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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 19-32-A**  
**AGENDA ITEM**  
**For meeting of July 25, 2019**

July 17, 2019

**MEMORANDUM**

TO: The Commission

FROM: Lisa J. Stevenson *LJS by NFS*  
Acting General Counsel

Neven F. Stipanovic *NFS*  
Acting Associate General Counsel

Joanna S. Waldstreicher *JSW*  
Acting Assistant General Counsel

Cheryl Hemsley *CAFH by JSW*  
Attorney

Subject: Draft AO 2019-14 (Arizona Libertarian 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 July 24, 2019.

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 <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2019-14

2

3 Jeff Daniels  
4 Secretary  
5 Arizona Libertarian Party  
6 1000 N. Beeline Highway #139  
7 Payson, AZ 85541

**DRAFT A**

8

9 Dear Mr. Daniels:

10 We are responding to your advisory opinion request on behalf of the Arizona  
11 Libertarian Party (“AZLP”), regarding the application of the Federal Election Campaign  
12 Act, 52 U.S.C. §§ 30101-45 (the “Act”), and Commission regulations to the Committee’s  
13 proposal to transfer \$2,000 to the Libertarian National Party (“LNP”) to help cover  
14 LNP’s cost of implementing the “state Customer Relationship Management System.”  
15 The Commission concludes that the proposed transfer is permissible, but would cause  
16 AZLP to exceed the monetary threshold requiring registration as a political committee.

17 ***Background***

18 The facts presented in this advisory opinion are based on your letter received on  
19 April 5, 2019 and your email received on June 18, as well as AZLP’s and LNP’s publicly  
20 available websites.

21 The LNP is registered with the Commission, and in 1975, the Commission  
22 determined that the LNP is a national party committee. Advisory Opinion 1975-129  
23 (National Committee of the Libertarian Party). The AZLP is the LNP’s state affiliate for  
24 Arizona, *see* Advisory Opinion Request at AOR001, and is not currently registered with  
25 the Commission as a federal political committee. In 2007 and 2016, the AZLP requested  
26 advisory opinions seeking Commission approval that AZLP qualified as a state

1 committee of a national political party — the LNP. In each instance the Commission  
2 granted the request, finding that the AZLP was part of the official LNP structure and  
3 carried out the day-to-day activities of the LNP in Arizona. *See* Advisory Opinion 2016-  
4 14 (11 Libertarian State Committees); Advisory Opinion 2007-02 (Arizona Libertarian  
5 Party). Each time the AZLP’s status as a federal political committee was later  
6 terminated.<sup>1</sup> Examination of the AZLP’s Bylaws on its website,  
7 <https://www.azlp.org/bylaws>, shows the same structure, operations, and duties as were  
8 present when the Commission determined it was a state committee of a national political  
9 party.

10 The LNP is offering its state affiliates the use of its Customer Relationship  
11 Management System (“CRM”). The CRM is a database in which state libertarian parties  
12 “store critical information; contact information on members, current and potential  
13 supporters, donors and candidates.” AOR002. “Onboarding” a state affiliate to the CRM  
14 system involves “preparing their data set(s), web and CRM configuration, importing data  
15 and training.” *See* LNP website: <https://my.lp.org/state-crm-project/>.

16 The LNP only adds a state affiliate to its CRM when the LNP has sufficient funds  
17 to cover the costs it incurs to do so, approximately \$2,000 for each state affiliate.  
18 AOR002. The AZLP proposes transferring \$2,000 to the LNP, which would cover the  
19 cost incurred by the LNP to bring the AZLP onboard. *Id.* The AZLP has sufficient

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<sup>1</sup> In late 2016, the AZLP filed a termination report with the Commission in accordance with 11 C.F.R. § 102.4(a)(1). *See* Termination Report, <https://docquery.fec.gov/pdf/736/201701179041409736/201701179041409736.pdf>; the report was later accepted by the Commission and the AZLP was terminated as a registered political committee. *See* Termination Approval, <https://docquery.fec.gov/pdf/274/201701260300076274/201701260300076274.pdf>. *See also* Advisory Opinion 2016-14 (11 Libertarian State Committees) at n.2.

1 identifiable federally permissible funds to make the payment. *Id.* The AZLP represents  
2 that without the proposed transaction, it has not made sufficient contributions or  
3 expenditures to exceed the threshold requiring registration as a political committee. *Id.*

4 ***Question Presented***

5 *May the AZLP transfer \$2,000 to the LNP without registering with the*  
6 *Commission as a political committee?*

7 ***Legal Analysis and Conclusion***

8 The AZLP may transfer the funds to the LNP as proposed, but the transfer would  
9 require the AZLP to register as a political committee and file regular campaign finance  
10 reports with the Commission because the proposed sum would exceed the \$1,000  
11 statutory threshold.

12 A “state committee” is an organization that, “by virtue of the bylaws of a political  
13 party . . . is part of the official party structure and is responsible for the day-to-day  
14 operation of the political party at the State level, . . . as determined by the Commission.”  
15 11 C.F.R. § 100.14(a); *see also* 52 U.S.C. § 30101(15). A state committee must register  
16 and report with the Commission if it receives contributions or makes expenditures  
17 aggregating in excess of \$1,000 during a calendar year. 52 U.S.C. § 30101(4)(A), (8)(A),  
18 (9)(A); 11 C.F.R. § 100.5(a). A state committee that surpasses this threshold must (1)  
19 register with the Commission by filing a Statement of Organization within 10 days of  
20 becoming a political committee and (2) begin filing periodic disclosure reports with the  
21 Commission. 11 C.F.R. §§ 102.1(d), 104.1(a).

22 As noted above, the Commission previously determined, on two separate  
23 occasions, that AZLP is a state committee of the LNP. *See* Advisory Opinion 2016-14

1 (11 Libertarian State Committees); Advisory Opinion 2007-02 (Arizona Libertarian  
2 Party). The Commission is aware of no factual changes that would alter its conclusions  
3 that the AZLP is the Arizona state committee of the LNP. However, because AZLP's  
4 political committee status had terminated when it ceased receiving contributions or  
5 making expenditures after the 2016 elections, the Commission must determine whether  
6 the proposed transfer of \$2,000 to the LNP requires AZLP to re-register as a political  
7 committee. The Commission concludes that it does.

8       Transfers of funds may be made in unlimited amount between a state party  
9 committee and a national party committee “whether or not they are political committees  
10 under 11 C.F.R. [§] 100.5 and whether or not such committees are affiliated.” 11 C.F.R.  
11 § 102.6(a)(1)(ii); *see also* 52 U.S.C. §30116(a)(4). The funds comprising such a transfer  
12 are subject to the amount limitations, source prohibitions, and reporting requirements of  
13 the Act. 11 C.F.R. § 102.6(a)(1)(iv); *see* 52 U.S.C. § 30125, 11 C.F.R. § 300.10(a).  
14 State and national party committees that transfer funds under 11 C.F.R. § 102.6(a)(1)  
15 “shall count such transfers against the reporting thresholds of the Act for determining  
16 whether an organization or committee is a political committee under 11 CFR [§] 100.5.”  
17 11 C.F.R. § 102.6(a)(2).

18       In this case, because the LNP and AZLP are, respectively, national and state party  
19 committees of the same party, the AZLP may transfer \$2,000 to the LNP using federally  
20 permissible funds as proposed, pursuant to 11 C.F.R. § 102.6(a)(1). However, under  
21 section 102.6(a)(2), that amount transferred must be counted against the reporting  
22 threshold for purposes of determining whether the AZLP is a political committee under  
23 section 100.5. Here, the proposed transfer on its own exceeds the \$1,000 threshold for

1 attaining political committee status, and therefore would cause the AZLP to meet the  
2 statutory and regulatory definition of a political committee.

3 Accordingly, the Commission concludes that the AZLP may transfer federal  
4 funds to the LNP, but because the amount of the proposed transfer exceeds the yearly  
5 \$1,000 reporting threshold, the AZLP must register as a political committee and file  
6 periodic disclosure reports with the Commission.

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

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On behalf of the Commission,

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Ellen L. Weintraub

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Chair