



Compliance Notes - Vol. 1, Issue 8

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RECENT LOBBYING, ETHICS & CAMPAIGN FINANCE UPDATES

We read the news, cut through the noise, and provide you the notes.

Welcome to Volume 1, Issue 8 of *Compliance Notes* from Nossaman's **Government Relations & Regulation Group** – a periodic digest of the headlines, statutory and regulatory changes, and court cases involving campaign finance, lobbying compliance, election law, and government ethics issues at the federal, state, and local level.

Your attorneys, policy advisors, and compliance consultants are available to discuss any questions or how specific issues may impact your business.

If there is a particular subject or jurisdiction you'd like to see covered, please let us know.

Until then, please enjoy this installment of ***Compliance Notes***. If you would like to have these updates delivered directly to your in-box, please click below to subscribe to our Government Relations & Regulation mailing list.

Campaign Finance & Lobbying Compliance

A complaint filed with the Federal Election Commission (FEC) accuses congressional candidate Casey Askar (R-FL) of illegally directing a \$3 million, 0% APR loan to his campaign. The complaint alleges that Askar's loan was either an illegal contribution from the bank because the terms of the loan were irregular or possibly an impermissible contribution from the other owners, if any, of the LLCs that were collateral for the loan. The candidate claims that the funds were drawn on a personal line of credit before he became a candidate and were therefore permissible personal funds, which a candidate may give in unlimited amounts

to his or her own campaign. (Jacob Ogles, *Florida Politics*)

Arizona: Arizona has asked a court to block the Citizens Clean Elections Commission from enforcing certain laws that regulate how much candidates and others can spend on campaigns and what information has to be disclosed. At issue is a provision that allows supporters to, in effect, anonymously contribute unlimited amounts to candidates. The Commission argued that the provision should stand because it would be a violation of the Voter Protection Act for legislators to interfere with a voter-enacted law and the change would undermine the intent of the 1998 Clean Elections Act, which was designed to reduce the influence of money on politics. The appellate judges gave no indication when they will rule. (Howard Fischer, *Capitol Media Services*)

Missouri: Former Gov. Eric Greitens' campaign filed paperwork with the state indicating he plans to run for an unspecified statewide office in 2024. That does not mean he's actually running for anything, but instead that his campaign can continue to raise and spend money as it has since he resigned two years ago. (Austin Huguelet, *Springfield News-Leader*)

New Jersey: The Progressive Democrats of Union County filed a complaint with the New Jersey Election Law Enforcement Commission (NJ ELEC) alleging that countywide Democrats, backed by Union's party organization (joint committee: "Victory 2020/EFO Hudak, Garretson, and Leon"), and local candidates in Elizabeth (joint committee: "Victory 2020 ") violated campaign finance law by giving their respective joint committees the same name. Mailers for the countywide candidates and law signs for the local candidates both say they were paid for by "Victory 2020." State election law bars committees from holding identical names. (Nikita Biryukov, *New Jersey Globe*)

Tennessee: The six-member Registry of Election Finance (REF) unanimously voted to maintain their \$465,000 fine against expelled former lawmaker Rep. Jeremy Durham for violating campaign finance laws hundreds of times. According to the REF, Durham spent thousands of dollars in donor money on everything from custom suits to spa products. (Joel Ebert, *Nashville Tennessean*)

Tennessee: Former House Speaker Glen Casada failed to accurately report \$26,000 in campaign contributions and expenditures, lacked receipts for \$104,000 in expenses during a nearly 18-month period, and accepted money during a period when lawmakers are banned from receiving contributions, according to a pair of audits. Those findings were the main highlights of two audits campaign finance officials launched 10 months ago after the embattled Williamson County Republican faced scrutiny for his role in a text message scandal involving his former chief of staff. The REF indicated it plans to levy just \$10,500 in penalties and show significant leniency to Casada, who vowed to maintain better campaign records. (Joel Ebert, *Nashville Tennessean*)

Washington: A Thurston County Superior Court judge ordered the Freedom Foundation to pay \$80,000 over its campaign finance violations. The judgment is a result of a 2015 lawsuit asserting the Freedom Foundation failed to properly and timely file independent expenditure reports disclosing the value of the legal services it provided to support ballot propositions in the cities of Sequim, Chelan and Shelton, as required under the state's campaign finance laws. (Washington State Attorney General, Press Release)

Government Ethics

An investigation into whether Rep. Alcee Hastings (D-FL) had an improper relationship with one of his aides was dropped after it was disclosed that he has been married to the staffer since January 2019. House rules bar lawmakers from having romantic relationships with aides or committee staffers. However, a lawmaker may employ a spouse in his or her office. The Ethics panel also announced that it was creating a special investigative subcommittee to look into allegations that Del. Michael F. Q. San Nicolas (D-Guam) had an improper sexual relationship with a congressional staffer, broke campaign finance laws and lied to the government. (John Bresnahan, *Politico*)

Colorado: Former Colorado Gov. John Hickenlooper accepted millions of dollars from corporations and nonprofits to fund initiatives and positions in his office – an arrangement that came with limited oversight and public disclosure despite the potential conflicts of interest – according to a months-long analysis of state records conducted by The Colorado Sun and CBS4 Denver. Hickenlooper, a vocal proponent of public-private partnerships, defended his decision to take the money, saying that he “looked at it as a way to try to make the community better, especially at times when you are short funds,” but acknowledged his office should have had a policy to manage potential conflicts of interest. In Colorado, the constitution prohibits gifts to public officials, but does not appear to prohibit gifts and grants to the state from corporations. (John Frank and Shaun Boyd, *The Colorado Sun*)

Nonprofits

LeBron James, Trae Young, Skylar Diggins-Smith, Jalen Rose and a group of other prominent black athletes and entertainers are starting a new organization, “More Than a Vote,” aimed at inspiring African Americans to vote and protecting African Americans’ voting rights. James said he would use his high-profile platform on social media to combat voter suppression or the disenfranchisement of racial minorities. (Jonathan Martin, *New York Times*)

Presidential Debates

The D.C. Circuit declined to alter the rules that determine who makes the presidential debate stage. Level the Playing Field and the Libertarian and Green parties sued after the FEC rejected their objections to the criteria that the Commission on Presidential Debates uses to admit candidates in the televised presidential debates it has hosted for the last 30 years. According to a 13-page opinion written by Judge Raymond Randolph, there is no legal requirement that the commission make it easier for independent candidates to run for president of the United States and the 15% national opinion polling threshold is not “subjective” simply because it is hard for the third-parties to reach. (Tim Ryan, *CourthouseNews Service*)

Voter Registration

New voter registration dropped 70% (compared with April 2016) across 11 states in April 2020 amid the coronavirus pandemic. (Joey Garrison, *USA Today*)

Voting & Elections

Alaska: In November, Alaskans will decide whether to adopt ranked-choice voting, nonpartisan primary elections and tough new rules on campaign finance disclosure. In a unanimous decision, the Alaska Supreme Court upheld a lower-court decision and confirmed the legality of a proposed multipart ballot measure including all three topics. The state of Alaska had argued that the measure violated the “single

subject” rule of the state constitution that required ballot measures be limited to one subject. Proponents asserted all three components fall under the single subject of “election reform.” (James Brooks, *Anchorage Daily News*)

California: A California judge suspended an executive order from Gov. Gavin Newsom that tells counties how to conduct a vote-by-mail election this November, temporarily blocking one of the emergency measures Newsom issued because of the coronavirus outbreak. The lawsuit, filed by Republican Assemblymen James Gallagher and Kevin Kiley, alleged that Newsom’s voting order is a “usurpation of legislative power, and therefore cannot have the force of law.” Newsom’s office says the restraining order issued Friday will not impede the state’s ability to send every voter a ballot in response to the pandemic. (Hannah Wiley and Sophia Bollag, *The Tribune*)

California: A measure to implement ranked choice voting in the City of San Diego will be considered for the 2020 ballot this fall. Ranked choice voting would allow voters to list up to four candidates in order of preference, instead of casting one vote for a single candidate. The city would be required to also hold a voter awareness campaign to familiarize voters with the change. (Mark Saunders, *ABC 10 News San Diego*)

Florida: Lawyers for Gov. Ron DeSantis took an unusual step in their challenge to a voting-rights ruling that would pave the way for hundreds of thousands of felons to cast ballots in the November elections. They requested the full federal appeals court hear the matter “en banc,” rather than taking the normal step of having an initial hearing with a three judge segment of the court. DeSantis’ lawyers said the request that the 11th U.S. Circuit Court of Appeals hold an initial hearing by the full court was necessary due to a panel decision earlier in the case, and because of the far-reaching nature of the lawsuit. (News Service of Florida, *Florida Politics*)

Iowa: Iowa Senate Republicans passed a wide-ranging election bill that would prohibit the secretary of state from mailing absentee ballot request forms without first receiving a request from a voter. The measure would limit the ability of election officials to take some of the same steps they took during the June 2 primary, which saw record turnout with more than 80% of the vote from absentee ballots. (Ian Richardson, *Des Moines Register*)

Minnesota: A trio of lawsuits in both state and federal courts seeks to force changes in how Minnesota processes absentee ballots for the August primary and November general elections. The main target of the suits — brought by the ACLU of Minnesota and the NAACP, the League of Women Voters and the Campaign Legal Center, and the Minnesota Alliance for Retired Minnesotans — is the state requirement that absentee voters have another voter witness the voting process and include their signatures on ballots. (Peter Callaghan, *MinnPost*)

Nevada: Early returns from Nevada’s primary election were delayed after polling places in the state’s two most populous counties were kept open to allow those waiting in long lines to vote. Nevada reduced in-person voting sites and encouraged people to cast their primary election ballots by mail because of the coronavirus pandemic. For those who still showed up at the limited number of polling places, they were casting ballots Tuesday on paper rather than voting machines to limit contact with shared surfaces. Nevada State Democratic Party Chair William McCurdy said the hours-long wait validated his organization’s lawsuit against the state seeking to expand the number of in-person polling locations. (John Sadler, *Las Vegas Sun*)

New Jersey: About one in every 10 people who mailed in ballots in last month's special elections had their votes rejected. An analysis of the entirely mail-in election found that election officials did not count 9.6% of ballots sent in. A database provided by the state Division of Elections shows more than a dozen reasons for rejecting ballots. Most commonly, officials did not count ballots because the signature on the ballot did not match the one on file, the ballot arrived too late or the required certificate was not enclosed. The New Jersey Institute of Social Justice is asking a U.S. District Court judge to order the state to revise current signature verification procedures to allow voters to fix any problem with a mail-in ballot so that it can be counted. (Colleen O'Dea, *NJ Spotlight*)