



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 11, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1995-45

Michael Spivak, Treasurer
Dr. John Hagelin for President 1996
51 West Washington Avenue
Fairfield, Iowa 52556

Dear Mr. Spivak:

This responds to your letter dated November 17, 1995, requesting an advisory opinion on behalf of Dr. John Hagelin for President 1996 ("the Hagelin Committee" or "the Committee") concerning the application of the Presidential Primary Matching Payment Account Act ("the Matching Payment Act"), and Commission regulations to the treatment of expenditures for ballot access as qualified campaign expenses.

You state that Dr. Hagelin is seeking the nomination of the Natural Law Party as its 1996 candidate for president of the United States. He has completed his threshold submission for presidential primary matching funds and has qualified for such funds. If he obtains the nomination, he seeks to appear on the general election ballot in as many states as possible as the candidate of the Natural Law Party.

Dr. Hagelin's campaign expenses will include expenses to obtain signatures for nominating petitions in some states so that his name will appear on the ballot as a presidential candidate. His campaign expenses will also include spending in other states to secure a place on the ballot for the Natural Law Party, with the objective of securing the party's nomination and thereby having his name appear on the general election ballot as the party's nominee.

You note that each state has its own ballot access requirements and procedures. Some states provide that, in order for a candidate such as Dr. Hagelin to appear on the ballot as a candidate of a particular party, the party itself must qualify for the ballot. You state, in addition, that it is simpler and more cost-effective in some states to obtain a ballot position for the

candidate's political party than for the candidate as an independent candidate. In California, for example, the number of signatures required to gain a general election ballot position for an independent candidate is greater than the number of voter registrations required to place the party on the ballot permanently.

In each state, the Hagelin Committee selects the method of ballot access which it believes will be the most effective means of securing a place on the ballot for Dr. Hagelin as the Natural Law Party candidate. In Iowa, for example, the Hagelin Committee will seek signatures on nominating petitions to place Dr. Hagelin's name on the ballot. In California, the Committee will conduct voter registration activities to obtain a ballot position for the party.

You ask whether the above-described ballot access expenses of the Hagelin Committee will be treated as qualified campaign expenses, provided they are made or incurred during the matching payment period.

The Matching Payment Act and Commission regulations provide that a candidate who seeks a political party's nomination for election to be President of the United States and actively conducts campaigns in more than one state is eligible for matching payments, provided the candidate receives the requisite amount in contributions in the requisite number of states and agrees to other conditions. 26 U.S.C. 9032(2), 9033(a) and (b); 11 CFR 9032.7 and 9033.2(b). The Matching Payment Act further requires that matching payments and disbursements of an eligible candidate's campaign committee(s) be used only for qualified campaign expenses. 26 U.S.C. 9033, 9038, and 9042; 11 CFR 9032.9, 9033.1(b)(1), and 9034.4.¹ Qualified campaign expenses, by definition, must be made in connection with the candidate's campaign for nomination. 26 U.S.C. 9032(9)(A); 11 CFR 9032.9(a)(2).

You have stated that you are a candidate for the Natural Law Party's nomination for election as President of the United States.² The Commission has previously examined whether disbursements during the matching payment period by a presidential candidate's campaign committee for placing the candidate's name on the general election ballot constituted qualified campaign expenses. See Advisory Opinions 1984-25 and 1984-11. It has long been the view of the Commission that, for non-major party candidates, the process by which they satisfy the requirements of State law governing qualification for a position on the general election ballot serve purposes similar to a primary election or other nominating process. See Advisory Opinions 1984-11 and 1975-44. This view is supported by the Commission regulations defining the term "election," which state that, for non-major party and independent candidates, the day prescribed by applicable State law as the last day to qualify for a position on the general election ballot may be designated as the primary election for such candidate. 11 CFR 100.2(c)(4)(i). Based on this reasoning, the Commission concluded in Advisory Opinions 1984-25 and 1984-11, that the ballot access expenses of candidates for minor party nominations would be qualified campaign expenses.

Your request includes a type of ballot access expenses not specifically addressed in previous Advisory Opinions. You state that, because it is simpler and more cost effective to do so, the Committee will obtain a ballot position for Dr. Hagelin in some states by securing ballot status for the Natural Law Party. The Commission concludes that expenses for such efforts, as

well as the expenses for securing a ballot position for Dr. Hagelin himself, would be qualified campaign expenses. Although the residual effect of securing ballot placement for the party may be to qualify its Senate and House candidates for the ballot, the principal purpose and outcome relate to obtaining a ballot position for Dr. Hagelin's presidential candidacy.

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

Sincerely,

(signed)

Lee Ann Elliott
Chairman

Enclosures (AOs 1992-30, 1984-25, 1984-11, and 1975-44)

1 More specifically, contributions and matching funds may also be used to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses. 11 CFR 9034.4(a)(1).

2 According to Advisory Opinion 1992-30, the Natural Law Party's bylaws provide for a national convention where a presidential candidate and a vice presidential candidate are nominated.