



## What went wrong? First criminal prosecution in U.S. for campaign finance coordination serves as election season reminder

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With the 2016 races well under way, many candidates, committees, corporations and organizations are stepping up their involvement in the political scene. As campaign activity ramps up, so do political transactions — each election, millions of dollars are at play. The movement of these dollars is patrolled by the Federal Elections Commission (FEC), which enforces federal campaign finance laws alongside an increasing number of other law enforcement agencies.

Last year, the Department of Justice (DOJ) announced the conclusion of its first criminal prosecution of coordinated payments between a Super PAC and a candidate's campaign committee. After a lengthy investigation by the Federal Bureau of Investigation (FBI), Tyler Eugene Harber, a campaign finance manager and political consultant from Virginia, plead guilty to one count of coordinated federal election contributions and one count of making false statements.

While serving as a candidate campaign manager, Harber founded and helped run a Super PAC that, under Harber's direction, spent \$325,000 on advertisements criticizing one of the candidate's opponents. Federal law regulates this kind of coordination between candidate campaign committees and Super PACs and the expenditure by the Super PAC amounted to an illegal campaign contribution to the candidate's committee. Further, Harber admitted to using an alias as an attempt to cover up his activity. After an official from the candidate's campaign confronted him with suspicion, Harber was investigated by the FBI, eventually pleading guilty and receiving a 24-month sentence.

Harber's fate demonstrates the seriousness of campaign finance abuse and encourages anyone involved in political fundraising or spending to keep themselves and others in compliance with election and campaign laws. Among other things, Super PACs, corporations or any entity seeking to engage in independent campaign activity should adopt and enforce a firewall policy so that they do not compromise the independence of their activity. Having an effective firewall will not only help to prohibit the flow of information between a candidate committee and independent actors, but it also creates a safe harbor with the FEC that could prove very valuable if questions about illegal coordination should arise.

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