



# Compliance Notes - Vol. 3, Issue 45

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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 *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.

Our 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**

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Tom Barrack, who chaired former President Trump's 2017 inaugural committee and served as an informal advisor to the campaign, was found not guilty of unlawfully acting as an agent of the United Arab Emirates, conspiracy to act as a foreign agent, obstruction of justice and making false statements to the FBI. Prosecutors charged Barrack with using his influence with the Trump administration to push UAE policy interests without notifying the U.S. Attorney General, which is required by law when acting as a foreign agent. The jury's decision is a defeat for the Department of Justice, which has recently increased enforcement of laws designed to curb foreign influence campaigns. (Luc Cohen, *Reuters*)

**California:** California’s pay-to-play law, which requires disqualification of an official from voting in a proceeding involving a contributor from which they received more than \$250, was expanded to include local elected bodies, effective January 1, 2023. However, staff to the state’s Fair Political Practices Commission (FPPC) are recommending that the calculation of the \$250 threshold include contributions received by officials in 2022. The FPPC staff recommendation came in a memorandum regarding a requested opinion on whether the state’s expanded pay-to-play rule applies to contributions received in 2022, even though the bill does not go into effect until 2023. The FPPC is slated to discuss at their November 17 meeting. (FPPC Memorandum – November 3, 2022)

**Vermont:** Liam Madden, the Republican nominee in the race for Vermont’s only seat in the U.S. House, reportedly admitted in a radio program that he funneled money through family members to inflate his campaign donations during the primary cycle so that he would qualify for candidate debates. Madden apparently claimed that he took money from his wife’s business account and distributed it among family members, who then donated the money to his campaign. Now, Madden is recouping the money by collecting a salary from his campaign. If true, Madden would have violated the Federal Election Commission’s (FEC) ban on corporate contributions and contributions “in the name of another.” However, Madden insists the transactions are legal because he “read the FEC rules.” (Sarah Mearhoff, *VTDigger.org*)

## Government Ethics & Transparency

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**Tennessee:** The Shelby County Commission voted to change how the ethics officer for the Shelby County Government is selected and the type of complaints the ethics officer has the authority on which to act. Under the new ordinance, the ethics officer will be nominated by the county mayor with a concurrent resolution by the County Commission. The ethics officer can no longer act on anonymous complaints; the ethics officer can only act on complaints submitted in writing and signed under oath. Further, the ethics officer will be independent of the three branches of county government to eliminate any opportunity for the County’s Legislative, Executive or Judicial Branches to directly control or influence the ethics officer as they carry out their duties. All ten commissioners present at the meeting voted in support of the ordinance. (Katherine Burgess, *Memphis Commercial Appeal*)

## Ballot Measures & Elections

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The Department of Justice (DOJ) will monitor polls throughout 64 jurisdictions in 24 states to ensure compliance with federal voting rights laws during the November 8<sup>th</sup> midterm elections. Personnel from DOJ’s Civil Rights Division and U.S. Attorneys’ Offices will be deployed as monitors, along with people from the Office of Personnel Management, where authorized by federal court order. The DOJ’s decision comes as battleground states are on heightened alert due to election officials’ growing concerns over voter intimidation and potential voter disruptions. (Herb Scribner, *Axios*) (DOJ Press Release)

**South Dakota:** The Eighth Circuit Court of Appeals found that South Dakota’s law that would have required ballot measure workers to publicly disclose their personal identification information violated the First Amendment. The court reasoned that forcing ballot measure circulators to disclose their phone number, residential and email addresses and driver’s license information in a directory would be “chilling in today’s world,” and therefore curb free speech. (Stephen Groves, *AP News*)