

DE 02-10 - July 19, 2002

Receipt of Contributions
§ 106.06(1), 106.19(1)(b), Florida Statutes

To: The Honorable Locke Burt, State Senator, Locke Burt for Attorney General of Florida Campaign, Post Office Box 2574, Ormond Beach, Florida 32175-2574

Prepared by: Division of Elections

Dear Senator Burt:

This is in response to your request for an advisory opinion as a candidate for attorney general in the 2002 election. Pursuant to section 106.23(2), Florida Statutes, the division has authority to issue advisory opinions to candidates. You ask the following questions:

1. If persons, who are not a candidate or who are not employed by the candidate's campaign or are not agents of a candidate's campaign, but are supporting a candidate, collect contribution checks payable to the campaign from other supporters, how long do they have before the contribution checks must be delivered to the campaign treasurer? May they hold them indefinitely?
2. If a candidate, or an employee or agent of the candidate's campaign, collects contribution checks payable to the candidate's campaign from supporters, must the contribution checks be reported to the treasurer within the 2 day period referred to in section 106.06(1), Florida Statutes, in order that the accounts may be kept current as required?
3. If a candidate, or an employee or agent of the candidate's campaign, collects contribution checks payable to the campaign from supporters, but fails to notify the treasurer within 2 days and/or provide the contribution checks to the treasurer for deposit within 5 business days, is the law violated?
4. May a candidate, or an employee or agent of the candidate's campaign, collect and hold contributions without presenting them to the treasurer for an indefinite period until disclosure of the contributions is deemed to be politically expedient or the funds are needed for expenditure?
5. Does the date required on the "Campaign Treasurer's Report - Itemized Contributions" document refer to the date which the campaign (campaign defined as the candidate, an employee of the candidate's campaign, or an agent of the candidate's campaign) receives the contribution(s) or the date that the campaign treasurer receives the contribution(s)?

In response to Question 1, Chapter 106, Florida Statutes, does not provide a time limit for the delivery of campaign contribution checks in this situation. However, if the candidate or campaign treasurer is aware of this activity, they need to strongly encourage anyone collecting contributions for the candidate to turn the contributions over to the treasurer in a timely fashion. Certainly in the absence of

a statutory time limit, the law would impose as a standard, a "reasonable" time.

In response to Question 2, section 106.06(1), Florida Statutes, in pertinent part, reads as follows:

"The campaign treasurer of each candidate...shall keep detailed accounts, current within not more than 2 days after the date of receiving the contribution..., of all contributions received...by or on behalf of the candidate..."

Therefore, in order for a campaign treasurer to comply with this provision, any contributions received by the candidate, personally, or by an employee or agent of the candidate's campaign on the candidate's behalf, must be reported to the campaign treasurer within 2 days of receipt so that the accounting requirement contained in section 106.06(1), Florida Statutes, can be met.

In response to Question 3, the failure of a candidate or an employee or agent of the candidate's campaign to timely report and deliver any campaign contribution that they have received to the campaign treasurer could result in a failure to report a contribution as required by Chapter 106, thereby potentially exposing them to a charge under section 106.19(1)(b), Florida Statutes. Whether a violation actually occurred would have to be determined on a case-by-case basis by the Florida Elections Commission.

Question 4 is answered in the negative.

In response to Question 5, the date required on the "Campaign Treasurer's Report - Itemized Contributions" document is the date that either the candidate, the campaign treasurer, a deputy treasurer, an employee of the candidate's campaign or an agent of the candidate's campaign receives the contribution.

SUMMARY

Campaign contributions are considered received for purposes of section 106.06(1), Florida Statutes, when received by the candidate, the campaign treasurer, a deputy treasurer, or an employee or agent of the candidate's campaign.

Sincerely,

L. Clayton Roberts
Director, Division of Elections

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LCR/SDL/ees