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Update on Texas Campaign Regulations

With campaign season in full swing, many legal issues related to political campaigns have been in the news recently. While most of the issues prevalent today have been around for a long time, many are relatively new (or previously obscure). With the increased public scrutiny of the political process, combined with the technology available to more easily track activities, it is more important now than ever to ensure you are complying with campaign finance and related laws in your campaign's or political committee's operations.

The below items are areas of interest for political campaigns and political committees in complying with Texas laws. We have expertise in all of these areas, and are available to assist our clients with compliance.

Reporting Political Contributions Maintained

As we reported in our previous Client Update, the TEC recently proposed a rule that may alter the way campaigns and political committees report their political contributions maintained. The rule, originally proposed in early 2008, was modified at the TEC's April 2008 meeting. The TEC adopted the rule on Tuesday, June 10, after making some modifications based on written comments from our firm and testimony provided at the TEC meeting. As adopted, the rule requires political campaigns and political committees to include the present value of all their investments (such as bonds, CDs, and marketable securities) in their total political contributions maintained. The rule also addresses accounting issues related to checking and savings accounts, and specifically excludes any personal funds from the total.

Partnerships and Limited Liability Companies

Texas law generally prohibits accepting political contributions from corporations. However, Texas law allows accepting political contributions from partnerships, limited liability companies, and other types of business entities under certain circumstances. If the entity attempting to make a political contribution is not a corporation itself, and the entity is not owned (either directly or indirectly) by a corporation, then the entity may make a political contribution in Texas. For those companies organized outside of Texas, the law requires slightly more investigation before being able to determine whether they may make a political contribution. This out of state investigation requires an examination of the statutory scheme that companies organized under.

Ownership of Real Property

Several years ago, Texas prohibited campaigns from purchasing real property or paying the principal or interest on a mortgage for real property. Another provision prohibits the personal use of campaign funds by a candidate or officeholder, including paying that person rent for real property they owned. (In 2007, the Legislature tightened the restriction on this type of transaction, and specifically eliminated a campaign's ability to rent real property from certain individuals closely related to the candidate or officeholder, or businesses controlled by his or her family.) The TEC has been investigating several situations where a candidate's or officeholder's spouse owned real property that the campaign rented (usually a home in the Austin area for legislators). In one instance, the TEC found a home was partially owned by an officeholder because he signed the mortgage on the property, even though his name was not on the title and he did not pay for any of the down payment. Because the officeholder, in part, owned the real property, payments of rent violated those laws. The particular campaign at issue was fined several thousand dollars, and has publicly stated its intention to appeal the decision.

About Locke Lord Bissell & Liddell LLP

Locke Lord Bissell & Liddell LLP, formerly Locke Liddell & Sapp, has attorneys with experience working with campaign finance laws and regulations, ranging everywhere from local and state-wide political campaigns to groups providing pure issue advertising. The firm currently represents political campaigns, political committees, and prominent consultants and lobbyists. In addition to working with our clients to comply with the campaign finance laws, Locke Lord also monitors activities at the Texas Ethics Commission to keep our clients updated on proposed rules. During the legislative session, Locke Lord monitors campaign finance legislation, letting our clients know of potential statutory changes they may wish to comment on.

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