

ALERT

DOJ Charges Trump Fundraiser for Conspiring to Act as a Foreign Agent

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As yet another example of the U.S. Department of Justice's (DOJ's) increasing enforcement efforts with respect to the Foreign Agents Registration Act (FARA), DOJ recently unsealed a charge of conspiracy to violate FARA against political fundraiser Elliot Broidy.

FARA is a disclosure statute designed to promote transparency in the U.S. political, media, and public relations arenas, among others, with respect to foreign influence. In short, FARA requires every "agent of a foreign principal" engaging in certain political or quasi-political activities in the United States to register as such with DOJ, and to periodically – and publicly – disclose certain details of that agency relationship with the foreign principal.

According to the criminal information, Broidy and his associates sought to "make millions of dollars by leveraging Broidy's access to and perceived influence with the President and his Administration" to receive money from an unnamed foreign national. Specifically, the charge asserts that Broidy accepted \$6 million from a foreign client to lobby the Trump administration to drop its investigation in the client's role in embezzling billions of dollars of 1Malaysia Development Berhad fund (1MDB), an investment company owned by the Government of Malaysia. Broidy and his associates are also accused of failing to register their work to lobby the administration to extradite an anonymous Chinese national from the United States on behalf of their foreign client.

The information alleges that, while Broidy and others were unsuccessful, they traveled to Thailand, Malaysia, and China to meet with their client, a Chinese minister, and others; facilitated and attempted to facilitate meetings with high level government officials

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Foreign Agents Registration Act (FARA)
International Trade

including the President, Attorney General, and Secretary of the Department of Homeland Security; and that Broidy and his associates sought to conceal their relationship with their client and the Chinese minister.

Earlier this year, one of Broidy's associates Nickie Mali Lum Davis pled guilty for her role in the scheme. At the time, Acting Assistant Attorney General Brian Rabbitt said that "this case demonstrates how foreign governments seek to advance their agendas in the United States by hiding behind politically influential proxies...The failure to disclose these relationships harms both the American people and government officials by preventing them from accounting for and evaluating the true source of and motivation for foreign lobbying efforts."

Again, this recent charge is the latest in DOJ's increasing efforts to enforce FARA. For example, in September, the DOJ directed the U.S. affiliate of Qatari-Owned news outlet Al Jazeera to register as a foreign agent. Additionally, earlier this year, Attorney General William Barr warned of Chinese "behind-the-scenes efforts to cultivate and coerce American business executives to further [Chinese Communist Party] political objectives" and advised U.S. companies to be alert about how "[they] might be used, and how [their] efforts on behalf of a foreign company or government could implicate the Foreign Agents Registration Act."

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Wiley has a well-established FARA practice that has been in existence for well over twenty years, and routinely advises a wide range of clients, including foreign governments, lobbyists, public relations firms, law firms, and tourism agencies. For more information on FARA and our related capabilities, please contact one of the authors listed on this alert.

Nicole Hager, a Law Clerk at Wiley Rein LLP, contributed to this alert.