



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

March 25, 2013

Mr. Ryan Peterson  
5005 Lejeune Road  
Hialeah, FL 33013

RE: DE 13-05 – Campaign Finance, Political  
Committee, Contributions –contribution limits to  
independent-expenditure-only political committees  
-- §§ 106.011, 106.08, Florida Statutes

Dear Mr. Peterson:

This letter responds to your request for an advisory opinion regarding contribution limits for political committees which make only independent expenditures. As a person desiring to engage in political activity and pursuant to section 106.23, Florida Statutes (2012), the Division of Elections has the authority to issue you an opinion.

By way of background, you indicate that you and other individuals propose to form an organization under section 501(c) of the Internal Revenue Code with the sole purpose of and intention to make independent expenditures expressly advocating the election or defeat of candidates. The organization intends to accept contributions solely from individual persons. You further indicate that your proposed organization intends to both receive contributions and make expenditures in aggregate amounts exceeding \$500 in a calendar year. Based upon these intended actions, you essentially ask the following question:

May your proposed organization accept contributions from individuals in excess of the \$500 limitation contained in section 106.08(1)(a), Florida Statutes?

The short answer to your question is “No.”

Under Florida law, because your proposed organization would accept contributions or make expenditures, or both, in a total amount exceeding \$500 during a calendar year, and would expressly advocate, it would be a political committee.<sup>1</sup> No exception to the definition of political committee applies to your proposed organization.<sup>2</sup> Also, section 106.08(1)(a) limits the amount of contributions that may be made to political committees which support or oppose

<sup>1</sup> § 106.011(1)(a)1.b.-c., Fla. Stat. (2012); *Division of Elections Opinion 12-08* (Jul. 16, 2012).

<sup>2</sup> See § 106.011(1)(b), Fla. Stat. (2012).



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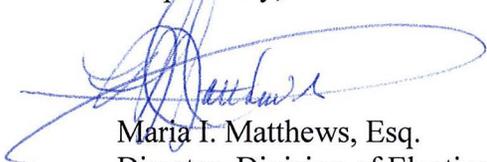
candidates to no more than \$500 in any election. No exception to this contribution limitation exists in Florida law for a political committee making only independent expenditures.

Your letter suggests that some tension may exist between the requirements of Florida statutory law regarding limits on contributions to political committees making only independent expenditures and the federal court decisions *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010) and *Speechnow.org v. Federal Election Commission*, 599 F.3d 686 (D.C. Cir. 2010). A substantially similar concern was addressed in *Division of Elections Opinion 12-08* (Jul. 16, 2012). In that opinion, the Division concluded that it lacks the authority to change the scope of Florida Statutes “[t]o the extent the reasoning of these federal opinions might apply to provisions of the Florida Election Code.”<sup>3</sup> The same conclusion applies here. The Division cannot create an exception to the statutory contribution limit for your proposed organization, or declare a statute unconstitutional.

#### SUMMARY

Florida law limits the amount of contributions that may be made to political committees which support or oppose candidates to no more than \$500 in any election. No statutory exception exists for contributions to political committees making only independent expenditures.

Respectfully,

A handwritten signature in blue ink, appearing to read "Maria I. Matthews", is written over a horizontal line.

Maria I. Matthews, Esq.  
Director, Division of Elections

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<sup>3</sup> *Division of Elections Opinion 12-08*, at 3 (Jul. 16, 2012).