuant to N.C.G.S. 52 U.S.C. § 30109(a)(1), to report what I believe to be serious and multiple violations of the Federal Election Campaign Act by the Thom Tillis Committee, and its treasurer, Collin McMichael, in his official capacity, and against the North Carolina Republican Party, and its treasurer, Jason Lemons, in his official capacity.

The violations arise from the afore-mentioned parties' relationship with foreign nationals, Cambridge Analytica, and the John Bolton Super PAC during the 2014 election cycle. The violations arise from the involvement of foreign nationals, including employees of Cambridge Analytica in the Tillis Campaign and the North Carolina Republican Party. In addition, the Tillis Campaign and the North Carolina Republican Party accepted excessive and illegal in-kind contributions from the John Bolton Super PAC through a common vendor, Cambridge Analytica. Cambridge Analytica provided information to both the John Bolton Super PAC and the Tillis Campaign and resulted in illegal coordinated expenditures.

Paid for by the North Carolina Democratic Party (www.ncdp.org) Not authorized by any candidate or candidate committee.
 Contributions are not tax-deductible for federal or state income purposes.

I submit this Complaint under oath and pursuant to the provisions of N.C.G.S. 52 U.S.C. § 30109(a)(1) as a formal complaint against the named parties. I would appreciate your immediate investigation of these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Goodwin", with a long horizontal flourish extending to the right.

Wayne Goodwin
Chairman
North Carolina Democratic Party

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Mr. Wayne Goodwin, Chairman
North Carolina Democratic Party
220 Hillsborough Street
Raleigh, NC 27603

Complainant,

v.

Senator Thom Tillis
P.O. Box 97396
Raleigh, NC 27624

Thom Tillis Committee and Collin McMichael, Treasurer
P.O. Box 97396
Raleigh, NC 27624

North Carolina Republican Party and Jason Lemons, Treasurer
1506 Hillsborough Street
Raleigh, NC 27605

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Senator Thom Tillis; his principal campaign committee, Thom Tillis Committee (the “Tillis Campaign”), and its treasurer, Collin McMichael, in his official capacity;¹ and against the North Carolina Republican Party, and its treasurer, Jason Lemons, in his official capacity (together, “Respondents”).² We respectfully request that you investigate Respondents’ flagrant alleged violations of federal law

¹ Federal Election Commission, Thom Tillis Committee, Statement of Organization, filed March 16, 2017, <http://docquery.fec.gov/pdf/253/201703210200085253/201703210200085253.pdf>.

² Federal Election Commission, North Carolina Republican Party, Statement of Organization, filed June 19, 2017, <http://docquery.fec.gov/cgi-bin/forms/C00038505/1166754/>.

and Federal Election Commission (the “FEC” or “Commission”) regulations prohibiting participation by foreign nationals in decisions involving election-related activities, and into Respondents’ acceptance, on information and belief, of excessive in-kind contributions in the form of coordinated expenditures with the John Bolton Super PAC.

Summary

During the 2014 election cycle, the Tillis Campaign and the North Carolina Republican Party contracted with Cambridge Analytica to provide data targeting and media consulting services. On information and belief, Cambridge Analytica’s political consulting team was primarily comprised of individuals who were foreign nationals. On information and belief based on the public statements of former Cambridge Analytica employees, these foreign nationals provided consulting services to the two committees in violation of the Federal Election Campaign Act (the “Act”) and the FEC’s prohibition on the participation of foreign nationals in the decision-making process with regard to any political committee’s election-related activities. The Tillis Campaign and the North Carolina Republican Party, also on information and belief, knowingly assisted Cambridge Analytica’s foreign national employees in influencing the North Carolina Senate race in violation of Commission regulations and Federal law.

The Tillis Campaign and the North Carolina Republican Party, on further information and belief, also accepted illegal and excessive in-kind contributions from the John Bolton Super PAC, through the use of Cambridge Analytica as a common vendor. Based on publicly available information, Cambridge Analytica appears to have used and conveyed information to the John Bolton Super PAC that had previously been used to advise the Tillis Campaign and North Carolina Republican Party, and the information was material to the John Bolton Super PAC’s

communications. This impermissible conveyance of information through a common vendor meant that the John Bolton Super PAC's communications were illegal coordinated expenditures.

Foreign National Ban

The FEC broadly prohibits “[p]articipation by foreign nationals in decisions involving election-related activities.”³ This ban was codified in the Bipartisan Campaign Reform Act, which prohibits foreign nationals from “directly *or indirectly*” making “an expenditure, independent expenditure, or disbursement for an electioneering communication.”⁴ The FEC also prohibits any person from knowingly providing “substantial assistance” in the making of a direct or indirect expenditure or disbursement by a foreign national.⁵ Foreign nationals such as those employed by Cambridge Analytica are prohibited from “direct[ing], dictat[ing], control[ling], or directly or indirectly participat[ing] in the decision-making process” of any person with regard to any Federal or non-Federal election-related activities in the United States.⁶ This ban includes involvement in “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.”⁷

Cambridge Analytica was founded in 2013 by the British strategic consulting company SCL.⁸ During the time that it was working for the Tillis Campaign and the North Carolina

³ 11 C.F.R. § 110.20(i).

⁴ 52 U.S.C. § 30121(a) (emphasis added); Contributions Limitations and Prohibitions, Explanation and Justification, 67 Fed. Reg. 69928, 69943, n. 7 (Nov. 19, 2002).

⁵ 11 C.F.R. § 110.20(h); Contributions Limitations and Prohibitions, Explanation and Justification, 67 Fed. Reg. 69928, 69946 (Nov. 19, 2002).

⁶ 11 C.F.R. § 110.20(i).

⁷ *Id.*

⁸ Sasha Issenberg, Cruz-Connected Data Miner Aims to Get Inside U.S. Voters' Heads, Bloomberg (November 12, 2015), <https://www.bloomberg.com/news/features/2015-11-12/is-the-republican-party-s-killer-data-app-for-real->.

Republican Party, Cambridge Analytica was being run by Alexander Nix, a British citizen, and was largely operated by British and Canadian citizens.⁹ In 2014, Tim Glister, also a British citizen, was “dispatched to North Carolina, where he was tasked with helping the state Republican party on behalf of Thom Tillis’ ultimately successful campaign.”¹⁰ Mr. Glister has confirmed that he spent three months in North Carolina in 2014 “helping Thom Tillis’ successful senatorial campaign create highly targeted advertising that harnessed SCL’s national database of voter issue sentiment and psychographic profiles.”¹¹ He continued, “we helped the Tillis campaign create a raft of communications across platforms that engaged voters with the issues they personally cared about and deliver victory against the predictions of traditional polls.”¹² He also claims to have assisted the North Carolina Republican Party in their efforts to support Tillis in 2014.¹³

Cambridge Analytica employees, including Mr. Glister, analyzed voter behavior, made strategic decisions regarding messaging, and advised both the Tillis Campaign and the North Carolina Republican Party regarding how and where to spend advertising dollars, candidate time, and other campaign resources.¹⁴ According to the Tillis Campaign’s general consultant, Paul Shumaker, the work Cambridge Analytica did directly influenced the messaging and spending decisions of the Tillis Campaign. Specifically, Cambridge Analytica’s data analysis “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

⁹ *Id.*

¹⁰ *Id.*

¹¹ Exhibit A.

¹² *Id.*

¹³ Exhibit B.

¹⁴ *Id.*; Issenberg *supra* note 8.

education policy to charges that incumbent Kay Hagan had failed to take ISIS's rise seriously.”¹⁵

Mr. Glister's own website contradicts the claim by Cambridge Analytica that foreign nationals were not involved in strategic decision-making on campaigns and another former employee has stated that Cambridge Analytica “embedded” foreign nationals in North Carolina.¹⁶

Foreign nationals employed by Cambridge Analytica participated in expenditures and disbursements made by those committees, by analyzing voter personalities and behaviors, designing communications, and participating in strategic decision-making about how the Tillis Campaign and North Carolina Republican Party should spend their money and resources.¹⁷ As foreign nationals were embedded directly in the campaign, Tillis and the North Carolina Republican Party appear to have had reason to know that they were permitting foreign nationals to play a decision-making role in their campaigns. By allowing foreign nationals to participate in decision-making related to their expenditures in this manner, the Tillis Campaign and the North Carolina Republican Party, again on information and belief, provided substantial assistance in the making of expenditures and disbursements by foreign nationals in violation of federal law and FEC regulations.¹⁸

Coordination

According to FEC regulations, a coordinated communication is treated as an in-kind contribution to the candidate or committee it supports.¹⁹ A communication is coordinated is if it is (1) paid for by a person other than the candidate it supports or his authorized committee or

¹⁵ Issenberg *supra* note 8.

¹⁶ Exhibit A; Anna R. Schechter, *Wylie: Foreigners Worked for Cambridge Analytica on NC Senate Campaign*, NBC News (March 25, 2018) <https://www.nbcnews.com/politics/elections/wylie-foreigners-worked-cambridge-analytica-nc-senate-campaign-n859526>; Carole Cadwalladr and Emma Graham-Harrison, *Staff Claim Cambridge Analytica Ignored US Ban on Foreigners Working on Elections*, The Guardian (March 17, 2018), <https://www.theguardian.com/uk-news/2018/mar/17/cambridge-analytica-non-american-employees-political>.

¹⁷ *Id.*

¹⁸ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(h).

¹⁹ 11 C.F.R. § 109.21(b).

political party committee; (2) it expressly advocates for that candidate or refers to a candidate within 90 days of an election; and (3) the entity paying for the communication and the candidate's authorized committee or political party utilize a common vendor who uses or conveys material information to the funder of the communication, which was also used to provide services to the candidate or party.²⁰

Use of a common vendor constitutes coordination where (i) the person paying for the communication "contracts with or employs a commercial vendor;" (ii) the vendor, "including any owner, officer, or employee of the vendor, has provided" certain services to the candidate identified in the communication, the candidate's committee, or a political party committee within the previous 120 days; and (iii) the common vendor uses or conveys to the person paying for the communication "[i]nformation about the campaign plans, projects, activities, or needs" of the candidate or party, or the common vendor uses or conveys information that "used previously by the commercial vendor in providing services to the candidate," where that information is "material to the creation, production, or distribution of the communication."²¹ The services provided under part (ii) include media strategy, the selection of audiences, polling, content development, production, identifying voters, and general consulting and media advice.²²

During the 2014 election cycle, the John Bolton Super PAC paid for ads that expressly advocated for Thom Tillis' election to the U.S. Senate.²³ In total, John Bolton Super PAC reported spending \$1,372,217.03 in support of Senator Tillis' campaign.²⁴ It is undisputed that

²⁰ *Id.* § 109.21(a).

²¹ *Id.* § 109.21(d)(4).

²² *Id.* § 109.21(d)(4)(ii).

²³ Brian Murphy, John Bolton's pro-Tillis spending in 2014 violated election laws, complaint claims, *The News & Observer* (March 29, 2018) <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article207362544.html>.

²⁴ See FEC, John Bolton Super PAC, 2013-2014 Total Disbursements, <https://www.fec.gov/data/committee/C00542464/?cycle=2014&tab=spending#total-disbursements>; Brian Murphy,

Senator Tillis, the North Carolina Republican Party, and the John Bolton Super PAC employed the same vendor, Cambridge Analytica.²⁵

The services that Cambridge Analytica provided to the Tillis Campaign and North Carolina Republican Party include the strategic consulting services described in 11 C.F.R. § 109.21(d)(4)(ii). According to one of the Tillis Campaign’s consultants, “Cambridge Analytica developed models to predict individual support, turnout likelihoods, and issues of concern that would recalibrate continuously based on interactions with voters.”²⁶ The consultant also said that Cambridge Analytica’s work “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.”²⁷

Cambridge Analytica has also claimed that its “psychographic profiling” technique, whereby it used online data to profile and target voters and to develop messaging concepts, was used by the North Carolina Republican Party in 2014.²⁸ Cambridge Analytica strategist Mr. Glister highlighted on his web site that he spent three months in North Carolina helping Senator Tillis’ campaign create targeted advertising that “harnessed SCL’s national database of voter issue sentiment and psychographic profiles.”²⁹ After media scrutiny of his 2014 activities began

John Bolton’s Pro-Tillis Spending in 2014 Violated Election Laws, Complaint Claims, The News & Observer (March 29, 2018) <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article207362544.html>.

²⁵ See FEC, Thom Tillis Committee, 2014 Post-Election Report 819 (Dec. 9, 2014); North Carolina Republican Party, Aug. 2014 Monthly Report 52 (Aug. 19, 2014), Sept. 2014 Monthly Report 70 (Sept. 18, 2014), 2014 Pre-General Report 62, (Jan. 31, 2015) 2014 Post-General Report 113 (Dec. 3, 2014); John Bolton Super PAC, October 2014 Quarterly Report 33-34 (October 15, 2014), 2014 Pre-Primary Report 33 (Aug. 28, 2014).

²⁶ Issenberg, *supra* note 8.

²⁷ *Id.*

²⁸ Kylie Morris, *New Documents Reveal Cambridge Analytica Pitched ‘Unique’ Social Media Data*, Channel 4 News (April 10, 2018) <https://www.channel4.com/news/new-documents-reveal-cambridge-analytica-pitched-unique-social-media-data-in-multiple-us-election-campaigns>.

²⁹ Exhibit A.

to grow, Glister changed his website, describing this same work as being on behalf of the “local political party.”³⁰

Though the FEC has found that use of a common vendor who is merely selling data without participating in the creation, production or distribution of communications does not constitute coordination, Cambridge Analytica’s services went well beyond the sale of data: Cambridge Analytica embedded employees in the campaign and State Party, making decisions about audience selection and content development, and providing other strategic consulting services.³¹

After providing campaign services to the Tillis campaign and the North Carolina Republican Party in the final months of 2014, Cambridge Analytica appears to have used the same information in support of the John Bolton Super PAC’s communications in support of Senator Tillis. Just as Senator Tillis’ consultant reported using advice from Cambridge Analytica to target voters based on sensitivity to national security concerns, this same targeting and voter analysis scheme appears to have been used to influence the targeting of advertisements in support of Senator Tillis for the John Bolton Super PAC in the final months of the 2014 election.³² According to former Cambridge Analytica employees, the company used the “psychographic models” it built to “design concepts for advertisements for candidates supported by Mr. Bolton’s PAC, including the 2014 campaign of Thom Tillis.”³³ On the same web page where he once advertised having worked on behalf of Senator Tillis’ campaign, Mr. Glister shared an advertisement that was paid for by the John Bolton Super PAC, indicating that the

³⁰ Exhibit B.

³¹ See 11 C.F.R. § 109.21(d)(4)(iii); FEC MUR 6888 (RNC et al.).

³² Matthew Rosenberg, *Bolton Was Early Beneficiary of Cambridge Analytica’s Facebook Data*, NY Times (March 23, 2018) <https://www.nytimes.com/2018/03/23/us/politics/bolton-cambridge-analyticas-facebook-data.html>.

³³ *Id.*

same work used to create and target ads on Senator Tillis' campaign was also used to advise the Super PAC on the creation and targeting of its advertisements in support of Senator Tillis.³⁴

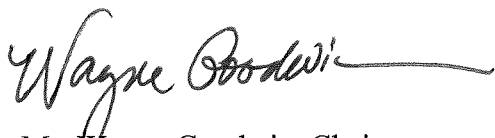
Therefore, and on information and belief, this activity constitutes coordination under the Commission's "common vendor" standard, making the communications paid for by the John Bolton Super PAC unreported in-kind contributions to the Tillis Campaign and North Carolina Republican Party. Accordingly, at over \$1.3 million, on information and belief, John Bolton Super PAC's expenditures far exceed the limitations on contributions under FEC regulations and Federal law.

REQUESTED ACTION

As we have shown, there is clear reason to believe that Respondents have violated the Act and Commission regulations by permitting foreign nationals to participate in the decision making-process of their political committees and to direct and control spending to influence U.S. elections. On information and belief based on public statements and news articles, Respondents, also appear to have received illegal and excessive in-kind contributions from a Super PAC by employing a common vendor that used information gained in providing services to them to materially influence supposedly independent communications in support of Senator Tillis' campaign. We respectfully request that the Commission immediately investigate these alleged violations and that, based on the constellation of findings, the Respondents be fined the maximum amount permitted by law.

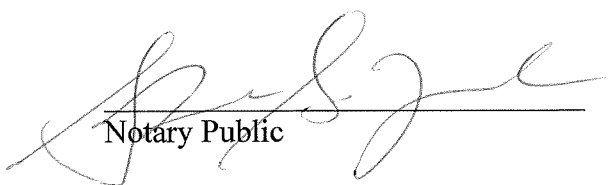
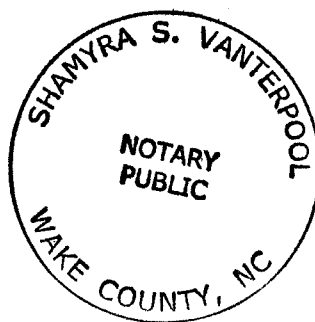
³⁴ See Exhibit A.

Sincerely,



Mr. Wayne Goodwin, Chairman
North Carolina Democratic Party
on behalf of the North Carolina Democratic Party

SUBSCRIBED AND SWORN to before me this 1st day of May, 2018.


Notary Public

My Commission Expires:

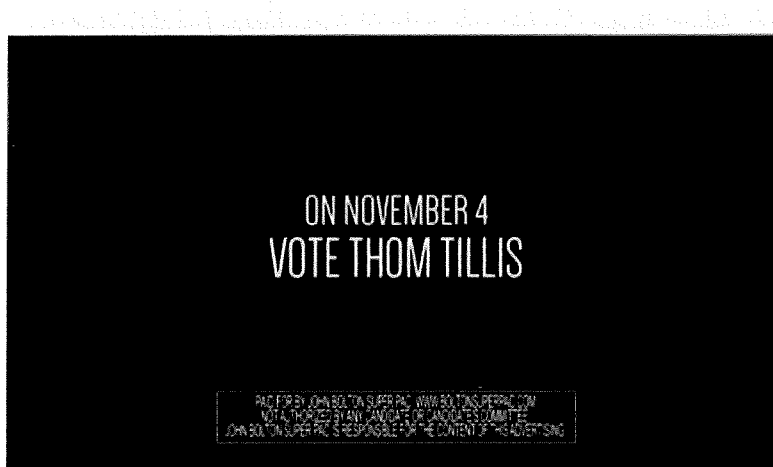
02/15/2021

EXHIBIT A

Tim Glister Works

Thom Tillis

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In 2014 I spent three months in North Carolina with an SOL consultancy team helping Thom Tillis successfully win the election. We helped the Tillis campaign create highly targeted advertising that leveraged SOL's national database of voter race, age, gender, and geographic profiles.

In an extremely crowded market North Carolina became the most expensive political race ever in terms of media spend - we helped the Tillis campaign create a raft of innovative, on-air, and on-ground advertising that engaged voters with the issues they personally cared about and helped secure victory against the incumbent in the gubernatorial race.

EXHIBIT B

Tim Glister Works

Thom Tillis



In 2014, I spent three months in North Carolina with an SCLC deployment team, providing a local political party with voter sentiment analysis which they used in support of Thom Tillis' successful senatorial campaign.

In an extremely crowded market, North Carolina became the most expensive senatorial race ever in terms of media spend - we helped the local party create a raft of communications across platforms that engaged voters with the issues they personally cared about and delivered victory against the predicted odds of a tight race.