

DE 89-02 - April 5, 1989

**Anonymous Contributions
Sections 106.07(4)(A), 106.08 (2) and 106.141, F.S.**

To: Ms. Dorothy J. Dunn, City Clerk, City of Sunrise, 10770 West Oakland Park Boulevard, Sunrise, Florida 33351

Prepared by: Division of Elections

This is in reference to your March 10, 1989 letter regarding the Division's recommended policy for receiving or handling anonymous contributions and the recommended disposition for anonymous contributions.

The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions to several categories of persons including local officers having election-related duties. Therefore, we have authority to issue an advisory opinion to you.

The Campaign Finance Act, Chapter 106, Florida Statutes, does not provide for anonymous contributions to candidates. Section 106.07(4)(a), Florida Statutes, requires that for each contribution received, the campaign treasurer must indicate the name and address of the contributor and if the contribution is more than \$100, the occupation of the contributor must be listed.

However, occasionally a candidate finds himself in the difficult situation of receiving an anonymous contribution and since it is not known who made the contribution, it is impossible for the candidate to return it.

The focus of the Campaign Finance Act is to provide full disclosure of who is making contributions to candidates and how a candidate is spending his money. Anonymous contributions violate the spirit of the "Who Gave It, Who Got It" law and while the Division certainly does not want to encourage anonymous contributions, we do realize that on occasion this problem presents itself and that the candidate needs directions as how to handle it.

When a candidate receives an anonymous contribution, the candidate must report the contribution on the candidate's campaign treasurer's report as an anonymous contribution and include a cover letter explaining that the contribution is anonymous and, therefore, impossible to return. In addition, a copy of the letter to the filing officer should be sent to the Division of Elections for the Florida Elections Commission file. To violate Chapter 106, Florida Statutes, except for automatic fine provisions for late reports, there must be a willful violation. In reporting the contribution in this manner and supplying the supplemental information, the candidate is negating the willful intent of violating Chapter 106, Florida Statutes.

Other sections of the code, such as Section 106.08(2), Florida Statutes, provide that when an

unauthorized contribution is received, it may not be used by the candidate and must be returned to the contributor. Therefore, we recommend that the candidate not spend an anonymous contribution. Since it is impossible to return the contribution to the contributor, we recommend that at the end of the campaign, the candidate donate the amount of the anonymous contribution to an appropriate entity under Section 106.141, Florida Statutes. In doing this, the candidate will not encourage other contributors to make anonymous contributions to a candidate's campaign.

SUMMARY

When a candidate receives an anonymous contribution, he should report the contribution on the candidate's campaign treasurers' report as an anonymous contribution. A cover letter should accompany the report explaining that the contribution is anonymous and, therefore, impossible to return. A copy of this letter should be sent to the Division of Elections for the Florida Elections Commission file. We recommend that the candidate not spend the contribution and at the end of the campaign, donate the amount of the anonymous contribution to an appropriate entity under Section 106.141, Florida Statutes.