



March 6, 2020

Corey R. Amundson
Chief, Public Integrity Section
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Chief Amundson:

The Campaign Legal Center (“CLC”) respectfully submits the following complaint requesting an investigation into a potential violation of 18 U.S.C. § 207(f) by former United States Representative Ileana Ros-Lehtinen.

Under Section 207(f), a Member of Congress is barred from knowingly “aid[ing] or advis[ing]” a “foreign entity” with the intent to influence U.S. government officials’ decisions for one year after leaving Congress, even behind the scenes. However, Rep. Ros-Lehtinen joined a foreign government entity’s lobbying team less than three months after leaving office, in order to “aid” and “advise” the Hong Kong Trade Development Council (“HKTDC”), a foreign government entity. This appears to violate Section 207(f)(1)(B).

Rep. Ros-Lehtinen’s decision to work as a lobbying consultant for a foreign government just months after leaving office violates the post-employment restrictions that protect the integrity of public service. Members of Congress are not allowed to leverage the information and relationships they gained during public service for the benefit of foreign governments for a year after leaving Congress, even if they provide assistance to those governments behind the scenes.

18 U.S.C. § 207(f) Prohibits Behind-the-Scenes Aiding and Advising of a Foreign Entity with Intent to Influence the U.S. Government for One Year After Leaving Government Service

Under Section 207(f)(1)(B),¹ a Member of Congress is barred for one year after leaving Congress from knowingly “aid[ing] or advis[ing]” any “foreign entity”

¹ 18 U.S.C. § 207(f) prohibits “any person who is subject to the restrictions contained in subsection (c), (d), or (e)” from engaging in certain activities within one year of leaving “the

“with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties.”²

The Office of Government Ethics (“OGE”) has emphasized that “aid[ing] or advis[ing]” for purposes of Section 207 includes “behind the scenes’ assistance” to a foreign entity “when undertaken with “the intent to influence a decision of” a U.S. government official.”³ Such “behind the scenes” activities include, but are not limited to, “drafting a proposed communication to an agency, advising on an appearance before a department, or **consulting** on other strategies designed to persuade [U.S. government officials] to take certain action.”⁴

The Office of Legal Counsel (“OLC”) has endorsed OGE’s interpretation and further emphasized that the prohibition is “expansive;” given the “breadth of the statutory language,” OLC has noted, section 207(f)(1)(B) bars any activity that would “give help or support to” a foreign entity “with the intent to influence a decision of” a U.S. official.”⁵ According to OLC, one purpose of the prohibition is to “reduce[] the chance or the perception that senior government officials may benefit improperly from public service by sharing information learned during their time in government with foreign entities in return for remuneration.”⁶

Additionally, the House Ethics Manual explains that Section 207(f)(1)(B) “absolutely preclude[s]” any former official from offering aid or advice to foreign governments with the intent to influence U.S. officials, “whether the former official acts openly or behind the scenes.”⁷

position, office, or employment referred to in such subsection.” Because Section 207(e) applies to Members of Congress, former Members are subject to the limitations defined in Section 207(f) for one year after leaving office.

² 18 U.S.C. § 207(f)(1)(B).

³ U.S. OFF. OF GOV’T ETHICS, *Summary of Post-Employment Restrictions of 18 U.S.C. § 207*, 11-12 (July 29, 2004) [“Summary of Post-Employment Restrictions”] (attachment to Memorandum to Designated Agency Ethics Officials, General Counsels and Inspectors General, from Marilyn L. Glynn, Acting Director, Off. of Gov’t Ethics, *Re: Reissuance of Post-Employment Summary*, DO-04-023 (July 29, 2004)), available at [https://www.oge.gov/Web/oge.nsf/0/1529D220E48F184F85257E96005FBDBC/\\$FILE/do-04-023_.pdf](https://www.oge.gov/Web/oge.nsf/0/1529D220E48F184F85257E96005FBDBC/$FILE/do-04-023_.pdf).

⁴ *Id.* (emphasis added).

⁵ U.S. OFF. OF LEGAL COUNSEL, *Memorandum Opinion for the General Counsel Department of Commerce on the Applicability of 18 U.S.C. § 207(f) to Public Relations Activities Undertaken for a Foreign Corporation Controlled by a Foreign Government* 122-24 (Aug. 13, 2008), available at <https://www.justice.gov/file/482181/download> (interpreting 207(f) to prohibit public relations and media activities, such as drafting op-eds, when undertaken with “the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties.”) (emphasis added) (quoting *id.*).

⁶ *Id.* at 125.

⁷ COMM. ON STANDARDS OF OFFICIAL CONDUCT, 110TH CONG., HOUSE ETHICS MANUAL 63-64 (2008), available at https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

Rep. Ros-Lehtinen Was Hired to Support a Foreign Government's Lobbying Efforts Months After Leaving Congress

Rep. Ros-Lehtinen's term in the 115th Congress concluded on January 3, 2019. On January 7, 2019, the firm Akin Gump Strauss Hauer & Feld LLP ("Akin Gump") announced that Rep. Ros-Lehtinen would be joining its public law and policy practice as a senior advisor to participate in Akin Gump's efforts to be "a successful advocate on behalf of its clients, both domestic and foreign."⁸

Since 2012, Akin Gump has been registered under the Foreign Agents Registration Act ("FARA") to represent HKTDC, a statutory body that has promoted, assisted, and developed Hong Kong's trade since 1966,⁹ and which is a foreign government for FARA purposes.¹⁰ On April 1, 2019, Akin Gump finalized a contract with HKTDC ("Contract"), which it filed with the Department of Justice pursuant to FARA.¹¹ The contract was signed by Akin Gump's Victor Fazio, who has been registered as an agent of HKTDC since 2012.¹² Fazio and Rep. Ros-Lehtinen were the two persons listed in the Contract as "team leaders" for the "Consulting Team."¹³

The Contract states that the "objectives" of the representation include "protecting, promoting and developing the interests of Hong Kong in the area of government relations with the US."¹⁴ The Contract described Akin Gump's services as the following:

(a) provide **full consultancy services** (congressional and government relations) to the [HKTDC] and its designated party/parties in relation to the US Congress (Legislative Branch) and the US Administration (Executive Branch) including the White House with regard to economic and trade issues and other possible actions affecting the interests of Hong Kong; and

⁸ Press Release, Akin Gump, *Former Congresswoman Ileana Ros-Lehtinen and Congressman Lamar Smith Join Akin Gump* (Jan. 7, 2019), <https://www.akingump.com/en/news-insights/former-congresswoman-ileana-ros-lehtinen-and-congressman-lamar.html>.

⁹ HKDC, *About HKDC*, available at <https://aboutus.hktdc.com/en> (last visited Mar. 3, 2020).

¹⁰ See, e.g., Akin Gump, Exhibit A to FARA Registration Statement 1 (Jan. 21, 2012), <https://efile.fara.gov/docs/3492-Exhibit-AB-20120221-20.pdf> (disclosing the foreign principal HKTDC as a "foreign government"); see also Cover Letters and Contract between Akin Gump and the Hong Kong Trade Development Council 14-15 (Apr. 1, 2019), <https://efile.fara.gov/docs/3492-Exhibit-AB-20190408-57.pdf> ["Contract"] (disclosing that Akin Gump would "report to and be instructed by the Hong Kong Economic and Trade Office in Washington, D.C., U.S.A. of the Government of the Hong Kong Special Administrative Region," and that Akin Gump agreed to "coordinate its efforts with other firms engaged by the TDC and the Government of the Hong Kong Special Administrative Region").

¹¹ Contract, *supra* note 10, at 1.

¹² Victor Fazio, FARA Short Form Registration Statement (Feb. 21, 2012), <https://efile.fara.gov/docs/3492-Short-Form-20120221-204.pdf>. Fazio's services to HKTDC are described as "[p]rovid[ing] outreach to US Government officials regarding Hong Kong's economic and trade interests." *Id.*

¹³ Contract, *supra* note 10, at 16.

¹⁴ *Id.* at 6.

(b) research and monitor legislative and administrative activities to determine the potential for positive initiatives as well as threats to the interests of Hong Kong; and develop, in conjunction with the [HKTDC] or its designated party/parties, strategic plans to pursue these interests.¹⁵

The “particular” activities in support of these services included “identifying key lobbying targets,” “establishing access and contacts and maintaining close working relations with the key lobbying targets,” and other activities to indirectly advance those lobbying efforts, such as gathering relevant information, developing strategies, and arranging meetings.¹⁶

Rep. Ros-Lehtinen Likely Violated 18 U.S.C. § 207(f) with Her Work for HKTDC

If Rep. Ros-Lehtinen directly or indirectly supported *any* of the services described in the Contract with HKTDC prior to January 2020, she appears to have violated 18 U.S.C. § 207(f)(1)(B).¹⁷

The services that Akin Gump agreed to provide HKTDC in the Contract pertain entirely to HKTDC’s efforts to influence U.S. government officials. HKTDC engaged Akin Gump to “protect[], promot[e] and develop[] the interests of Hong Kong in the area of government relations with the US.”¹⁸ In pursuit of these objectives, Akin Gump was contracted to provide two specific categories of services: (1) “full consultancy services (congressional and government relations)” and (2) researching and monitoring legislative and administrative activities to determine opportunities and risks to HKTDC and to “develop...strategic plans to pursue these interests.”¹⁹

Both Akin Gump’s January 2020 and July 2019 FARA supplemental statements indicate that the services described in the contract are the services Akin Gump actually provided. According to those filings, during the period that Rep. Ros-Lehtinen was still subject to Section 207, Akin Gump “counseled” HKTDC “on U.S. Congressional matters,” which included “monitoring, compiling information, and analyzing the potential and legal ramifications of legislation;” and “monitor[ing] and inform[ing]” HKTDC “of Congressional hearings and other events and developments regarding matters of interest to Hong Kong.”²⁰

¹⁵ *Id.* at 11 (emphasis added).

¹⁶ *Id.* at 11-13.

¹⁷ Summary of Post-Employment Restrictions, *supra* note 3, at 12.

¹⁸ Contract, *supra* note 10, at 6.

¹⁹ Contract, *supra* note 10, at 11.

²⁰ Akin Gump, FARA Supplemental Statement, 11 (Jan. 29, 2020), <https://efile.fara.gov/docs/3492-Supplemental-Statement-20200129-33.pdf>; Akin Gump, FARA Supplemental Statement 11 (July 30, 2019), <https://efile.fara.gov/docs/3492-Supplemental-Statement-20190730-32.pdf>.

The cover letter to the Contract states that Rep. Ros-Lehtinen would not provide “strategic advice or mak[e] communications on behalf of” HKTDC, but would “be available to provide her expertise on issues of concern.”²¹ Yet even if Rep. Ros-Lehtinen strictly adhered to the cover letter’s limitations and provided only behind-the-scenes “expertise” to advance these services, her assistance nonetheless would constitute aid or advice to a foreign government entity in violation of Section 207(f)(1)(B).²²

Given the scope of Akin Gump’s representation of HKTDC, it does not appear that Rep. Ros-Lehtinen could have provided any “expertise” under the Contract without “giv[ing] help or support to” a foreign government “with the intent to influence” U.S. officials, in violation of Section 207. The most reasonable inference is that Rep. Ros-Lehtinen did, in fact, provide prohibited aid or advice with the intent of supporting HKTDC’s efforts to influence U.S. officials prior to January 2020.

Rep. Ros-Lehtinen was one of two Akin Gump employees named in the Contract as “team leaders” for the “Consulting Team.”²³ HKTDC paid Akin Gump \$429,300 in monthly payments of \$35,775 for one year of services beginning in April 2019.²⁴ HKTDC’s obligation to pay this large sum was terminable should Ros-Lehtinen have ceased to be actively associated with Akin Gump and/or should she have become “unable personally to handle the issues contemplated under” the Contract.²⁵

In short, the Contract specifically names Rep. Ros-Lehtinen and anticipates her personal involvement in “the issues contemplated under” the Contract (*i.e.*, influencing U.S. officials), and in a cover letter, Akin Gump promises HKTDC that Rep. Ros-Lehtinen will provide her “expertise” in furtherance of the contract.

Rep. Ros-Lehtinen’s obligations under section 207(f)(1)(B) did not expire until January 2020, after almost three quarters of the Contract’s one-year duration had passed. During that period, it seems highly unlikely that HKTDC would continue to pay tens of thousands of dollars per month for Ros-Lehtinen’s “expertise” unless she was actually providing it, especially given the foreign government’s specific ability to terminate the contract for just such a failure. It therefore appears likely that Rep. Ros-Lehtinen provided prohibited aid or advice to HKTDC with the intent to influence U.S. officials, and did so prior to January 2020.

Finally, any such aid or advice given by Rep. Ros-Lehtinen was provided knowingly. She presumably received guidance on her post-employment obligations upon leaving Congress, she was willfully employed by Akin Gump to do this work, and she was contracted to consult for HKTDC as part of her employment.

²¹ Contract, *supra* note 10, at 1.

²² Summary of Post-Employment Restrictions, *supra* note 3, at 12.

²³ Contract, *supra* note 10, at 16.

²⁴ Contract, *supra* note 10, at 17.

²⁵ *Id.* at 24.

Conclusion

Akin Gump's FARA filings and the Akin Gump-HKTDC Contract demonstrate that Rep. Ros-Lehtinen was employed to aid and advise HKTDC—a foreign government entity—with the intention of influencing U.S. government officials on HKTDC's interests within a year of completing her Congressional term. Any aiding or advising that took place before January 3, 2020, even if behind the scenes, would constitute a violation of 18 U.S.C. § 207(f)(1)(B).

We therefore ask that the Department of Justice open an investigation and determine whether Rep. Ros-Lehtinen violated 18 U.S.C. § 207 and take appropriate action.

Sincerely,

/s/

Brendan Fischer
Director, Federal and FEC Reform

/s/

Delaney N. Marsco
Ethics Counsel