

Two Criminal Prosecutions Under the Foreign Agents Registration Act

July 22, 2011

On Tuesday, July 19, 2011, the Department of Justice (DOJ) charged two individuals, Syed Ghulam Nabi Fai and Zaheer Ahmad, with violating the Foreign Agents Registration Act (FARA) by failing to register their political and public relations activities on behalf of the Pakistani Government. Pursuant to the FARA statute, no person may act as an "agent of a foreign principal" without registering with the DOJ. An "agent of a foreign principal" includes any individual or entity that engages in political and/or public relations activities in the United States for or in the interests of a foreign individual, company, government, or political party. According to a statement released by Lisa Monaco, Assistant Attorney General for National Security, the "defendants are accused of thwarting this process by concealing the fact that a foreign government was funding and directing their lobbying and public relations efforts in America." Specifically, the DOJ alleges that Mr. Fai, a director of the Kashmiri American Council (KAC), used KAC as an instrument to funnel money from the Pakistani Government to U.S. Government officials through campaign contributions, seeking to focus greater U.S. attention on issues involving Kashmir. Further, Mr. Ahmad is believed to have recruited "straw donors" to fund KAC. Despite their active engagement in activities to further the interests of the Pakistani Government in the United States, neither Mr. Fai nor Mr. Ahmad was registered under FARA.

As the recent charges brought against Mr. Fai and Mr. Ahmad illustrate, a willful failure to comply with FARA's registration and reporting requirements can result in the imposition of fines and/or imprisonment. Although criminal penalties are frequently reserved for the most egregious violators of the statute, it is important for

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individuals and companies that represent foreign interests in the United States, whether directly or indirectly, to be aware of the statute's registration and reporting obligations, and to make FARA compliance a priority.