

Notice to Interested Persons

For Authorization Under Prohibited Transaction Exemption (PTE) 96-62, as Amended

You are hereby notified that Joseph A. Dugan, Jr. (the "Applicant") has applied to the U.S. Department of Labor (the "Department") for authorization under PTE 96-62 (61 FR 39988, July 31, 1996, as amended by 67 FR 44622, July 3, 2002) ("EXPRO"). The transaction involves the proposed sale of certain unimproved real property (the "Property") by the Joseph A. Dugan, Jr., Self-Directed IRA (the "IRA") to Joseph A. Dugan, Jr., the IRA owner. If the submission by the Applicant receives final authorization from the Department, the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986, as amended (the "Code"), by reason of section 4975(c)(1)(A) (D), and (E) shall not apply to the proposed transaction. The authorization is necessary because the Applicant is the IRA owner and a disqualified person with respect to the IRA. Because of the relationship between the Applicant and the IRA, such a transaction would otherwise constitute a prohibited transaction under the Code. This notice informs you of the Applicant's submission to the Department and describes your right to comment to the Department about the proposed transaction.

The authorization is subject to the following conditions:

1. The sale is a one-time transaction for cash;
2. The IRA receives the fair market value for the Property, as established at the time of the sale by a qualified independent appraiser; and
3. The IRA pays no real estate fees, commissions or other expenses associated with the sale.

Overview

The Applicant represents that because the Property is no longer a suitable investment for the IRA, the proposed sale of such Property would allow the IRA to increase the liquidity of its portfolio, thereby facilitating the investment of IRA assets into vehicles that could potentially yield greater returns. Therefore, the Applicant wishes to purchase the Property to ensure an expeditious sale at fair market value in which the IRA pays no real estate fees, commissions or incurs no other related expenses.

The IRA

The IRA, an individual retirement account as described in section 408(a) of the Code, was established by the Applicant in April 2005. As of December 31, 2012, the IRA had approximately \$16,027 in assets (cash and cash equivalents) and the Property, which was valued at \$150,000. Chesapeake Trust Company, located in Kilmarnock, Virginia, is the custodian of the IRA.

Proposed Property Transaction

The Applicant seeks final authorization under EXPRO in order to purchase the Property from the IRA. The Property consists of approximately 9.26 acres of unimproved real property, located at Lot 53-A(1)-5-A, Deed Book 610, page 146, in Northumberland County, Virginia (the

“Property”). The Property is also adjacent to other real estate owned by the Applicant and his wife.

On June 6, 2005, the IRA purchased the Property from Everett A. Fairland, III and Patricia S. Gregory, Trustees of the Everett A. Fairland, Jr. Revocable Trust, for \$486,290.49 in cash (including settlement costs). The sellers were unrelated parties. At the time of purchase, the Property represented approximately 95% of the IRA’s total assets. Although the Property has not been leased to or used by any disqualified persons following its acquisition by the IRA, it has been leased to a local farmer, McDee Fleet, who is an unrelated party. Mr. Fleet grows corn and soybeans (on rotation) over approximately seven acres of the Property and he has paid the IRA \$100 per year (or total income of \$500) since the leasing arrangement commenced. The IRA has also incurred approximately \$35 in annual real estate taxes since it has owned the Property (or total approximate real estate taxes of \$280).

The Property was appraised on October 12, 2012, by a qualified independent appraiser, Thomas J. Brent, Jr., of John P. Holmes and Associates, located in Irvington, Virginia. Mr. Brent is a Certified General Appraiser. In an appraisal report dated October 20, 2012, Mr. Brent placed the fair market value of the Property at \$150,000 as of October 12, 2012. In a supplemental statement to the appraisal report dated March 23, 2013, Mr. Brent opined that “given the rural nature of the subject Property’s neighborhood, the assemblage, or the potential for assemblage will not increase the value [of the Property].” In addition, Mr. Brent did not provide a separate valuation for the timber on the Property because he observed that there is only a minimal amount of timber on the Property. According to Mr. Brent, the overwhelming majority of the Property is open land.

The Applicant has not made an attempt to market the Property to unrelated third parties. The Applicant represents that he has observed the decline of the real estate market in the vicinity of the Property, especially in the sales of undeveloped farmland. Therefore the Applicant believes attempting to sell the Property to an unrelated third party is futile and a drain upon the IRA’s resources. To that end, the Applicant proposes that he purchase the Property from the IRA in a one-time cash transaction in an amount equal to the current fair market value of the Property at the time of transaction, and that the IRA will pay no real estate fees, commissions or other expenses associated with the sale. Prior to consummation of the transaction, the appraisal will be updated by Mr. Brent, and the transaction will be conducted at the updated appraisal amount.

Tentative Authorization of Proposed Transaction

The Applicant has requested authorization from the Department under PTE 96-62, which requires that the transaction be substantially similar to transactions described in one individual exemption that was granted by the Department, and provided relief from the same restriction, within the 120-month (10-year) period ending on the date of filing of the submission, and to at least one “authorized transaction” (a transaction that has received final authorization under EXPRO within a 60-month period ending on the date of the filing of the submission).

The following case was an individual exemption granted on November 14, 2003, which is within the 10-year period: Hayden O. Grona IRA, which permits the proposed sale of certain unimproved real property by the IRA to Mr. Grona’s children, disqualified persons with respect

to the IRA, Exemption Application No. D-11192, PTE 2003-34 (68 FR 64658, November 14, 2003).

A transaction which received final authorization under EXPRO was: Kristin P. Boardman, which permits the sale of certain unimproved real property by the IRA to Kristin P. Boardman, the owner of the IRA and a disqualified person with respect to the IRA, Final Authorization Number 10-03E, Case IDE00656, which received final authorization October 27, 2010.

The proposed transaction is substantially similar to the above-cited cases because all involve sales of real property by an IRA to a disqualified person. As in the subject case, (1) the sales were one-time transactions for cash; (2) the IRAs received the current fair market value for the subject properties, as established at the time of the sale by the qualified independent, appraisers; and (3) the IRAs paid no real estate fees, commissions or other expenses associated with the sales.

The proposed transaction described in this notice has met the requirements for tentative authorization from the Department under PTE 96-62. Unless the Department otherwise notifies the Applicant, a final authorization would be effective on May 15, 2013.

Your Right to Comment on Tentative Authorization

As an interested party, you have the right to submit comments to the Department on the tentative authorization. If you decide to do so, you should submit your comments to the following address:

U.S. Department of Labor
Employee Benefits Security Administration
Office of Exemption Determinations
200 Constitution Avenue, NW, Room N-5700
Washington, DC 20210
Attn: Mr. Asrar Ahmed

Be sure to refer to the Submission Number, which is "E-00724." Comments must be received by the Department no later than May 10, 2013. Comments may be faxed or emailed to the Department. The fax number is (202) 219-0204 and the email address is ahmed.asrar@dol.gov. If you have questions regarding your right to comment on this tentative authorization, you may call Mr. Ahmed at 202-693-8557.

The transaction will only be consummated after the issuance of a final authorization. If the Department authorizes the transaction, the approximate date on which the transaction will occur is on or after May 15, 2013.