



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

March 9, 2007

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2007-02

Joe Cobb  
Treasurer  
Arizona Libertarian Party, Inc.  
15031 S. 21<sup>st</sup> Place  
Phoenix, AZ 85048

Dear Mr. Cobb:

We are responding to the inquiry regarding the status of the Arizona Libertarian Party, Inc. (the "State Party"), as a State party committee of a political party under the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. The Commission concludes that the State Party qualifies as a State party committee because: (1) the Libertarian Party qualifies as a political party; (2) the State Party is part of the official Libertarian Party structure; and (3) the State Party is responsible for the day-to-day operation of the Libertarian Party at the State level.

***Background***

The facts presented in this advisory opinion are based on the letter received on January 9, 2007.

The State Party's articles of incorporation and constitution ("State Party Constitution") and the State Party's bylaws (the "State Party Bylaws") detail various aspects of the organization of the State Party. They illustrate how the State Party engages in various activities in Arizona, including: ensuring the State Party has continuing countywide and statewide ballot status, recruiting Libertarians wishing to seek elective office, registering voters as members of the State Party, and educating the electorate on the virtues of Libertarian principles.

The State Party placed two candidates for the House of Representatives on the 2006 Arizona general election ballot. These candidates were David Schlosser (1<sup>st</sup> District) and David Nolan (8<sup>th</sup> District). These candidates were listed on the ballots as candidates of the Libertarian Party.<sup>1</sup>

Since 1975, the Commission has recognized the Libertarian National Committee as the national committee of a political party.<sup>2</sup> See Advisory Opinions 2002-14 (Libertarian National Committee); 1978-58 (Pyramid Freedom Party); and 1975-129 (Libertarian National Committee). A letter from Mr. Robert S. Kraus, Director of Operations of the Libertarian National Committee, confirms the status of the State Party as the Libertarian National Committee's "sole affiliate" for the State of Arizona.

### ***Question Presented***

*Does the State Party qualify as a State party committee within the meaning of the Act and Commission regulations?*

### ***Legal Analysis and Conclusions***

Yes, the State Party qualifies as a State committee of a political party within the meaning of the Act and Commission regulations.

A "political party" is an "association, committee, or organization which 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." 2 U.S.C. 431(16); 11 CFR 100.15. A "State committee" is an organization that, by virtue of the bylaws of a political party, is part of the official party structure and 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); 11 CFR 100.14(a).

The first question in determining whether a political committee is a State committee of a political party is whether the party itself qualifies as a "political party" under the Act and Commission regulations. See, e.g., Advisory Opinions 2004-40 (Libertarian Party of Maryland) and 2004-34 (Libertarian Party of Virginia). As noted above, the Commission has previously determined that the Libertarian Party qualifies as a political party and that the Libertarian National Committee qualifies as the national committee of the Libertarian Party. See Advisory Opinions 2002-14 (Libertarian National Committee); 1978-58 (Pyramid Freedom Party); and 1975-129 (Libertarian National Committee). The Commission is aware of no factual changes that would alter those conclusions.

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<sup>1</sup> The listings for David Schlosser and David Nolan appear on the Arizona Secretary of State's website at: <http://www.azsos.gov/election/2006/general/fulllisting.htm> (last visited Feb. 26, 2007).

<sup>2</sup> The Libertarian National Committee is the governing body of the Libertarian Party at the national level when the national convention is not in session. See <http://www.lp.org/organization/bylaws.shtml> (last visited Feb. 26, 2007).

The second question in determining whether a political committee is a State committee of a political party is whether the requesting committee satisfies the remaining elements of the definition of a “State committee” of a political party. *See* Advisory Opinions 2004-40 (Libertarian Party of Maryland) and 2004-34 (Libertarian Party of Virginia). This determination consists of two inquiries: (1) whether the organization is part of the official party structure; and (2) whether the organization is responsible for the day-to-day operations of the political party at the State level, as determined by the Commission. *See* 2 U.S.C. 431(15) and 11 CFR 100.14.

In previous advisory opinions, the Commission has addressed the first inquiry by requiring supporting documentation from the national party indicating that the State party is part of the official party structure. *See, e.g.*, Advisory Opinions 2004-40 (Libertarian Party of Maryland) and 2004-34 (Libertarian Party of Virginia). Here, a letter from Mr. Robert S. Kraus, Director of Operations of the Libertarian National Committee, confirms the status of the State Party as the Libertarian National Committee’s “sole affiliate” for the State of Arizona.<sup>3</sup>

With respect to the second inquiry, the Commission determines whether an organization is responsible for the day-to-day functions and operations of a political party at the State level by considering: (1) whether the organization has placed a Federal candidate on the ballot (thereby qualifying as a “political party”); and (2) the bylaws or other governing documents of the State party organization.<sup>4</sup> *See* Advisory Opinions 2004-40 (Libertarian Party of Maryland) and 2004-34 (Libertarian Party of Virginia).

A successful ballot access effort on behalf of a Federal candidate is required because the requesting organization’s existence as a “political party” is necessary for State committee status. A State party organization must actually obtain ballot access for one or more Federal candidates, as defined in the Act. *See* 2 USC 431(2) and 431(16), Advisory Opinions 2004-40 (Libertarian Party of Maryland), 2004-34 (Libertarian Party of Virginia) and 2003-27 (Missouri Green Party).

Two individuals identified in the request, Mr. David Schlosser and Mr. David Nolan, received or expended funds in excess of \$5,000 in their 2006 campaigns, according to disclosure reports filed with the Commission, and therefore, both satisfy the Act’s definition of a Federal “candidate.”<sup>5</sup> *See* 2 U.S.C. 431(2) and 11 CFR 100.3. The names of Mr. Schlosser and Mr. Nolan appeared on 2006 ballots in Arizona as House candidates of the State Party. Accordingly, the State Party qualifies as a “political party” under the Act.

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<sup>3</sup> This document is included in the Advisory Opinion Request, which is available at <http://saos.nictusa.com/saos/searchao> (last visited Mar. 9, 2007).

<sup>4</sup> Where appropriate, the Commission may also consider the operation of State law in making these determinations. *See* 11 CFR 100.14(a).

<sup>5</sup> Disclosure reports for Mr. Schlosser and Mr. Nolan appear on the Commission’s website at <http://images.nictusa.com/cgi-bin/fecimg/?C00424911> and <http://images.nictusa.com/cgi-bin/fecimg/?C00426734> (last visited Feb. 26, 2007), respectively.

As noted above, the State Party Constitution and State Party Bylaws detail the organizational structure for the State Party and establish specific responsibilities for State Party officials. *See* State Party Constitution, articles III, VI and IX; State Party Bylaws, paragraphs 1 through 6.<sup>6</sup> The Party Constitution and Party Bylaws delineate activity commensurate with the day-to-day functions and operations of a political party on a State level, are consistent with the State party rules reviewed in previous situations where the Commission has recognized the State committee status of a political organization, and therefore satisfy the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14. *See* Advisory Opinions 2004-40 (Libertarian Party of Maryland) and 2004-34 (Libertarian Party of Virginia).

Because all elements of the definition of “State committee” have been satisfied, the Commission determines that the Arizona Libertarian Party qualifies as a 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 the 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 requester may not rely on that conclusion as support for its proposed activity. Most of the cited advisory opinions are available on the Commission’s website at [www.fec.gov](http://www.fec.gov).

Sincerely,

(signed)

Robert D. Lenhard  
Chairman

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<sup>6</sup> These documents are included in the Advisory Opinion Request, which is available at <http://saos.nictusa.com/saos/searchao> (last visited Mar. 9, 2007).