

Largest Settlement Reached for Lobbying Disclosure Act Violation

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Federal prosecutors recently obtained the largest settlement ever reached for a violation of the federal Lobbying Disclosure Act (LDA). The \$125,000 civil penalty, which was agreed to between the U.S. Attorney's Office for the District of Columbia and the Carmen Group, settled allegations that the lobbying firm had failed repeatedly to file lobbying disclosure reports in a timely fashion over several years. According to media reports, the firm's amended reports also disclosed receiving hundreds of thousands of dollars in lobbying fees that previously had not been reported.

Although such fines are relatively rare—the latest settlement was only the fourth such settlement since 2013—the matter nonetheless serves as a reminder of the important requirements for lobbyists and their employers to properly register and report their lobbying activities. Failure to do so may result in unwanted inquiries from federal prosecutors, potentially severe civil and criminal penalties, and reputational harm.

Under the LDA, lobbyists, their firms, and employers of in-house lobbyists are required to register with the Secretary of the U.S. Senate and the Clerk of the U.S. House of Representatives if an individual lobbyist makes more than one lobbying contact and lobbying activities and compensation for lobbying exceed certain thresholds during a quarterly period. Lobbying firms and employers of lobbyists are required to file quarterly reports on behalf of themselves and their lobbyists, detailing the dollar amount spent or billed on lobbying activities and the specific legislation or issues that were the subject of lobbying contacts, among other information. Lobbying

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firms, employers, and individual lobbyists also must separately file semiannual reports detailing certain political contributions that they or their PACs made, as well as certain other payments to benefit entities or events associated with or honoring covered officials.

The Secretary of the Senate and Clerk of the House refer suspected violations of the lobbying reporting requirements to the U.S. Attorney's Office for the District of Columbia for enforcement. According to the latest annual report on LDA compliance required to be compiled by the U.S. Government Accountability Office (GAO), the U.S. Attorney's Office currently has six attorneys working on LDA enforcement issues.

Per the GAO report, approximately 19 percent of lobbying disclosure reports were amended in 2014, and 10 percent of newly registered lobbyists, firms, and employers failed to file their first quarterly disclosure report. In addition, the GAO found that 4 percent of semiannual reports failed to properly report political contributions. The Secretary of the Senate and Clerk of the House have made more than 2,300 referrals in total to the U.S. Attorney's office over the last five years for failures to properly file quarterly reports, more than 1,500 referrals for lobbying firms and employers for failing to properly file semiannual reports, and more than 2,700 referrals for individual lobbyists for failing to properly file semiannual reports.

While the U.S. Attorney's Office offers LDA registrants opportunities to take corrective action, according to the GAO report, after four unsuccessful attempts have been made, prosecutors will consider taking "further action." Under the LDA, civil penalties of as much as \$200,000 may be imposed for each violation, and up to five years' imprisonment may be sought for "knowing[] and corrupt[]" violations.

To avoid referrals to prosecutors, it is advisable for lobbying firms and companies employing in-house lobbyists to implement processes to ensure that they and their lobbyists are collecting all of the information required on lobbying disclosure reports, and that such reports are being filed on time and accurately. Routine internal audits are also recommended to verify that those compliance processes are effective.

Robust compliance and internal audit programs are especially important for firms and companies that lobby at multiple levels of government, since each jurisdiction may have its own unique registration and reporting thresholds, disclosure schedules, and requirements for what information must be reported. One's status as a registered lobbyist or lobbyist employer often also triggers additional restrictions on campaign contributions and gifts that may be given to covered officials.

Wiley Rein's Election Law practice routinely advises clients on federal and state lobbying and ethics laws, and how to set up internal audit and compliance programs to avoid inadvertently violating these complex laws.