



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Benjamin P. Keane
Dentons US LLP
1900 K Street, N.W.
Washington, D.C. 20006

June 16, 2021

RE: MUR 7583

Dear Mr. Keane:

On March 25, 2019, the Federal Election Commission notified your clients, Kemp for Governor, Inc., and Brian Kemp, of a Complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On June 10, 2021, the Commission, on the basis of the information in the complaint and information provided by your clients, determined to dismiss the allegation that your clients violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by accepting or receiving a foreign national contribution or donation. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574 or jdigiovanni@fec.gov.

Sincerely,

A handwritten signature in cursive script that reads "Jin Lee".

Jin Lee
Acting Assistant General Counsel

Enclosures:
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Brian Kemp for Governor, Inc. **MUR: 7583**
4 Brian Kemp
5 Georgia Republican Party, Inc., and Joseph
6 Brannan in his official capacity as treasurer
7 Rinat Akmetshin
8 Internet Research Agency
9 Federal News Agency, LLC
10 Majority Strategies, Inc.
11 Medium Buying, LLC
12 Something Else Strategies, LLC
13 September Group, LLC

14 **I. INTRODUCTION**

15 This matter was generated by a complaint filed with the Federal Election Commission
16 making numerous allegations that Brian Kemp and his Georgia state campaign committee, Kemp
17 for Governor, Inc. (the “Kemp Committee”), and the Georgia Republican Party (the “GA GOP”)
18 accepted prohibited contributions or donations from foreign nationals in violation of the Federal
19 Election Campaign Act of 1971, as amended (the “Act”). The Complaint alleges that these
20 contributions or donations were generally in the form of voter suppression activity and artificial
21 social media support.¹ Specifically, the Complaint alleges that the Kemp Committee and the GA
22 GOP contracted with foreign nationals in Romania and Russia, including the Internet Research
23 Agency (“IRA”) and the Federal News Agency (“FNA”), to provide social media services,
24 masking the payments through disbursements to domestic vendors.² The Complaint also alleges
25 that Rinat Akhmetshin, a foreign national and lobbyist, acted as an intermediary between the GA

¹ Compl. at 3 (Mar. 18, 2019).

² *Id.* at 2-3.

1 GOP and the Kemp Committee in the United States and IRA and FNA in Russia.³ According to
2 the Complaint, Akhmetshin did so by funneling payments by the Kemp Committee and the GA
3 GOP meant for IRA and FNA through a number of domestic political consulting firms, including
4 Majority Strategies, Inc., Medium Buying, LLC, Something Else Strategies, LLC, and
5 September Group, LLC, which the Complaint alleges Akhmetshin ultimately controlled.⁴

6 The GA GOP and the Kemp Committee submitted Responses denying all allegations in
7 the Complaint and asserting that all expenditures made to the vendors identified in the Complaint
8 were for legitimate campaign expenditures as itemized on their filings with the Federal Election
9 Commission (the “Commission”).⁵ Both the GA GOP and the Kemp Committee aver that they
10 had no contact with, and accepted no contributions or assistance from, either the IRA or FNA.⁶
11 Akhmetshin also submitted a Response denying any involvement in the circumstances described
12 in the Complaint and submitting information for the record with respect to several facts alleged
13 by the Complainant, including the parties by which he had been paid and the purposes of those
14 payments.⁷ The Commission received no response from the IRA, FNA, or any of the alleged
15 “shell corporations” also named in the Complaint.⁸

16 As set forth below, there is not a sufficient factual basis to support these allegations. The
17 Commission therefore dismisses the allegations that: (1) Kemp, the GA GOP, and the Kemp
18 Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by accepting or

³ *Id.* at 2, 4.

⁴ *Id.*

⁵ Kemp Committee Resp. (May 23, 2019); GA GOP Resp. (Apr. 12, 2019).

⁶ Kemp Committee Resp. at 3; GA GOP Resp at 3.

⁷ Akhmetshin Resp. (Apr. 2, 2019).

⁸ Compl. at 2.

1 receiving a contribution or donation from a foreign national in connection with a State election;
2 (2) the IRA and FNA, both foreign entities, violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R.
3 § 110.20(c) by making a prohibited contribution or donation to the Kemp Committee or the GA
4 GOP in connection with a State election; and (3) Rinat Akhmetshin, Majority Strategies, Inc.,
5 Medium Buying, LLC, Something Else Strategies, LLC, and September Group, LLC, violated
6 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(h) by substantially assisting in making or
7 accepting a foreign contribution or donation.

8 **II. FACTUAL BACKGROUND**

9 Brian Kemp was the Republican candidate for Governor of Georgia in 2018, and the
10 Kemp Committee was his principal campaign committee.⁹ During the 2018 gubernatorial
11 campaign, Kemp and the Kemp Committee maintained an official Twitter account,
12 @BrianKempGA.¹⁰ The GA GOP also maintained an official Twitter account,
13 @GARepublicans.¹¹

14 The Complaint alleges that IRA and FNA are Russian entities known to have interfered
15 in the 2016 U.S. presidential election.¹² Both entities appear on the Office of Foreign Asset

⁹ Kemp Committee Resp. at 1.

¹⁰ See Compl. at 1; see also Brian Kemp (@BrianKempGA), TWITTER, <https://twitter.com/briankempga> (last visited Mar. 2, 2021).

¹¹ See Comp. at 2; see also GAGOP (@GARepublicans), TWITTER, <https://twitter.com/garepublicans> (last visited Mar. 2, 2021).

¹² Compl. at 1.

1 Control’s Specially Designated Nationals list, which includes all foreign entities whose assets are
2 blocked in the United States and with which U.S. persons are prohibited from dealing.¹³

3 Between April and December 2018, the Kemp Committee and the GA GOP engaged
4 multiple vendors for campaign-related purposes, including media buys, advertising, canvassing,
5 and other services.¹⁴ These vendors included certain vendors identified in the Complaint:
6 Medium Buying LLC, Majority Strategies, September Group LLC,¹⁵ and Something Else
7 Strategies.¹⁶ According to the Kemp Committee’s Response, all of these vendors are
8 domestically incorporated political consulting firms based in, respectively, Ohio, Florida,
9 Wyoming, and South Carolina.¹⁷

10 The Complaint, however, alleges that the vendors are shell companies actually controlled
11 by Rinat Akhmetshin, a foreign lobbyist and media consultant with dual citizenship in the United
12 States and the Russian Federation.¹⁸ According to the Complaint, Akhmetshin used Medium
13 Buying LLC, Majority Strategies, September Group LLC, and Something Else Strategies as

¹³ See Off. Foreign Asset Control, *Sanctions List Search*, OFAC.TREAS.GOV (last visited Mar. 2, 2021), <https://sanctionssearch.ofac.treas.gov/> (under “Name,” search “Internet Research Agency” and “Federal News Agency”).

¹⁴ Compl. at 10-16; Kemp Committee Resp. at 2-3; GA GOP Resp., Ex. A.

¹⁵ Though none of the vendor corporations submitted a Response in this matter

¹⁶ Compl. at 10-16.

¹⁷ Kemp Committee Resp. at 2; *accord* Compl. at 2, 3.

¹⁸ Compl. at 4; see Tr. of Interview of Rinat Akhmetshin Before the Senate Judiciary Committee 13-14 (Nov. 14, 2017), https://www.judiciary.senate.gov/imo/media/doc/Akhmetshin%20Transcript_redacted.pdf.

1 conduits through which the GA GOP and the Kemp Committee funneled payments to IRA and
2 FNA in exchange for voter suppression services and artificial social media support.¹⁹

3 As support for the allegations, the Complaint relies on a number of tweets by the GA
4 GOP, the Kemp Committee, an alleged foreign national previously operating under the Twitter
5 handle “@MihaiBasarab,” and the accounts of multiple individuals alleged to be foreign
6 nationals posing as U.S. persons. The @MihaiBasarab twitter handle appeared to indicate that
7 its locations include “Romania” and “America” and features both a Romanian and U.S. flag.²⁰
8 Since the Complaint was filed, the @MihaiBasarab account was suspended, and its tweets are no
9 longer available.²¹

10 The Complaint alleges that, on July 18, 2018, @MihaiBasarab made an offer of foreign
11 assistance to the Kemp campaign, tweeting at the official Kemp campaign account, “I would not
12 have voted for Hillary if George Soros gave me \$1million.”²² The Complaint states that the
13 tweet was a coded request for payment in exchange for voter suppression services to be provided
14 to the Kemp campaign by IRA and FNA.²³

15 The Complaint also alleges that the Kemp Committee and the GA GOP knowingly
16 accepted this foreign assistance.²⁴ It bases this allegation on a tweet by the GA GOP eight days

¹⁹ Compl. at 1-3, 4.

²⁰ *Id.*, Attach. 1. The Complaint also cites to tweets by @MihaiBasarab directed toward the Twitter account for the Florida gubernatorial campaign of Ron DeSantis offering “IT” support.

²¹ @MihaiBasarab, TWITTER, <https://twitter.com/MihaiBasarab/> (last visited Mar. 2, 2021) (reading only “Account suspended[.] Twitter suspends accounts which violate the Twitter Rules”).

²² Compl. at 2, 9.

²³ Compl. at 3.

²⁴ *Id.*

1 after the alleged \$1 million request in which the GA GOP quoted Kemp as stating that “[w]e are
2 stronger than Soros and his millions.”²⁵ The tweet received 49 retweets and 117 likes.²⁶

3 As support for the idea that @MihaiBasarab in fact provided the promised services to the
4 GA GOP, the Complaint cites to a September 19, 2018, tweet by the GA GOP, which stated:
5 “While getting rich on taxpayer money and political non-profits funded by George Soros,
6 Abrams rejected legislation to protect innocent children from sex predators. That is inexcusable.
7 Stacey Abrams is just too extreme for Georgia. #gapol #gafirst #gagop.”²⁷ The tweet received
8 48 retweets and 50 likes,²⁸ which the Complaint alleges reflects artificially inflated support
9 provided by fraudulent accounts run by the IRA and FNA.²⁹ The Complaint further cites to an
10 October 15, 2018, retweet by @MihaiBasarab of a tweet from the handle @moveoverlaw that
11 read, “Abrams Supports Terrorist” followed by an American flag emoji.³⁰ @MihaiBasarab
12 commented on the retweet, “Terrorist Loving @staceyabrams Would Destroy Georgia The [sic]

²⁵ *Id.*, GAGOP (@GAREpublicans), TWITTER (July 26, 2018, 7:50 PM), <https://twitter.com/GaRepublicans/status/1022630168203018241>.

²⁶ Compl. at 17; GAGOP (@GAREpublicans), TWITTER (July 26, 2018, 7:50 PM), <https://twitter.com/GaRepublicans/status/1022630168203018241>. The number of retweets and likes has changed since the screenshot attached to the Complaint was taken; the tweet has 35 retweets and 77 likes as of March 2, 2021.

²⁷ Compl. at 3, 17; GAGOP (@GAREpublicans), TWITTER (Sept. 19, 2018, 12:46 PM), <https://twitter.com/GaRepublicans/status/1042454896581246978>.

²⁸ Compl. at 27; GAGOP (@GAREpublicans), TWITTER (Sept. 19, 2018, 12:46 PM), <https://twitter.com/GaRepublicans/status/1042454896581246978>. The number of retweets and likes has changed since the screenshot attached to the Complaint was taken; the tweet has 24 retweets and 32 likes as of March 2, 2021.

²⁹ Compl. at 23

³⁰ *Id.* at 3, 9.

1 sane vote is @BrianKempGA.”³¹ The Complaint alleges that this content “may have been
2 produced in Russia by [the FNA].”³²

3 Finally, the Complaint also cites to a number of tweets from October and November 2018
4 from a number of Twitter handles, including several with avatars depicting black individuals,
5 about Abrams.³³ Some of these tweets included the hashtag “#walkaway,” and discussed
6 Abram’s alleged anti-Semitism and other campaign issues.³⁴ The Complaint alleges that these
7 tweets were made by fraudulent accounts maintained by the IRA and FNA, and cites a report on
8 the “Tactics & Tropes” of the IRA, which the Complaint states determined that the IRA
9 specifically targeted African American communities and engages in voter turnout depression
10 efforts similar to the “#walkaway” tweets by some of the Twitter handles cited in the
11 Complaint.³⁵

12 **III. LEGAL ANALYSIS**

13 **A. Legal Standard**

14 The Act and Commission regulations prohibit any “foreign national” from directly or
15 indirectly making a contribution or donation of money or other thing of value, or an expenditure,

³¹ *Id.* at 3, 9.

³² *Id.* at 3.

³³ *Id.* at 3, 18-22.

³⁴ *Id.*

³⁵ *Id.* at 3-4, 23-24.

1 independent expenditure, or disbursement, in connection with a federal, state, or local election.³⁶
2 The Act’s definition of “foreign national” includes an individual who is not a citizen or national
3 of the United States and who is not lawfully admitted for permanent residence, as well as a
4 “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership,
5 association, corporation, organization, or other combination of persons organized under the laws
6 of or having its principal place of business in a foreign country.”³⁷

7 The Act also prohibits persons from soliciting, accepting, or receiving a contribution or
8 donation from a foreign national.³⁸ To solicit means “to ask, request, or recommend, explicitly
9 or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise
10 provide anything of value.”³⁹ The regulations also provide that no person shall “knowingly
11 provide substantial assistance” in the solicitation, making, acceptance, or receipt of a prohibited
12 foreign national contribution or donation, or the making of a prohibited foreign national
13 expenditure, independent expenditure, or disbursement.⁴⁰ The Commission has recognized the
14 “broad scope” of the foreign national prohibition and found that even where the value of a good

³⁶ 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 grounds 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* 565 U.S. 1104 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

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

³⁸ 52 U.S.C. § 30121(a)(2).

³⁹ 11 C.F.R. § 110.20(a)(6) (citing 11 C.F.R. § 300.2(m)).

⁴⁰ *Id.* § 110.20(h). The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.” Contribution Limitations and Prohibitions, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002). Moreover, substantial assistance “covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” *Id.* at 66,945.

1 or service “may be nominal or difficult to ascertain,” such contributions are nevertheless
2 banned.⁴¹

3 Commission regulations implementing the Act’s foreign national prohibition provide:

4 A foreign national shall not direct, dictate, control, or directly or
5 indirectly participate in the decision-making process of any person,
6 such as a . . . political committee, or political organization with
7 regard to such person’s Federal or non-Federal election-related
8 activities, such as decisions concerning the making of
9 contributions, donations, expenditures, or disbursements . . . or
10 decisions concerning the administration of a political committee.⁴²

11 The Commission has explained that this provision also bars foreign nationals from “involvement
12 in the management of a political committee.”⁴³

13 In light of these provisions, Commission regulations permit any person or company —
14 foreign or domestic — to provide goods or services to a political committee, without making a
15 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary
16 course of business, and at the usual and normal charge, as long as foreign nationals do not
17 directly or indirectly participate in any committee’s management or decision-making process in
18 connection with its election-related activities.⁴⁴

⁴¹ Advisory Op. 2007-22 (Hurysz) at 6 (“AO 2007-22”) (citing Contribution Limitations and Prohibitions, 67 Fed. Reg. at 69,940 (“As indicated by the title of section 303 of BCRA, ‘Strengthening Foreign Money Ban,’ Congress amended [52 U.S.C. § 30121] to further delineate and expand the ban on contributions, donations, and other things of value by foreign nationals.”)).

⁴² 11 C.F.R. § 110.20(i).

⁴³ Contribution Limitations and Prohibitions, 67 Fed. Reg. at 69,946.

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

1 **B. The Commission Dismisses the Allegations that Kemp, the Kemp Committee,**
2 **or GA GOP Solicited, Accepted, or Received Donations from Foreign**
3 **Nationals**

4 The Complaint appears to allege that Kemp, the Kemp Committee, and GA GOP
5 solicited and accepted foreign nationals' social media services in exchange for payments that
6 were masked as payments to domestic commercial vendors. The Complaint does not allege that
7 any foreign national made donations to the Kemp Committee or GA GOP by providing services
8 outside their ordinary course of business or "at a charge that is less than the usual and normal
9 charge,"⁴⁵ and the available information does not support such a finding. Moreover, the
10 Complaint does not credibly allege that any foreign national directly or indirectly participated in
11 the Kemp Committee's or GA GOP's decision-making process in connection with its election-
12 related spending. Therefore, as further explained below, the available information is insufficient
13 to support finding reason to believe that Kemp, the Kemp Committee, or GA GOP violated
14 52 U.S.C. § 30121.

15 First, there is no indication beyond speculation regarding the timing of the GA GOP's
16 and the Kemp Committee's expenditures that the payments made to Medium Buying, LLC,
17 Majority Strategies, September Group, LLC, and Something Else Strategies were directed to
18 foreign nationals. Though both the Kemp Committee and the GA GOP made a number of large
19 payments to these vendors between April and December 2018, there is no evidence in the record
20 that these payments were for anything other than their reported purposes, *e.g.*, media buys,

⁴⁵ 11 C.F.R. § 100.52(d)(1).

1 digital advertising, email marketing, strategy consulting, and slate mailers,⁴⁶ nor that these
2 payments were in fact diverted to other payees. Further, each of the alleged conduit entities is
3 incorporated domestically, with no evidence of ties to any foreign national entities other than
4 those alleged by the Complaint, nor is there any indication that Rinat Akhmetshin is in any way
5 connected to any of the named vendors.⁴⁷

6 To the extent the Complaint alleges that Kemp for Governor or GA GOP solicited
7 donations from foreign nationals via tweeted “signals” to engage in paid or unpaid social media
8 campaigns to benefit Kemp, the Complaint provides insufficient information to support that
9 allegation, and the Commission has not otherwise uncovered such information. The allegation
10 appears to rest on a handful of tweets from alleged foreign nationals discussing subjects relevant
11 to the Kemp campaign. But without more information indicating that there was actually a
12 connection between the Kemp campaign or the GA GOP and foreign nationals, this allegation
13 that Respondents used social media to solicit foreign nationals to provide services at less than the
14 usual or normal cost or to participate directly or indirectly in the decision-making process in
15 connection with election-related spending is speculative. By the same token, the meager social
16 media support of the Kemp Committee’s and the GA GOP’s tweets during the relevant
17 timeframe does not support the allegation that their “likes” and “retweets” were in any way

⁴⁶ See GA GOP Resp. at 3 (“The GAGOP’s expenditures were for legitimate services, which are accurately described in the GAGOP’s disclosure reports. There is absolutely no evidence or reasonable basis to suspect that any of the vendors paid by the GAGOP were foreign nationals.”); Kemp Committee Resp. at 3 (“The expenditures referenced were made by [the Kemp Committee] for legitimate campaign purposes during the 2018 Georgia state elections and were accurately disclosed in the committee’s [state election filings].”).

⁴⁷ See Akhmetshin Resp. at 2. Though Akhmetshin does not explicitly disclaim any connection to the referenced political vendors, he does state, regarding the claim that he was paid through concealed payments to the listed entities: “This claim is patently false, and the Complaint alleges no facts that would suggest otherwise.” *Id.*

1 artificially inflated, and there are no facts to indicate that any services were in fact provided by
2 the IRA or FNA to Kemp, the Kemp Committee, or the GA GOP.

3 Similarly, the information the Commission possesses does not appear to support the
4 allegation that the IRA or FNA received any funds from any of the alleged shell corporations.
5 As a result, the Complaint's allegation that the named vendors were used as conduits for foreign
6 payments is speculative and not credible.

7 Further, notwithstanding the lack of factual support for the allegations that the Kemp
8 Committee and the GA GOP accepted foreign contributions or donations, the Complaint alleges
9 that the Kemp Committee and the GA GOP paid for the services that IRA and FNA allegedly
10 rendered. It is therefore unclear how the Kemp Committee and the GA GOP would have also
11 accepted in-kind contributions or donations. The Complaint does not state that the alleged
12 payments were "at a charge that is less than the usual and normal charge"⁴⁸ for the services IRA
13 and FNA allegedly provided. Moreover, the Complaint does not allege facts suggesting that any
14 foreign national participated in Kemp's, the Kemp Committee's, or the GA GOP's decision-
15 making.

16 Finally, the timeline presented in the Complaint does not support the allegation that
17 @MihaiBasarab established contact between Kemp, the Kemp Committee, and the GA GOP in
18 the United States and IRA and FNA in Russia. The Complaint alleges that the Kemp
19 Committee's payment to Medium Buying LLC on April 4, 2018, "likely secured the services of"
20 the IRA and FNA, but simultaneously alleges that @MihaiBasarab's tweet of July 18, 2018,
21 more than three months after this payment occurred, was "likely a request to fund voter

⁴⁸ 11 C.F.R. § 100.52(d)(1).

1 suppression efforts by” the IRA.⁴⁹ The Complaint appears to allege that IRA and FNA were paid
2 for their services before any services were allegedly requested. As a result, the timeline posited
3 by the Complaint does not logically support the allegations of a conspiracy between the
4 Respondents regarding contributions or donations by foreign nationals.

5 * * *

6 For these reasons, the available information does not indicate that Kemp, the Kemp
7 Committee, or GA GOP violated 52 U.S.C. § 30121(a)(2) or 11 C.F.R. § 110.20(g) by accepting
8 a donation from a foreign national; that the IRA or FNA violated 52 U.S.C. § 30121(a)(1) or 11
9 C.F.R. § 110.20(c) by making a prohibited donation; or that Akhmetshin, Majority Strategies,
10 Inc., Medium Buying, LLC, Something Else Strategies, LLC, and September Group, LLC,
11 violated 52 U.S.C. § 30121(a) or 11 C.F.R. § 110.20(h) by substantially assisting in the making
12 of a prohibited foreign donation. Accordingly, the Commission dismisses these allegations.

⁴⁹ Compl. at 2.