

March 7, 2006

Mr. Angelo Castillo
455 SW 200th Terrace
Pembroke Pines, Florida 33029

RE: DE 06-04
Disposition of Surplus Funds
By A Non-Partisan Municipal
Candidate; § 106.141(4)(a)3,
Florida Statutes

Dear Mr. Castillo:

This is in response to your request for an advisory opinion. You advise that you currently serve as Vice-Mayor of the City of Pembroke Pines, Florida and that you were recently a successful candidate for re-election to the office of City Commissioner in an uncontested, non-partisan race. You are seeking an opinion regarding the disposition of your surplus campaign funds under the requirements of section 106.141(4), Florida Statutes. Pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you.

You have asked essentially the following question:

Whether a candidate in a non-partisan municipal election may distribute surplus campaign funds to a political party under section 106.141(4)(a)3, Florida Statutes?

The short answer to your question is yes.

Section 97.021(20), Florida Statutes, defines a “nonpartisan office” as, “an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.”

Pursuant to section 106.141, Florida Statutes, once a candidate for office becomes unopposed, is elected to office, is eliminated as a candidate or withdraws their candidacy for office they must within 90 days of that event dispose of the funds on deposit in their campaign account and file a report reflecting the disposition of all remaining funds.

In particular, section 106.141(4)(a), Florida Statutes, permits any¹ candidate, at the option of the candidate, to dispose of surplus campaign funds by any of the following means, or any combination thereof:

¹ However, please note that section 105.071(6), Florida Statutes, places additional restrictions on judicial candidates with regard to making contributions to political parties.

Mr. Angelo Castillo

March 7, 2006

Page 2 of 2

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. **Give not more than \$10,000 of the funds that have not been spent or obligated to the political party of which such candidate is a member, except that a candidate for the Florida Senate may give not more than \$30,000 of such funds to the political party of which the candidate is a member.**
4. Give the funds that have not been spent or obligated:
 - a. In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
 - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

[Emphasis added.]

Therefore, although you were a candidate in a non-partisan municipal race, section 106.141(4)(a)3, Florida Statutes, would permit you to give up to \$10,000 of your surplus campaign funds to the political party of which you are a member.

SUMMARY

A candidate in a non-partisan municipal race is permitted under section 106.141(4)(a)3, Florida Statutes, to give up to \$10,000 of his or her surplus campaign funds to the political party of which the candidate is a member.

Sincerely,

Dawn K. Roberts
Director, Division of Elections

Prepared by:
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DKR/SDL/lmg