

INFORMAL OPINION IO-1994-005
ISSUED AUGUST 5, 1994

You have asked what entry, in the temporary absence of contributor statement information, would be acceptable in the corresponding column of Schedule A of the constitutional rules' Campaign Contributions And Expenditure Report ["Form C-1R"].

We agree that the Constitutional Ethics Rules, Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch. 62, App., ["the rules"] do not place a time limitation upon receipt of the contributor statement [257:1-10-2(b)].¹ It is contemplated that the contributor statement will be part of the records by the end of the campaign and the recommended practice is to obtain it when the contribution is made. While we acknowledge that the information reported on Form C-1R corresponds to that required on the contributor statement, the fact that a contributor statement has or has not been obtained is not reported. Hence, the two provisions correspond but are independent from each other.

If a contributor statement has not yet been obtained, the data required on Schedule A can be garnered by telephone, letter or other communication. But, **irrespective of when the contributor statement is received, Schedule A of Form C-1R must contain all the required information for the period in which the contribution was accepted.** The information includes the name, address, occupation and employer, or principal business activity of each contributor contributing in excess of fifty dollars (\$50) in the aggregate during the reporting period and all other information required in the rules [257:10-1-14(a)(3)]. Otherwise, the report is incomplete and does not comply with the rules.

Unlike the federal practice, the rules provide no exception for a good faith effort to comply. While memoranda documenting the campaign's attempts to secure required information might constitute mitigating evidence, **it does not excuse compliance.**

The alternative to being unable to fully obtain the information necessary to complete the C-1R form is to **refund the contribution but before acceptance.** The rules define the latter as:

"**Accept**", with reference to a contribution, means failure by a candidate, treasurer or agent of a committee to expressly and unconditionally reject and return a tendered contribution to the contributor within six (6) business days from receipt of the tender.

257:1-1-2

So, if the contribution is returned within six business days, it need not be reported. For contributions accepted [i.e. held for more than six business days] without

¹Section 257:10-1-2(b) was amended in 1995 to require a contributor statement before accepting a single contribution exceeding \$50 or multiple contributions from a single source which exceed \$50 in the aggregate.

contributor statements, Schedule A of Form C-1R provides a space for reporting refunds when the campaign determines that the statements cannot be obtained.

To meet the statutory and constitutional requirements, all reports must be timely filed. They must be complete. The information they contain must be accurate and up-to-date. While the rules do allow the filing of amended reports to permit the correction or up-dating of data, it is inappropriate for a campaign to avail itself of this procedure to avoid -- even momentarily -- supplying required information.

The reporting requirements are based upon the public's right to know. Anything less than full disclosure, provided in a meaningful way and timely manner, defeats this guarantee. Non-compliance carries a range of penalties for avoidance based on willful and non-willful conduct.

It is therefore the opinion of the staff of the Ethics Commission that the only acceptable entries in all columns of Schedule A of Form C-1R is the full information required. In the absence of obtaining this information within six business days of receiving the contribution, the alternative is to return the contribution prior to acceptance.

Please be aware that informal opinions are not official pronouncements of the Commission. Hence, this letter carries no greater weight than the views of any other citizen. The Commission is available to issue interpretations on matters arising from the Ethics Commission Act and the Constitutional Ethics Rules. These are known as Ethics Interpretations. They are official and bind the future action of the Commission.