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DLO 16-01

April 20, 2016

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Re: Legal opinion on whether you need to report expected inheritance money.

Dear Councilmember Caletka:

Thank you for your request for a legal opinion on this important matter. You have asked “whether you need to report expected inheritance money?” In preparation for this opinion I have reviewed the Florida Statutes, Florida legal case law, Florida Attorney General Opinions, Florida Commission on Ethics Opinions, and Broward County Ethic Opinions.

Under the Florida Constitution all elected officials must file full and public disclosure of their financial interests, which includes, “the filing of a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value.”¹ The issue is whether an expected inheritance is an asset. The Florida Commission on Ethics has an opinion directly on point.² *CEO 78-19* held, when an elected official is in line to inherit certain assets, but where at the present state of ownership that elected officials does not have control over such assets they need not be disclosed when filing out the public disclosure of financial interest forms. Similarly in *CEO 78-37*, the Commission on Ethics was presented with the question on whether the cash surrender value of an insurance policy is deemed an asset for public disclosure purposes. The Ethics Commission answered in the negative, as the elected official does not currently control or have access to the asset.

Based upon *CEO 78-19* & *CEO 78-37*, the inheritance does not need to be disclosed until the assets are in your control. While you currently are mentioned in the potential distribution of a soon to be inheritance, at this time you do not have ownership, custody, or control over such assets. Since you currently have not inherited the money and only “expect” to inherit the money, you need not currently report the possible

¹ Florida Constitution Section 8, Art. II

² CEO 78-19

inheritance. If the inheritance comes to fruit then you must report the assets, once you receive them.

Respectfully submitted,

Allan T. Weinthal
Allan T. Weinthal, Esq.