

September 5, 2000

Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Attention: Bradley Litchfield

Reference: Advisory Opinion Request

Counselor,

Enclosed is a copy of an August 25, 2000 letter from Mr. Carl Owenby, Jr. to me (and other Florida Reform Party federal candidates), referencing a purported "excessive contribution" from the Florida Reform Party Executive Committee to my U.S. Senate campaign. The funds transfer in the amount of \$2542.62 constituted a refund to my campaign of a "party assessment" collected from my campaign by the State of Florida in behalf of the Florida Reform Party.

In reviewing FEC regulations I find that, as a legally qualified candidate for the US Senate, I have standing to request an Advisory Opinion into the interpretation leading to the conclusion that the \$2546.62 refund constituted a "contribution" and was thus subject to a \$1000 limitation. I would like to use this means to formally request such an Advisory Opinion. Pending issuance of the Opinion, I am withholding return of \$1542.62 to the Florida Reform Party Executive Committee, but will refrain from spending the amount in question while the matter is under consideration.

Also enclosed are copies of Florida Statutes which reserve a portion of the \$8202 federal filing fee as a "party assessment." Enclosed, as well, is a State warrant showing the total amount collected by the State in behalf of the Florida Reform Party, as well as a communication to the Florida Reform Party Executive Committee accompanying the funds transfer. The documentation details a clear audit trail of the exact amount in question from my Campaign Committee to the State – from the State to the Reform Party Executive Committee – and from the Executive Committee to my Campaign Committee.

The amount in question is clearly an assessment paid by my campaign to the Florida Reform Party. The State has merely acted as a collection agent.

Moreover, whether the Reform Party Executive Committee is compelled by law to refund the assessment to its candidates is immaterial to the definition of the word "refund." Compulsion is nowhere contemplated by Webster as a component necessary to the act of "refunding."

Thank you for your consideration of this matter. Please advise if I have not followed

CITIZENS FOR DECKARD
4263 LOSCO RD # 1326
JACKSONVILLE FL 32257

AOR 2000-26

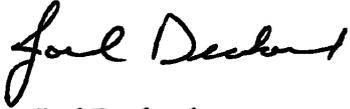
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 11 2 46 PM '00

September 4, 2000

correct form in the submission of this request, or if there is any further information I can provide.

Sincerely,

A handwritten signature in cursive script that reads "Joel Deckard".

Joel Deckard
Florida Reform Party nominee -
US Senate

cc: Mr Jonathan Levin
Sr Attorney

Carl Owenby, Jr.



UNITED STATES SENATE



2000 Election Ballot

QUALIFICATIONS (Article I, Section 3, U. S. Constitution)

1. Citizen of the United States for at least 9 years;
2. Must be at least 30 years of age;
3. Must be a resident of the state when elected.

QUALIFYING REQUIREMENTS, FEES AND FORMS

Qualifying for federal office begins noon, May 8, 2000 and ends noon, May 12, 2000.

Regular Qualifying Method (section 99.061, F.S.)

During the qualifying period the following must be submitted to the Division of Elections:

1. Federal Office Loyalty Oath, Oath of Candidate and Statement of Party (Form DS-DE 27 for major and minor party candidates) or Federal Office Loyalty Oath and Oath of Candidate (Form DS-DE 27B for no party affiliation candidates).
2. Pay qualifying fee of \$8,202 for party candidates (8% of annual salary as of July 1, 1999) or \$5,468 for no party affiliation candidates (4% of annual salary as of July 1, 1999).

Alternative Method of Qualifying (sections 99.095, 99.0955 and 99.096, F.S.)

During the qualifying period the following must be submitted to the Division of Elections:

• Major and minor party candidates:

1. Federal Office Loyalty Oath, Oath of Candidate and Statement of Party (Form DS-DE 27).
2. Petition signatures of 1% of the total registered electors in the state (82,203 valid signatures).

If the candidate is unable to collect the required number of signatures he or she may still pay the qualifying fee.

Minor party executive committees shall submit to the Division of Elections, the official list of federal candidates nominated to be on the general election ballot, no later than noon, May 5, 2000.

• Candidates with no party affiliation:

1. Federal Office Loyalty Oath and Oath of Candidate (Form DS-DE 27B).
2. Petition signatures of 1% of the total registered electors in the state (82,203 valid signatures).

If the candidate is unable to collect the required number of signatures he or she may still pay the qualifying fee.

WHO CAN SIGN PETITIONS

Any registered elector in the state may sign a petition.

WHERE TO OBTAIN PETITIONS

Petition cards (Form DS-DE 104) may be obtained from the Division of Elections beginning January 5, 2000 through

April 17, 2000, by filing the Alternative Method Affidavit (Form DS-DE 15) with the Division of Elections prior to collecting petitions between January 5, 2000 and April 14, 2000.

DEADLINE FOR SUBMITTING PETITIONS

No later than noon, April 17, 2000 - Candidates must submit petitions for verification to county supervisor of elections in the county in which the voter is registered. There is a 10 cents per name fee for verifying signatures, which must be paid upon submission of petitions, or the candidate may file an undue burden oath with the supervisor of elections in each county in which petitions are submitted to waive the cost of verification.

May 5, 2000 - Supervisors of elections must certify number of valid signatures to Division of Elections.

WRITE-IN METHOD (section 99.061, F.S.)

During the qualifying period, the following must be submitted to the Division of Elections:

1. Federal Office Loyalty Oath and Oath of Candidate for Write-in Candidates (Form DS-DE 27A).
2. No qualifying fee required.

A blank space will be provided on the general election ballot for names of write-in candidates to be written in.

SENT BY: CARL OWENBY;

850-893-6428;

AUG-29-00 5:14PM;

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The Florida Statutes

http://www.leg.state.fl.us/citizen/docum...to&View_Mode=Print&URL=Ch0099/SEC092.HTM

The 1999 Florida Statutes

[View Statutes](#)

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Title IX
ELECTORS AND
ELECTIONS

Chapter 99
Candidates, Campaign Expenses,
and Contesting Elections

[View Entire Chapter](#)

99.092 Qualifying fee of candidate; notification of Department of State.--

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the alternative method pursuant to s. 99.095, s. 99.0955, or s. 99.096 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

(2) The supervisor of elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified.

History.--s. 24, ch. 6469, 1913; RGS 328; CGL 385; s. 3, ch. 26870, 1951; s. 12, ch. 29934, 1955; s. 4, ch. 65-378; s. 1, ch. 67-531; ss. 10, 35, ch. 69-106; s. 6, ch. 69-281; s. 1, ch. 74-119; s. 1, ch. 75-123; s. 1, ch. 75-247; s. 6, ch. 77-175; s. 28, ch. 79-400; s. 4, ch. 81-105; s. 1, ch. 83-242; s. 8, ch. 89-338; s. 1, ch. 91-107; s. 537, ch. 95-147; s. 11, ch. 97-13; s. 2, ch. 99-140; s. 10, ch. 99-318.

Note.--Former ss. 102.31, 99.031.

The 1999 Florida Statutes

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Title IX
ELECTORS AND
ELECTIONS

Chapter 99
Candidates, Campaign Expenses,
and Contesting Elections

[View Entire
Chapter](#)

99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.--

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the first primary in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the first primary.

History.--s. 1, ch. 29935, 1955; s. 24, ch. 57-1; s. 1, ch. 57-62; s. 4, ch. 57-166; s. 1, ch. 69-295; ss. 10, 35, ch. 69-106; s. 11, ch. 77-175; s. 2, ch. 83-251; s. 4, ch. 91-107; s. 14, ch. 97-13.

SENT BY: CARL OWENBY;

850-893-6428;

AUG-29-00 5:16PM;

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DIV. OF ELECTION

Fax:850-414-6448

Jun 27 2000 11:14

P.01

PAGE: 2

FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS

DISTRIBUTION OF OPERATING TRUST FUND
2000 GENERAL ELECTION FEDERAL CANDIDATES
QUALIFYING PERIOD: 09/08/00 TO 05/13/00

PARTY
AMOUNT

OPERATING FUND TOTAL

70 SURCHARGES (033)

CONTROL ACCOUNT NUMBER NUMBER OFFICE NAME

REPORT PARTY

No previous distributions found

FUNDS DISTRIBUTED:

299 30420 USR McQuire, John	2,734.00	191.38	2,542.62
298 31058 USR Duffey, Jan	2,734.00	191.38	2,542.62
257 30273 USR Decker, Joel	2,734.00	191.38	2,542.62
	SUBTOTAL:	\$8,202.00	\$7,627.86

TOTAL FOR REPORT PARTY

\$8,202.00

\$7,627.86

SENT BY: CARL OWENBY;

850-893-6428;

AUG-29-00 5:16PM;

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DIVISIONS OF FLORIDA DEPARTMENT OF STATE

Office of the Secretary
Office of International Relations
Division of Elections
Division of Corporations
Division of Cultural Affairs
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
Division of Administrative Services



FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State
DIVISION OF ELECTIONS

MEMBER OF THE FLORIDA CABINET

State Board of Education
Trustees of the Internal Improvement Trust Fund
Administration Commission
Florida Land and Water Adjudicatory Commission
State Board
Division of Bond Finance
Department of Revenue
Department of Law Enforcement
Department of Highway Safety and Motor Vehicles
Department of Veterans' Affairs

June 19, 2000

Mr. Carl Owenby, Treasurer
Reform Party
427 North Jackson Street
Quincy, Florida 32351-1731

Dear Mr. Owenby:

Pursuant to Section 99.103(2), Florida Statutes, the enclosed state warrant, in the amount of \$7,627.86, represents the filing fees collected for Reform Party candidates who qualified with the Division of Elections during the week of federal qualifying.

Please let us know should you have any questions.

Sincerely,

Connie Evans, Bureau Chief
Division of Election Records

CAE/gr

Enclosure

SENT BY: CARL OWENBY;

850-893-8428;

AUG-29-00 5:16PM;

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STATE OF FLORIDA
OFFICE OF COMPTROLLER
REMITTANCE ADVICE

4-32 770 097

THIS IS NOT A PAYMENT DEVICE

SAMAS ACCOUNT CODE	OLG	SITE	DOCUMENT NUMBER	OBJECT	DATE	PAYMENT NO
45-202510001-45100000-00-31006600	450000	00	D0000763315	8200	06/15/00	2557069

PAYMENT AMOUNT
\$ 7,627.86

DO NOT CASH

AGENCY DOCUMENT NO
V006126

REFORM PARTY

PLEASE DIRECT QUESTIONS TO: (850) 488-0100, DEPARTMENT OF STATE

INVOICE NUMBER	AMOUNT
000006082	\$ 7,627.86

deposited 6/26/00