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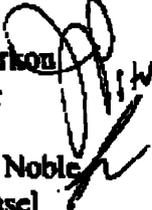
July 13, 2000

AGENDA ITEM

For Meeting of: 7-20-00

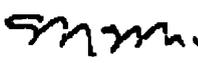
MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrson 
Staff Director

FROM: Lawrence M. Noble 
General Counsel

N. Bradley Litchfield 
Associate General Counsel

Michael G. Marinelli 
Staff Attorney

Subject: Draft AO 2000-14

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for July 20, 2000.

Attachment

1
2 **ADVISORY OPINION 2000-14**

3
4 **Michael B. Trister**
5 **Lichtman, Trister, Singer & Ross**
6 **1666 Connecticut Avenue, NW**
7 **Suite 500**
8 **Washington, D.C 20009**

DRAFT

9
10 **Dear Mr. Trister:**

11
12 **This refers to your letters dated June 16 and May 25, 2000, requesting an advisory**
13 **opinion concerning the application of the Federal Election Campaign Act of 1971, as**
14 **amended ("the Act"), and Commission regulations to the possible status of the New York**
15 **State Committee of the Working Families Party ("the Committee") as a State committee**
16 **of the Working Families Party ("the Party").**

17 **Your request includes the Rules of the Party (the "Rules") which detail various**
18 **aspects of the organization of the Party. The Rules prescribe the manner in which the**
19 **Committee Party Council acts as the executive authority for the Party and chooses the**
20 **Party officers. The Rules further detail the procedures for the endorsement of candidates**
21 **and the nomination of a presidential candidate, as well as the recognition of county Party**
22 **committees. You also provide the following supporting documents: a copy of a sample**
23 **ballot showing the Party's status in New York, a copy of a letter dated June 15, 2000,**
24 **from the Executive Director of the New York State Board of Elections stating that Hillary**
25 **Rodham Clinton will appear as a candidate for the U.S. Senate on the 2000 New York**
26 **ballot as a candidate of the Party, and a copy of the certificate of acceptance signed by**
27 **Mrs. Clinton. You also include a Party brochure and a Party voter registration flyer.**

1 Under the Act and Commission regulations, the term "State committee" means the
2 organization which, by virtue of the bylaws of a political party, is responsible for the day-
3 to-day operation of such political party at the State level, as determined by the
4 Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also
5 requires the existence of a political party. The term "political party" is defined under 2
6 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization which
7 nominates a candidate for election to any Federal office whose name appears on the
8 election ballot as the candidate of such association, committee, or organization.

9 The Commission has considered a variety of State party organizations in making
10 these determinations. Advisory Opinions 1999-26, 1998-27, 1998-24, 1998-2, 1997-29,
11 1997-7, 1997-3, and 1996-51. In reviewing State party affiliates of entities that qualified
12 as national committees of political parties under 2 U.S.C. §431(14), the Commission has
13 looked to the existence of a State affiliate agreement which "delineates activities
14 commensurate with the day-to-day operation of [a political party] on a State level," and
15 then concluded that "[t]o the extent the relationship between [a political party] and an
16 affiliate is based on this agreement and the affiliate displays evidence of activity by
17 obtaining ballot access for both its Presidential and other Federal candidates, . . . [that]
18 particular affiliate is a State Committee of the [political party]." Advisory Opinions
19 1999-26 and 1998-24. The Commission has also granted State party committee status to
20 organizations that were affiliated with national political parties which had not achieved
21 national committee status. State committee status in these opinions was based on the
22 existence of State bylaws detailing activities commensurate with the day-to-day operation
23 of a party on the State level, and the placement of at least one Congressional candidate on

1 the ballot. Advisory Opinions 1998-27, 1998-23, 1997-29, 1997-7 and 1996-51. In
2 reaching this conclusion, the Commission made clear that a State political party could
3 qualify as a State committee without an affiliation with any national political party
4 organization and indicated that a State party's candidate must be a candidate under 2
5 U.S.C. §431(2) in order for that party to satisfy the second requirement.¹ Advisory
6 Opinions 1998-27 and 1998-23; see also Advisory Opinion 1976-95. The Commission
7 has also granted State committee status to a State affiliate of a qualified national party
8 committee where its only Federal candidates, as defined under the Act, were the
9 Presidential and Vice Presidential candidates of the national party. Advisory Opinion
10 1997-3.

11 As noted above, the Party's Rules set out a comprehensive organizational structure
12 for the Party from the statewide level down through various local levels, and they clearly
13 identify the role of the Committee. Party Rules, Articles III, VIII and IX. As they
14 delineate activity commensurate with the day-to-day functions and operations of a
15 political party on a State level, the Rules are consistent with the State party rules reviewed
16 in previous situations where the Commission has affirmed the State committee status of a
17 political organization. See Advisory Opinions 1999-26, 1998-27 and 1998-24. Again,
18 the fact that the Party is not affiliated with a recognized national committee, or other
19 national political party organization does not prevent its recognition as a State

¹ An individual becomes a candidate for purposes of the Act if he or she receives contributions aggregating in excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C. §431(2). 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 committee of a political party. *See* Advisory Opinion 1976-95.² Therefore, the
2 Commission concludes that the Party meets the first element.

3 As indicated above, the second element for qualifying as a State committee of a
4 political party, and an essential element for qualifying as a political party, is that the party
5 organization actually obtains ballot access for its Federal candidates, as defined in the
6 Act. The Federal candidate identified in your request, Hillary Rodham Clinton, is
7 documented to qualify for ballot access in the upcoming 2000 U.S. Senate election with a
8 Working Families Party line. This candidate also registered her principal campaign
9 committee and filed disclosure reports with the Commission. Further, the reports filed by
10 Mrs. Clinton's committee indicate that her campaign has received or expended in excess
11 of \$5,000. Accordingly, the candidate meets the requirements of 2 U.S.C. §431(2).³ In
12 most circumstances State committee status was granted to organizations which had
13 candidates attaining ballot status in a prior election. The 2000 election has not yet
14 occurred. However, the Committee explains that the New York State administrative
15 decisions regarding Mrs. Clinton's ballot access on the Working Families Party line have

² The first non-major State party committee recognized by the Commission was the Liberal Party of New York in Advisory Opinion 1976-95. The Commission has also granted State committee status to various State Green parties even though the Commission had denied national committee status to the U.S. Green Party. *See* Advisory Opinions 1996-43 (New York Green Party), 1997-29 (Green Party of New Mexico), and 1998-27 (Hawaii Green Party). The Commission recognized the State committee status of several Reform Party organizations prior to the granting of national committee status to the U.S. Reform Party in 1998. *See* Advisory Opinions 1996-43 (Reform Party of Arkansas) and 1997-7 (Reform Party of Virginia).

³ The Commission notes that Mrs. Clinton is a candidate for the nomination of the Democratic Party to the U.S. Senate. She is also seeking the nomination of the New York Liberal Party. In Advisory Opinion 1998-2, when considering the national committee claims of the U.S. Reform Party, and the state committee claims of its affiliates, the Commission stated that so long as the candidate is identified on the ballot with a designation of the national party or its affiliate that is requesting national committee status, the individual's association with more than one political party is not relevant. The Commission concluded that "fusion candidates may be considered when reviewing a party's qualification for national committee status." The Commission confirms that this conclusion would apply to state committee situations as well.

1 already been made, and she is assured ballot access on that party line.⁴ Therefore,
2 Commission concludes that in these circumstances the Party does not have to wait until
3 after the 2000 election to use her candidacy as part of its claim to State committee status.
4 Mrs. Clinton's candidacy is relevant now to the Party's claim to State committee status,
5 and the Party therefore meets the second element.

6 In view of the fact that both elements discussed in this opinion have been
7 satisfied, the Commission concludes that New York State Committee of the Working
8 Families Party qualifies as the State committee of a political party under the Act and
9 Commission regulations.

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

13 Sincerely,

14 Darryl R. Wold
15 Chairman

16
17 Enclosures (AOs 1999-26, 1998-27, 1998-24, 1998-2, 1997-29, 1997-7, 1997-3, 1996-51,
18 1996-43, 1996-35, and 1976-95).

⁴ In past advisory opinions, the Commission has also usually received written assurance that the Party's Federal candidate supports the party organization's State committee. The signed certificate from the candidate recognizing and accepting the Party's nomination and ballot line is sufficient in these circumstances.