

July 26, 2002

NOTICE AO DRAFT COMMENT PROCEDURES

The Commission has approved a revision in its advisory opinion procedures that permits the submission of written public comments on draft advisory opinions when proposed by the Office of General Counsel and scheduled for a future Commission agenda.

Today, DRAFT ADVISORY OPINION 2002-10 is available for public comments under this procedure. It was requested by Marc Reichardt, on behalf of the Green Party of Michigan. The draft may be obtained from the Public Disclosure Division of the Commission.

Proposed Advisory Opinion 2002-10 will be on the Commission's agenda for its public meeting of Thursday August 1, 2002.

Please note the following requirements for submitting comments:

1) Comments must be submitted in writing to the Commission Secretary with a duplicate copy to the Office of General Counsel. Comments in legible and complete form may be submitted by fax machine to the Secretary at (202) 208-3333 and to OGC at (202) 219-3923.

2) The deadline for the submission of comments is 12:00 noon (EDT) on July 31, 2002.

3) No comments will be accepted or considered if received after the deadline. Late comments will be rejected and returned to the commenter. Requests to extend the comment period are discouraged and unwelcome. An extension request will be considered only if received before the comment deadline and then only on a case by case basis in special circumstances.

4) All comments timely received will be distributed to the Commission and the Office of General Counsel. They will also be made available to the public at the Commission's Public Disclosure Division.

CONTACTS

Press inquiries: Ron Harris (202) 694-1220

Commission Secretary: Mary Dove (202) 694-1040

Other inquiries:

To obtain copy of draft AO 2002-10 contact Public Records Office-
Public Disclosure Division (202) 694-1120, or 800-424-9530.

For questions about comment submission procedure contact
N. Bradley Litchfield, Associate General Counsel, (202) 694-1650.

ADDRESSES

Submit single copy of written comments to:

Commission Secretary
Federal Election Commission
999 E Street NW
Washington, DC 20463



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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SECRETARIAT

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AGENDA ITEM
For Meeting of: 8-1-02
SUBMITTED LATE

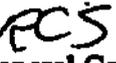
July 26, 2002

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon 
Staff Director

FROM: Lawrence H. Norton 
General Counsel

Rosemary C. Smith 
Acting Associate General Counsel

Mai T. Dinh 
Acting Assistant General Counsel

Michael G. Marinelli 
Staff Attorney

SUBJECT: Draft AO 2002-10

- Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for August 1, 2002.

Attachment

1
2 **ADVISORY OPINION 2002-10**

3
4 **Marc Reichardt, Chair**
5 **Green Party of Michigan**
6 **548 S. Main**
7 **Ann Arbor, MI 48104**

DRAFT

8
9 **Dear Mr. Reichardt:**

10 **This refers to your letter dated June 20, 2002, with enclosures, requesting an**
11 **advisory opinion concerning the status of the Green Party of Michigan ("the Party") as a**
12 **State committee of a political party under the Federal Election Campaign Act of 1971, as**
13 **amended ("the Act"), and Commission regulations.**

14 **Your request includes various documents including a copy of the Party bylaws**
15 **(the "Bylaws"). This governing document details various aspects of the organization of**
16 **the Party such as the manner in which the Party, using several different subgroups**
17 **including its State coordinating committee, engages in various activities; for example,**
18 **endorsing Party candidates for statewide office. The Bylaws further explain the**
19 **procedures for creating local party chapters. You state that the Party successfully placed**
20 **candidates for Federal office on the ballot in the 2000 elections. These candidates were:**
21 **Ralph Nader for U.S. President and Winona LaDuke for Vice President; Mathew R. Abel**
22 **for U.S. Senate; and Alan Joseph Gamble and Thomas Patrick Ness for U.S. House of**
23 **Representatives.¹**

¹ The Party had a Federal committee, Green Candidates in Michigan, which filed an accepted termination report with the Commission on March 29, 2002. The Web site address for the Party is www.migreens.org.

1 Your request states that the Party is officially affiliated with the Green Party of the
2 United States ("the National Party").² Included with the request is a letter from Dean
3 Myerson, political coordinator for the Green Party of the United States, confirming the
4 status of the Party as the affiliate of the National Party in the State of Michigan.³

5 Under the Act and Commission regulations, the term "State committee" means the
6 organization that, by virtue of the bylaws of a political party, is responsible for the day-to-
7 day operation of such political party at the State level, as determined by the Commission.
8 2 U.S.C. 431(15); 11 CFR 100.14. The definition of State committee also requires the
9 existence of a political party. The term "political party" is defined under 2 U.S.C.
10 431(16) and 11 CFR 100.15 as an association, committee, or organization that nominates
11 a candidate for election to any Federal office, whose name appears on the election ballot
12 as the candidate of such association, committee, or organization. An individual becomes
13 a candidate for purposes of the Act if he or she receives contributions aggregating in
14 excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C. 431(2).⁴

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

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 In a July 9th phone conversation with Commission staff, Mr. Myerson confirmed the status of the Party as the National Green Party's sole affiliate in the State of Michigan.

⁴ 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 the State level.⁵ As noted above, the Party's governing document sets out an identifiable
2 organizational structure for the Party with varying responsibilities. See Bylaws, articles
3 III, IV and V. As they delineate activity commensurate with the day-to-day functions and
4 operations of a political party on a State level, the Bylaws meet the requirements of
5 2 U.S.C. 431(15) and 11 CFR 100.14, and they are consistent with the State party rules
6 reviewed in previous situations where the Commission has affirmed the State committee
7 status of a political organization. The documentation received also confirms the status of
8 the Party as the State affiliate of the National Party. See Advisory Opinions 2002-06 and
9 2002-03. Therefore, the Commission concludes that the Party meets the first element.

10 The second element for qualifying as a State committee of a political party, and an
11 essential element for qualifying as a political party, is that the party organization actually
12 obtains ballot access for one or more Federal candidates, as defined in the Act. Of the
13 Federal candidates identified in your request, Mr. Nader, Mr. Abel, Mr. Gamble and Mr.
14 Ness received or expended in excess of \$5,000 in their 2000 campaigns according to
15 disclosure reports filed with the Commission. Accordingly, these individuals satisfy the
16 Act's definition of "candidate." 2 U.S.C. 431(2). Since these candidates appeared on the
17 2000 ballot in Michigan as candidates of the Party, the Commission concludes that the

⁵ 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 Party satisfies the definition of "political party" under the Act. It thus meets the second
2 element for establishing State committee status.

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

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

9
10 Sincerely,

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14 David M. Mason
15 Chairman
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18 Enclosures: AOs 2002-06, 2002-03, 2001-13, 2000-39, 2000-35, 2000-27, 1999-26, and
19 1992-30
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21
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⁶ You should be aware that the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (March 27, 2002), enacted substantial changes in the Act. In particular, the BCRA revises several provisions dealing with State committees in many areas. These include reporting obligations, applicable contribution limits as well as their relationships with National committees. See for example 2 U.S.C. 441i(b), 434(e)(2), and 441a(a)(1)(D). The effective date for these changes is November 6, 2002.