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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 15-30-A
AGENDA ITEM
For meeting of June 18, 2015

June 11, 2015

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS by AN*
Deputy General Counsel

Adav Noti *AN*
Acting Associate General Counsel

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Assistant General Counsel

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Attorney

Subject: AO 2015-01 (Green-Rainbow Party) Draft A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on June 17, 2015.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

1 ADVISORY OPINION 2015-01

2

3 Ian T. Jackson, Treasurer
4 Green-Rainbow Party
5 232 Highland Avenue
6 Arlington, MA 02476

DRAFT

7

8 Dear Mr. Jackson:

9 We are responding to your request on behalf of the Green-Rainbow Party regarding the
10 requestor’s status as a state committee of a political party under the Federal Election Campaign
11 Act, 52 U.S.C. § 30101-46 (the “Act”), and Commission regulations. The Commission concludes
12 that the requestor qualifies as a state committee of a political party because: (1) The Green Party of
13 the United States qualifies as a political party; (2) the requestor is part of the official structure of the
14 Green Party of the United States; and (3) the requestor is responsible for the day-to-day operation of
15 the Green Party of the United States at the state level.

16 ***Background***

17 The facts presented in this advisory opinion are based on your advisory opinion request
18 (“AOR”) received on May 4, 2015, public filings with the Commission, and public filings with
19 the Massachusetts Office of Campaign and Political Finance.

20 Pursuant to the requestor’s bylaws, the requestor engages in various political party
21 activities in Massachusetts. *See generally* AOR006-027 (the “Bylaws”). These activities
22 include: “[m]aintaining regular communication with and providing training, information, and
23 other services to” local committees of the Green Party of the United States; “[f]ormulating and
24 disseminating statements of [the requestor’s] policy and platform”; “[c]oordinating and
25 conducting [the requestor’s] state campaigns”; and raising and disbursing funds needed for
26 operating the requestor and local Green Party committees. AOR012. The Bylaws also state that

1 the requestor will “seek and maintain statewide ballot access,” including “running candidates for
2 . . . federal offices.” AOR021.

3 The Bylaws identify the requestor as “an affiliated state party” of the Green Party of the
4 United States. AOR021. Additionally, the Operations Manager of the Green Party of the United
5 States has confirmed that the requestor as presently constituted is an affiliate of the Green Party
6 of the United States. *See* AOR033. The requestor placed a candidate for President of the United
7 States, Jill Stein, on the 2012 Massachusetts general election ballot. Ms. Stein was identified on
8 the ballot as a candidate of the requestor. *See* AOR004-005.

9 The Green-Rainbow Party first applied for, and received, recognition as a state committee
10 of the Green Party of the United States on April 1, 2004. *See* Advisory Opinion 2004-09 (Green-
11 Rainbow Party). From March through October 2013, the Green-Rainbow Party failed to file any
12 reports with the Commission. Consequently, the Commission administratively terminated the
13 Green-Rainbow Party in January 2014. Although the Green-Rainbow Party was administratively
14 terminated as a federal political committee, it continued its operations in Massachusetts.¹ The
15 Green-Rainbow Party then filed a new Statement of Organization with the Commission on
16 February 23, 2015.²

¹ The Green-Rainbow Party’s reports filed with the Massachusetts Office of Campaign and Political Finance before and after it was terminated as a federal political committee can be found at <http://www.ocpf.us/Filers?q=green%20rainbow&cat=C#filer-reports> (last accessed May 21, 2015).

² The Green-Rainbow Party’s reporting history with the Commission can be found at <http://www.fec.gov/fecviewer/CommitteeDetailFilings.do?tabIndex=3&candidateCommitteeId=C00359661> (prior to administrative termination) and www.fec.gov/fecviewer/CommitteeDetailFilings.do?tabIndex=3&candidateCommitteeId=C00573501 (beginning with re-registration).

1 ***Question Presented***

2 *Does the Green-Rainbow Party qualify as a state committee of a political party within the*
3 *meaning of the Act and Commission regulations?*

4 ***Legal Analysis and Conclusion***

5 Yes, the requestor qualifies as a State committee of a political party within the meaning
6 of the Act and Commission regulations. A “state committee” is an organization that, “by virtue
7 of the bylaws of a political party . . . is part of the official party structure and is responsible for
8 the day-to-day operation of the political party at the State level, . . . as determined by the
9 Commission.” 11 C.F.R. § 100.14(a); 52 U.S.C. § 30101(15). A “political party” is an
10 “association, committee, or organization that nominates a candidate for election to any federal
11 office whose name appears on the election ballot as the candidate of such association, committee,
12 or organization.” 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15. The determination as to whether a
13 state party organization qualifies as a state committee of a national political party turns on three
14 elements: (1) the national party of which the state party organization is a part must itself be a
15 “political party;” (2) the state party organization must be part of the official structure of the
16 national party; and (3) the state party organization must be responsible for the day-to-day
17 operation of the national party at the state level. *See, e.g.,* Advisory Opinion 2012-39 (Green
18 Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut). The Commission
19 therefore addresses each of these three elements in turn.³

³ Because the Green-Rainbow Party was administratively terminated after the Commission recognized it as a state committee in Advisory Opinion 2004-09 (Green-Rainbow Party), and because it subsequently registered with the Commission as a new committee, the Commission examines whether the Green-Rainbow Party still qualifies as a state committee of a political party. *See* Advisory Opinion 2008-13 (Pacific Green Party of Oregon) (analyzing state-party status of committee that had terminated and re-registered after prior recognition as state party).

1 (1) *Qualification of the Green Party of the United States as Political Party*

2 The national party, which here is the Green Party of the United States, must qualify as a
3 “political party” under the Act and Commission regulations. The Commission has previously
4 determined that the Green Party of the United States qualifies as a national committee of a
5 political party. *See* Advisory Opinion 2001-13 (Green Party of the United States). The
6 Commission is aware of no factual changes that would alter that conclusion.

7 (2) *Status of the Requestor as Part of the Official Structure of the Green Party of the*
8 *United States*

9 To determine whether a state party organization qualifies as part of the official structure
10 of a national party, the Commission has evaluated supporting documentation from the national
11 party indicating that the state party is part of the official party structure. *See, e.g.,* Advisory
12 Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of
13 Connecticut). Here, the letter from the Brian Bittner, Operations Manager of the Green Party of
14 the United States (AOR033), confirms that the requestor is part of the official party structure of
15 the Green Party of the United States.

16 (3) *Responsibility of the Requestor for Day-to-Day Operation of the Green Party of*
17 *the United States at the State Level*

18 To determine whether a state party organization is responsible for the day-to-day
19 operations of a national party, the Commission considers: (a) whether the organization has
20 placed a federal candidate on the ballot (thereby qualifying as a “political party” under 52 U.S.C.
21 § 30101(16)); and (b) whether the bylaws or other governing documents of the state party
22 organization indicate activity commensurate with the day-to-day functions and operations of a

1 political party at the state level. *See, e.g.*, Advisory Opinion 2012-39 (Green Party of Virginia);
2 Advisory Opinion 2012-36 (Green Party of Connecticut).

3 Because an organization must place a federal candidate on the ballot to qualify as a
4 “political party,” *see* 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15, the organization responsible for
5 the operation of a political party at the state level must obtain ballot access for a federal
6 candidate to qualify as a “state committee.” *See* 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a); *see*
7 *also, e.g.*, Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36
8 (Green Party of Connecticut). Here, the requestor’s nominee on the 2012 general election ballot
9 for President of the United States, Jill Stein, received contributions or made expenditures in
10 excess of \$5,000 according to disclosure reports filed with the Commission. *See, e.g.*, Jill Stein
11 for President, FEC Report 3P at 2 (Jan. 31, 2013), [http://docquery.fec.gov/cgi-](http://docquery.fec.gov/cgi-bin/fecimg?_13960642131+1)
12 [bin/fecimg?_13960642131+1](http://docquery.fec.gov/cgi-bin/fecimg?_13960642131+1) (showing net election cycle contributions totaling more than
13 \$700,000). She therefore satisfies the Act’s definition of a “candidate.” *See* 2 U.S.C.
14 § 30101(2); 11 C.F.R. § 100.3(a). Accordingly, the requestor qualifies as a “political party”
15 under the Act. *See* 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15.⁴

16 In addition, the Bylaws indicate that the requestor is responsible for activity commensurate
17 with the day-to-day functions and operations of a political party at the state level. For example, the
18 Bylaws govern the requestor’s responsibilities involving membership, fundraising,
19 communications, party finances, and other party-related tasks. AOR017-019. The Bylaws also
20 set out a procedure for an individual to obtain nomination and run for elected office as a member

⁴ The fact that Ms. Stein was a candidate prior to the requestor’s re-registration with the Commission is not relevant to this determination. *See* Advisory Opinion 2008-16 (Libertarian Party of Colorado) at 4 (finding that state party qualified as political party based on, among other things, two candidates whom state party had placed on ballot several years before party registered with Commission).

1 of the party. AOR020. These provisions are similar to other state party rules that the
2 Commission has found sufficient to qualify an organization for state-committee status. *See, e.g.,*
3 Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party
4 of Connecticut). Therefore, the Bylaws satisfy the requirements for the requestor to be
5 responsible for the day-to-day operation of the Green Party of the United States at the state level
6 pursuant to 52 U.S.C. § 30101(15) and 11 C.F.R. § 100.14(a).

7 Accordingly, because the requestor satisfies all three of the Commission’s criteria to
8 qualify as a “state committee,” the Commission determines that the Green-Rainbow Party is a
9 state committee of a political party under the Act and Commission regulations.

10 This response constitutes an advisory opinion concerning the application of the Act and
11 Commission regulations to the specific transaction or activity set forth in your request. *See*
12 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or
13 assumptions presented, and such facts or assumptions are material to a conclusion presented in
14 this advisory opinion, then the requestor may not rely on that conclusion as support for its
15 proposed activity. Any person involved in any specific transaction or activity which is
16 indistinguishable in all its material aspects from the transaction or activity with respect to which
17 this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C.
18 § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be
19 affected by subsequent developments in the law including, but not limited to, statutes,

1 regulations, advisory opinions, and case law. Any advisory opinions cited herein are available
2 on the Commission's website.

3 On behalf of the Commission,

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Ann M. Ravel
Chair