

SEC AO2002-002

July 18, 2001

SUBJECT: PROPER PROCEDURE FOR REPORTING THE TRANSFER OF FUNDS FROM ONE ELECTIVE OFFICE CAMPAIGN ACCOUNT TO A DIFFERENT ELECTIVE OFFICE CAMPAIGN ACCOUNT.

SUMMARY: The Ethics Reform Act permits the transfer of a candidate's campaign funds to a candidate's different elective office campaign account as long as the campaign for a different elective office receives written authorization from the person originally making the contribution in accordance with Section 8-13-1352. The campaign should report the identity of the transferring contributor, the date written authorization was given and the date on which the original contribution was made.

QUESTION: Whether the reporting of transferred funds requires disclosure of 1) the identify of the transferring contributor, 2) the date that authorization was given for the transfer, and 3) the date on which the original contribution was made.

DISCUSSION: The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Section 8-13-1352 requires a candidate for elective office who wishes to use contributions received in connection with a candidacy for a different elective office, to first obtain written authorization from the original donors of the funds before using them in his new campaign. With such authorizations obtained, the candidate would be free to transfer the authorized money to his new campaign account, provided the contributions were otherwise permissible under state law.

Section 8-13-1352 states:

Notwithstanding the provision of Section 8-13-1350, a candidate may use or permit the use of contributions solicited for or received by the candidate to further the candidacy of the individual for an elective office other than the elective office for which the contributions were received if:

- (1) the person originally making the contribution gives written authorization for its use to further the candidacy of the individual for a specific office which is not the office for which the contribution was originally intended:
and
- (2) the contribution is otherwise permitted by law.

The Commission has advised that such transfers of campaign funds should be accounted for using a "First In - First Out" accounting method. SEC AO99-006. The Commission said: "To transfer the funds will require written documentation of the dates they were initially received. Donors' written permission could then be sought, working backward from the last to the first, until those representing sufficient contributions to cover the remaining funds were contacted."

The Commission has the authority to require that campaigns disclose this information concerning transferred contributions in accordance with Section 8-13-320(7). As explained above, the transfer of these contributions is clearly regulated by statute, and Section 8-13-320(1) gives the Commission authority "to prescribe forms for statements required to be filed by this chapter and to furnish these forms to persons required to file thereon". Consistent with this authority, the Commission requires the recipients of transferred contributions to document their transfers.

CONCLUSION:

Accordingly, the Commission advises that a candidate, running for a different elective office who seeks to transfer campaign funds from his original elective office, must first receive written authorization from the person originally making the contribution in accordance with Section 8-13-1352. And, in the spirit of full and open disclosure, the campaign is required to report the identity of the transferring contributor, the date written authorization was given and the date on which the original contribution was made.

KEY WORDS:	transfer, campaign accounts, contributions
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ANNOTATIONS:	8-13-1352, 8-13-1308(F), 8-13-1314(1), and 8-13-320(7)
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