

DE 88-19 - May 3, 1988

**Contributions and Expenditures of Political Committees
Sections 106.011(2), (3), (4); 106.025; 106.04(1), F.S.**

To: Mr. Philip S. Parsons, Landers, Parsons and Uhlfelder, Post Office Box 271, Tallahassee, Florida 32302

Prepared by: Division of Elections

This is in response to your letter regarding the contributions to and expenditures of committees of continuous existence. Under Section 106.23(2), Florida Statutes, the Division of Elections may provide advisory opinions to committees of continuous existence and since you are counsel to a committees of continuous existence, the Division is authorized to render an opinion to you.

You have asked several questions regarding donations and expenditures as those terms are defined in Section 106.011, Florida Statutes. Your questions are as follows:

1. If a committee of continuous existence buys prints form a publisher for \$14 each and sells them to a gallery for \$54, for a profit of \$40 each, is the purchase of the prints by the committee considered an expenditure of \$14 per print?
2. Is the \$40 profit made on the sale of each print to the gallery considered the contribution to the committee by the gallery or is the total \$54 per print considered the contribution?
3. If the publisher of the prints sells them directly to the gallery for \$54 and them contributes the \$40 to the committee, is the \$40 considered a "contribution"?

In reference to your first question, if a committee of continuous existence buys prints from a publisher for \$14 each and sells them to a gallery for \$54, for a profit of \$40 each, is the purchase of the prints by the committee considered an expenditure of \$14 per print?

Yes. Section 106.011(4), Florida Statutes, defines "expenditure" in part as, a "purchase...made for the purpose of influencing the results of a election." Furthermore, a committee of continuous existence is by definition involved in making contributions to candidates. Sections 106.011(2), 106.04(1), Fla. Stat. Presumably, such contributions "influence" the results of elections. The purchase of the prints is an expenditure since the profits from resale will be used as contributions and expenditures in the furtherance of political campaigns.

An analogy may be made between the expenses of the committee's proposed money-raising plan and expenditures incurred by a candidate in holding a campaign fund-raiser pursuant to Section 106.025, Florida Statutes.

In reference to your second question, is the \$40 profit made on the sale of each print to the gallery considered the contribution to the committee by the gallery or is the total \$54 per print considered the contribution?

The entire purchase price of the print, \$54, is a contribution regardless of whether there is a \$40 profit. The purchase price of \$54 paid by the gallery must be recorded on the campaign treasurer's report.

In reference to your third question, if the publisher of the prints sells them directly to the gallery for \$54 and then contributes the \$40 to the committee, is the \$40 considered a "contribution"?

Yes. The question answers itself by stating that the publisher "contributes" \$40 per print to the committee.

This opinion addresses only the Florida Election Code and committees of continuous existence. There may be federal income tax and state tax ramifications that should be discussed with your client.

SUMMARY

If a committee of continuous existence buys prints and sells them, the purchase price paid by the committee is an expenditure which must be reported. The entire price paid by the gallery to the committee of continuous existence for the prints must be reported as a contribution to the committee regardless of the amount of profit made by the purchaser. If the publisher of the prints sells them directly to the gallery and donates the profit to the committee, that profit is a contribution to the committee and must be reported by the committee as such.