



FEDERAL ELECTION COMMISSION
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MEMORANDUM

TO: The Commission

FROM: Adav Noti *AN*
Acting Associate General Counsel
Policy Division

AUG 08 2016

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SUBJECT: Gary Johnson 2012, Inc. – Request for Extension of Time (LRA # 905)

I. INTRODUCTION

On August 4, 2016, Gary Johnson 2012, Inc. (the “Committee”) filed a request for an extension of time of 90 days to repay the sum of \$333,441. We have reviewed the Committee’s request and believe that the Committee has shown good cause for the extension. Consequently, for the reasons set forth herein, we recommend that the Commission approve the Committee’s request for an extension of time.

II. THE COMMISSION SHOULD GRANT THE COMMITTEE’S EXTENSION REQUEST

The Commission’s regulations authorize it to grant a candidate subject to a repayment obligation an extension of time of up to 90 calendar days to make the repayment. 11 C.F.R. § 9038.2(d)(2). Requests for extensions of time to fulfill obligations prescribed in part 9038 of the Commission’s regulations, of which the obligation to make a repayment is one, are governed by 11 C.F.R. § 9038.4. Under this provision, a committee may apply for an extension of time in writing, and must demonstrate that good cause exists for the extension. 11 C.F.R. § 9038.4(b). To qualify as timely, the committee must apply no later than seven calendar days before the ending of the applicable time period. 11 C.F.R. § 9038.4(c). Here, the Committee has submitted a timely application for an extension by filing its request on August 4 – eight days before the repayment due date of August 12.

We recommend that the Commission grant the Committee's request.¹ To receive an extension of time, the Committee must show good cause. 11 C.F.R. § 9038.4(b). In support of its request, the Committee indicates that it wishes to file an advisory opinion request ("AOR") with the Commission in order to obtain clarification from the Commission of the range of options the Committee may have available to it to meet the repayment obligation.²

Based on this showing, we believe there is good cause to grant the extension request.³ In previous filings, the Committee has indicated that it does not have sufficient funds to meet the repayment obligation,⁴ and, while the Commission's regulation provides that repayments may be made only from specifically listed sources, 11 C.F.R. § 9038.2(a)(4), the Committee should be given time to ask questions about this regulation before making the repayment.⁵

III. RECOMMENDATION

The Office of General Counsel recommends that the Commission grant the Committee's request for an extension of time to make a repayment of \$333,441 for a period of 90 calendar days.

Attachment 1 – Letter from Dan Backer, Esq. to Commission Requesting Extension of Time, dated August 4, 2016.

[REDACTED]

¹ In the event that the Commission grants the Committee's request, the new due date for repayment will be November 10, 2016.

² We have supplemented the Committee's request with a previous e-mail that the Committee submitted to us, which addresses in greater detail some of the potential questions that the Committee may raise in its AOR. See [REDACTED]

³ We note that under the terms of the Commission's regulations, accrual of interest on the amount required to be repaid will begin after August 12, 2016 regardless of whether the Commission grants the Committee's extension request. See 11 C.F.R. § 9038.2(d)(3).

⁴ See Letter to Commission from Dan Backer, Esq. (Petition for Rehearing), dated Apr. 25, 2016, at 2.

⁵ It is conceivable that the time required for the Commission to issue an advisory opinion may exceed 90 days. Despite this possibility, however, section 9038.2(d)(2) limits the extension to a maximum of 90 days.