

RECENT SETTLEMENTS SIGNAL INCREASED POLITICAL LAW ENFORCEMENT BY GOVERNMENT OFFICIALS

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INTRODUCTION

The U.S. government reached settlements with two federal lobbyist registrants recently in what appears to signal increased enforcement of political activity laws.

On August 28, 2015, the U.S. Attorney's Office for the District of Columbia reached a \$125,000 settlement with Carmen Group, a major lobbying firm operating in the nation's capital, for repeated violations of the Lobbying Disclosure Act ("LDA"). The Carmen Group civil penalty represents the largest to date for violating the LDA.

Separately, on September 21, 2015, the Federal Election Commission ("FEC") reached settlements with ACA International, which is the trade association of the credit and collection industry, its connected separate segregated fund (political action committee), and one of its former employees. Despite FEC enforcements becoming exceedingly rare on a partisan Commission, these entities were collectively fined \$32,219 for violating campaign finance laws by commingling its corporate funds with its political action committee ("PAC").

LDA Enforcement is on the Rise

The violations that prompted the Carmen Group settlement relate to incomplete disclosures under the LDA. The settlement is the latest in a trend towards a heightened government emphasis on penalizing lobbying firms for disclosures that fail to meet the filing requirements under the statute. In a release, the U.S. Attorney described the settlement as reaffirming the government's "determination to seek significant penalties from repeat offenders who fail to meet their reporting obligations."

According to the Department of Justice, the Carmen Group allegedly failed to file certain quarterly reports, and some of the firm's registered lobbyists also failed to file certain semi-annual political contribution reports. Under the LDA, lobbying firms must file a Form LD-2 twenty days after the conclusion of each calendar quarter detailing any lobbying activities on behalf of a particular client. Additionally, individual registered lobbyists as well as the organizational registrant must file a Form LD-203 twice a year that reports certain political and other contributions during the previous six-month period.

The Carmen Group had also recently been criticized by an outside "watchdog" organization for its nonspecific descriptions of its lobbying activities on behalf of its clients. The group highlighted multiple instances where it

believed the Carmen Group's descriptions fell short of the LDA's statutory requirements for disclosure specificity. In one particular instance, the Carmen Group described its lobbying for Xavier University in New Orleans as simply "Hurricane Katrina related recovery issues." The LDA requires that a registrant disclose a full list of the issues on which the registered lobbyist engaged in lobbying activity, including bill numbers and specific references to executive branch actions.

Corporate PAC Compliance Remains an Enforcement Focus for the Federal Election Commission

Despite murkiness about certain provisions of the Federal Election Campaign Act, other provisions remain clear. A connected, separate segregated fund—often simply called a "corporate PAC"—must not commingle funds received for a federal election with any general corporate funds.

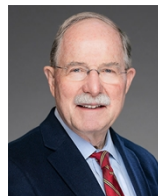
The ACA International settlement, resulting from an internal investigation that ultimately led to a self-reported violation (*sua sponte* complaint), highlights the willingness of the FEC to punish corporations for failing to monitor their internal compliance with basic federal campaign finance laws. According to the complaint, an ex-employee of the association moved hundreds of corporate dollars into the PAC account—money that was later withdrawn. This was in direct violation of the laws against commingling federal funds. Even though the FEC found that only the ex-employee "knowingly and willfully" violated the law, the commissioners still voted to find reason to believe that the association and its PAC violated the Federal Election Campaign Act. The settlement is the second this year with a trade association for self-reported violations of campaign finance laws. Note that generally, the FEC reduces penalties levied against an individual or entity for violations of the Federal Election Campaign Act that are self-reported.

For more information on these settlements or complying with the associated federal political laws, consult with one of K&L Gates' political lawyers.

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