

Two More Public Relations Firms Trip Over the Foreign Agents Registration Act

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Two public relations firms have filed documents with the **Department of Justice** revealing that they provided **public relations and media services** in the United States for the government of Ecuador without being registered under the **Foreign Agents Registration Act** (FARA), as that law requires. These firms are the latest in a long string of law firms, business consultants, and individuals who have inadvertently triggered FARA and sought to register with the Department of Justice for work already underway or even completed. Despite some increased attention to FARA in recent years, the statute remains relatively unknown.

FARA requires that an agent register with the Department within ten days of meeting the statute's triggers, and it further prohibits anyone from acting as an agent until the registration is complete. The PR firms' filings show that both engaged for months in activities that required registration, but they did not register until just weeks ago. One firm, McSquared PR, [revealed](#) that it had been receiving money from the government of Ecuador since May 2013. The other firm, FitzGibbon Media, [disclosed](#) that it contracted to assist McSquared in December 2013.

FARA is an old statute that, despite its age, remains relatively obscure. It was enacted in 1938 in an effort to force public disclosure of Nazi propagandists in the United States. The statute uses sweeping language that can apply to anyone working in the United States on behalf of anyone outside the United States – both foreign governments and foreign corporations. To make matters worse, the law contains complex and interrelated triggers that require assessing the relationship between the U.S. company and the foreign entity, the type and location of activities undertaken for the foreign entity, and whether one of the statute's several exceptions might apply. In short, it is very easy to trigger the statute inadvertently.

The recent PR firms' filings also demonstrate the typical enforcement pattern of the FARA statute. The Department of Justice relies primarily on press reports and other public information to uncover agents who have failed to register. In this case, the Washington Free Beacon reported in June that McSquared "touted the government of Ecuador as a client" but was not registered under FARA. It is possible that McSquared then received an inquiry letter from the Department, asking whether the company should have registered. FARA inquiry letters are common, and they are the Department's

primary method to prompt compliance with the statute. The Department has an explicit policy of “encouraging voluntary compliance” with FARA, even after the fact, rather than pursuing criminal or civil enforcement proceedings. Although the statute carries stiff criminal penalties, the Department’s policy reserves criminal enforcement for “significant FARA offense[s],” such as willful violations involving millions of dollars.

The PR firms’ filings indicate that they were paid \$6,408,000 for the public relations campaign. Despite an “[eye-popping](#)” budget for such a cash-strapped nation, the disclosures filed by the PR firms have likely brought this matter to a close.

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