

REFORM PARTY
State Executive Committee
22 South Drive
Key Largo, FL 33037-2921
Phone/Fax 305-451-7118

Please reply to:
3700 Bobbin Mill Road
Tallahassee, FL 32312-1202
Fax 850-893-6428

SEP 26 9 07 AM '00

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

September 26, 2000

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463-0002

Fax 202-219-3923

LATE Comments
AOR 2000-26

Re: Advisory Opinion 2000-26

Sirs:

The Florida Reform Party State Executive Committee wishes to file the following comments in support of the advisory opinion requested by Joel Deckard, Reform Party candidate for United States Senator from the State of Florida.

On May 11, 2000, Joel Deckard filed qualifying papers to seek election as United States Senator, paying a qualifying fee (\$8,202) that consisted of a filing fee and election assessment (\$5,468) and a party assessment (\$2,734), in accordance with 99.092 Florida Statutes.

On June 21, 2000, the Florida Division of elections remitted \$2,542.62 (\$2,732 less 7% surcharge) from the party assessment Deckard paid to the Reform Party State Executive Committee, in accordance with 99.103 Florida Statutes.

On June 26, 2000 the Reform Party State Executive Committee minutes indicate that the Committee met "for the sole purpose to discuss the \$7, 627.86 check received from the Division Of Elections in Tallahassee and if the State Executive Committee wanted to return this money (part of the federal candidates qualifying fee refunded to the state party) to the candidates McGuire, Duffey and Deckard." All three members of the State Executive Committee present voted to refund the party assessment back to the federal candidates. On July 1, 2000, the Reform Party Treasurer issued a State Executive Committee check in the amount of \$2,542.62, returning that portion of the Deckard's party assessment the State of Florida remitted to the State Executive Committee.

The Commission staff points out that the payment of the party assessment by the Deckard Committee to the Division of Elections is not an expenditure by the Deckard Committee nor is it a contribution to the State Committee. We feel that it does not logically follow that this return of the party assessment to Joel Deckard's campaign account should be characterized contribution. Since the funds are treated as neither expenditure to the candidate or contribution to the party, we feel it should be viewed as a refund of part of the ballot access fee paid by the candidate, and not subject to the

September 26, 2000
Office of General Counsel
Page 2

contribution limits. The return of the party assessment should be treated the same as if the State refunded the party assessment to the candidate, regardless of the circuitous route the funds took. The State is merely the collection agent for the party assessment, deducting a 7% fee for handling the funds. Under Florida law, 99.092(1) FS, candidates may pay the party assessment directly to the party and submit a receipt to the State elections officials in lieu of paying the party assessment to the State. Had this been the case, it would be clear that the return of the party assessment was a refund.

We ask the Commission to take into consideration that, in this case, there is a clear audit trail for the funds – the candidates paid the party assessment to the State, the State paid the party assessment (less 7%) to the State Executive Committee, the State Executive Committee clearly identified the source of the funds in the minutes and refunded the remaining 93% of the party assessment back to the candidates.

We also ask that the Commission consider the constitutional guarantee of equal protection under the law as applicable in this case. Florida law provides, in 99.0955(2) FS, that candidates with no party affiliation are not required to pay the 2% party assessment. Minor party candidates are not on equal footing with candidates who have no party affiliation. Refund of the party assessment may be viewed as an attempt to equalize the playing field. We feel that the Commission should give weight to this argument and not penalize candidates whose candidacy is linked to a state party organization.

Thank you for your consideration of the comments proffered in this matter.

Sincerely,
REFORM PARTY
State Executive Committee



Carl Owenby, Jr.
Treasurer

CC: Joel Deckard

Encl. Qualifying Handbook for Candidates
99.092 F.S. – Qualifying fee of candidate
99.0955 F.S. – Candidates with no party affiliation
99.103 F.S. – Department of State to remit part of filing fees and party
assessments of candidates to state executive committee
Distribution of Party Assessments
Transmittal letter from Division of Elections dated 6/19/00
State of Florida Remittance Advice
State Executive Committee minutes of 6/26/00 teleconference
Transmittal letter from State Executive Committee dated 7/1/00



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 (6% 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.

The 1999 Florida Statutes

[View Statutes](#)
[Order 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](#)

99.0955 Candidates with no party affiliation; name on general election ballot.--

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her qualification papers and pay the qualifying fee or qualify by the alternative method prescribed in subsection (3) with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment. The amount of the filing fee is 3 percent of the annual salary of the office sought. 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. Filing fees paid to the Department of State shall be deposited into the General Revenue Fund of the state. Filing fees paid to the supervisor of elections shall be deposited into the general revenue fund of the county.

(3)(a) A candidate with no party affiliation may, in lieu of paying the qualifying fee, qualify for office by the alternative method prescribed in this subsection. A candidate using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method. If the person is running for an office that requires a group or district designation, the candidate must indicate the designation in his or her oath. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the election is held, but before the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing the oath. Signatures may not be obtained by a candidate on any petition until the candidate has filed the oath required in this subsection. Upon receipt of the written oath from a candidate, the qualifying officer shall provide the candidate with petition forms in sufficient numbers to facilitate the gathering of signatures. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation or the signatures obtained on the petition will not be counted.

(b) A candidate shall obtain the signatures of a number of qualified electors in the geographical entity represented by the office sought equal to 1 percent of the registered electors of the geographical entity represented by the office sought, as shown by the compilation by the Department of State for the preceding general election.

(c) Each petition must be submitted before noon of the 21st day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor to whom a petition is submitted shall check the signatures on the petition to verify their status as electors in the county, district, or other geographical entity represented by the office sought. Before the first day for qualifying, the

supervisor shall certify the number shown as registered electors.

(d)1. Certifications for candidates for federal, state, or multicounty district office shall be submitted to the Department of State. The Department of State shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

2. For candidates for county or district office not covered by subparagraph 1., the supervisor of elections shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate.

(e) If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of the notice received under paragraph (d) and file his or her qualifying papers and the oath prescribed by s. 99.021 with the qualifying officer.

History.--s. 6, ch. 70-269; s. 1, ch. 70-439; s. 3, ch. 74-119; s. 7, ch. 77-175; s. 2, ch. 78-188; s. 11, ch. 89-338; s. 10, ch. 90-315; s. 540, ch. 95-147; s. 13, ch. 95-280; s. 4, ch. 99-140; s. 2, ch. 99-318.

Note.--Former s. 99.152.

The 1999 Florida Statutes

[View Statutes](#)[Order Statutes](#)[Online Sunshine](#)[Print View](#)**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.

DIV. OF ELECTION

Fax:850-414-6448

Jun 27 2000 11:14

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FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS

DISTRIBUTION OF OPERATING TRUST FUND
2000 GENERAL ELECTION FEDERAL CANDIDATES
QUALIFYING PERIOD: 05/08/00 TO 05/12/00

PARTY
AMOUNT

OPERATING FUND TOTAL
7% SURCHARGE (033)

REFORM PARTY

No previous distributions found

FUNDS DISTRIBUTED:

259 10420 USR McGuire, John
258 31068 USR Duffey, Jon
257 10273 USS Deckard, Joel

2,734.00
2,734.00
2,734.00
191.38
191.38
191.38
\$8,202.00
\$574.14

2,542.62
2,542.62
2,542.62
\$7,627.86

SUBTOTAL:

TOTAL FOR REFORM PARTY

\$8,202.00

\$7,627.86

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
Siting 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

STATE OF FLORIDA
OFFICE OF COMPTROLLER
REMITTANCE ADVICE

4-32 770 097

THIS IS NOT A PAYMENT DEVICE

SAMAS ACCOUNT CODE	OLO	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
000005082	\$ 7,627.86

deposited 6/26/00

DETACH CAREFULLY AND RETAIN FOR YOUR RECORDS BEFORE CASHING OR DEPOSITING THE WARRANT

**REFORM PARTY
STATE EXECUTIVE COMMITTEE
TELECONFERENCE MEETING**

June 26, 2000

The meeting began at 8:00 PM

Members present: Pauline Klein, Carl Owenby and Tony Hernandez. David Goldman did not respond to the Chair's call for a meeting.

The meeting was called by the Chair, Pauline Klein for the sole purpose to discuss the \$7,627.86 check received from the Division Of Elections in Tallahassee and if the State Executive Committee wanted to return this money (part of the federal candidates qualifying fee refunded to the state party) to the candidates McGuire, Duffey and Deckard.

Carl Owenby made a motion to rebate the states portion to the candidates by individual check in the appropriate amounts. Tony Hernandez seconded the motion and all three voted "Yes".

There was no further discussion, the meeting adjourned at 8:08 PM.

**Tony Hernandez,
Secretary**

08/29/2000 18:04 3054517118

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**REFORM PARTY - FL
State Executive Committee
22 South Drive
Key Largo, Florida 33037**

July 1, 2000

**Joel Deckard
4263 Losco Rd. Apt 1326
Jacksonville, FL 32257-1454**

**Jon Duffley
13014 Royal George Ave
Odessa, FL 33556-5713**

**John McGuire
640 NW 13th St. Apt. 16
Boca Raton, FL 33486-2532**

Dear Candidates:

The State Executive Committee takes great pleasure in sending a check in the amount of \$2,542.62 to each of you that was sent to the party from the Division of Elections in Tallahassee. As you know these funds were given to the Reform Party of Florida from your filing fees to qualify to be a candidate. We thought it the right thing to do to return the money to each candidate to use in your campaign.

With sincere best wishes to all of you.

Pauline Klein, Chair

**Copy: Carl Owenby, Treasurer
Tony Hernandez, Secretary
David Goldman, Vice Chair**