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# WHAT SKADDEN'S FARA VIOLATIONS AND SETTLEMENT CAN TEACH LAWYERS (AND OTHERS) ABOUT FARA COMPLIANCE IN A NEW AGE OF FARA ENFORCEMENT

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For much of its recent history, the Foreign Agents Registration Act (FARA)<sup>1</sup> rested upon the shelves of the U.S. Department of Justice (DOJ) like an antique relic—dusty and unused, but potentially returnable to active service. Indeed, after its enactment in 1938, the record of prosecutions in more recent years was unremarkable, with only seven criminal prosecutions between 1966 and 2015.<sup>2</sup> That changed significantly in 2016, owing primarily to allegations of Russian interference in the U.S. presidential election and a report of the DOJ Office of Inspector General (OIG) critical of under-enforcement of FARA by DOJ's National Security Division (NSD).<sup>3</sup>

But FARA is now back in vogue at Main Justice thanks to Paul Manafort, who pleaded guilty to FARA criminal charges brought by Special Counsel Robert Mueller, and to the NSD's January 2019 civil settlement with renowned international law firm Skadden, Arps, Slate, Meagher & Flom LLP. Skadden's settlement offers a cautionary tale about the circumstances that may trigger FARA registration requirements and the potential liability for lawyers, law firms, and any other individuals or entities who represent "foreign principals." Below we provide background on FARA and the "lawyer exemption" under § 613(g), the facts admitted by Skadden in its recent settlement, and compliance lessons to be drawn from this episode. We conclude with advice for lawyers and others to stay far from FARA's tripwires, or else to register when the law requires.

## **FARA Background, the Lawyer Exemption, and DOJ Advisory Opinions**

FARA requires any person acting as an "agent of a foreign principal" to register with the DOJ. Registration requires disclosing certain information, such as the agent's agreements with, income from, and expenditures on behalf of the foreign principal. However, among the exemptions from FARA's registration requirements is the so-called "lawyer exemption."<sup>4</sup> This section exempts lawyers from registration while also smuggling in an exception to the exemption. Specifically, § 613(g) exempts from the registration requirements:

Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the government of the United States: *Provided*, that for the purposes of this subsection legal representation *does not include* attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.<sup>5</sup>

In other words, lawyers acting in their traditional capacity as representatives of a foreign principal in legal proceedings—provided the representation is open and transparent—are not subject to FARA's registration requirements. But the exception to that exemption means that lawyers' "attempts to influence or persuade" (e.g., lobbying) outside the context of judicial proceedings, enforcement inquiries, investigations, or on-the-record agency proceedings are not exempt. Similarly, the regulations implementing FARA state registrable representation will include "only such attempts to influence or persuade with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with

reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.”<sup>16</sup> In sum, lawyers must be mindful that acting on behalf of a foreign principal may require the lawyer’s (or law firm’s) registration under certain circumstances.

Given the historical under-enforcement of FARA, the FARA Unit’s publicly available advisory opinions fill a void in case law. But the advisory opinions themselves have only recently been made publicly available—a development signaling increased interest and attention to the act. Indeed, only in June 2018—on the occasion of the 80th anniversary of FARA’s enactment and in response to a recommendation in the September 2016 OIG Report—did NSD publicly release the 49 advisory opinions it’s issued since Jan. 1, 2010.<sup>7</sup>

The procedure by which potential registrants and their counsel may obtain advisory opinions is set forth in the FARA regulations.<sup>8</sup> DOJ hastens to remind that these advisory opinions (issued in the form of letters to the inquirers) are not “intended to create any substantive or procedural rights, privileges, or benefits enforceable in any administrative, civil, or criminal matter.”<sup>9</sup> But these advisory opinions offer useful guidance nonetheless, especially in the absence of a wide body of case law.

The lawyer’s exemption in particular has been the subject of several advisory opinions. A review of these opinions reveals that the DOJ views the following kinds of conduct by lawyers as requiring registration under FARA:

- Political consulting<sup>10</sup>;
- Lobbying<sup>11</sup>;
- Public relations<sup>12</sup> (PR);
- Discussions with the U.S. Department of State seeking a waiver of the revenue rule precluding the courts of one country from enforcing the tax laws of another country<sup>13</sup>;
- Representation based upon a contingency fee arrangement that depends upon the success of political activity<sup>14</sup>;
- Attempts in any way to influence U.S. government officials or sections of the public within the United States with respect to political or public interest, policies, or relations of the foreign government<sup>15</sup>; and
- Lobbying Congress and educating U.S. policy-makers about the proposed acquisition of a U.S. company by a foreign company.<sup>16</sup>

### **Skadden’s Admission to FARA Violations in a Civil Settlement Agreement With DOJ**

On Jan. 15, the NSD entered into a civil settlement agreement with Skadden to resolve Skadden’s FARA violations. The violations arose from Skadden’s admitted failure to register as an agent of the government of Ukraine, despite the finding that Skadden, “through certain of its current and former partners, acted as an agent of the” government of Ukraine “by contributing to a [government of Ukraine] public relations campaign directed at U.S. media,” as the settlement agreement and its lengthy appendix recount.<sup>17</sup> The settlement agreement also reveals Skadden’s provision of false and misleading responses—through a former partner of the firm—in response to questions from the FARA Unit.<sup>18</sup> That partner is identified in the settlement agreement as “Partner-1” and is described as “a Washington, D.C., based partner,” who “has not been associated with [Skadden] since April 13, 2018.”<sup>19</sup> Public reports have surmised that “Partner-1” is in fact former Skadden partner and Obama White House counsel Greg Craig.<sup>20</sup>

Under the settlement agreement, Skadden must retroactively register under FARA, disgorge approximately \$4.7 million in payments received and expenses incurred for the work performed on behalf of Ukraine, continue cooperating with the DOJ, and undertake stringent FARA compliance and training measures. The settlement agreement also requires Skadden—180 days after the entry into the settlement agreement—to submit a written report to the DOJ setting forth its FARA policies and procedures.

The settlement agreement reveals that in the spring of 2012, the Ukrainian Ministry of Justice, with help from Manafort, sought to retain Skadden to prepare a report addressing the prosecution of President Viktor Yanukovich’s political rival, former Prime Minister Yulia Tymoshenko. In particular, the Ukrainian Ministry wanted Skadden to prepare a report “on the evidence and procedures used during the 2011 prosecution and trial of” Tymoshenko and to “address various questions regarding its fairness.”<sup>21</sup> Ultimately, a number of Skadden partners and associates worked on the report, but Partner-1 led the work.<sup>22</sup>

In February 2012, Partner-1 emailed Manafort a preliminary engagement letter, which provided in part that an unidentified “third party” would pay the law firm a \$150,000 retainer for the work.<sup>23</sup> In a subsequent email exchange, Partner-1 confirmed with Manafort that an unidentified business person would advance Skadden a \$4 million payment to cover the firm’s fees and expenses.<sup>24</sup>

The government of Ukraine and Skadden then executed an engagement letter dated April 10, 2012, which called for Skadden to serve as a “rule of law consultant” and to advise the Ukrainian Ministry of Justice “on a variety of rule of law issues, including those that [could have arisen] before the European Court for Human Rights.”<sup>25</sup> Regarding payment, the April 2012 engagement letter solely provided that Ukraine would pay Skadden the modest fee of approximately \$12,000.<sup>26</sup> Skadden, however, understood that the unidentified third-party business person would fund Skadden’s work. But this funding arrangement was apparently not disclosed in the April 2012 engagement letter itself, a telltale sign of concealment that could provide powerful evidence of wrongful intent. Meanwhile, Partner-1 wrote in an April 2012 email (in language similar to that used in the April 2012 engagement letter) that “the powers that be in NYC ... insist—and I agree—that we should include a provision in the retainer agreement that [Skadden] is not being retained to engage—and will not engage—in political activities as defined by the Foreign Agents Registration Act (FARA).”<sup>27</sup>

### **Partner-1’s Involvement in PR Activity Against Advice**

Notwithstanding this fact, the settlement agreement notes that Partner-1 and others “on multiple occasions prior to the report’s release ... sought and received analyses and advice from other [Skadden] attorneys regarding the potential applicability of FARA to [Skadden’s] work for the” government of Ukraine.<sup>28</sup> This included advice “that engaging in public relations-related conduct on behalf of [the government of Ukraine] would require that [Skadden] register as a ‘foreign agent’ under FARA.”<sup>29</sup> Furthermore, one of Partner-1’s colleagues, identified as “Partner-2,” told Partner-1 that the work for Ukraine “should not include PR advice” and that “somebody else can hire the PR team and manage that” because Skadden was “in [it] as lawyers, not spin doctors.”<sup>30</sup> To this, Partner-1 replied: “Good advice.”<sup>31</sup>

While working on the report, however, the role of Partner-1 morphed into a PR function. Indeed, according to the settlement agreement, Partner-1:

- Worked closely with a PR firm responsible for rolling out the Ukraine's PR strategy;
- Provided a journalist with information regarding the planned timing of the publication of the report<sup>32</sup>;
- Personally emailed the journalist a copy of the report prior to its publication in the Ukraine on Dec. 13, 2012, and offered to hand-deliver a copy of the report to the journalist's home<sup>33</sup>;
- Provided a quotation to the journalist for use in an article published on the day of the report's publication in the Ukraine<sup>34</sup>; and
- Provided an advance copy of the report to a lobbyist and communicated with the journalist regarding speaking with the lobbyist.<sup>35</sup>

In addition, other Skadden attorneys working on the report gained familiarity with the Ukraine's PR strategy, which in part was aimed at U.S. media outlets and U.S. politicians. Other Skadden attorneys, moreover, worked with Manafort to assist with the development and implementation of the ministry's PR strategy.

As noted above, the settlement agreement reflects a substantial paper trail revealing the FARA-related concerns of Skadden lawyers if Skadden were to assume a PR role in connection with the report. Skadden's eventual *civil* settlement with the DOJ is perhaps even more surprising against the backdrop of this kind of evidence, which would ordinarily be sufficient for prosecutors to prove willful intent in a criminal prosecution.

### DOJ's FARA Unit Initiates Inquiries Following the Report's Publication

On Dec. 18, 2012, after the government of Ukraine published the report and *The New York Times* published an article about it on the same day of its publication,<sup>36</sup> the FARA Unit initiated inquiries with Skadden and advised the firm that its work for the Ukraine government may have triggered a FARA registration requirement. Specifically, the FARA Unit sent a letter to Skadden requesting the firm provide information addressing, among other topics, "the activities the firm ... engaged in or the services it ... rendered to the Ministry of Justice of the government of Ukraine" and the firm's agreements, if any, with the Ukraine.<sup>37</sup>

Skadden's written response included several material omissions. For example, the response omitted any reference to Partner-1's involvement with the Ukraine's PR strategy, including his outreach to media or his interactions with a lobbyist and PR firm in connection with Skadden's work.<sup>38</sup> Partner-1 instead reiterated the contents of the April 2012 engagement letter between Skadden and the Ukraine government and merely explained that Skadden had an "oral agreement with a private citizen of Ukraine in which that individual agreed to contribute funds to help pay for the work."<sup>39</sup>

In April 2013, the FARA Unit sent a second letter of inquiry, this time addressed to Partner-1 himself. In this letter the FARA Unit asked: "To whom, if anyone, did your firm release or distribute the report and when?" and "Did you or anyone in your firm have any media interviews or comments to the media, public, or government officials about the report and the findings of your firm?"<sup>40</sup> The FARA Unit also requested information about Skadden's compensation arrangement with the Ukraine ministry, including the identity of the "private citizen," the amount of money that person paid, and "any other sources of money" paid toward Skadden's services.<sup>41</sup>

Skadden's second response, again authored by Partner-1 and Partner-2, but submitted by Partner-1 under Partner-1's signature,

contained both false statements and omissions that misled the FARA Unit.<sup>42</sup> For example, the response stated that Partner-1 "provided brief clarifying statements about the report" to a journalist in part "to correct misinformation that the media had received," without revealing that in fact Partner-1 had initiated contact with the journalist and shared an advance copy of the report with the journalist.<sup>43</sup>

In September 2013, the FARA Unit informed Partner-1 that the FARA Unit had concluded that Skadden was required to register as an agent due to its sharing of the report with the media and communications with the media.<sup>44</sup> Through a series of false and misleading representations to the FARA Unit, however, Partner-1 was able to get the FARA Unit to reverse course and conclude that Skadden in fact was not required to register.

In an Oct. 11, 2013, letter to the FARA Unit, Partner-1 falsely told investigators that Skadden distributed the report only in response to media requests, when in fact Partner-1 had initiated contact with a journalist and shared the report with that journalist.<sup>45</sup> Partner-1 also failed to disclose that he had released the report, prior to its publication, to a lobbyist and had put the journalist and lobbyist in contact with each other.<sup>46</sup> In reliance upon Partner-1's misrepresentations, the FARA Unit reversed its initial position and advised Skadden it had "no present obligation to register under FARA."<sup>47</sup>

The settlement agreement requires Skadden to register retroactively as a foreign agent under FARA and disgorge all money paid for its services (and expenses incurred) on behalf of the Ukraine government—a sum of \$4,657,568.91, which dwarfs what it would otherwise have cost Skadden to register as a foreign agent (a fee of \$305 for initial registration statements and supplemental registration statements).<sup>48</sup> Partner-1, meanwhile, has his own exposure and, according to reports, is being investigated by the U.S. Attorney's Office for the Southern District of New York.<sup>49</sup>

### Lessons Learned From the Skadden Settlement Agreement

The conduct described above fits well within the exception to the "lawyer exemption" in § 613(g). As noted above, although § 613(g) generally exempts legal representation of foreign principals when such representation is open and transparent and in the traditional nature of legal representation—i.e., "legal representation of a disclosed foreign principal before any court of law or any agency of the government of the United States"—the exception to that exemption (i.e., work that requires registration) is nontraditional work by lawyers in the nature of political or PR activity. Skadden's involvement in the government of Ukraine's PR campaign directed at the United States fell well within this exception to the exemption.

But this is hardly surprising. Indeed, for years, the DOJ has viewed PR activity on behalf of a foreign government or other principal as core registrable activity under FARA. For example, in an Aug. 27, 2003, advisory opinion, the FARA Unit stated unequivocally that the lawyer exemption "would not apply if [the law firm's] representation ... expanded [beyond representation in litigation] to include political consulting or activity including lobbying or public relations."<sup>50</sup> Thus, as uncertain as the line of demarcation may be in some instances, there is broad agreement that PR activity requires registration.

The Skadden episode is a reminder—for lawyers, law firms, and laypeople who engage with foreign clients—to gain familiarity with FARA and its requirements and to register when appropriate. Law firms and others who represent foreign individuals or entities can

find, in Skadden's settlement agreement, helpful guidance on what the DOJ considers to be important FARA compliance measures, including:

1. Adopting client intake procedures to identify direct or indirect activity of a foreign principal potentially triggering a FARA registration requirement;
2. Promoting FARA awareness through training and messaging to relevant personnel;
3. Adopting a policy on FARA compliance that offers guidance relating to (a) identifying, tracking, and monitoring foreign client relationships with potential FARA implications; (b) approval processes for engagements that may create FARA registration requirements; (c) mechanisms to review FARA obligations at the time of the intake of a new matter or while rendering services; and (d) procedures for appropriately responding to inquiries from the FARA Unit.

Law firm ethics counsel are well positioned to develop a "FARA Compliance Team"—akin to the department or group that manages conflict checks—to review foreign client engagement letters and to confirm that work performed for foreign clients does not trigger FARA registration requirements. To be sure, even these measures are not foolproof. Indeed, as the Skadden case illustrates, the acts of isolated individuals in violation of company policy may be difficult or impossible to pre-empt. And even a robust compliance program may have been insufficient to uncover the conduct of Partner-1 in Skadden's case. Nonetheless, to minimize the risk of civil and even criminal exposure, law firms should evaluate (or, as may more often be the case, create) FARA compliance policies and procedures. Waiting for a FARA Unit inquiry in order to develop such a program is ill-advised and is likely to be too little too late. ☉

## Endnotes

<sup>1</sup>Foreign Agents Registration Act (FARA), 22 U.S.C. §§ 611-621 (1938).

<sup>2</sup>OFFICE OF INSPECTOR GEN., U.S. DEP'T OF JUSTICE, AUDIT OF THE NATIONAL SECURITY DIVISION'S ENFORCEMENT AND ADMINISTRATION OF THE FOREIGN AGENTS REGISTRATION ACT (Sept. 2016), <https://oig.justice.gov/reports/2016/a1624.pdf> (noting that "[b]etween 1966 and 2015 the Department only brought seven criminal FARA cases").

<sup>3</sup>*Id.*

<sup>4</sup>22 U.S.C. § 613(g).

<sup>5</sup>*Id.* (emphasis added).

<sup>6</sup>28 C.F.R. § 5.306.

<sup>7</sup>Press Release, U.S. Dep't of Justice, Department of Justice Posts Advisory Opinions on FARA.Gov Website (June 8, 2018), <https://www.justice.gov/opa/pr/department-justice-posts-advisory-opinions-faragov-website>. John Demers, assistant attorney general for national security, stated, "To enhance compliance, we are making these advisory opinions available publicly and online for the first time. By posting these advisory opinions, the Department of Justice is making clearer how we interpret some of FARA's key provisions."

<sup>8</sup>See 28 C.F.R. § 5.2.

<sup>9</sup>*Advisory Opinions*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/nsd-fara/advisory-opinions>.

<sup>10</sup>Letter from Heather H. Hunt, Acting Chief, Registration Unit, Counterespionage Sec., U.S. Dep't of Justice, to [addressee deleted], Re: Foreign Agents Registration Act (Aug. 27, 2003), <https://www.justice.gov/nsd-fara/page/file/1046166/download> (responding to an

inquiry about assisting a foreign government in litigation to recover money owed to it and working with federal law enforcement agencies in connection with an ongoing investigation).

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

<sup>13</sup>Letter from Heather H. Hunt, Chief, Registration Unit, Counterespionage Sec., U.S. Dep't of Justice, to [addressee deleted], Re: [text deleted] (Dec. 7, 2010), <https://www.justice.gov/nsd-fara/page/file/1038236/download> (responding to an inquiry about whether FARA registration was required when a law firm planned to meet with the State Department to obtain a waiver of the revenue rule, which precludes the court of one country from enforcing the tax laws of another, and to communicate the waiver to the district court).

<sup>14</sup>*Id.*

<sup>15</sup>Letter from Heather H. Hunt, Chief, Registration Unit, Counterespionage Sec., U.S. Dep't of Justice, to [addressee deleted], (July 27, 2011), <https://www.justice.gov/nsd-fara/page/file/1038221/download> (responding to an inquiry regarding litigation services provided by a law firm to foreign nationals). In this opinion, the DOJ held that FARA registration was *not* required, but stated: "So long as your firm's activities do not constitute political activities and are not attempts to in any way influence U.S. government officials or sections of the public within the United States with respect to the political or public interests, policies, or relations of the [foreign government], your firm is not required to register for the [foreign government] in as much as the firm's activities are not among those enumerated in Section 1(c)(1)(i)-(iv)." *Id.* On the other hand, the opinion noted, "[p]olitical activities, as defined in Section 1(o) of FARA, even if performed by an attorney, no matter what the forum, mandate FARA registration if those activities are conducted at the request of or under the direction or control of the [foreign government]." *Id.*

<sup>16</sup>Letter from Heather H. Hunt, Chief, Registration Unit, Counterespionage Sec., U.S. Dep't of Justice, to [addressee deleted], Re: Request for an Advisory Opinion for [text deleted] (Dec. 3, 2012), <https://www.justice.gov/nsd-fara/page/file/1038226/download> (responding to an inquiry about whether lobbying Congress and attempting to educate U.S. policy-makers about the proposed acquisition of a U.S. company by a foreign government required FARA registration).

<sup>17</sup>NATIONAL SEC. DIV., U.S. DEP'T OF JUSTICE, U.S. DEPARTMENT OF JUSTICE, NATIONAL SECURITY DIVISION AND SKADDEN, ARPS, MEAGHER & FLOM LLP SETTLEMENT AGREEMENT (Jan. 15, 2019) [hereinafter DOJ SETTLEMENT AGREEMENT], <https://www.justice.gov/opa/press-release/file/1124381/download>.

<sup>18</sup>*Id.*

<sup>19</sup>*Id.* at App'x ¶ 4 & n.2.

<sup>20</sup>Nate Robson & Ellis Kim, *Skadden Settlement Spotlights Greg Craig's Ukraine Work*, NAT'L L. J. (Jan. 17, 2019, 3:48 PM), <https://www.law.com/nationallawjournal/2019/01/17/feds-punish-skadden-over-firms-unregistered-ukraine-work/?slreturn=20190126095248> ("While the agreement does not directly identify the partner, the person is widely understood to be former Obama White House counsel Greg Craig, who retired from Skadden in April 2018. The [DOJ-Skadden] settlement agreement acknowledged the unnamed partner left the firm on April 13, 2018.").

<sup>21</sup>DOJ SETTLEMENT AGREEMENT at App'x ¶ 4.

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registration of scandalous or immoral marks. On appeal, the U.S. Court of Appeals for the Federal Circuit concluded that the provision was an unconstitutional violation of the First Amendment of the Constitution. Brunetti asks the Court to affirm the lower court's invalidation of the provision because it amounts to viewpoint discrimination warranting strict scrutiny review, which the provision then fails. Andrei Iancu, the director of the USPTO, asks

the Court to reverse the lower court decision because the scandalous marks provision is viewpoint neutral and does not impose an unconstitutional burden on speech. Iancu argues that the Court should instead apply the rational basis review standard and recognize that the provision serves legitimate government interests in protecting the moral sensibilities of all audiences as well as the orderly flow of commerce. The Court's decision may have a

chilling effect on free speech in commercial contexts and make it difficult for owners of marks deemed scandalous or immoral to reap commercial benefits from their marks.

Full text available at <https://www.law.cornell.edu/supct/cert/18-302>. ©

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### Don't Take Heat for That Tweet *continued from page 61*

*Assaulted After She Changed Title IX Rules for Campus Rape Cases*, DAILYMAIL.COM (Sept. 12, 2017), <http://www.dailymail.co.uk/news/article-4877732/Texas-prof-tweeted-d-OK-DeVos-sex-assault.html>.

<sup>21</sup>*Id.*

<sup>22</sup>*Id.*

<sup>23</sup>*Id.*

<sup>24</sup>Debra Cassens Weiss, *CBS Fires Lawyer Over Facebook Posts Calling Vegas Shooting Victims Likely "Republican Gun Toters,"* ABAJOURNAL.COM (Oct. 2, 2017, 2:56 PM), [http://www.abajournal.com/news/article/cbs\\_fires\\_lawyer\\_over\\_facebook\\_comments\\_calling\\_vegas\\_victims\\_likely\\_republ](http://www.abajournal.com/news/article/cbs_fires_lawyer_over_facebook_comments_calling_vegas_victims_likely_republ).

<sup>25</sup>*Id.*

<sup>26</sup>Jennifer Williams-Alvarez, *Petition to Look at Former CBS*

*Lawyer Underscores Ethical Risks of Social Media*, CORP. COUNS. (updated Nov. 28, 2017, 11:52 AM), <https://www.law.com/insidecounsel/sites/insidecounsel/2017/10/06/petition-to-look-at-former-cbs-lawyer-underscores-ethical-risks-of-social-media/?slreturn=20180201132812>.

<sup>27</sup>David Ruiz, *Lawyers Using Social Media Lack Framework for What's Allowed*, RECORDER (Mar. 29, 2017, 2:07 PM), <https://www.law.com/therecorder/almID/1202782237344/Lawyers-Using-Social-Media-Lack-Framework-for-Whats-Allowed/?mcode=1202617072607&curindex=4&curpage=2>.

<sup>28</sup>District of Colum. Bar Ass'n Legal Ethics Comm., *Ethics Op.* 370 (Nov. 2016).

<sup>29</sup>JOHN G. BROWNING & JAN L. JACOBOWITZ, *LEGAL ETHICS AND SOCIAL MEDIA: A PRACTITIONER'S HANDBOOK* 178 (2017).

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### Skadden's FARA Violations *continued from page 66*

<sup>22</sup>*Id.*

<sup>23</sup>*Id.* at ¶ 5.

<sup>24</sup>*Id.* ¶ 6.

<sup>25</sup>*Id.* ¶ 7.

<sup>26</sup>*Id.* at ¶ 8.

<sup>27</sup>DOJ SETTLEMENT AGREEMENT at App'x ¶ 7.

<sup>28</sup>*Id.* at ¶ 16.

<sup>29</sup>*Id.*

<sup>30</sup>*Id.*

<sup>31</sup>*Id.*

<sup>32</sup>*Id.* at ¶ 35.

<sup>33</sup>DOJ SETTLEMENT AGREEMENT at App'x ¶ 38.

<sup>34</sup>*Id.* at ¶ 43-44.

<sup>35</sup>*Id.* at ¶ 56(b.).

<sup>36</sup>See David M. Herszenhorn & David E. Sanger, *Failings Found in Trial of Ukrainian Ex-Premier*, N.Y. TIMES (Dec. 12, 2012), <https://www.nytimes.com/2012/12/13/world/europe/failings-found-in-trial-of-ukrainian-ex-premier.html>.

<sup>37</sup>DOJ SETTLEMENT AGREEMENT at App'x ¶ 47.

<sup>38</sup>*Id.* at ¶ 47.

<sup>39</sup>*Id.* at ¶ 52.

<sup>40</sup>*Id.* at ¶ 53.

<sup>41</sup>*Id.* at ¶ 54.

<sup>42</sup>*Id.* at ¶ 55-56.

<sup>43</sup>DOJ SETTLEMENT AGREEMENT at App'x ¶ 57.

<sup>44</sup>*Id.* at ¶ 62.

<sup>45</sup>See *id.* at ¶ 67.

<sup>46</sup>See *id.*

<sup>47</sup>*Id.* at ¶ 68.

<sup>48</sup>28 C.F.R. § 5.5(d)(1)-(2).

<sup>49</sup>Erica Orden & Evan Perez, *Federal Prosecutors Weigh Charges Against Democratic Powerbroker in Manafort-Linked Probe*, CNN (Sept. 15, 2018, 2:48AM), <https://www.cnn.com/2018/09/14/politics/greg-craig-foreign-agent-registration-investigation/index.html>.

<sup>50</sup>*Supra*, note 10.