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FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 2, 2002

MEMORANDUM

AGENDA ITEM

For Meeting of: 4-11-02

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence H. Norton
General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael G. Marinelli
Staff Attorney

SUBJECT: Draft AO 2002-03

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for April 11, 2002.

Attachment

1
2 **ADVISORY OPINION 2002-03**

3
4 **Paul Dumouchelle, Convener**
5 **Green Party of Ohio**
6 **8832 Naim Ct.**
7 **Dublin, OH 43017**

8
9 **Dear Mr. Dumouchelle:**

10 **This refers to your letter dated February 26, 2002, and received March 7,**
11 **requesting an advisory opinion concerning the status of the Green Party of Ohio (“the**
12 **Party”) as a State committee of a political party under the Federal Election Campaign Act**
13 **of 1971, as amended (“the Act”), and Commission regulations.**

14 **Your request includes various documents including one which represents both the**
15 **Party bylaws and the Party constitution (the “Bylaws”). This governing document details**
16 **various aspects of the organization of the Party such as the manner in which the Party,**
17 **using several different subgroups, including its State Coordinating Committee, engages in**
18 **various activities; for example, helping to nominate Party candidates for Statewide office.**
19 **The Bylaws further explain the procedures for holding the Party’s various meetings such**
20 **as a biannual meeting and the biannual nominating convention at which the Party chooses**
21 **the Green Party presidential candidate that it will support at the national Green Party**
22 **convention. You state that the Party successfully placed candidates for Federal office on**
23 **the ballot in the 2000 elections. These candidates were Ralph Nader for U.S. President**
24 **and Winona LaDuke for Vice President.¹**

25

¹ The Party also has a Federal committee, the Green Party of Ohio Federal PAC, which filed its statement of organization with the Commission on January 26, 2001. The Web site address for the Party is www.ohiogreens.org.

1 Your request states that the Party is officially affiliated with the Green Party of the
2 United States ("the National Party").² On March 12, 2002, the Commission received a
3 letter from Dean Myerson, political coordinator for the Green Party of the United States,
4 confirming the status of the Party as the sole affiliate of the National Party in the State of
5 Ohio.

6 Under the Act and Commission regulations, the term "State committee" means the
7 organization which, by virtue of the bylaws of a political party, is responsible for the day-
8 to-day operation of such political party at the State level, as determined by the
9 Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also
10 requires the existence of a political party. The term "political party" is defined under 2
11 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization which
12 nominates a candidate for election to any Federal office whose name appears on the
13 election ballot as the candidate of such association, committee, or organization. An
14 individual becomes a candidate for purposes of the Act if he or she receives contributions
15 aggregating in excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C.
16 §431(2).³

17 As stated in the Act and Commission regulations, the first element of the
18 requirements for State committee status is that the bylaws of a political party establish
19 that the Green Party of Ohio is responsible for the day-to-day operation of such political

² In Advisory Opinion 2001-13, the Commission concluded that the Green Party of the United States is a national committee of a political party. See 2 U.S.C. §431(14).

³ Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to various registration, recordkeeping, and reporting requirements. 2 U.S.C. §§432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

1 party at the State level.⁴ As noted above, the Party's governing document sets out an
2 identifiable organizational structure for the Party with varying responsibilities. *See*
3 Bylaws, articles 2, and 3. As they delineate activity commensurate with the day-to-day
4 functions and operations of a political party on a State level, the Bylaws meet the
5 requirements of 2 U.S.C. §431(15) and 11 CFR 100.14, and they are consistent with the
6 State party rules reviewed in previous situations where the Commission has affirmed the
7 State committee status of a political organization. The documentation received also
8 confirms the status of the Party as the State affiliate of the Green Party of the United
9 States. *See* Advisory Opinions 2001-06, 2001-02, and 2000-39. Therefore, the
10 Commission concludes that the Party meets the first element.

11 The second element for qualifying as a State committee of a political party, and an
12 essential element for qualifying as a political party, is that the party organization actually
13 obtains ballot access for one or more Federal candidates, as defined in the Act. Of the
14 Federal candidates identified in your request, Mr. Nader, according to disclosure reports
15 filed with the Commission, received or expended in excess of \$5,000 in his 2000
16 campaign. Accordingly, this individual satisfies the Act's definition of "candidate."

⁴ The Commission has considered either the bylaws of State party organizations or other governing documents in making these determinations. Advisory Opinions 2000-39 and 2000-35. In reviewing State party affiliates of entities that qualified as national committees of political parties under 2 U.S.C. §431(14), the Commission has looked to evidence, either a State affiliate agreement or correspondence from the national party that attested to the relationship and role the State affiliate plays "commensurate with the day-to-day operation of [a political party] on a State level," see Advisory Opinions 1999-26 and 1992-30. The Commission has also found State party committee status with respect to organizations affiliated with national political parties that had not achieved national committee status or organizations that had no affiliation with any national organization. State committee status in these opinions was based on the existence of State bylaws detailing activities commensurate with the day-to-day operation of a party on the State level, and the placement of at least one Federal candidate on the ballot. Advisory Opinions 2001-02, 2000-39, 2000-35, and 2000-27.

1 2 U.S.C. §431(2). Since Mr. Nader appeared on the 2000 ballot in Ohio as a candidate of
2 the Green Party of Ohio, the Commission concludes that the Party satisfies the definition
3 of "political party" under the Act. It thus meets the second element for establishing State
4 committee status.

5 In view of the fact that both elements discussed in this opinion have been
6 satisfied, the Commission concludes that the Green Party of Ohio qualifies as the State
7 committee of a political party under the Act and Commission regulations.

8 This response constitutes an advisory opinion concerning the application of the
9 Act, or regulations prescribed by the Commission, to the specific transaction or activity
10 set forth in your request. *See* 2 U.S.C. §437f.

11
12 Sincerely,

13
14 David M. Mason
15 Chairman
16

17
18 Enclosures (AOs 2001-13, 2001-06, 2001-02, 2000-39, 2000-35, 2000-27, 1999-26,
19 and 1992-30)
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