



## Smart political contribution or felony?

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In addition to the Federal Elections Commission, the U.S. Department of Justice (DOJ) also has enforcement authority over campaign finance violations. Even a small dollar transaction, particularly related to a conduit scheme, can and has led to felony charges and prison time. Technical violations of the campaign finance bribery laws are likely common, but easily avoided.

Providing a campaign contribution in exchange for an official action is a crime, but most contributions are given to candidates that have a track record and are likely to take official actions that support your business goals. So how do you avoid crossing that murky line between smart use of your political funds and a federal crime?

The interest behind the contribution is key, according to a recent presentation given by Richard C. Pilger, Director, Elections Crimes Branch, Criminal Division at the DOJ. And the primary trigger for proving criminal intent: concealment.

Trying to conceal a contribution source, either through a conduit scheme or by earmarking contributions and funneling them through various other entities, is a serious red flag to the DOJ. Concealment of a contribution almost always leads to the conclusion that criminal intent was present. Contributions by government contractors or foreign nationals and corporate reimbursements to employees or others for political contributions are treated especially seriously.

How do you avoid violating the law? And, just as important, how do you avoid actions that might lead the DOJ and other regulators to suspect a violation and turn their sights on you? Here are a few best practices:

1. Make the contribution directly. Concealment is a red flag for any investigator. Review your motive if you're earmarking a contribution to a candidate through a PAC or party, and don't ever reimburse someone for a campaign contribution. The old adage really is true: the cover up is worse than the crime.
2. Be careful of your timing. Delivering a contribution on the eve of a critical vote is suspect, especially if that occurs at a hastily arranged meeting or event.

3. Don't leave a trail of bread crumbs. Be careful of the statements you make when delivering a campaign contribution. A cover letter with your contributions that thanks the candidate for their vote or asks for a specific official action is not a good idea. Acknowledging a candidate's support for your industry is generally fine, but referencing a specific action can be a red flag.