

DE 00-02 - January 31, 2000

**Disposal of Surplus Campaign Funds
§ 106.141, Fla. Stat.**

TO: Mr. Michael E. Batts, C.P.A., Graham & Cotrill, P.A., 110 East Hillcrest Street, Orlando, Florida 32801

Prepared by: Division of Elections

This is in response to your letter of January 5, 2000, on behalf of Bob Starks, a former candidate for the Florida Senate. Mr. Starks withdrew his candidacy for the Florida Senate on September 24, 1999. Your campaign has attempted to dispose of surplus campaign funds pursuant to section 106.141, Florida Statutes, by returning a full pro-rata refund to each of Mr. Starks' contributors. In order to do so, Mr. Starks, prior to his withdrawal, made a contribution (loan) to the campaign in an amount that would fully compensate each contributor. However, some contributors have failed to cash or deposit their refund checks, leaving a balance in the campaign account.

You wish to close the campaign account and have asked if it is permissible to partially reimburse Mr. Starks for his earlier contribution in an amount equal to the total of the uncashed refund checks. The campaign filed a termination report on December 27, 1999 and wishes to close the campaign account on January 31, 2000. After that date, you propose that any refund checks will be void and cannot be cashed.

Section 106.141, Florida Statutes, does not directly address the problem presented in this case. It does, however, permit a candidate to get reimbursed for personal loans to the campaign. Subsection (2) reads:

(2) Any candidate required to dispose of funds pursuant to this section may, prior to such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

The campaign could have chosen to reimburse Mr. Starks for his loan prior to disposing of the funds in the campaign account. You have written the contributors who have failed to cash their refund checks and notified them of your intention to close the account by January 31, 2000. Therefore, I believe it is permissible for the campaign to issue a check to Mr. Starks in an amount equal to the funds remaining in the account as of January 31, 2000. This check will represent a partial reimbursement of Mr. Starks' loan to the campaign and should be reflected as such in an amended termination report.