To: Members of the Commission  
From: Caroline Klancke, Senior Attorney  
Date: February 19, 2020  
Re: Disclosure of Loans Made by Candidate to Campaign  

This memo addresses whether a candidate for public office must disclose loans he or she has made to their own campaign.

The CE Form 6 requires filers to disclose, in part, assets individually valued at more than $1,000 including "money owed you" in Part B of the form, regarding "Assets." Similarly, CE Form 1 requires filers to disclose "money owed you" over the requisite threshold amount on Part D of the form pertaining to "Intangible Personal Property." These respective sections thus, require financial disclosure filers to disclose the existence of loans, exceeding the statutory thresholds, when they are the creditor and, thus, could stand to benefit therefrom upon satisfaction or repayment thereof.

Pursuant to Florida elections laws governing campaign contributions, loans are considered contributions and are subject to contribution limitations. See Section 106.011(5)(a), Florida Statutes (F.S.). However, loans made by a candidate to his or her own campaign are not subject to contribution limitations. See Section 106.08(1)(b), F.S.¹

With respect to the repayment of loans made by a candidate to their own campaign, Section 106.11(6) provides that a candidate who makes a loan to his or her campaign, "may be reimbursed for the loan at any time the campaign account has sufficient funds to repay the loan and satisfy its other obligations." See also, "Candidate & Campaign Treasurer Handbook," Florida Department of State, Division of Elections (2018), pp. 19-20.

Once a candidate withdraws, becomes unopposed, is eliminated, or is elected to office, the candidate must dispose of the funds on deposit in his or her campaign account and file a campaign treasurer's report. Section 106.141, F.S., governs the disposition of surplus funds by candidates. Section 106.141(2), F.S., provides:

¹ Section 106.08, F.S., governing contribution limitations states in subsection (1)(b) that "[t]he contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign."
Any candidate required to dispose of funds pursuant to this section may, **before such disposition**, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign. [emphasis added]

Thus, Section 106.141(2), F.S., provides that prior to the disposition of surplus campaign funds a candidate may be reimbursed by the campaign for any previously reported contributions (loans) by the candidate to the campaign, in full or in part. See also, "Candidate & Campaign Treasurer Handbook," Florida Department of State, Division of Elections (2018), pp. 49-50. Thereafter, the candidate is required to dispose of surplus campaign funds, within 90 days, in accordance with the means set forth in Section 106.141(4), F.S.

Thus, the Florida elections laws recognize that campaign loans by a candidate to their own campaign are a unique form of contribution, not subject to contribution limits, which may be reimbursed at any time the campaign account has sufficient funds to repay the loan. Further, following the fruition of a campaign, the candidate is afforded, by law, the ability to repay his or her loans to their own campaign first, before any other contributor. On the basis of the forgoing, the Commission has heretofore perceived loans by a candidate to their own campaign, which are given preferred creditor status, as not dissimilar to any other form of loan wherein the lender has a vested interest as the creditor. Further, the Commission has not, for disclosure purposes, considered the subjective belief or intent of the creditor regarding their desire to be paid back as a factor which would negate the disclosure of an asset or intangible personal property which otherwise exceeds the statutory thresholds for disclosure.

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