

DE 77-19 - August 23, 1977

**Campaign Expenditures And Accounts
Chapter 106, F.S.**

To: Raleigh Greene, Esquire, Attorney at Law, Post Office Box 3542, St. Petersburg, Florida 33731

Prepared by: Division of Elections

In July 1977, this office learned in the course of a discussion with your Campaign Treasurer, Mr. Canning, of the employment of a procedure by your campaign by means of which your campaign treasurer (on your behalf) entered into a "repurchase agreement" in the amount of \$100,000.00 with the Century First National Bank (your designated campaign depository). Since that time this office has worked closely with your attorney Mr. McElroy in the development of information designed to enable use to render an opinion respecting such procedure. Mr. McElroy has, by letter of August 19, 1977, supplied us with additional documentation to the end that we might resolve this matter.

Section 106.021(b), Florida Statutes, requires designation of a campaign depository in a bank authorized to transact business in this State, and Section 106.05, Florida Statutes, mandates that expenditures shall be made only from funds on deposit in such campaign depository in the manner prescribed therein, and, Section 106.19(1)(e), Florida Statutes, imposes criminal sanctions for the making of any expenditure in any manner other than that provided by Chapter 106, Florida Statutes.

Expenditures, which are defined by Section 106.011(4), Florida Statutes, as being made "for the purpose of influencing the results of an election", must be made by campaign voucher pursuant to Section 106.11, Florida Statutes.

An examination of your campaign finance reports together with the subject repurchase agreement, your voucher #058 and the bank record which your attorney supplied to use discloses the following:

As of July 5, 1977, your campaign account contained contributions in the amount of \$179,540.76, and on July 1, 1977 you expended \$100,000.00 of your campaign funds to the Century First National Bank of St. Petersburg "for RP #9307" — viz, the repurchase agreement involving U.S. Treasury Notes.

There is, of course, no provision in Chapter 106, Florida Statutes, for the expenditure of campaign funds for investment of profit-making purposes. Expenditures are to be made, pursuant to the mandate of Chapter 106, Florida Statutes, only "for purpose of influencing the results of an election". That is, the statute does not contemplate nor in any respect authorize candidates or treasurers either to fractionalize the required campaign account or to enter upon a program of financial speculation or investment. The Division cannot, under existing law, authorize candidates or treasurers to spend campaign funds for the purchase of, for example, corporate stocks or bonds, real estate or securities. Once funds have been received as contributions, deposited in the campaign account or reported as

such, expenditures from that account must be made for the statutorily stated purpose. Otherwise, quite apart from the statutory mandate, not only would the control and the counting of such campaign funds be made more difficult but the strict prohibition by the act of incurring of debts would be significantly undermined.

Accordingly, you are directed to recover the subject \$100,000.00 immediately and to replace same in your account to be expended for prescribed campaign purposes.

Thank you for continuing cooperation given this office by your attorney and treasurer.

SUMMARY

Campaign funds must be maintained in a campaign account in a designated campaign depository. Expenditures may not be made from the campaign account for purposes of speculation or investment or for any purposes other than to influence the results of an election.