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April 6, 2017

VIA ELECTRONIC TRANSMISSION

Mr. Dana Boente
Acting Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Boente:

According to news reports, in 2012 Paul Manafort worked on behalf of a pro-Russian Ukrainian party to funnel more than \$2 million to the Podesta Group and Mercury LLC in an effort to influence U.S. policy.¹ The Associated Press reports that Mr. Manafort and his business associate, Rick Gates, worked in 2012 on behalf of Viktor Yanukovich's political party, Party of Regions.² Mr. Yanukovich was the Ukrainian president at the time. The Associated Press further reported that at the time Mr. Manafort and Mr. Gates were working for Mr. Yanukovich's party, they introduced the Podesta Group and Mercury LLC, two lobbying firms, to the European Centre for a Modern Ukraine (the Centre), a non-profit that included board members from Mr. Yanukovich's party.³ The Centre paid approximately one million dollars to each lobbying firm to advocate positions in support of the Yanukovich government. For example, Mercury LLC lobbying included "downplaying the necessity of a congressional resolution meant to pressure the Ukrainian leader to release an imprisoned political rival."⁴ Lobbying disclosures show that the Podesta Group did the same. Between June 2012 and April 2014, the Podesta Group lobbied Congress, the White House National Security Council, and the State Department on behalf of the Centre.

The Associated Press further notes that Mercury LLC drafted a legal opinion that concluded the Centre qualified as a foreign principal under the Foreign Agents Registration Act (FARA), but registration was not required because the Centre assured Mercury LLC that none of its activities were controlled or directed by the Ukrainian government.⁵ However, one Podesta

¹ Jeff Horwitz and Desmond Butler, "AP Sources: Manafort tied to undisclosed foreign lobbying," Associated Press (Aug. 17, 2016). Available at <http://bigstory.ap.org/article/c01989a47ee5421593ba1b301ec07813/ap-sources-manafort-tied-undisclosed-foreign-lobbying>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* "A legal opinion drafted for the project for Mercury LLC in May 2012, and obtained by AP, concluded that the European Centre for a Modern Ukraine qualified as a 'foreign principal' under the Foreign Agents Registration Act, but said disclosure to the Justice Department was not required. That determination was based on the non-profit's assurances that none of its activities

Group employee was concerned about the arrangement and considered it to be illegal because Mr. Gates allegedly “described the nonprofit’s role in an April 2012 meeting as supplying a source of money that could not be traced to the Ukrainian politicians who were paying him and Manafort.”⁶ In effect, the non-profit could have merely been a front for the Ukrainian government. For these activities, neither Mr. Manafort, Mr. Gates, nor the Podesta Group and Mercury LLC registered as foreign agents under the FARA.

In addition, the Associated Press recently reported that, starting in 2005, Mr. Manafort received more than \$10 million for his work for Russian aluminum magnate Oleg Deripaska, a close ally of Russian President Vladimir Putin.⁷ According to documents obtained by the Associated Press, Mr. Manafort told Mr. Deripaska in 2005 that he was pushing policies as part of his work in Ukraine “at the highest levels of the U.S. government — the White House, Capitol Hill and the State Department.”⁸ Mr. Manafort continued various lobbying efforts on behalf of Ukraine’s ruling pro-Russian political party at least until 2014.⁹

Given the public reporting on these activities in support of a foreign government, it is imperative that the Justice Department explain why these individuals and entities have not been required to register under FARA.

The Department has failed to adequately respond to previous letters about FARA and its apparent failures to fully enforce its requirements.¹⁰ The FARA requires individuals to register with the Department of Justice (DOJ) if they act, even through an intermediary, “as an agent, representative, employee, or servant” or “in any other capacity” at the behest of a foreign principal, including a foreign political party, for purposes of engagement with a United States official.¹¹ The registration applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to “formulat[e], adopt[], or chang[e] the domestic or foreign policies of the United States.”¹² Likewise, an individual whose activities are subject to registration under FARA and who sends informational material “for or in the interest

was directly or indirectly supervised, directed, controlled, financed or subsidized by Ukraine’s government or any of the country’s political parties.”

⁶ *Id.*

⁷ Jeff Horwitz and Chad Day, Before Trump job, Manafort worked to aid Putin,” Associated Press (Mar. 22, 2015). Available at <http://bigstory.ap.org/article/122ae0b5848345faa88108a03de40c5a/manafort-plan-greatly-benefit-putin-government>

⁸ *Id.*

⁹ *Id.*

¹⁰ Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Eric Holder, Attorney General, U.S. Dep’t. of Justice (May 22, 2015); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dep’t. of Justice to Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary (April 22, 2015); Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep’t. of Justice (July 6, 2016); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dep’t. of Justice to Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary (September 1, 2016); Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Loretta E. Lynch, Attorney General, U.S. Dep’t. of Justice (September 20, 2016); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dep’t. of Justice to Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary (September 1, 2016); Letter from Peter J. Kadzik, Assistant Attorney General, U.S. Dep’t. of Justice to Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary (January 9, 2017); Letter from Senator Charles E. Grassley, Chairman, U.S. Senate Comm. On Judiciary, to Dana Boente, Acting Deputy Attorney General, U.S. Dep’t. of Justice (March 14, 2017).

¹¹ 22 U.S.C. §§ 611(b)-(c).

¹² 22 U.S.C. § 611(o).

of [a] foreign principal” with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission.¹³ Notably, an ongoing failure to register with the DOJ is a continuing offense.¹⁴

A recent Inspector General (IG) audit of the DOJ’s FARA enforcement procedure found that there was a lack of statutory understanding of FARA, as well as a lack of a coherent enforcement strategy.¹⁵ Specifically, the IG noted “there was not a coordinated strategy on FARA,” and “there was no strategy addressing how FARA fits into the Department’s overall national security efforts.”¹⁶ Even National Security Division officials “acknowledged the differing views on what constitutes a FARA charge” and as a result are in the process of “educat[ing] field investigators and prosecutors on the difference.”¹⁷ These findings are extremely troubling.¹⁸

The actions taken on behalf of the Ukrainian government appear to consist of the type of activity Congress intended to reach with FARA. Accordingly, please answer the following:

1. What actions has the DOJ taken to enforce FARA’s requirements regarding Mr. Manafort, Mr. Gates, the Podesta Group, and Mercury LLC given the public reporting of their actions on behalf of the Centre and Ukrainian government?
2. Why has the DOJ not required them to register under FARA?
3. What actions has the DOJ taken to determine whether Mr. Manafort failed to register under FARA with regard to his actions on behalf of Mr. Deripaska?
4. Has the Justice Department sent a letter of inquiry to Mr. Manafort, Mr. Gates, the Podesta Group, or Mercury LLC? If so, please provide copies. If not, why not?

¹³ 22 U.S.C. § 614(a).

¹⁴ 22 U.S.C. § 618(e).

¹⁵ Office of the Inspector General of the U.S. Department of Justice, *Audit of the National Security Division’s Enforcement and Administration of the Foreign Agents Registration Act*, p. 11 (September 2016).

¹⁶ *Id.*

¹⁷ *Id.* at 10.

¹⁸ Congress intended FARA to be enforced. And, FBI personnel interviewed by the IG voiced their frustration at a lack of FARA enforcement. The majority of FBI personnel interviewed complained that the DOJ was “generally slow and [] reluctant to approve FARA charges.” The IG report concluded that the DOJ has failed to devote the time and attention required to enforce FARA, oftentimes taking the view that “[these] matters will take as long as they take,” while failing to use the tools at its disposal to compel compliance with FARA. These findings are extremely disappointing and illustrate a complete breakdown of the FARA enforcement process.

5. Under 28 C.F.R. § 5.2, any present or prospective agent of a foreign entity may request an advisory opinion from the DOJ regarding the need to register.
 - a. Has Mr. Manafort or Mr. Gates ever requested an advisory opinion in relation to their work on behalf of the Centre, the Ukrainian government, or Mr. Deripaska? If so, please provide a copy of the request and the opinion.
 - b. Have the Podesta Group or Mercury LLC ever requested an advisory opinion in relation to their work on behalf of the Centre or the Ukrainian government? If so, please provide a copy of the request and the opinion.

Please number your answers according to their corresponding questions. I anticipate that your written response and the responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. The Committee complies with all laws and regulations governing the handling of classified information. The Committee is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you in advance for your cooperation with this request. Please respond no later than April 20, 2017. If you have questions, contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary