



July 15, 2004

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ARDYTH WALKER
STAFF GENERAL COUNSEL

Brad Nickel
Love for Mayor
P.O. Box 560940
Miami, FL 33256

RE: REQUEST FOR ADVISORY OPINION 04-137

Dear Mr. Nickel:

I received your request for an opinion regarding whether credit card contributions count as an electronic funds transfer for the purpose of qualifying contributions for public financing. The Chairperson of the Ethics Commission and I have conferred regarding this matter and I am issuing the opinion because of the time constraints. The Ethics Commission has not considered this matter.

In your request, you advised me that the Elections Department has disallowed credit card contributions to the Love campaign as qualifying contributions for public financing.

Section 12-22(c)(5) provides that (e)ach candidate for Mayor of Miami-Dade County shall have received at least one thousand contributions between fifteen dollars and two hundred and fifty dollars from one thousand registered voters residing in Miami-Dade County. These contributions must be in the form of:

1. A personal check
2. Money order that includes the contributor's name and address;
3. Traveler's check that includes the contributor's name and address or

4. Electronic transfer of funds
where the name of the contributor
is clearly stated.

As you wrote in your request, the ordinance does not provide a definition for electronic transfer of funds. You provided documents from the FDIC and other banking industry publications stating that electronic transfer of funds includes both debit card and credit card transactions.

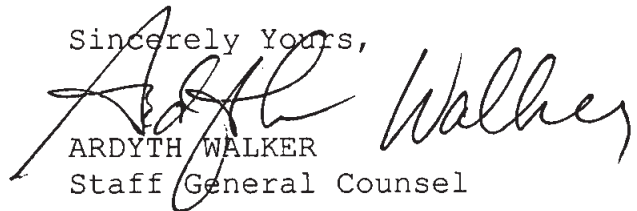
A credit card contribution may be considered an electronic funds transfer for purposes of the Election Campaign Financing Trust Fund. Section 12-22 of the Code provides that contribution shall have the same meaning as provided in Section 106 of the Florida Statutes.

In DE 00-03, the Florida Department of Elections issued an advisory opinion to David Leahy, the former Supervisor of Elections for Miami-Dade County, stating that campaign contributions could be made by debit or credit card. The Department reasoned that such contributions were acceptable as long as the disclosure requirements under the statute were met.

Similarly, in the instant case, credit card contributions fall within the ambit of electronic funds transfers for purposes of the Election Campaign Financing Trust Fund as long as the other identifying information regarding the contributor is included.

If you have any questions regarding the opinion, please call the undersigned or Robert Meyers, Executive Director at (305) 579-2594.

Sincerely Yours,



ARDYTH WALKER
Staff General Counsel