

ALERT

New Civil Enforcement Action Filed to Compel FARA Registration for Lobbying Activities on Behalf of China

May 20, 2022

On May 17, 2022, the Department of Justice (DOJ) sued in U.S. District Court in D.C. to compel Stephen A. Wynn to register under the Foreign Agents Registration Act (FARA) as an agent of the People's Republic of China (PRC). Notably, this action is DOJ's first affirmative civil enforcement lawsuit under FARA in over 30 years.

According to the Complaint, which is provided here, from at least June 2017 to August 2017, Mr. Wynn contacted former President Trump and members of the Trump Administration to convey a request by the PRC to remove a Chinese national who, after leaving China in 2014, was charged with corruption by the PRC and sought asylum in the U.S. The Complaint alleges that Mr. Wynn acted at the behest of Chinese officials in order to further the interests of his casino business in the Macao Special Administrative Region of the PRC. For example, the Complaint alleges that:

- During a late July 2017 meeting with the White House Chief of Staff and two senior National Security Council (NSC) officials, the Defendant stated that PRC officials had contacted him and advised him that "they were very interested in having" the PRC national returned to China as soon as possible.
- In or around August 2017, the Defendant on multiple occasions visited the White House in person to have what appeared to be unscheduled meetings with then-President Trump. Some of these discussions, including a meeting on August 25, 2017, concerned the PRC national.

Authors

Tessa Capeloto
Partner
202.719.7586
tcapeloto@wiley.law

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- Defendant's conduct was motivated by his desire to protect his business interests in the PRC. In an undated text message, the Defendant told Lum Davis to advise a PRC official to have the PRC ambassador in Washington, DC contact two senior-level NSC officials directly. Defendant wrote in the message that he had spoken with both individuals and received assurances "that all parties in the White House were fully sensitive to the timing of this issue and the relevant USA procedural law involved."

Mr. Wynn was advised by DOJ to register in three letters sent between 2018 and 2022. After failing to do so, DOJ brought this civil enforcement action, which shows that the agency is ready and willing to use all the tools in its toolbox to ensure maximum compliance with FARA.

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 that 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. The definition of foreign principal under FARA is broad – it includes not only foreign governments and foreign political parties, but also foreign companies and foreign individuals, whether private or public individuals. While FARA authorizes criminal penalties for violations, its main purpose is transparency, not criminal prosecution.

In recent years, following Congressional scrutiny and an audit by the DOJ Inspector General, DOJ has begun to enforce FARA more aggressively. In his statement announcing the Complaint, Assistant Attorney General Matthew G. Olsen of DOJ's National Security Division said: "The filing of this suit – the first affirmative civil lawsuit under FARA in more than three decades – demonstrates the department's commitment to ensuring transparency in our democratic system. Where a foreign government uses an American as its agent to influence policy decisions in the United States, FARA gives the American people a right to know."

Should you have any questions on FARA-related matters, please reach out to the author listed on this alert.