



Compliance Notes - Vol. 4, Issue 46

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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

According to a statement by FEC Commissioner Ellen Weintraub, former president Donald Trump has effectively been made exempt from campaign finance laws because the Federal Election Commission (FEC) refuses to investigate him. Weintraub said there have been at least fifty-eight instances where the FEC has heard allegations against Trump, accusing him or his family members of violating regulations. In at least twenty-eight of those allegations, according to Weintraub, staff at the Office of General Counsel (OGC) determined that a criminal investigation was warranted. However, there have been zero times where a Republican Commissioner has voted to approve an OGC recommendation against Trump, which puts Trump in a "category by himself," she said. (Kate Plummer, *Newsweek* and Statement of Reasons)

Amidst growing concern about how generative AI might impact elections by contributing to misinformation, Meta, the parent company of Facebook and Instagram, announced a new policy requiring political advertisers to disclose when they have used AI or other digital methods to create their ads. Starting next year, advertisers must disclose when a social issue, electoral or political ad contains a “photorealistic image or video, or realistic sounding audio” that was digitally created or altered. Advertisers are not required to disclose changes that are “inconsequential or immaterial” to the claims or issues raised in the ad, such as adjusting image size or sharpness. Advertisers who do not disclose alterations will see their ad rejected, “and repeated failure to disclose may result in penalties.” (Ivana Saric, *Axios*)

New York: The week of November 5, 2023, FBI agents quietly seized phones and an iPad from New York City Mayor Eric Adams as part of an investigation into political fundraising during his 2021 campaign. The seizures happened as Adams was leaving a public event in Manhattan, according to a statement from the mayor’s attorney, Boyd Johnson. The seizure of Adams’ devices came four days after federal agents searched the Brooklyn home of Adams’ top campaign fundraiser, Brianna Suggs. In a statement on Friday, Adams said he had “nothing to hide” and would continue to fully cooperate with any investigation. (Jake Offenhartz, *AP News*)

Government Ethics & Transparency

Amidst sustained criticism over undisclosed trips and gifts from wealthy benefactors, the U.S. Supreme Court adopted a formal code of conduct. The code, signed by all nine justices, requires them to “maintain and observe high standards of conduct in order to preserve the integrity and independence of the federal judiciary.” The code does not appear to impose any significant new requirements and leaves compliance entirely to each justice. (Mark Sherman, *AP News & Supreme Court’s Code of Conduct*)

Michigan: Members of the Michigan Legislature finalized a set of bills that would regulate the use of artificial intelligence (AI) in political advertising and help protect poll workers. Under House Bill 5141, any person, committee or other entity who publishes or distributes qualified political advertisements must include a disclaimer noting that the ad had been created wholly or partially with AI. Under House Bill 4129, intimidating or preventing election officials from performing their duties would be a misdemeanor punishable by up to 93 days in prison or a fine of up to \$500; a second offense would result in a \$1,000 fine and up to a year in prison and the third and any further violation would be a felony. The bills are awaiting the governor’s signature. (Kyle Davidson, *Michigan Advance*)

Washington: The Public Disclosure Commission (PDC), that enforces the State of Washington’s campaign finance and disclosure laws, is formally investigating six ballot initiatives that are still in the signature-gathering process. The six initiatives are the efforts of Let’s Go Washington and are sponsored by Brian Heywood, a Republican mega-donor and Washington resident. The PDC’s website lists two allegations. One is for failing to accurately file reports that reflect “in-kind contribution details for the expenditures made, and which initiatives were supported.” The other is for “failing to properly disclose the identity of a vendor for some of the in-kind contributions received from Brian Heywood.” The commission can levy fines up to \$10,000 for each individual violation that is not brought into compliance. If the issue is large enough, it can be escalated to the Attorney General’s Office. (Shauna Sowersby, *The Olympian*)(subscription required)