



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 7, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2003-27

Timothy V. Barnhart, Treasurer
Missouri Green Party, Inc.
6420 Murdoch Avenue
Saint Louis, Missouri 63109

Dear Mr. Barnhart:

This responds to your letters dated May 13, 2003, and September 8, 2003, with enclosures, requesting an advisory opinion concerning the status of the Missouri Green Party, Inc. (“the Party”) as a State committee of a political party under the Federal Election Campaign Act of 1971, as amended (“the Act”), and Commission regulations.

Background

Your request includes various documents including a copy of the Party bylaws (“the Bylaws”). This governing document details various aspects of the organization of the Party such as the manner in which the Party, using several different subgroups including its Coordinating Committee, engages in various activities; for example, selecting Party officers, creating local Party chapters, holding regular Party meetings, and endorsing Party candidates.¹ You state that the Party successfully placed candidates for Federal office on the ballot in the 2000 and 2002 elections. These candidates were: Ralph Nader for U.S. President and Winona LaDuke for Vice President (2000); Evaline Taylor for U.S. Senate (2000); Brenda “Ziah” Reddick, Mike Odell, Mary Maroney, Charles Reitz, Tom Sager, and Devin Scherubel for U.S. House of Representatives (2000); Daniel “digger” Romano for U.S. Senate (2002); and Keith Brekhus for U.S. House of Representatives (2002). Your request includes letters from two of these candidates, Ms. LaDuke and Mr. Romano. Ms. LaDuke confirms that the Party obtained

¹ The Federal political committee registered by the Party is the Missouri Green Party, Inc., which first filed with the Commission in 2002.

ballot access for herself and her Presidential running mate, Mr. Nader, in the State of Missouri in the 2000 general election. Mr. Romano confirms that the Party obtained ballot access for his candidacy in the 2002 general election.

Your request states that the Party is officially affiliated with The Greens/Green Party USA (“the Greens USA”), which is one of the two national Green Party organizations.² Included with the request is a letter from Mitchel Cohen, Barbara Chicherio, and Alva D’Orgeix, members of the Coordinating Committee of the Greens USA, confirming the status of the Party as the affiliate of the Greens USA in the State of Missouri. You also state that the Party filed an application for affiliation with the other national Green Party organization, the Green Party of the United States (“GPUS”), but that the GPUS has neither accepted nor rejected that application after approximately two years.³ You state that another Green Party organization in the State of Missouri, the Progressive Party of Missouri, has been recognized by the GPUS as its affiliate in the State of Missouri. You also state that the Party is affiliated with two local Green Party organizations in the State of Missouri: the Gateway Green Alliance (also known as the Green Party of St. Louis) and the Green Party Central Committee, City of St. Louis.

Question Presented

Is the Party a State party committee within the meaning of the Act and Commission regulations?

Legal Analysis and Conclusions

Yes, the Party qualifies as a State party committee. Under the Act, the term “State committee” means the organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission. 2 U.S.C. 431(15). The Commission’s regulations include the additional factor that such organization must be “part of the official party structure” either by virtue of the political party’s bylaws or by operation of state law. 11 CFR 100.14. The definition of “State committee” also requires the existence of a political party. The term “political party” is defined under 2 U.S.C. 431(16) and 11 CFR 100.15 as an association, committee, or organization that nominates a candidate for election to any Federal office, whose name appears on the election ballot as the candidate of such association, committee, or organization. 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).

As stated in 2 U.S.C. 431(15), the first element of the requirements for State committee status is that the bylaws of a political party establish that the party entity is responsible for the day-to-day operation of such political party at the State level. *See also*

² In Advisory Opinion 1996-35, the Commission determined that The Greens/Green Party USA did not qualify as the national committee of a political party.

³ In Advisory Opinion 2001-13, the Commission determined that the Green Party of the United States qualified as the national committee of a political party.

11 CFR 100.14(a). The Commission has considered either the bylaws of State party organizations or other governing documents in making these determinations. Advisory Opinions 2001-2, 2000-39, 2000-35, 2000-27, 2000-21, 2000-14, and 1999-26. 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 the existence of a State affiliate agreement that “delineates activities commensurate with the day-to-day operation of [a political party] on a State level,” and then concluded that “[t]o the extent the relationship between [a political party] and an affiliate is based on this agreement and the affiliate displays evidence of activity by obtaining ballot access for both its Presidential and other Federal candidates, . . . [that] particular affiliate is a State committee of the [political party].” Advisory Opinions 1999-26 and 1992-30. The Commission has also found State party committee status with respect to party organizations affiliated with national political parties that had not achieved national committee status, and with respect to party organizations not affiliated with any national political party. State committee status in these advisory 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 2001-2, 2000-39, 2000-35, 2000-27, 2000-21, and 2000-14.

As noted above, the Party’s governing document sets out an identifiable organizational structure for the Party with varying responsibilities. *See* Bylaws, articles VII, VIII, and IX. As they delineate activity commensurate with the day-to-day functions and operations of a political party on a State level, the Bylaws meet the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14, and they are consistent with the State party rules reviewed in previous situations where the Commission has affirmed the State committee status of a political organization. *See* Advisory Opinions 2002-10, 2002-6, 2002-3, 2001-2, 2000-39, 2000-35, 2000-27, 2000-21, and 2000-14. The fact that the Party is apparently not affiliated with a recognized national committee does not prevent its recognition as a State committee of a political party. *See* Advisory Opinions 2001-2, 2000-39, 2000-35, 2000-27, 2000-21, and 2000-14. Therefore, the Commission concludes that the Party meets the first element.

Under the Commission’s regulations, the second element to obtain State committee status is that the organization must be part of the official party structure. *See* 11 CFR 100.14. By virtue of being the State party organization in Missouri, the Party is part of the official party structure.

The third element for qualifying as a State committee of a political party, and an essential element for qualifying as a political party, is that the party organization actually obtains ballot access for one or more Federal candidates, as defined in the Act. *See* 2 U.S.C. 431(16); Advisory Opinions 2002-10, 2002-6, 2002-3, 2001-6, 2001-2, and 2000-27. Of the Federal candidates identified in your request, Mr. Nader received or expended in excess of \$5,000 in his 2000 campaign according to disclosure reports filed with the

Commission.⁴ Accordingly, Mr. Nader satisfies the Act's definition of a "candidate." 2 U.S.C. 431(2). Although the Party is not affiliated with the GPUS, which nominated Mr. Nader for the office of President of the United States, the evidence indicates that the Party was instrumental in obtaining ballot access for Mr. Nader in the State of Missouri. Mr. Nader's name appeared on the 2000 ballot in the State of Missouri as the Presidential candidate of the Party. Because Mr. Nader appeared on the 2000 ballot in Missouri as a candidate of the Party, the Commission concludes that the Party satisfies the definition of "political party" under the Act. It thus meets the third element for establishing State committee status.

In view of the fact that all three elements discussed in this advisory opinion have been satisfied, the Commission concludes that the Missouri Green Party, Inc. qualifies as the State committee of a political party under the Act and Commission regulations.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. § 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Ellen L. Weintraub
Chair

Enclosures (AOs 2002-10, 2002-6, 2002-3, 2001-13, 2001-2, 2001-6, 2000-39, 2000-35, 2000-27, 2000-21, 2000-14, 1999-26, 1997-3, 1996-35, and 1992-30)

⁴ The Commission has granted State committee status to a State affiliate of a qualified national party committee where its only Federal candidates, as defined under the Act, were the Presidential and Vice Presidential candidates of the national party. Advisory Opinions 2000-39, 1999-26, and 1997-3.