

Political Law

"I call them when I have a tough problem that needs to be solved in a creative and practical manner. And when it's urgent, they are always willing to help." Client Commentary, Chambers USA

Federal, state, and local laws that govern political activities are increasingly numerous and complex. Inappropriate or illegal political activity can hinder work on important policy issues, impact a corporation's bottom line, or undermine a promising candidacy. Caplin & Drysdale's bipartisan Political Law group provides businesses, trade associations, nonprofits, candidates, and activists with timely, concise counsel on the high-stakes legal issues that involve "pay-to-play" restrictions, lobbying regulations, campaign finance laws, and ethics rules. Visit our blog site www.FARA.us.

Areas of Focus

Responding to Political Law Investigations, Audits, and Complaints

In recent years, the Federal Election Commission ("FEC"), the Department of Justice ("DOJ"), U.S. Senate Select Committee on Ethics, House Committee on Ethics, Office of Congressional Ethics ("OCE"), and state regulators have brought a considerable number of criminal and civil political-law cases and investigations against government officials, corporations, nonprofit advocacy groups, and their officers. Full-scale audits of political contributions and lobbying activities are also common. These actions may result in significant fines, reputational injuries and even jail sentences. In such instances, the need for sophisticated expertise and experience in the myriad details of campaign finance, lobbying, "pay-to-play," and ethics laws and enforcement proceedings is immediate.

Lawyers in Caplin & Drysdale's Political Law Group regularly defend individuals and organizations in such proceedings. Their combined experience in government and private practice make them uniquely qualified to represent clients in enforcement actions involving political activity. Call the firm's Political Law group when:

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- Responding to a campaign-finance complaint, inquiry, audit, or request for information by the FEC, the IRS, the DOJ, OCE, Congressional ethics committee, or a state regulator;
- Preparing for a Government Accountability Office (GAO) audit of federal lobbying activities;
- Negotiating with government entities on settlement agreements;
- Conducting internal investigations related to political activities;
- Replying to government inquiries, subpoenas, and summonses; and
- Developing coordinated press and legal defense strategies on political-law matters.

Establishing and Maintaining Political Organizations

Recent U.S. Supreme Court and federal appellate court decisions, as well as pending federal legislation, present a shifting legal landscape for all politically active corporations, organizations, and individuals. Strict compliance with these ever-changing rules is a must in order to avoid severe civil and criminal penalties in a realm where even an allegation of impropriety can devastate an organization or individual.

Caplin & Drysdale's decades of experience and sophisticated understanding of the Federal Election Campaign Act (FECA) and similar state laws is vital to our clients' success in this challenging environment. Call the firm's Political Law group when:

- - Establishing a corporate PAC on the federal or state level;
 - Creating a "Super PAC," 527 organization, or 501(c)(4) entity;
 - Seeking advice on workplace political activity in a corporate or trade association setting;
 - Preparing disclosure reports for the FEC, the IRS, or any state regulatory agency;
 - Conducting internal investigations or audits related to political activities;
 - Holding fundraising events;
 - Merging federal or state PACs with those of another corporation;
 - Seeking Advisory Opinions from federal and state regulators;
 - Making political contributions to federal, state, and local candidates, which can trigger burdensome reporting obligations; and
 - Implementing payroll deduction and charitable incentive programs for PAC contributors.

Advising on the Foreign Agents Registration Act (FARA)

Increased scrutiny and enforcement activity by the U.S. Department of Justice concerning the Foreign Agents Registration Act (FARA) has given rise to concerns for the regulated community on when and how to comply with this statute, as well as increased confusion regarding its relationship to the Lobbying Disclosure Act (LDA). FARA registration and reporting can be complex and impose a heavy administrative burden. Caplin & Drysdale's Political Law Group has an established practice representing individuals, lobbyists, consulting firms, advocacy groups, public affairs firms, political consultancies, and think tanks in addressing their FARA compliance obligations. Please visit our blog site www.FARA.us for more information.

Illustrations of our work for clients include:

- - Responding to inquiries and document requests from the Department of Justice's FARA Unit;
 - Resolving government enforcement actions related to FARA compliance;
 - Preparing and submitting retroactive FARA filings;
 - Conducting internal investigations concerning potential FARA issues; and
 - Establishing tailored compliance programs to help lobbying firms, public affairs firms, and political consultancies efficiently manage FARA's compliance obligations.

Interacting with Officeholders and Sponsoring Officeholder Events

Government ethics rules restrict the nature and amount of gifts, employment offers, event hosting, travel sponsorships and other benefits that private individuals and organizations may confer on public officials. Each of these activities may be restricted where public officials are involved, sometimes in counterintuitive ways. Prospective advice and training are essential for any organization that regularly interacts with government officials.

Caplin & Drysdale's detailed knowledge of congressional gift and travel rules, Office of Government Ethics regulations, and state ethics provisions assists corporate and nonprofit clients in planning meals, events, and fact-finding trips that promote their organizational goals. Call the firm's Political Law group when:

- - Planning an event attended by federal or state public officials;
 - Organizing a product promotion event attended by government procurement employees;
 - Seeking advice on the Ethics in Government Act or congressional gift rules;
 - Responding to inquiries and complaints by federal, state, and local ethics bodies;
 - Offering employment to current or former government employees;
 - Sponsoring a fact-finding trip to be taken by federal or state public officials; and
 - Developing policies regarding the provision of gifts and meals to public officials.

Contacting Government Officials and Employees

Federal and state government entities impose extensive registration and disclosure requirements on persons who lobby public officials. These requirements apply not only to outside "contract" lobbyists, but also to lobbyist clients and organizations that use internal employees to lobby federal, state, or local governments. Registered individuals and organizations may also be subject to their own disclosure obligations, as well as special restrictions on gifts and political contributions. Failure to satisfy these lobbying rules may result in criminal penalties, civil fines, and negative publicity.

Caplin & Drysdale advises and trains major corporations and tax-exempt organizations, including charities, social welfare organizations, and trade associations, regarding their obligations under federal and state lobbying regimes. Call the firm's Political Law group when:

- - Monitoring and reporting lobbying activities under the Lobbying Disclosure Act (LDA), Foreign Agents Registration Act (FARA), and comparable state laws;
 - Planning contacts with executive branch officials, legislators, and other government personnel;
 - Preparing for a Government Accountability Office (GAO) audit of federal lobbying activities;
 - Reviewing lobbying disclosure practices in state and local government affairs departments; and
 - Training lobbying personnel on government ethics rules.

Implementing Corporate Compliance Systems

Politics is more important to business than ever, as government regulators assert themselves and public-sector clients present key growth opportunities. At the same time, mistakes made while lobbying, giving campaign contributions, and interacting with public-sector entities are now more costly. For example, an executive's otherwise lawful political contribution may void existing government contracts or wall-off future business opportunities due to new federal and state "pay-to-play" restrictions. And as the *New York Times* recently observed: "In the wake of the Jack Abramoff scandal, greater political activism by trade groups and demands by candidates and causes for corporate money, boards are now seeing that their corporate image could be tarnished if these contributions or political activities go awry."

Caplin & Drysdale helps clients establish compliance programs that facilitate adherence to the law and maximize organizational effectiveness. Call the firm's Political Law group when:

- - Seeking advice on "pay-to-play" restrictions issued by the Securities & Exchange Commission and other state entities;
 - Auditing corporate political donations and lobbying activities;
 - Conducting internal investigations related to political activities;
 - Tracking campaign contributions and gifts to federal, state, and local candidates and officeholders;
 - Offering political-law training sessions for executives, staff, and other personnel;
 - Filing comments in ongoing rule-making proceedings;
 - Developing bylaws, handbooks, and organizational policies; and
 - Monitoring and reporting lobbying activities under the Lobbying Disclosure Act (LDA), Foreign Agents Registration Act (FARA), and comparable state laws.

Related Practices

Exempt Organizations

News & Insights

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Chambers USA and Legal 500 Recognize Caplin & Drysdale in 2010 Top Rankings

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Trevor Potter Comments on the Aftermath of Citizens United

Corporate Counsel, 06.10.2010

Daniel B. Rosenbaum Comments on Audit of Employers Regarding Employment Tax

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Trevor Potter Responds to Conservative Fears of Book Banning

National Journal, 05.24.2010

Trevor Potter Testifies Before the House Administration Committee on The Disclose Act

OMB Watch, 05.11.2010

Trevor Potter Comments on Disclosure of Corporate Political Spending

Marketplace, 04.26.2010

Trevor Potter Comments on White House Counsel

Original article published by The Associated Press, 04.24.2010

Matthew Sanderson Comments on Political Cybersquatting

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Trevor Potter Discusses the Impact of Citizens United

Financial Times, National Journal, The Associated Press, etc., 02.01.2010

Trevor Potter Comments on Courts' Decision to Roll Back Limits on Election Spending

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USA Today Quotes Matthew Sanderson: Will Government Intervene in BCS Mess?

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Matthew Sanderson Comments on Fleischer vs. PAC in Bowl Brawl

POLITICO, 01.05.2010

NPR Speaks with Matthew Sanderson on Anti-BCS Campaign Gets Nasty Political Favor

NPR, 01.04.2010

USA Today Quotes Matthew Sanderson on Political Action Committee to Run Ad Promoting College Football Playoff

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POLITICO Quotes Matthew Sanderson on Complaint Filed Against Fiesta Bowl

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Deseret News Quotes Matthew Sanderson on 2000s: The First Decade - Utah at Front of BCS Battles

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The Wall Street Journal Quotes Matthew Sanderson: TCU Plays BSU in the BCS? OMG!

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Deseret News Quotes Matthew Sanderson on Commentary: BCS Still Not Doing Enough to Be Fair

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POLITICO Quotes Matthew Sanderson on BCS Puts Ari Fleischer in the Lineup

POLITICO, 11.23.2009

Trevor Potter Joins Marc Elias to Improve Voter Registration

NPR, 11.03.2009

Washingtonian Magazine Lists Six Caplin & Drysdale Attorneys as Top Lawyers in Washington

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Matthew Sanderson Comments on Dick Harmon: BCS a Tad Nervous as Congress Watches

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Matthew Sanderson Comments on Rage Over College Football Sparks Political Action

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CBS News Interviews Matthew Sanderson on Unplugged Under 40: The Battle to Change the BCS

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Matthew Sanderson Comments on Fans Against BCS Form PAC
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Lawmakers Must Cross Aisle on Vote Reforms
National Journal, 09.08.2009

Trevor Potter Discusses the Constitutionality of Campaign Finance Limits for Corporations on Moyers' PBS Show
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Trevor Potter Announces Bipartisan Committee to Modernize Voter Registration
ABCNews.com, *New York Times Caucus Blog*, *Washington Post 44 Blog*, *WeeklyStandard.com*, *Roll Call*, *The Hill*, *BNA*, *MinnPost.com*, 08.31.2009

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Supreme Court to Examine Corporate Spending in Elections; Major Shift Possible
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Campaign Finance Rules May Take a Beating
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Super Lawyers Recognizes Nine Caplin & Drysdale Attorneys in Five Practice Areas Awards & Rankings | *Super Lawyers*, 03.27.2009

EVENTS

Matthew Sanderson Co-Chairs American Conference Institute's National Forum on FARA
12.09.2021

Matthew Sanderson Analyzes ABA's FARA Task Force Report on ACI Webinar

1:00 PM - 2:00 PM

11.09.2021

Matthew Sanderson Co-Chairs American Conference Institute's National Forum on FARA

12.04.2020

Matthew Sanderson Addresses Music and Political Campaigns on Columbia Law School Webinar

10.08.2020

Matthew Sanderson Discusses FARA Compliance on National Institute for Lobbying & Ethics Webinar

10:00 AM - 11:30 AM

10.05.2020

Trevor Potter Discusses Election Ethics in New Mexico at Virtual Event

12:00 PM – 1:30 PM EDT

09.17.2020

Trevor Potter Discusses Voting in America at 92nd Street Y Virtual Event

6:00 PM

09.15.2020

Matthew Sanderson Analyzes Increased Enforcement of FARA on ABA International Law Virtual Annual Meeting

11:00 AM

06.15.2020

Matthew Sanderson Addresses FARA at National Institute for Lobbying & Ethics

01.24.2020

Bryson Morgan Addresses FARA Registration on Webinar

2:00 PM - 2:45 PM EDT

10.17.2019

Matthew Sanderson Co-Chairs American Conference Institute's National Forum on FARA

8:15 am

09.25.2019

Matthew Sanderson and Bryson Morgan Explore FARA Enforcement on Thomson Reuters' Program

12:00 PM ET - 1:00 PM ET

04.10.2019

Matthew Sanderson Addresses Money, Disclosure & Free Speech at Journal of Law & Politics Symposium

9:00 AM - 10:00 AM

03.05.2019

Matthew Sanderson and Bryson Morgan Explain the Foreign Agents Registration Act and Compliance

Objectives for U.S. Entities on SCCE Webinar

1:00 PM ET

11.19.2018

Trevor Potter Examines Money in Politics at Heckerling Institute on Estate Planning

11:45 AM - 12:35 PM

01.23.2018

Trevor Potter Explores American Democracy at AtlanticLIVE Event

7:00 PM

12.07.2017

Trevor Potter to Speak to League of Women Voters on Money in Politics

7:30 PM

05.11.2017

Trevor Potter to Moderate Campaign Finance Presentation with Richard Hasen

05.05.2016

Trevor Potter to Moderate Campaign Finance Presentation

01.22.2016

Trevor Potter to Present Keynote Speech at Independent Sector National Conference

10.28.2015

Trevor Potter to Speak at Harvard Law School

10.09.2015

Trevor Potter and Matthew Sanderson to Speak on Campaign Finance in the 2014 Election and in the Future

11.10.2014

Trevor Potter to Speak on Yale University's Political Donations Panel

11.10.2014

Trevor Potter to Speak at IFES 2012 U.S. Election Program

11.04.2014

Matthew Sanderson to Speak on Best Practices in Corporate Political Activity

10.13.2014

Matthew Sanderson to Speak on Best Practices in Corporate Political Activity

10.13.2014

Trevor Potter to Speak at the University of Kentucky College of Law

10.01.2014

Trevor Potter to Speak to Election Law Class at the University of Kentucky College of Law

10.01.2014

Matthew Sanderson to Speak on Effective Advocacy in Washington

09.15.2014

Matthew Sanderson to Present Recent Trends in Political Law Web Conference

09.10.2014

Trevor Potter to Serve as Panelist at California Polytechnic State University

06.02.2014

Trevor Potter to Speak on Campaign Finance Law at Princeton University
04.22.2014

Matthew Sanderson to Host Webinar: "The New 'Super PAC': All You Ever Wanted to Know About Joint Fundraising Committees"
04.11.2014

Trevor Potter to Speak at FBA's 2014 Tax Law Conference
02.28.2014

Trevor Potter to Speak at Campaign Finance Reform Luncheon
07.24.2013

Matt Sanderson Speak at Utah State Bar Annual Conference
07.20.2013

Matthew Sanderson to Speak at Netroots Nation 2013
06.22.2013

Trevor Potter to Speak at The National Press Club Event Following the Money: A Post-Mortem on 2012 and a Look to What's Next
12.04.2012

Trevor Potter to Speak at COGEL 2012 Annual Conference
12.03.2012

Trevor Potter Joins Super PAC Televised Debate
09.12.2012

Trevor Potter to Speak to League of Women Voters 50th National Convention in Washington, D.C.
06.12.2012

Trevor Potter to Speak at the 89th Annual Meeting of the American Law Institute
05.21.2012

Trevor Potter to Chair the Conference on Corporate Political Spending
05.15.2012

Trevor Potter to Speak at the SIEPR Policy Forum: Money, Politics, and the Economy
05.11.2012

Campaign Finance after Citizens United: A Primer on Super PACs and Corporate Political Activity
05.08.2012

Trevor Potter to Speak at the Georgetown Law Center Conference on Impact of Citizens United v. FEC on Campaign Finance
04.19.2012

Trevor Potter to Speak on Super Pacs at Brookings Institute
03.01.2012

Trevor Potter Speak at the 2011 Symposium on Corporate Political Spending in New York
The Waldorf Astoria, New York, NY, 10.20.2011

Bringing Voter Registration into the 21st Century
American Enterprise Institute for Public Policy Research and the Pew Center on the States
09.19.2011

Annual Hedge Fund General Counsel Summit
09.13.2011

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Wested Legal Center
07.22.2010

Foundational Shifts in Political Law: Citizens United, Pay to Play and Lobbying Reform
22nd Annual General Counsel Conference
06.08.2010

Trevor Potter and Douglas Varley Present Audio Conference Panel
01.29.2010

Audio Conference: The Brave New World of Campaign Finance
West LegalEd
01.27.2010

Douglas Varley to Present on Current Developments in Nonprofit Governance and Advocacy
11.17.2009

Audio Conference: The SEC Enters the Fray Around "Pay to Play"
BNA
10.01.2009

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If the FEC Won't Protect Voters, the Courts Should — But it Might Be Up to Congress
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Congress Has The Power To Prevent A Repeat Of January 6
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President Biden Signs Comprehensive New Executive Order on Executive Branch Personnel Ethics
Political Law Alert | 01.22.2021

The Electoral College Isn't Supposed to Work This Way
Article | *New York Times Op-Ed*, 01.06.2021

No, Jan. 6 Isn't Another Chance for Trump to Reverse the Election
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Trump's Legal Strategy is to Sue First and Ask Questions Later. That's Dangerous.

Article | *The Washington Post Op-Ed*, 11.13.2020

Reforming The FEC: Effective Commissioners Are Needed

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Trump's Campaign Can Be Put on Hold. Election Day Can't.

Article | *The Washington Post Op-Ed*, 10.03.2020

COVID-19 Government "Re-Open" Advisory Groups Often Subject to Lobbying and Ethics Rules

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Growing List of States and Localities Extend Lobbying Filing Deadlines in Response to COVID-19 Pandemic

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Businesses and Organizations Seeking Government Assistance in COVID-19 Crisis Should Pay Attention to "Procurement Lobbying" Rules

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After Multiple Lawsuits, New Jersey Nonprofit Disclosure Law Permanently Enjoined

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With 2018 Midterms Approaching, Our Elections Are Not Protected
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A New Way to Safeguard America Against Threats to Our Elections
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Churches Cannot be Allowed to Become Political Dark Money Shops
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To Get Ahead in Congress: Skip Governing, Raise Money

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When It Comes to Money in Politics, The Supreme Court Lives in a Different Reality

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- U.S. Supreme Court Releases Opinion in *McCutcheon v. Federal Election Commission*
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- Political Activity, Lobbying Laws, and Gift Rules Guide
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- The Supreme Court Needs to Get Smarter About Politics
Article | *The Washington Post*, 10.11.2013
- Summary of New York's New Political Disclosure Rules for Nonprofits
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- The History of Undisclosed Spending in U.S. Elections & How 2012 Became the "Dark Money" Election
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- A New Recipe for Election Reform
Article | *The Washington Post*, 05.09.2013
- Low-Income Students Must Aim High, Seize Opportunities Offered to Them
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- A Simple Plan to Drastically Improve Voting, Stop Fraud, and Save Money
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- Amended MSRB Rules G-37 and G-8 Require Enhanced Disclosure
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- FEC Increases Contribution Limits
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- Campaign Finance: Remedies Beyond the Court
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- SEC & Massachusetts Sanction Goldman Sachs \$16 Million, Underscoring Need for Vigorous Compliance With Pay-to-Play Rules
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- Three Can Keep a Secret, If Two of Them Are Dead: A Thought Experiment Around Compelled Public Disclosure of "Anonymous" Political Expenditures
University of Virginia Journal of Law & Politics, Volume 27:609-625, 2012, 07.01.2012
- DC Circuit Refuses to Stay Lower Court Ruling Requiring Disclosure of Funders of "Electioneering Communications"
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Senate-Passed "STOCK Act" Requires "Political Intelligence Consultants" to Register and Report under Lobbying Disclosure Act

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Article | *8 N.Y.U. J.L. & BUS.* 227, 11.01.2011

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The Gift Tax and Contributions to Section 501(c)(4) Organizations: Less than Meets the Eye?

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Federal Campaign Finance Law: A Primer for the Lobbyist

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Advise Client Companies to Review Payroll Practices

Article | *Verizon Small Business Center's News & Resources*, 09.10.2010

Federal and State Governments Target Employment Tax Compliance

Article | *Taxation of Exempts*, 09.01.2010

Utah's Way of Picking Candidates Robs Voters

Article | *The Salt Lake Tribune*, 06.21.2010

Once Again Employment Tax Compliance at the Forefront of IRS's Enforcement Agenda

Article | *Bloomberg Law Reports*, 06.21.2010

House and Senate Respond to Citizens United Ruling

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Schumer, Van Hollen Outline Legislative Response to Citizens United

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Practical Impact and Longer Term Consequences of Citizens United v. FEC

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Article | *The Hill*, 01.06.2010

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Caplin & Drysdale Submits Comments to SEC on Proposed Pay to Play Law

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Money Business: Constitutional Opinions
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Proposed SEC Pay-to-Play Rule Will Soon Be Available for Public Comment
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A New Page for Voting: It's Time to Ditch Paper-Based Registration
Article | *Washington Post*, 06.25.2009

Congress Issues Clarification on Conditions for Lobbyist Termination
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New Guidance on Lobbyist Reporting and Termination
Article | *Political Activity Law Bulletin*, 06.11.2009

Hiring Former Federal Government Employees as Lobbyists
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Writing an Effective Corporate Political Activity Policy
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SEC to Propose Pay-to-Play Rule for Investment Advisors in July
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Analysis of Bill Clinton's Cybersquatting Loss
Article | *Election Law Blog*, 06.04.2009

Next Phase of Election Reform: Start with Facts
Article | *Roll Call*, 05.05.2009

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Article | *CircleID*, 05.01.2009

A Dot-Pol of Their Own
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Article | *Political Activity Law Alert: Important Recent Developments*, 04.06.2009

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New FEC Registration Forms Available; Lobbyist PACs Must Amend by March 29, 2009
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IRS Articulates New Standards for Nonprofit Websites
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Recent Developments in State Pay-to-Play Law
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Gift Rules Applicable to Members and Staff of the 111th Congress

Article | *Political Activity Law Bulletin*, 01.16.2009

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Article | *Political Activity Law Bulletin*, 01.16.2009

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Article | *Election Law Journal*, 01.01.2009

Lobbyist Bundling of Campaign Contributions

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Former US Ambassador to Plead Guilty to Violating Post-Employment Ethics Law in Qatar Representation

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House Judiciary Committee Holds First FARA Hearing In 30 Years

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Dual Russia-U.S. Citizen Charged With FARA Violations, Remains At-Large

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