FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 18, 2012

VIA ELECTRONIC & CERTIFIED MAIL

Paul Rolf Jensen
Jensen & Associates, APC
650 Town Center Drive, Twelfth Floor
Costa Mesa, CA 92626

Re: Governor Gary Johnson and Judge James Gray (LRA 905)

Dear Mr. Jensen:

The Commission has considered the response filed on behalf of your clients, Governor Gary Johnson and Judge James Gray, the nominees of the Libertarian Party for the offices of President and Vice President to the Commission's initial determination set forth in the Notice – Initial Determination on Eligibility and Entitlement. On September 18, 2012, the Commission made a final determination that Governor Johnson and Judge Gray do not meet all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9004.2, and therefore are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2.

Enclosed is a Statement of Reasons that sets forth the legal and factual basis for the Commission's final determination. *See* 11 C.F.R. § 9005.1. Judicial review of the Commission's determination is available pursuant to 26 U.S.C. § 9011. If you have any questions regarding the Commission's determination, you may contact me at (202) 694-1650.

Sincerely,

Lawrence L. Calvert
Associate General Counsel

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Final Determination on Eligibility and	)	LRA 905
Entitlement for General Election Public	)	
Funds - Governor Gary Johnson and	)	
Judge James Gray	)	

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on September 18, 2012, the Commission decided by a vote of 6-0 to take the following actions in the above-captioned matter:

1. Make a final determination that Governor Gary Johnson and Judge James Gray do not meet all applicable conditions for eligibility to receive payments under 11 C.F.R. §9004.2, and are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2.

2. Approve the Statement of Reasons, as recommended in the General Counsel's Memorandum dated August 29, 2012, subject to replacing "twice" with "in two ways" on page 7 as agreed to via email.

3. Approve the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

September 18, 2012
Date

Shawn Woodhead Werth
Secretary and Clerk of the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Governor Gary Johnson and	)	LRA # 905
Judge James Gray	)	

STATEMENT OF REASONS IN SUPPORT OF FINAL DETERMINATION ON ELIGIBILITY AND ENTITLEMENT

I. SUMMARY OF FINAL DETERMINATION

The Federal Election Commission ("Commission") made a final determination on September 18, 2012, that Governor Gary Johnson and Judge James Gray, the nominees of the Libertarian Party for the offices of President and Vice President, respectively, are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2. *See* 11 C.F.R. § 9005.1(b)(1). The candidates do not meet the requirements for pre-election payments of public funds because neither the Libertarian Party nor these individual candidates received 5% or more of the vote in the previous presidential general election. *See* 26 U.S.C. § 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. This Statement of Reasons sets forth the legal and factual basis for the Commission's final determination.

II. BACKGROUND

On June 15, 2012, Governor Gary Johnson and Judge James Gray, (the "candidates"), the nominees of the Libertarian Party for the offices of President and Vice President, respectively, submitted a letter of candidate and committee agreements and certifications ("9003 letter") applying for public funds for the general election. Attachment 1. In a letter dated June 14, 2012 accompanying the candidates' 9003 letter,

counsel argues that the candidates are entitled to receive public funds under 26 U.S.C. § 9004(a)(2)(A) in the amount of $747,115.34.[1] Attachment 1.

Commission staff informed counsel that the 9003 letter was deficient in several respects, and provided a draft letter for the candidates to complete and submit. The candidates submitted an amended 9003 letter dated June 27, 2012, which was received on July 5, 2012. Attachment 2. The amended 9003 letter omitted information identifying the person entitled to receive payments and the campaign's designated depository, which had been included in the original 9003 letter. The Commission concluded that, taken together, the 9003 letters are sufficient and the candidates have met all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9003.1 and 9003.2.

The Commission initially concluded, however, that the candidates have not met all applicable requirements of 11 C.F.R. § 9004.2 and are therefore not eligible to receive pre-election payments of public funds. On August 2, 2012, the Commission made an initial determination that Governor Johnson and Judge Gray are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2. *See* 11 C.F.R. § 9005.1(b)(1); Attachment 4.

The Commission notified the candidates of the initial determination by letter dated August 6, 2012. The candidates responded by letter dated August 14, 2012, and stated that they "disagree with your initial decision for the reasons stated in our attorney's

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[1] Prior to submitting the 9003 letter, counsel contacted the Commission by letter dated May 8, 2012, which set forth the same arguments. Attachment 3. Counsel subsequently informed Commission staff that his letter was not an advisory opinion request, but was intended to be a precursor to an application for public funds, and that he expected that staff would contact him to inform him of what was required in an application. Staff contacted him and referred him to 11 C.F.R. part 9003.

letter, however, we have nothing further to submit and request that you immediately issue your final determination." Attachment 5.

III. FINAL DETERMINATION – CANDIDATES ARE NOT ENTITLED TO PRE-ELECTION PUBLIC FUNDS

The Commission has considered the arguments incorporated by reference in the candidate's response to the initial determination. It now makes a final determination that Governor Johnson and Judge Gray, the Libertarian Party nominees for the offices of President and Vice President, respectively, are not entitled to receive any pre-election payments of public funds for the general election in 2012. In summary, neither the Libertarian Party nor these individual candidates received 5% or more of the vote in the 2008 presidential general election. *See* 26 U.S.C. § 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. The Libertarian Party is not a "minor party" because its candidate did not receive 5% or more of the vote in the previous presidential general election, and these individual candidates did not run in the previous presidential general election.[2] *See* 26 U.S.C. §§ 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8.

The Presidential Election Campaign Fund Act, 26 U.S.C. § 9001 *et. seq.* ("the Fund Act") provides two ways that a candidate of a non-major party may be entitled to receive pre-election payments of public funds for the general election based on: (1) the performance of the candidate's party in the last presidential election, 26 U.S.C. § 9004(a)(2)(A); and (2) the performance of the current presidential candidate,

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[2] The Libertarian Party's former presidential candidate, Bob Barr, received less than 5% of the popular vote in the 2008 presidential election. Specifically, Mr. Barr received 523,713 votes, or 0.40% of the popular vote in the 2008 election. *See* Federal Election Commission, *Federal Elections 2008* at 5 (Jul. 2009). Governor Gary Johnson and Judge James Gray did not run in the 2008 presidential election.

personally, in the last presidential election, 26 U.S.C. § 9004(a)(2)(B). *See also* 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. Neither criteria is satisfied here.

First, the Fund Act provides that the eligible candidate of a minor party whose candidate in the previous presidential election received 5% or more of the popular vote is entitled to pre-election payments of public funds. 26 U.S.C. § 9004(a)(2)(A); 11 C.F.R. § 9004.2. The Fund Act, at section 9002(7), defines the term "minor party" as a "political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office." 26 U.S.C. § 9002(7); *see* 11 C.F.R. § 9002.7.

Section 9004(a)(2)(A) of the Fund Act applies only to candidates of a minor party:

> The eligible candidates of a ***minor*** party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the ***minor*** party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election.

26 U.S.C. § 9004(a)(2)(A) (emphasis added). *See also* 11 C.F.R. § 9004.2(b). Pursuant to this provision, a minor party's nominees are entitled to at least 5% and up to nearly 25% of the amount of public funds that major party candidates would receive. The Commission has stated that "[n]on-major party candidates who were not candidates for President in the preceding election, and who wish to qualify for pre-election funding in the next following presidential election, can become eligible only as candidates of a

minor party." *See* Advisory Opinion ("AO") AO 2002-01 (Fulani) (Entitlement to pre-election funding as a minor party under section 9004(a)(2)(A) may only be determined by the vote totals received by that party in the previous presidential election), AO 1996-22 (Perot).

The candidates in this case do not meet the requirements to receive pre-election payments under section 9004(a)(2)(A) because the Libertarian Party is not a minor party. Rather, the Libertarian Party is a "new party" because its presidential candidate in 2008 received only 0.40% of the popular vote, so it is neither a major party nor a minor party. *See* 26 U.S.C. § 9002(7) and (8); 11 C.F.R. § 9002.7, 9002.8. Unless the presidential candidate of a new party qualifies for pre-election funding under 26 U.S.C. § 9004(a)(2)(B), *see infra,* a new party's ticket can qualify only for *post*-election funding, and then only if that ticket receives at least 5% of the total votes in the current presidential election. 26 U.S.C. § 9004(a)(3).

Second, a candidate may receive pre-election payments of public funds based on his or her individual performance in the preceding presidential election. If the individual who is the nominee of a minor or new party in the current presidential election was also a presidential candidate of any party, or no party, in the previous presidential general election, and received 5% or more but less than 25% of the total popular votes received by all candidates, then that candidate and his or her running mate are entitled to pre-election payments. *See* 26 U.S.C. § 9004(a)(2)(B); 11 C.F.R. § 9004.2(a) and (c); *see also* AO 1996-22 (Perot) (Because Perot received over 5% of the popular vote in 1992, he would be eligible for pre-election funding in 1996 if he obtained the nomination of any non-major party and met the other conditions for eligibility.)

The candidates here do not meet the requirements to receive pre-election payments under section 9004(a)(2)(B) because Governor Johnson was not a candidate in the 2008 presidential general election, and thus, could not and did not receive 5% or more of the vote.

Counsel does not dispute that the candidates are ineligible for funding under section 9004(a)(2)(B), based on the candidates' individual past performance. Instead, counsel argues that the candidates are entitled to receive public funds under 26 U.S.C. § 9004(a)(2)(A) in the amount of $747,115.34, which is .81% of the $92,241,400 a major party candidate would receive, because the Libertarian nominee in 2008 received ".81% of the average vote of the major party candidates." Attachment 1 at 2. Counsel contends that nothing in section 9004(a)(2)(A) "imposes a 5% threshold" and that the 5% threshold only applies to section 9004(a)(2)(B). *Id.* Moreover, counsel contends that the definitions of "candidate" and "minor party" in 26 U.S.C. § 9002(2) and (7) are only applicable to 26 U.S.C. § 9004(a)(2)(B) and are "not relevant to" 26 U.S.C. § 9004(a)(2)(A). *Id.* Counsel asserts that the different language in the two subsections indicates that the "draftsmen of § 9004(a)(2) intended the five percent threshold to apply to section (B) and not subsection (A)." *Id.* Counsel further argues that 26 U.S.C. § 9004(a)(2)(A) only has meaning when the minor party candidate received less than 5% of the vote, and "subsection (B) governs all situations when the candidate received 5% or more in the preceding election." *Id.*

In essence, counsel argues that Congress did not intend for the term "minor party," as used in section 9004(a)(2)(A), to incorporate the meaning of the term "minor party" as defined in section 9002(7). Counsel appears to be arguing that because section

9004(a)(2)(B) already accounts for the situation where the party's nominee "received 5 percent or more but less than 25 percent of the total number of popular votes" in the last election, applying the statutory definition of "minor party" to section 9004(a)(2)(A) would render the two subparagraphs redundant. But this argument misunderstands the difference between the two subparagraphs.

Subparagraph (A) turns on the *party's* previous nominee's performance in the last election, no matter who that nominee was. The entitlement belongs to "the eligible candidates of a minor party in a presidential election," 26 U.S.C. 9004(a)(2)(A), with status as a minor party dependent, as defined in section 9002(7), on the party's past performance. Subparagraph (B) turns on the *current* nominee's *individual* performance in the past election. The entitlement belongs to "the candidate of one or more political parties (not including a major party) for the office of President" *if* the candidate "was a candidate for such office in the preceding presidential election" *and* "received 5 percent or more but less than 25 percent of the" popular vote. This entitlement can be held by the nominee of either a minor or a new party, but not the nominee of a major party. 26 U.S.C. § 9004(a)(2)(B). Rather than being redundant, subparagraph (B) expressly contemplates a scenario where an eligible candidate of a "minor party" may qualify for funding in two ways – based both on the minor party's performance and the candidate's personal performance in the prior presidential election – and adjusts the formula for funding accordingly.

The Commission's regulations at 11 C.F.R. § 9004.2 further clarify the statutory requirements for pre-election funding. Section 9004.2(b), applying 26 U.S.C. § 9004(a)(2)(A), provides that the eligible candidate of a "minor party *whose candidate*

for the office of President in the preceding election received at least 5% but less than 25% of the vote is eligible to receive pre-election payments." 11 C.F.R. § 9004.2(b) (emphasis added). Section 9004.2(c), applying 26 U.S.C. § 9004(a)(2)(B), provides that the nominee of a new party is entitled to funds only "if *he or she* received at least 5% but less than 25% of the total popular vote in the preceding election" (emphasis added). Moreover, the Commission has interpreted the section 9004(a)(2)(B) entitlement as determined by the candidate's personal past performance in the prior presidential election. *See* AO 1996-22 (Determining that Ross Perot would be entitled to pre-election payments of public funds in the 1996 general election based on his performance as an independent candidate in the 1992 general election, assuming other eligibility requirements were met). The Commission's long-standing interpretation is far more consistent with the statutory text than counsel's interpretation, which would read out of the statute a defined term where it makes a practical and significant difference.

Consequently, because the Libertarian Party's presidential nominee in the 2008 general election received less than 5% of the total popular vote in that election, the Libertarian Party is a "new party," and its nominees in the 2012 presidential election have no pre-election entitlement to public funds under 26 U.S.C. § 9004(a)(2)(A). Moreover, because Governor Gary Johnson was not a candidate for President in the 2008 general election, neither he nor his running mate, Judge James Gray, have any pre-election entitlement to public funds under 26 U.S.C. § 9004(a)(2)(B).

IV. CONCLUSION

Based on the foregoing, the Commission has made a final determination that Governor Gary Johnson and Judge James Gray do not meet all applicable conditions for

eligibility to receive payments under 11 C.F.R. § 9004.2, and are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2.

Attachments

1 9003 Letter with cover letter dated June 14, 2012 submitted by Governor Gary Johnson and Judge James Gray
2 Amended 9003 Letter
3. Letter from Paul Rolf Jensen to Anthony Herman dated May 8, 2012.
4. Notice – Initial Determination on Eligibility and Entitlement (approved August 2, 2012)
5. Letter from Gary Johnson to the Commission dated August 14, 2012

JENSEN & ASSOCIATES, APC *Trial Lawyers*
650 TOWN CENTER DRIVE • TWELFTH FLOOR • COSTA MESA, CA 92626
(714) 662-5528 VOICE • (714) 708-2321 FAX

2012 JUN 15 AM 9:53
OFFICE OF GENERAL COUNSEL

Via FedEx #8564 3929 6133

14 June 2012

Anthony Herman, Esq., General Counsel
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

Dear Mr. Herman,

Further to my letter to you of May 8, 2012, please find enclosed a letter and certification in accordance with your regulations from my clients, Governor Gary Johnson, and Judge James Gray, the nominees of the Libertarian Party for the offices of President and Vice-President. With that, and this letter, they apply for general election funding.

26 U.S.C.§9004 (a)(2)(A) provides that, "[t]he eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election."

There is nothing in this subsection that imposes a 5% threshold; the next subsection is where that floor is imposed in order to receive funding. Likewise, the language of the next subsection, (a)(2)(B) refers to instances where the candidate was also a candidate for President in the preceding presidential election–thus additionally differentiating subsection (A) from subsection (B). Governor Johnson is an "eligible candidate" within the ambit of subsection (A) as that term is defined in §9002(4) and §9003(a) and (c). With regard to the term "candidate" in §9002(2), as opposed to "eligible candidate" in §9002(4), we believe that term is applicable only to §9004 (a)(2)(B) and not relevant to (a)(2)(A). For the same reason, we aver that the definition §9002 (7) of "minor party" is only relevant to §9004 (a)(2)(B) and not relevant to (a)(2)(A).

In summation, we submit that the draftsmen of §9004(a)(2) intended the five percent threshold to apply to subsection (B) and not subsection (A) and accordingly made this clear by the use of different language in the two provisions. Put differently, it would render subsection (A) utterly meaningless to apply the 5% threshold to its grant of funds, because subsection (B) governs all situations when the candidate received 5% or more in the preceding election. Ergo, subsection (A) *only* has meaning in circumstances when the minor party candidate received *less* than 5%; no other reading of subsection (A) allows it to have any applicability. Statutes must be read so as to give them effect, and interpretations that have the effect of vitiating the effect of a statute are improper. *Watt v. Alaska*, 451 U.S. 259, 267 (1981); *Stewart v. Smith*, 673 F.2d. 485, 492 (D.C. Cir. 1982).

Accordingly, and based on the plain meaning of §9004(a)(2), The Johnson/Gray campaign is entitled to funding at this time.

In 2008, the Democrat nominee received 69,498,215 votes; the Republican nominee received 59,498,240; the Libertarian nominee received 523,713 votes. The average of the two major party votes is 64,498,228. The Libertarian nominee thus received 523,713/64,498,228, or .81% of the average vote of the major party candidates.

This cycle, the major party candidates will each receive $92,241,400.00. Based on this, Governor Johnson's position is that he is entitled to receive .81% of that number, which is $747,115.34. The Governor, by this letter, hereby requests this amount be disbursed to his campaign forthwith for the reasons set forth above.

Sincerely yours,

PAUL ROLF JENSEN

June 11, 2012

Caroline C. Hunter, Chairman
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Dear Madam Chairman:

As presidential and vice-presidential candidate seeking to become eligible to receive Presidential general election funds, I certify and agree to the following provisions as prescribed at 11 CFR §9003.1 and 11 CFR §9003.2.

I. In accordance with 11 CFR §9003.1(a)(2) and 11 CFR §9003.2(b), I certify that we are seeking the nominees of the Libertarian Party for election to the Office of President and Vice-President, respectively, and have qualified to appear on the ballots for the general election in ten or more States, and hereby request pursuant to 11 CFR §9003.1(a)(2) that you extend the deadline for our submission of this request to the date you receive this letter.

II. In accordance with 11 CFR §9003.1(b)(1), I acknowledge that I have the burden of proving that disbursements made by me, and any of my authorized committee(s) or agents are qualified campaign expenses as defined at 11 CFR §9003.5.

III. Pursuant to 11 CFR §9003.1(b)(2), I and my authorized committee(s) will comply with the documentation requirements set forth in 11 CFR §9003.5.

IV. Upon the request of the Commission, I and my authorized committee(s) will supply an explanation of the connection between any disbursement made by me or my authorized committee(s) and the campaign as prescribed by 11 CFR §9003.1(b)(3).

V. In accordance with 11 CFR §9003.1(b)(4), I and my authorized committee(s) agree to keep and furnish to the Commission all documentation relating to receipts and disbursements including any books, records (including bank records for all accounts) all documentation required by law, including those required to be maintained under 11 CFR 9003.5 and other information that the Commission may request.

VI. As provided at 11 CFR §9003.1(b)(4), I and my authorized committee(s) agree to keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), all documentation required by this section (including those required to be maintained under 11 CFR §9003.5), and other information that the Commission may request. If I or my authorized committee(s) maintains or uses computerized information containing any of the categories of data listed in 11 CFR §9003.6(a), the committee will provide computerized magnetic media, such as magnetic tapes or magnetic diskettes, containing the computerized information at the times specified in 11 CFR §9007.1(b)(1) that meet the requirements of 11 CFR §9003.6(b). Upon request, documentation explaining the computer system's software capabilities shall be provided and such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the committee(s) shall be made available.

VII. As prescribed at 11 CFR §9003.1(b)(5), I and my authorized committee(s) will obtain and furnish to the Commission upon request all documentation relating to funds received and disbursements made on my behalf by other political committees and organizations associated with me.

VIII. I and my authorized committee(s) shall permit an audit and examination pursuant to 11 CFR §9007 of all receipts and disbursements, including those made by me, all authorized committee(s) and any agent or person authorized to make expenditures on my behalf or on behalf of my authorized committee(s). I and my authorized committee(s) shall also provide any material required in connection with an audit, investigation, or examination. I and my authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 CFR part 9007.

IX. Pursuant to 11 CFR §9003.1(b)(7), the person listed below is entitled to receive payments from the fund on my behalf, which will be deposited into the listed depository, which I have designated as the campaign depository. Any change in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed by me or the Treasurer of my authorized principal campaign committee.

Name of Person: Chet Goodwin
Mailing Address: 280 South 400 West Suite 220
Salt Lake City, Utah 84101

Designated Depository: Zions Bank

Address: 455 East South Temple
South Lake City, Utah 84111

Name of Account: Gary Johnson 2012

ATTACHMENT 1
PAGE 4 OF 5

X. I agree that I and my authorized committee(s) shall comply with the applicable requirements of 2 USC §431, et seq.; 2 USC §9001, et seq.; and the Commission's Regulations at 11 CFR parts 100-400, and 9001-9012.

XI. I agree that I and my authorized committee(s) shall pay any civil penalties included in a conciliation agreement or otherwise imposed under 2 USC §437g against me, or either of us, my authorized committee(s), or any agent thereof.

XII. Pursuant to 11 CFR §9003.1(b)(10), any television commercial prepared or distributed by me or my authorized committee(s) will be prepared in a manner which ensures that the commercial contains or is accompanied by closed captioning of the oral content of the commercial to be broadcast in line 21 of the vertical blanking interval, or is capable of being viewed by deaf and hearing impaired individuals via any comparable successor technology to line 21 of the vertical blanking interval.

I further certify, under penalty of perjury of the laws of the United States, that neither I, nor my authorized committee(s) has incurred, nor will it incur, qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under 11 CFR 9004.1. I also so certify that no contributions to defray qualified campaign expenses will be accepted by me or my authorized committee(s), except to the extent, if any, that the qualified campaign expenses incurred exceed the aggregate payments received by me from the Fund under 11 CFR 9004.2.

I further certify under penalty of perjury of the laws of the United States that I will not knowingly make expenditures from my personal funds or from the personal funds of any immediate family, in connection with my campaign for the office of President and/or Vice President, in excess of $50,000.00 in the aggregate.

Signed: Gary E. Johnson
Gary E. Johnson,
Libertarian Party nominee for
President of the United States

Signed: James P. Gray
James P. Gray,
Libertarian Party nominee for
Vice-President of the United States

ATTACHMENT 1
PAGE 5 OF 5

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Commissioners:

Pursuant to 26 U.S.C § 9003 and 11 C.F.R. § 9003.1, this Letter Agreement certifies that as the nominees of the Libertarian Party for President and Vice President, we and our authorized committees (collectively "we" or "us") agree to comply with the following provisions set forth in 11 C.F.R. § 9003.1(b):

(1) We have the burden of proving that disbursements made by us or our agents are qualified campaign expenses as defined in 11 C.F.R. § 9002.11.

(2) We will comply with the documentation requirements set forth at 11 C.F.R. § 9003.5.

(3) We will provide an explanation, in addition to complying with the documentation requirements, of the connection between any disbursements made by us and the campaign if requested by the Commission.

(4) We will keep and furnish to the Commission all documentation relating to receipts and disbursements including any books, records (including bank records for all accounts), all documentation required by this subchapter (including those required to be maintained under 11 C.F.R. § 9003.5), and other information that the Commission may request. If we maintain or use computerized information containing any of the categories of data listed in 11 C.F.R. § 9003.6(a), the committee will provide magnetic or optical media containing the computerized information that meets the requirements of 11 C.F.R. § 9003.6(b) at the times specified in 11 C.F.R. § 9007.1(b)(1). Upon request, documentation explaining the computer system's software capabilities will be provided, and such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the committee will also be made available.

(5) We will obtain and furnish to the Commission upon request all documentation relating to funds received and disbursements made on our behalf by other political committees and organizations associated with us.

(6) We will permit an audit and examination pursuant to 11 C.F.R. part 9007 of all receipts and disbursements including those made by us and any agent or person authorized to make expenditures on our behalf. We will facilitate the audit by making available in one central location, office space, records and such personnel as are

necessary to conduct the audit and examination, and will pay any amounts required under 11 C.F.R. part 9007.

(7) Pursuant to 11 C.F.R. part 103 and 11 C.F.R. § 9005.2 the person listed below is entitled to receive payments from the Fund on our behalf.

Name
Mailing Address
City, State, ZIP

Such funds will be deposited into the listed depository:

Bank Name
Bank Address
City, State, Zip

The account name is:

(8) We will comply with the applicable requirements of 2 U.S.C. 431 et seq., 26 U.S.C. 9001 et seq., and the Commission's regulations at 11 C.F.R. parts 100-300, and 9001-9012.

(9) We will pay any civil penalties included in a conciliation agreement or otherwise imposed under 2 U.S.C. § 437g.

(10) We agree that any television commercial prepared or distributed by us will contain closed captioning of the oral content of the commercial to be broadcast in line 21 of the vertical blanking interval, or be capable of being viewed by deaf and hearing impaired individuals via any comparable successor technology to line 21 of the vertical blanking interval.

Additionally, pursuant to 26 U.S.C. § 9003 and 11 C.F.R. § 9003.2, and under penalty of perjury, we certify:

(1) That we have not incurred and will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under 11 C.F.R. § 9004.1.

(2) That no contributions to defray qualified campaign expenses have been or will be accepted by us except to the extent that the qualified campaign expenses incurred exceed the aggregate payments we received from the Fund under 11 C.F.R. § 9004.2.

(3) That the Presidential and Vice Presidential nominees will not knowingly make expenditures from our personal funds or the personal funds of our immediate family, in connection with our campaign for the office of President and Vice President of the United States in excess of $50,000 in the aggregate.

ATTACHMENT 2
PAGE 2 OF 3

Signed:

Gary Johnson 6/27/12
Candidate for President Date

James P. Gray 6-27-12
Candidate for Vice President Date

ATTACHMENT B
PAGE 8 OF 3

JENSEN & ASSOCIATES, APC *Trial Lawyers*
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Via FedEx #874768666937

8 May 2012

2012 MAY 11 PM 1:56
OFFICE OF GENERAL COUNSEL

Anthony Herman, Esq., General Counsel
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

Dear Mr. Herman,

I am counsel to former New Mexico Governor Gary Johnson and write to you on his behalf. As you are aware, the Governor last Saturday became the nominee of the Libertarian Party for the office of President of the United States.

In one location, your website states that no third party candidate this cycle will qualify for federal general election public funding, because during the 2008 cycle, no third party candidate received 5% of the vote in the general election. Notwithstanding this statement, it is our position that Governor Johnson IS entitled to public funding, for the reasons I will now outline.

26 U.S.C.§9004 (a)(2)(A) provides that, "[t]he eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election."

There is nothing in this subsection that imposes a 5% threshold; the next subsection is where that floor is imposed in order to receive funding. Likewise, the language of the next subsection, (a)(2)(B) refers to instances where the candidate was also a candidate for President in the preceding presidential election–thus additionally differentiating subsection (A) from subsection (B). Governor Johnson is an "eligible candidate" within the ambit of subsection (A) as that term is defined in §9002(4) and §9003(a) and (c). With regard to the term "candidate" in §9002(2), as opposed to "eligible candidate" in §9002(4), we believe that term is applicable only to §9004 (a)(2)(B) and not relevant to (a)(2)(A). For the same reason, we aver that the definition §9002 (7) of "minor party" is only relevant to §9004 (a)(2)(B) and not relevant to (a)(2)(A).

In summation, we submit that the draftsmen of §9004(a)(2) intended the five percent threshold to apply to subsection (B) and not subsection (A) and accordingly made this clear by the use of different language in the two provisions. Put differently, it would render subsection (A) utterly meaningless to apply the 5% threshold to its grant of funds, because subsection (B) governs all situations when the candidate received 5% or more in the preceding election. Ergo, subsection (A) *only* has meaning in circumstances when the minor party candidate received *less* than 5%; no other reading of subsection (A) allows it to have any applicability. Statutes must be read so as to give them effect, and interpretations that have the effect of vitiating the effect of a statute are improper. *Watt v. Alaska*, 451 U.S. 259, 267 (1981); *Stewart v. Smith*, 673 F.2d. 485, 492 (D.C. Cir. 1982).

Accordingly, and based on the plain meaning of §9004(a)(2), Governor Johnson is entitled to funding at this time.

In 2008, the Democrat nominee received 69,498,215 votes; the Republican nominee received 59,498,240; the Libertarian nominee received 523,713 votes. The average of the two major party votes is 64,498,228. The Libertarian nominee thus received 523,713/64,498,228, or .81% of the average vote of the major party candidates.

This cycle, the major party candidates will each receive $92,241,400.00. Based on this, Governor Johnson's position is that he is entitled to receive .81% of that number, which is $747,115.34. The Governor, by this letter, hereby requests this amount be disbursed to his campaign forthwith for the reasons set forth above.

Please be so kind as to contact the undersigned immediately to discuss this request.

Sincerely yours,

PAUL ROLF JENSEN

Attachment 3
Page 2 of 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 2012

VIA ELECTRONIC & CERTIFIED MAIL

Paul Rolf Jensen
Jensen & Associates, APC
650 Town Center Drive, Twelfth Floor
Costa Mesa, CA 92626

Re: Governor Gary Johnson and Judge James Gray (LRA 905)

Dear Mr. Jensen:

The Commission has considered the application for general election public funds, including a letter of agreements and certifications ("9003 letter") and cover letter submitted on behalf of your clients, Governor Gary Johnson and Judge James Gray, the nominees of the Libertarian Party for the offices of President and Vice President. On August 2, 2012, the Commission granted Governor Johnson's and Judge Gray's request for an extension of time to submit the 9003 Letter. The Commission also determined that taken together, the two 9003 letters submitted by Governor Johnson and Judge Gray meet the procedural conditions of 11 C.F.R. §§ 9003.1 and 9003.2.

However, the Commission at the same time made an initial determination that Governor Johnson and Judge Gray do not meet all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9004.2, and therefore are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2.

Enclosed is a Notice – Initial Determination on Eligibility and Entitlement that sets forth the legal and factual basis for the Commission's determination. You may submit, within 15 days after the Commission's initial determination, written legal or factual materials to demonstrate that the candidates have met all applicable conditions for eligibility to receive payments under 11 C.F.R. §9004.2, and are entitled to receive pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2. The Commission will consider any written legal or factual materials timely submitted in making its final determination. The final determination will be accompanied by a written statement of reasons explaining the legal and factual basis underlying the Commission's determination.

ATTACHMENT 4
PAGE 1 OF 11

Sincerely,

Lawrence L. Calvert
Associate General Counsel

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Governor Gary Johnson and	)	LRA # 905
Judge James Gray	)	

NOTICE
INITIAL DETERMINATION ON ELIGIBILITY AND ENTITLEMENT

I. SUMMARY OF INITIAL DETERMINATION

The Federal Election Commission ("Commission") made an initial determination on August 2, 2012, that Governor Gary Johnson and Judge James Gray, the nominees of the Libertarian Party for the offices of President and Vice President, respectively, are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2. *See* 11 C.F.R. § 9005.1(b)(1). The candidates do not meet the requirements for pre-election payments of public funds because neither the Libertarian Party nor these individual candidates received 5% or more of the vote in the previous presidential general election. *See* 26 U.S.C. § 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. This Notice sets forth the legal and factual basis for the Commission's initial determination.

II. BACKGROUND

On June 15, 2012, Governor Gary Johnson and Judge James Gray, (the "candidates"), the nominees of the Libertarian Party for the offices of President and Vice President, respectively, submitted a letter of candidate and committee agreements and certifications ("9003 letter") applying for public funds for the general election. Attachment 1. In a letter dated June 14, 2012 accompanying the candidates' 9003 letter,

counsel argues that the candidates are entitled to receive public funds under 26 U.S.C. § 9004(a)(2)(A) in the amount of $747,115.34.[1] Attachment 1.

Commission staff informed counsel that the 9003 letter was deficient in several respects, and provided a draft letter for the candidates to complete and submit. The candidates submitted an amended 9003 letter dated June 27, 2012, which was received on July 5, 2012. Attachment 2.

The amended 9003 letter omitted information identifying the person entitled to receive payments and the campaign's designated depository, which had been included in the original 9003 letter. The Commission concludes that, taken together, the 9003 letters are sufficient and the candidates have met all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9003.1 and 9003.2. As set forth below, however, the candidates have not met all applicable requirements of 11 C.F.R. § 9004.2 and are therefore not eligible to receive pre-election payments of public funds.

The Libertarian Party's former presidential candidate, Bob Barr, received less than 5% of the popular vote in the 2008 presidential election. Specifically, Mr. Barr received 523,713 votes, or 0.40% of the popular vote in the 2008 election. *See* Federal Election Commission, *Federal Elections 2008* at 5 (Jul. 2009). Governor Gary Johnson and Judge James Gray did not run in the 2008 presidential election.

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[1] Prior to submitting the 9003 letter, counsel contacted the Commission by letter dated May 8, 2012, which set forth the same arguments. Attachment 3. Counsel subsequently informed Commission staff that his letter was not an advisory opinion request, but was intended to be a precursor to an application for public funds, and that he expected that staff would contact him to inform him of what was required in an application. Staff contacted him and referred him to 11 C.F.R. part 9003.

III. INITIAL DETERMINATION – CANDIDATES ARE NOT ENTITLED TO PRE-ELECTION PUBLIC FUNDS

The Commission determines that Governor Johnson and Judge Gray, the Libertarian Party nominees for the offices of President and Vice President, respectively, are not entitled to receive any pre-election payments of public funds for the general election in 2012 because neither the Libertarian Party nor these individual candidates received 5% or more of the vote in the 2008 presidential general election. *See* 26 U.S.C. § 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. The Libertarian Party is not a "minor party" because its candidate did not receive 5% or more of the vote in the previous presidential general election, and these individual candidates did not run in the previous presidential general election. *See* 26 U.S.C. §§ 9004(a)(2), 9002(7) and (8); 11 C.F.R. §§ 9004.2, 9002.7, 9002.8.

The Presidential Election Campaign Fund Act, 26 U.S.C. § 9001 *et. seq.* ("the Fund Act") provides two ways that a candidate of a non-major party may be entitled to receive pre-election payments of public funds for the general election based on: (1) the performance of the candidate's party in the last presidential election, 26 U.S.C. § 9004(a)(2)(A); and (2) the performance of the current presidential candidate, personally, in the last presidential election, 26 U.S.C. § 9004(a)(2)(B). *See also* 11 C.F.R. §§ 9004.2, 9002.7, 9002.8. Neither criteria is satisfied here.

First, the Fund Act provides that the eligible candidate of a minor party whose candidate in the previous presidential election received 5% or more of the popular vote is entitled to pre-election payments of public funds. 26 U.S.C. § 9004(a)(2)(A); 11 C.F.R. § 9004.2. The Fund Act, at section 9002(7), defines the term "minor party" as a

"political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office." 26 U.S.C. § 9002(7); *see* 11 C.F.R. § 9002.7.

Section 9004(a)(2)(A) of the Fund Act applies only to candidates of a minor party:

> The eligible candidates of a ***minor*** party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the ***minor*** party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election.

26 U.S.C. § 9004(a)(2)(A) (emphasis added). *See also* 11 C.F.R. § 9004.2(b). Pursuant to this provision, a minor party's nominees are entitled to at least 5% and up to nearly 25% of the amount of public funds that major party candidates would receive. The Commission has stated that "[n]on-major party candidates who were not candidates for President in the preceding election, and who wish to qualify for pre-election funding in the next following presidential election, can become eligible only as candidates of a minor party." *See* Advisory Opinion ("AO") AO 2002-01 (Fulani) (Entitlement to pre-election funding as a minor party under section 9004(a)(2)(A) may only be determined by the vote totals received by that party in the previous presidential election), AO 1996-22 (Perot).

The candidates in this case do not meet the requirements to receive pre-election payments under section 9004(a)(2)(A) because the Libertarian Party is not a minor party.

Rather, the Libertarian Party is a "new party" because its presidential candidate in 2008 received only 0.40% of the popular vote, so it is neither a major party nor a minor party. *See* 26 U.S.C. § 9002(7) and (8); 11 C.F.R. § 9002.7, 9002.8. Unless the presidential candidate of a new party qualifies for pre-election funding under 26 U.S.C. § 9004(a)(2)(B), *see infra,* a new party's ticket can qualify only for *post*-election funding, and then only if that ticket receives at least 5% of the total votes in the current presidential election. 26 U.S.C. § 9004(a)(3).

Second, a candidate may receive pre-election payments of public funds based on his or her individual performance in the preceding presidential election. If the individual who is the nominee of a minor or new party in the current presidential election was also a presidential candidate of any party, or no party, in the previous presidential general election, and received 5% or more but less than 25% of the total popular votes received by all candidates, then that candidate and his or her running mate are entitled to pre-election payments. *See* 26 U.S.C. § 9004(a)(2)(B); 11 C.F.R. § 9004.2(a) and (c); *see also* AO 1996-22 (Perot) (Because Perot received over 5% of the popular vote in 1992, he would be eligible for pre-election funding in 1996 if he obtained the nomination of any non-major party and met the other conditions for eligibility.)

The candidates here do not meet the requirements to receive pre-election payments under section 9004(a)(2)(B) because Governor Johnson was not a candidate in the 2008 presidential general election, and thus, could not and did not receive 5% or more of the vote.

Counsel does not dispute that the candidates are ineligible for funding under section 9004(a)(2)(B), based on the candidates' individual past performance. Instead,

counsel argues that the candidates are entitled to receive public funds under 26 U.S.C. § 9004(a)(2)(A) in the amount of $747,115.34, which is .81% of the $92,241,400 a major party candidate would receive, because the Libertarian nominee in 2008 received ".81% of the average vote of the major party candidates." Attachment 1 at 2. Counsel contends that nothing in section 9004(a)(2)(A) "imposes a 5% threshold" and that the 5% threshold only applies to section 9004(a)(2)(B). *Id.* Moreover, counsel contends that the definitions of "candidate" and "minor party" in 26 U.S.C. § 9002(2) and (7) are only applicable to 26 U.S.C. § 9004(a)(2)(B) and are "not relevant to" 26 U.S.C. § 9004(a)(2)(A). *Id.* Counsel asserts that the different language in the two subsections indicates that the "draftsmen of § 9004(a)(2) intended the five percent threshold to apply to section (B) and not subsection (A)." *Id.* Counsel further argues that 26 U.S.C. § 9004(a)(2)(A) only has meaning when the minor party candidate received less than 5% of the vote, and "subsection (B) governs all situations when the candidate received 5% or more in the preceding election." *Id.*

In essence, counsel argues that Congress did not intend for the term "minor party," as used in section 9004(a)(2)(A), to incorporate the meaning of the term "minor party" as defined in section 9002(7). Counsel appears to be arguing that because section 9004(a)(2)(B) already accounts for the situation where the party's nominee "received 5 percent or more but less than 25 percent of the total number of popular votes" in the last election, applying the statutory definition of "minor party" to section 9004(a)(2)(A) would render the two subparagraphs redundant. But this argument misunderstands the difference between the two subparagraphs.

Subparagraph (A) turns on the *party's* previous nominee's performance in the last election, no matter who that nominee was. The entitlement belongs to "the eligible candidates of a minor party in a presidential election," 26 U.S.C. 9004(a)(2)(A), with status as a minor party dependent, as defined in section 9002(7), on the party's past performance. Subparagraph (B) turns on the *current* nominee's *individual* performance in the past election. The entitlement belongs to "the candidate of one or more political parties (not including a major party) for the office of President" *if* the candidate "was a candidate for such office in the preceding presidential election" *and* "received 5 percent or more but less than 25 percent of the" popular vote. This entitlement can be held by the nominee of either a minor or a new party, but not the nominee of a major party. 26 U.S.C. § 9004(a)(2)(B). Rather than being redundant, subparagraph (B) expressly contemplates a scenario where an eligible candidate of a "minor party" may qualify for funding twice – based both on the minor party's performance and the candidate's personal performance in the prior presidential election – and adjusts the formula for funding accordingly.

The Commission's regulations at 11 C.F.R. § 9004.2 further clarify the statutory requirements for pre-election funding. Section 9004.2(b), applying 26 U.S.C. § 9004(a)(2)(A), provides that the eligible candidate of a "minor party *whose candidate for the office of President in the preceding election received at least 5% but less than 25% of the vote* is eligible to receive pre-election payments." 11 C.F.R. § 9004.2(b) (emphasis added). Section 9004.2(c), applying 26 U.S.C. § 9004(a)(2)(B), provides that the nominee of a new party is entitled to funds only "if *he or she* received at least 5% but less than 25% of the total popular vote in the preceding election" (emphasis added).

Moreover, the Commission has interpreted the section 9004(a)(2)(B) entitlement as determined by the candidate's personal past performance in the prior presidential election. *See* AO 1996-22 (Determining that Ross Perot would be entitled to pre-election payments of public funds in the 1996 general election based on his performance as an independent candidate in the 1992 general election, assuming other eligibility requirements were met). The Commission's long-standing interpretation is far more consistent with the statutory text than counsel's interpretation, which would read out of the statute a defined term where it makes a practical and significant difference.

Consequently, because the Libertarian Party's presidential nominee in the 2008 general election received less than 5% of the total popular vote in that election, the Libertarian Party is a "new party," and its nominees in the 2012 presidential election have no pre-election entitlement to public funds under 26 U.S.C. § 9004(a)(2)(A). Moreover, because Governor Gary Johnson was not a candidate for President in the 2008 general election, neither he nor his running mate, Judge James Gray, have any pre-election entitlement to public funds under 26 U.S.C. § 9004(a)(2)(B).

IV. CONCLUSION

Based on the foregoing, the Commission concludes, first, that the candidates have met all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9003.1 and 9003.2. Second, the Commission has made an initial determination that Governor Gary Johnson and Judge James Gray do not meet all applicable conditions for eligibility to receive payments under 11 C.F.R. § 9004.2, and are not entitled to receive any pre-election payments of public funds for the general election pursuant to 26 U.S.C. § 9004(a) and 11 C.F.R. § 9004.2.

Attachments

1 9003 Letter with cover letter dated June 14, 2012 submitted by Governor Gary Johnson and Judge James Gray

2 Amended 9003 Letter

3. Letter from Paul Rolf Jensen to Anthony Herman dated May 8, 2012.

Your phone call to me regarding the preliminary determination of Governor Johnson and Judge Gray's request for pre-election funding
Paul R. Jensen
to:
dpainter@fec.gov
08/16/2012 02:03 PM
Hide Details
From: "Paul R. Jensen" <prj@jensenlawyers.com>
To: "dpainter@fec.gov" <dpainter@fec.gov>,
History: This message has been forwarded.

1 Attachment

FAX_20120816_1345138566_326.pdf

I was out of the office last week when you phoned me, and I am sorry not to return your call until now. In response to your inquiry, please find attached a letter to the Commission signed by Governor Johnson. I will have Judge Gray's signature by the end of the day today and will forward that to you as well, but with the attached in hand you will be able to anticipate receipt of Judge Gray's signature and take such action as you deem appropriate.

PAUL ROLF JENSEN

Paul Rolf Jensen
Jensen & Associates, APC, Trial Lawyers
650 Town Center Drive, 12th Floor
Costa Mesa, California 92626
(714) 662-5528 voice
www.jensenlawyers.com

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1 of 4

14 August 2012

Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RE: LRA #905

Dear Commissioners:

This will acknowledge and respond to the letter under date of August 6, 2012 signed by Lawrence L. Calvert, Associate General Counsel, sent to our attorney Paul Rolf Jensen, in response to our application for general election public funds.

We disagree with your initial decision for the reasons stated in our attorney's letter, however, we have nothing further to submit and request that you immediately issue your final determination.

Gary Johnson, Libertarian Party Nominee for President of the United States

James P. Gray, Libertarian Party Nominee for Vice President of the United States

FROM :ARIES PRODS/SLE CORP/WINCO FAX NO. :8176492529 Aug. 16 2012 10:41AM P1

Supplemental to my email yesterday
Paul R. Jensen
to:
dpainter@fec.gov
08/17/2012 02:59 PM
Hide Details
From: "Paul R. Jensen" <prj@jensenlawyers.com>
To: "dpainter@fec.gov" <dpainter@fec.gov>,
History: This message has been forwarded.

1 Attachment

Scan001.PDF

Yesterday I emailed you a document signed by my client, Governor Gary Johnson. Attached hereto is the same document, signed by my client and his running mate, Judge Gray.

By these documents we are asking for the immediate issuance of the final determination.

Paul Rolf Jensen
Jensen & Associates, APC, Trial Lawyers
650 Town Center Drive, 12th Floor
Costa Mesa, California 92626
(714) 662-5528 voice
www.jensenlawyers.com

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3 of 4

14 August 2012

Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RE: LRA #905

Dear Commissioners:

This will acknowledge and respond to the letter under date of August 6, 2012 signed by Lawrence L. Calvert, Associate General Counsel, sent to our attorney Paul Rolf Jensen, in response to our application for general election public funds.

We disagree with your initial decision for the reasons stated in our attorney's letter, however, we have nothing further to submit and request that you immediately issue your final determination.

Gary Johnson, Libertarian Party Nominee for President of the United States

James P. Gray, Libertarian Party Nominee for Vice President of the United States

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