

DE 92-11 - June 24, 1992

**Political Party Raising Funds Through Business Activities
Sections 103.121(1)(a)6.;106.011(3), F.S.**

TO: Mr. Mark S. Levine, Florida Democratic Party, 245 East Virginia Street, Tallahassee, Florida 32301

Prepared by: Division of Elections

This is in response to your request for an opinion concerning proposed fund raising activities of the Florida Democratic Party (Party). You are counsel for the Party and pursuant to Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue advisory opinions relating to the Florida Election Code, Chapters 97- 106, Florida Statutes, to several categories of persons including political parties. You ask:

1. Whether the Florida Democratic Party may raise funds either by selling its contributor list or by entering into a business relationship with North American Communications Group, Inc. (NACOM). The business relationship which you describe in your letter would be the Party furnishing its contributor list for NACOM's solicitation of long distance telephone services. For business generated from this list, the Party would receive fair market consideration. In addition to providing the list, the Party would provide solicitation of potential customers for NACOM's services by Party workers. The potential customers would be offered discounted telephone service and would be made aware that part of the revenue would go to the Party.
2. If the Party can raise funds by selling its contributor list or by entering into the business relationship described, must the funds received be reported as contributions to the Party?

It is the opinion of the division that the Party may raise funds by selling its contributor list, and may also raise funds through the business relationship described with NACOM. Moneys received from the sale of the Party's contributor list or from the described business relationship must be reported by the Party as contributions.

In reference to your first question, Section 103.121(1)(a)6., Florida Statutes, provides that the executive committee of a political party has the power and duty to raise and expend party funds. The Attorney General has opined that the Party may raise funds by selling advertisement space in yearbooks and almanacs produced by the Party. Op. Att'y Gen. Fla. 73-157. This method of raising funds was also indirectly approved by the division in DE 88-35, which opined that a candidate may purchase such an advertisement from a county executive committee for the purpose of furthering his candidacy. Further, the division allowed such fund raising activities to committees of continuous existence. Op. Div. Elect. Fla. 88-19. The division also allowed candidate for Secretary of State, George Firestone, to raise funds by selling Firestone blimps. Op. Div. Elect. Fla. 78-36. Likewise, a political party may raise funds through the sale of its contributor list or from a business relationship

such as you describe. Therefore, the Party may sell its contributor list to NACOM.

In reference to your second question, Section 106.011(3)(a), Florida Statutes, describes a contribution, in part, as:

A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value ... made for the purpose of influencing the results of an election.

The division has long held that moneys received for the sale of goods are contributions. In DE 78-36, the division opined that moneys received for the sale of Firestone blimps were contributions, within the meaning of Section 106.011(3), Florida Statutes. Further, the division opined that profit made by a political committee from the sale of prints must be reported as a contribution. Op. Div. Elect. Fla. 88-19.

You state in your letter that an analogy to the business relationship such as you describe in your letter would be interest payments received by the Party on its bank accounts. You further state that the payor bank is not deemed to have made a contribution. However, Section 106.021(1)(b), Florida Statutes, provides that interest payments must be reported as contributions.

This interpretation is in keeping with the philosophy of Chapter 106, Florida Statutes, which provides for full disclosure of candidates, political committees, committees of continuous existence, or political party activities.

Therefore, funds received by a political party from a business relationship must be reported as contributions to the Party.

SUMMARY

The Florida Democratic Party may raise funds by selling its contributor list, and may also raise funds through the business relationship described with NACOM. Moneys received from the sale of the Party's contributor list or from the described business relationship must be reported by the Party as contributions.

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