

DE 93-10 - November 15, 1993

Contributions from Joint Checking Accounts; Clarification of DE 82-16

TO: The Honorable Mary Morgan, Supervisor of Elections, Collier Government Complex, 3301 Tamiami Trail East, Naples, Florida 33962-4971

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding joint checking accounts. You are the Collier County Supervisor of Elections and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

Essentially, you ask whether a contribution received in the form of a check drawn on a joint account and signed by only one of the joint owners can be presumed to be an equal contribution from both owners. If the answer to this question is no, you further ask what should a candidate do with a check he receives that is drawn on a joint account, signed by one owner of the account, and in excess of the prescribed contribution limit.

In DE 82-16 we stated that the policy of the Division was that funds in joint accounts are the property of both depositors and that "candidates" using joint accounts must specifically identify funds expended from these accounts. Op. Div. Elec. 82-16, July 8, 1982. This opinion dealt with a candidate who was making contributions to her campaign fund from her checking account which she owned jointly with her husband.

The Division, in keeping with the intent of full disclosure with regard to Florida's campaign finance laws, has consistently interpreted both the law and DE 82-16 to require that a contribution by a check drawn on a joint account must be signed by each owner of the account when the contribution is intended to be a contribution from each owner. To the extent that DE 82-16 is in need of clarification, we reaffirm the need for all required signatures as discussed above. As a result, if a check is drawn on a jointly-owned account and it is signed by only one owner, it is presumed that the contribution is from that person only.

Your second question is answered as follows. If a candidate receives a check written on a joint account in an amount in excess of the statutory limits and the check bears only one signature, the check should be returned to the contributor and not deposited into a campaign account. See Section 106.19(a), Fla. Stat.

SUMMARY

A campaign contribution by means of a check drawn on a joint checking account, which is intended to be a contribution from each of the account owners, must be signed by both owners of the joint account. If a campaign contribution in the form of a check drawn on a joint account is received

bearing only one owner's signature and the check is in an amount in excess of the contribution limits, the check should not be deposited into a campaign account. Instead, the check should be returned to the contributor.