

Devens, Lo, Nakano, Saito, Lee & Wong

ATTORNEYS AT LAW

Stanley L. Ching
Ann S. Isobe
James H. Q. Lee

James A. Nakano*
Russell K. Saito*
Thomas J. Wong

Suite 1600 Central Pacific Plaza
220 South King Street
Honolulu, Hawaii 96813

Telephone (808) 521-1456
Fax (808) 538-3289

Richard C. Lo
1928 - 1996

Of Counsel:
Paul Devens*
Terrance W. H. Tom
Wilfred H. C. Youth*

*A Law Corporation

October 29, 1997

VIA EXPRESS MAIL

Nancy E. Bell, Esq.
General Counsel
Federal Election Commission
999 E. Street NW
Washington, D. C. 20463

Re: MUR 4594/Longevity International Enterprises Corp.

Dear Ms. Bell:

With respect to the subpoenas served on us which were directed to Longevity International Enterprises, Inc. and Maybelle Pang, enclosed are original and three copies of Motion to Quash Subpoenas.

We are submitting this motion pursuant to 11 C.F.R. §111.15.

Very truly yours,

DEVENS, LO, NAKANO,
SAITO, LEE & WONG

By



Thomas J. Wong

TJW:hh

Enclosures

cc: Longevity International
Enterprises Corp.

Oct 31 12:24 PM '97

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2025 RELEASE UNDER E.O. 14176

BEFORE THE
FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

OCT 31 12 24 PM '97

In the Matter of)

LONGEVITY INTERNATIONAL)
ENTERPRISES CORP.)

MUR 4594

MOTION TO QUASH SUBPOENAS ISSUED TO LONGEVITY
INTERNATIONAL ENTERPRISES CORPORATION AND MAYBELLE PANG

COME NOW, LONGEVITY INTERNATIONAL ENTERPRISES CORPORATION ("Longevity"), by its attorneys, DEVENS, LO, NAKANO, SAITO, LEE & WONG, and MAYBELLE PANG ("Pang"), by DEVENS, LO, NAKANO, SAITO, LEE & WONG as special appearance for Pang, and hereby move to quash the subpoenas issued to Pang and Longevity. Said subpoenas were received by counsel on October 24, 1997.

This motion is made pursuant to 11 C.F.R. § 111.15 of the Code of the Federal Register and 2 U.S.C. 437d of the United States Code.

I. BACKGROUND

This matter is an investigation instituted by the Federal Election Commission ("FEC") over matters relating to a lease that Longevity entered into with Frank Fasi.

After the documents were produced, the FEC has now issued a subpoena to Pang, an employee of Longevity, and also additional questions to Longevity.

[Certificate of Service Attached]

21 "04" 102 "4583

II. ARGUMENT

A. The Subpoenas To Pang And Longevity Requesting Additional Information Must Be Quashed.

1. There is no showing that the information is relevant to this investigation.

In order to obtain documents and information, the standard is that "the inquiry is within the authority of the agency, the demand is not too indefinite, and the information sought is reasonably relevant." United States v. Morton Salt, 338 U.S. 632, 70 S.Ct. 357, 94 L.Ed. 401 (1950). Furthermore, there must be some showing that the agency itself has subject matter jurisdiction. Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1980).

In this case, it is respondents' position that the interrogatories requested are not relevant to the investigation at hand.

For example, the questions posed to Pang request if she was an employee of China Airlines and if she was "seconded" to Longevity. There is no showing of what relationship Pang has to this matter in that the FEC has not shown if Pang's position was in a managerial position. Second, assuming that the answers to these questions are affirmative, there is no showing of what relevancy this has to the lease that was entered into with Frank Fasi. What difference does it make if Pang was "seconded" from China Airlines to Longevity with respect to the lease entered into with Frank Fasi.

21 04 402 4534

Also, the terminology of "seconded" is vague and ambiguous. The FEC attempts to define this as to mean "promote, to aid, to assist, to encourage, to re-enforce, to place, to transfer temporarily." Such a definition is somewhat ridiculous. So, for example, if Pang booked a trip on China Airlines, was that "promoting" China Airlines?

With respect to the questions posed to Longevity, similar type of irrelevant questions are being posed. For example, the FEC is requesting that all tenants that had spaces of 2,700 square feet from 1984 through 1996 be identified and the leases be provided. What relevancy this has to the lease with Mr. Fasi is not established. The FEC has never shown that there was an apparent nexus between the rental of the space to Mr. Fasi and any election. Therefore, if this nexus has not been shown for Mr. Fasi's space, requesting information and documents for other spaces is also totally irrelevant. Furthermore, questions of an alleged relationship with China Airlines is also totally irrelevant. If there were loans, transfers or sales of property, what relevancy, if any, does this have to do with any lease being entered into with Frank Fasi?

2. The statute of limitations of this inquiry has run and therefore, such further requests are barred.

The applicable statute of limitations bars untimely claims arising more than five years before the FEC brings an action for civil penalty. FEC v. Williams, 104 F.3d 237 (9th Cir. 1996). As stated, the alleged violation in this matter is over a 16-year old lease agreement. These additional

21.04.402.4535

questions also show that what is being requested is for information over 15 years old. Therefore, since these claims are barred by the statute of limitations, any further inquiry must be barred.

3. The requests are, in addition to being irrelevant and annoying, oppressive and unduly burdensome.

The FEC is requesting documents from 1981 through 1996, which is a span of a 15-year period, without showing the relevancy of this time frame. Furthermore, such a request for documents, if such documents exist, requires Longevity to spend a tremendous amount of time to locate documents which are totally irrelevant to this investigation. Such a request is an annoyance, oppressive and places an undue burden and expense on Longevity.

In Isacc v. Shell Oil Co., 83 FRD 428 (D.C. Mich. 1979), where the plaintiff had not shown a reasonable ground to support its allegations of liability and where the discovery costs faced by the defendant were substantial, justice required that a protective order be issued.

In the case at bar, as stated, this matter involves a claim that may be barred by the statute of limitations and requires Longevity to devote its resources and manpower to research records going back over 16 years, which is totally unreasonable. Furthermore, even assuming such records can be located, the FEC apparently expects these records to be produced without

21.04.402.4586

compensation for the time, copying costs and mailing that may be involved in producing such records. Clearly, this is totally unfair to Longevity.

For these reasons, such a request must be quashed.

4. The subpoena served on Pang was improper.

The FEC served on this law firm a subpoena addressed to Pang, care of this law firm. In a cover letter to counsel, it states that Pang, as an employee, is being requested to answer questions. Pang is considered as a witness only.

This law firm has never made any representations, nor has it previously made an appearance for Pang. This law firm has responded on behalf of Longevity. Yet despite this, the FEC chose to send Pang's subpoena to this law firm. The FEC has not followed its own rules specifically 11 C.F.R. § 111.13, which specifically states that service of a subpoena "shall be made by delivering a copy to that person." Service can be made upon a person "who has so advised the Commission of representation by an attorney. . ." 11 C.F.R. § 111.13(b). At no time has Pang advised this Commission that this law firm is representing her. Furthermore, as stated, at no time has this law firm stated that it is representing Pang. This law firm has only stated that it is representing the corporate entity, Longevity International Enterprises Corporation. Therefore, the service of this subpoena is improper in that since this law firm has never stated that it represented Pang, such service must be made on Pang and until service is made on Pang, the present subpoena must be quashed.

21.04.402.453

III. CONCLUSION

For the foregoing reasons, Longevity and as special appearance for Pang, respectfully request that the motion to quash subpoenas be granted and the subpoenas issued in this matter, being unduly burdensome and not relevant to any of the issues at hand, be also quashed.

DATED: Honolulu, Hawaii, OCT 29 1997.



THOMAS J. WONG
DEVENS, LO, NAKANO, SAITO, LEE
& WONG

220 South King Street, Suite 1600
Honolulu, Hawaii 96813
(808) 521-1456

Counsel for Longevity International
Enterprises Corporation

Special Appearance for Maybelle
Pang

21.04.402.4528

CERTIFICATE OF SERVICE

I hereby certify that on OCT 29 1997, a copy of the foregoing document was duly served on the following party by U. S. mail, postage prepaid:

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

DATED: Honolulu, Hawaii, OCT 29 1997.



THOMAS J. WONG
Attorney for Longevity
International Enterprises
Corporation; and Special Appearance
for Maybelle Pang

21.04.402.4589