

Nick Blessing
Secretary
Kansas Green Party
1203 Oread Ave. #14
Lawrence, KS 66044
August 5, 2020

Federal Election Commission
Office of General Counsel
1050 First Street NE
Washington, DC 20463
cela@fec.gov

Re: MUR 7761

Dear Commissioners:

The Commission should take no action against the Kansas Green Party. The facts presented in the Complaint that relate to the Kansas Green Party do not constitute or support an alleged violation of the Federal Election Campaign Act. Because the Kansas Green Party has not violated the Act, the Commission has no jurisdiction over this matter as it relates to the Kansas Green Party. Regardless of jurisdiction, the Kansas Green Party has not violated any law. Finally, the Kansas Green Party was not notified within five days after the Commission received the Complaint as required by the Commission's own procedures. Christine Marie Wilson's Complaint is frivolous on its face and an abuse of the Commission's complaint process. The Commission should take no action.

The Complaint is titled: "Complaint of Potentially Illegal Campaign Finance Activity," but fails to state any allegation of a campaign finance violation by any respondent. A careful search reveals no mention of unreported contributions or expenditures, or any contributions that exceed the statutory limits. It merely alleges favoritism in the Green Party Presidential Primaries and violations of the Green Party's own rules over which the Commission has no jurisdiction.

The Commission has no jurisdiction over the grievances alleged against the Kansas Green Party in the Complaint. The Complaint only alleges grievances against the Kansas Green Party regarding the administration of the vote among our members. The Commission has no jurisdiction over election administration. *See* the Statement of Caroline C. Hunter attached. The Complaint makes no allegation against the Kansas Green Party in relation to a campaign finance violation, nor does it provide evidence to support a claim that the Kansas Green Party received any contributions, made any expenditures, or failed to make a report in violation of the Federal Election Campaign Act. The Complaint implicitly invites the Commission to draw a broad inference that an alleged violation occurred without providing any plausible explanation for the suspicion. The Complaint makes no plausible connection between a vote among Kansas Green Party members and an alleged campaign finance violation. Thus, the Commission has no jurisdiction over the matter.

The Kansas Green Party violated no law in holding a democratic vote among its members, even without public notice. At the time that the vote was held, we only had 15 members in our party

and only 6 members cast a vote. On May 3, 2020, the Kansas Green Party held a meeting via Zoom. *See* May 3rd Agenda attached. Members who attended agreed on a process to hold a vote which allowed members who did not attend the meeting to vote by email over the week of May 11, 2020. Subsequent to the meeting, an email was sent out to inform the other Kansas Green Party members of the vote, which candidates they could cast their votes for, the time period for voting, and the method of voting. *See* Email attached. On May 17, 2020, another meeting was held in which the results were announced. *See* May 17 Minutes attached. All six votes were cast for Howie Hawkins.

The Kansas Green Party Bylaws have no provision requiring a public disclosure of our intention to hold a vote among our own members. *See* the Kansas Green Party Bylaws attached.

No provision under Kansas law requires the Kansas Green Party to give public notice. The only provision under KSA Chapter 25 which requires some form of notice pertains to recognized political parties and the person who must provide the notice is the Kansas Secretary of State. Kan. Stat. Ann. § 25-204 (2020). Few other specific requirements exist under state law with regard to presidential preference primaries. Kansas only requires that recognized political parties have “procedures to select a presidential nominee.” § 25-4501a. However, the Kansas Green Party is not a recognized party in Kansas. Thus, even the meager state requirements for presidential primaries do not apply to the Kansas Green Party because we have not been granted the privilege of ballot access in Kansas.

There is no right to participate in a Kansas Green Party primary. Although the Complaint does not allege a constitutional violation on the part of the Kansas Green Party and such allegation does not fall under the authority of the Commission, the Kansas Green Party has not violated any person’s right to vote. Even under the most basic understanding of the application of the First and Fourteenth Amendments, it is clear on its face that those protections do not apply to the Kansas Green Party. Those Amendments to the Constitution prohibit certain state actions which violate Due Process and the right to political association. The First Amendment to the Constitution provides that:

Congress shall make no law... abridging the freedom of speech... or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend I. The Fourteenth Amendment to the Constitution provides that:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV § 1. *See, E.g., Tashjian v. Republican Party*, 479 U.S. 208, 107 S. Ct. 544, 93 L. Ed. 2d 514 (1986) (holding that a state’s statutory prohibition on a party rule allowing independents to vote in their primary violated the First and Fourteenth Amendments); *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964) (holding that three different state

legislature apportionment plans violated the basic constitutional requirement that apportionment be on a population basis); *Anderson v. Celebrezze*, 460 U.S. 780, 103 S. Ct. 1564, 75 L. Ed. 2d 547 (1983) (holding that a state statute requiring an independent candidate for president to file a statement of candidacy in March in order to appear on the ballot in November places an unconstitutional burden on the voting and associational rights of the candidate's supporters). The Kansas Green Party is not a state. Any action taken by the party is not state action. Thus, no action taken by the Kansas Green Party with regard to a vote held among its members can violate voting or associational rights.

Finally, the Commission is out of compliance with its own procedures with regard to this Complaint. The Commission must notify respondents within five days after receiving a complaint. *See* the Description of Preliminary Procedures For Processing Complaints Filed With The FEC attached. This Complaint was received on July 8, 2020, *see* the Complaint attached, but the Kansas Green Party was not notified until July 22, 2020. Thus, the Commission was over a week late in notifying the Kansas Green Party.

For these reasons, the Kansas Green Party respectfully requests that the Commission take no action. The Complaint of Christine Marie Wilson fails to state even a remote possibility that any campaign finance violation has occurred. It is frivolous on its face and a clear abuse of the Commission's complaint process which should be reserved for serious violations of campaign finance law. Any further action would be a waste of the Commission's time and resources.

Thank you,

Nick Blessing
Secretary, Kansas Green Party

Bylaws of the Kansas Green Party

PURPOSE

The Kansas Green Party is established to enable the building of the Green movement through direct action, education, and electoral/legislative action. These bylaws provide the structure for organizing the Kansas Green Party in a manner consistent with green values as defined in the platform of the Green Party of the United States and to establish the relationship between the many segments that make up the whole of the Kansas Green Party. Authority and responsibility are given to various segments of the organization, but the ultimate power lies with the members of the Kansas Green Party and local chapters.

ARTICLE I – MEMBERS

Until such time as the Kansas Green Party achieves official recognition by the Secretary of State, any natural person who joins the Kansas Green Party is considered a member of the Kansas Green Party. At such time as the Kansas Green Party is recognized by the Kansas Secretary of State, party members will be restricted to natural persons registered as Greens. Any member is entitled to fully participate in all aspects of the Kansas Green Party in accordance with these bylaws without exception.

ARTICLE II – LOCAL AND REGIONAL CHAPTERS

The Kansas Green Party encourages the establishment of local and regional chapters to promote the growth of the Kansas Green Party and facilitate communication from the grassroots to other segments of the organization. To assist with communication, each chapter shall select a facilitator and notify the Kansas Green Party Council of that designation and changes if they occur. The chapters shall be open to all members of the Kansas Green Party who reside in that community or region. This section leaves open the decisions on structure and function of the local chapters to be determined by the people who organize them.

Each local and regional chapter shall select one delegate to the Kansas Green Party Council in accordance with Article V. Chapters should make their best efforts to have at least one meeting each year.

ARTICLE III – KANSAS GREEN PARTY COUNCIL

(a) The Kansas Green Party Council is established for the purpose of coordinating the efforts of the Kansas Green Party. The Kansas Green Party Council is accountable to and gets its authority from the members of the Kansas Green Party. Meetings of the Kansas Green Party Council are open to all members of the Kansas Green Party, final decisions rest with the delegates. Notice of meetings shall be sent in advance to all members of the Kansas Green Party Council and chapters facilitators and will be posted to the Kansas Green Party listserv. Facilitators will be responsible for notifying members who don't have access to email. The Kansas Green Party Council serves the following functions:

1. The official voice of the Kansas Green Party and may designate spokespeople.

2. Sets operating policy for the Kansas Green Party.
 3. Establishes and oversees committees of the Kansas Green Party.
 4. Hires the staff of the Kansas Green Party.
 5. Oversees administration of the Kansas Green Party.
 6. Elects replacement officers in accordance with Article VI, Sec. 4.
 7. Calls the annual state meeting.
 8. Facilitates the electoral efforts of the Kansas Green Party.
 9. Adopts an annual budget and oversees fundraising.
- b. The Kansas Green Party Council is comprised of a delegate representing each (active) chapter, and the Kansas Green Party's current co-chairs, secretary, and treasurer
- c. The Kansas Green Party Council has the authority to adopt rules in order to carry out its functions. The Kansas Green Party Council shall conduct its process and policies in accordance with the ten key values as defined in the platform of the Green Party of the United States. The Kansas Green Party shall adopt a process for decision making that seeks consensus. The Kansas Green Party Council's process for decision making shall be chosen each year at the first meeting of the Kansas Green Party Council following the annual Kansas Green Party meeting, by whatever decision-making process is in place at that time. Changes to the decision-making process may be made by the Kansas Green Party Council at any time they are necessary, but only according to the process existing at that time.

This article lays out the broad authorities and structure for the Kansas Green Party Council. It leaves the details of procedures up to the people who actually constitute the Kansas Green Party Council allowing the ability to tailor the process to fit the dynamics of the group.

ARTICLE IV – KANSAS GREEN PARTY COUNCIL DELEGATES

Each chapter shall be represented by one delegate to the Kansas Green Party Council. Each chapter is free to set terms of office for its own delegate; the selection process for these positions shall be open to all Kansas Green Party members in that community or region. Each chapter shall provide the Kansas Green Party Council with the name and contact information of its delegate and inform the Kansas Green Party council when changes occur.

This article establishes the requirement that the delegates are chosen in an open process by the members of the chapters. It does not prescribe the selection process or the number of alternates a chapter may select.

ARTICLE V – OFFICERS

Section 1. Co-Chairs:

There shall be two gender-balanced co-chairs of the Kansas Green Party. The co-chairs shall be responsible for developing meeting agendas for the Kansas Green Party Council, finding meeting facilitators, following up on committees, overseeing staff and assisting local chapter efforts. These co-chairs are authorized to spend money on behalf of the Kansas Green Party within limits set by the Kansas Green Party Council. The two co-chairs may serve as delegates to

the Green Party National Committee. If a co-chair is unable to attend duties as delegate the Green Party National Committee, the Council may appoint a delegate from the general membership, if the Secretary and Treasurer are also not able to fulfill delegate duties. In selecting co-chairs for the Kansas Green Party Council, members shall strive to promote diversity.

Section 2. Secretary:

The Secretary shall be responsible for the minute taking at the state-wide meeting and meetings of the Kansas Green Party Council, and preparing those minutes for distribution to all members of the Kansas Green Party Council and any member of the Kansas Green Party who requests them. The secretary shall be responsible for receiving and archiving the minutes of all committee meetings. The secretary shall also be responsible for sending notification of Council meetings to council members, chapter facilitators, and for posting such notices to the listserv. The secretary shall serve as an alternate delegate to the Green Party National Committee.

Section 3. Treasurer:

The Treasurer shall keep detailed records of all financial transactions, maintain membership lists, receive donations, appoint an auditor when necessary, make annual financial reports at state and council meetings, and provide absentee ballots to those who request them during a vote for state officers. The treasurer shall serve as an alternate delegate to the Green Party National Committee.

Section 4. Qualifications:

Any person who is a member of the Kansas Green Party may run for any of the officer positions. A person may not hold two officer positions at the same time.

Officer Elections:

All officers shall be elected for a term of one year by a majority of the members voting at the annual statewide convention. Candidates for co-chair may run as a ticket. Candidates are expected to announce their candidacy four weeks in advance of the convention. All members may request an absentee ballot from the treasurer in advance of the convention for the purpose of voting for officers. Absentee ballots must be received no later than the day of the convention before the vote is taken. In the event that a council officer position becomes vacant before completion of the term, the Kansas Green Party Council shall elect a replacement to serve the remainder of the outgoing officer's term. Members of the Kansas Green Party Council and district chapter facilitators shall be notified of a vacancy and new election date two weeks prior to said election. The Kansas Green Party Council shall select replacement officers in accordance with their current decision-making process.

Section 6. Removal:

Any officer may be removed from office by a three fourths vote of the Kansas Green Party Council. Notice of a vote for removal, signed by at least five members of the Kansas Green Party, must be sent to Kansas Green Party Council members and chapter facilitators at least two weeks in advance of such a vote.

This article lays out the broad role and authority of the four officer positions, qualifications and process for elections and removal. It does not set detailed

limits on power or authority, giving the Kansas Green Party Council flexibility to deal with diverse or unexpected situations. By electing officers in this fashion and then allowing for more detailed authority and responsibility to be set by the Kansas Green Party Council, we make them accountable to the entire membership of the Kansas Green Party and the Kansas Green Party Council.

ARTICLE VI – STATE CONVENTION

The Kansas Green Party shall hold at least one state-wide convention each year for the purpose of building its organization in accordance with the ten key values as defined in the platform of the Green Party of the United States. The agenda of the meeting may include, but not be limited to the following:

1. Adoption or amendment of the Kansas Green Party Bylaws.
2. Adoption or amendment of the Kansas Green Party Platform.
3. Election of Kansas Green Party officers.
4. Setting an annual action agenda for the Kansas Green Party.

The first item to be considered for action by the voting body of the meeting shall be rules for a decision making a process that seeks consensus. The process in place from the previous convention shall be in effect until a new process is adopted. This process will include a mechanism for all members of the Kansas Green Party to fully participate in the decision making, including voting in person or by absentee ballot.

This article gives broad structure and purpose to the annual state-wide convention. It establishes four clear objectives for the meeting but does not require that each one is accomplished or that others be excluded. Rules for decision making shall be adopted at each state-wide convention rather than writing them into the Bylaws.

ARTICLE VII – PARTY PLATFORM

Using the platform of the Green Party of the United States as a guide, the Kansas Green Party shall adopt a platform that clearly defines the Party's position on issues facing our state. The platform is a guide for elected officials and other members of the Kansas Green Party engaging in public policymaking.

ARTICLE VIII – FINANCES

The Kansas Green Party may not incur debt for any reason. The Kansas Green Party Council is responsible for assuring that the Kansas Green Party does not incur debt. The Kansas Green Party Council shall adopt an annual budget to coincide with the fiscal year of the Kansas Green Party. The Treasurer shall report the financial status of the Kansas Green Party at all annual state-wide meetings.

ARTICLE IX – ADOPTION OF BYLAWS

These bylaws or amendments thereto may only be adopted at a state-wide meeting by a vote of three-fourths of members of the Kansas Green Party who are present, and after consensus is sought. Amendments should be submitted in writing at least two weeks in advance of the state-wide meeting and may be proposed by any chapter, the Kansas Green Party Council, or any working groups or committees of the Kansas Green Party.

2020 Green Party KS Primary and Delegation selection Meeting Minutes May 17,2020

3:00 – 3:15: Announce Results of member votes and presidential primary

3:15 – 3:30: Select 4 Delegates to register and appear virtually for GP PNC

- Nickolas Zacharias, Nick Blessing, Teresa Wilke and Shyamal Chandra volunteered to attend as delegates with Paul Krumm as an Alternate.
- All present voted in favor of this arrangement

3:30 – 4:30: Discuss methods, suggestions, obstacles, imperatives and deadlines for ballot access within the state of Kansas.

4:30 – 5:00: Collect and Verify needed delegate information for submission to the national party ahead of the presidential nominating convention.



Kansas Green Party <ksgreenparty@gmail.com>

Online Presidential Primary

Kansas Green Party <ksgreenparty@gmail.com>

Mon, May 4, 2020 at 1:50 PM

To: teresa wilke Marion Boyd
 mdnorris@gus.pittstate.edu, mia sparks < , Paul Krumm <pkrumm@gyldwynds.info>, Nickolas
 Zacharias Nick Blessing < , Allen Roach
 >, Shyamal Chandra >, Scott Klopfenstein >,
 Don Crownover >, Josh Garrett >

The Kansas Green Party will be holding its presidential primary via email.

Votes will be accepted via email. Submit your vote by sending a separate email to ksgreenparty@gmail.com stating the name of the candidate for whom you wish to cast your vote.

At the Kansas Green Party meeting on May 3rd, 2020, it was decided that only votes for Dario Hunter, Howie Hawkins, or David Rolde will be accepted.

These three candidates are the only presidential candidates who have satisfied the Green Party of the United States requirements to receive official recognition. It was on this basis that it was decided that these three will be the only options in our primary.

The voting period will be May 10 to May 16. Any votes received before May 10 or after May 16 will not be accepted.

The Kansas Green Party is apportioned 4 delegates to the Presidential Nominating Convention. Those 4 delegates will be awarded proportionately to the three candidates based on the percentage of votes that they receive in our primary. For instance, if a candidate receives roughly 25% of the vote, that candidate will be entitled to one delegate.

Best,
Nick

May 3, 2020 Kansas Green Party Meeting

1. Independent Nomination Petition
2. Letter to the Governor RE: Ballot Access Relief
3. Status of Voting in Officer Elections—All votes due before midnight
4. Kansas Green Party Online Presidential Primary Proposal
 - a. Votes from current Kansas Green Party members will be accepted via email to ksgreenparty@gmail.com. Voting will commence on June 8, 2020. Votes will be accepted no later than June 15, 2020.
 - b. Kansas Green Party members may only vote for candidates who have been officially recognized by the Green Party of the United States no later than May 10, 2020. So far, Howie Hawkins, Dario Hunter, and David Rolde have met the recognition requirements.
 - c. Voters may rank candidates. If a voter's first choice does not receive 15% of the vote, their vote will be awarded to their second choice. If more than one candidate receives less than 15% percent of first-choice votes, the candidate with the lowest percentage will be eliminated first.
 - d. The Kansas Green Party has been allotted 4 delegates to the Presidential Nominating Convention. These delegates will be awarded to the presidential candidates proportionately according to the percentage of votes each candidate won in the Kansas Green Party Online Primary after all candidates with less than 15% were eliminated.
 - e. Delegates to the convention will be selected at the Kansas Green Party meeting immediately following the close of voting. These delegates shall be current members of the Kansas Green Party. The delegates shall be pledged to a presidential candidate in accordance with the results of the Kansas Green Party Online Primary.
5. Points of Discussion RE: Primary Proposal
 - a. Timeline – I think a week is plenty of time to allow for voting. I set the starting date 4 weeks out from the deadline for candidate qualification to conform with our usual officer election requirements.
 - b. Qualified Candidates – I am open to including other candidates beyond those that have been officially recognized by GPUS. Dennis Lambert has not been officially recognized, but he has won a few delegates. There is also the question of Jesse Ventura exploring a Green Party run. Should we include them? Others?

- c. We might consider changing the 15% threshold. Maybe to 25% considering that we only have 4 delegates.
- d. Other Suggestions?

Minutes:

Present:

Nick Blessing
Paul Krumm
Nick Zacharias
Teresa Wilke
Rob Constance

There was a discussion regarding sending a letter to Governor Kelly for Ballot Access relief. Nick Zacharias was designated to print out and mail the letter.

Nick Blessing briefly announced that remaining votes for the Kansas Green Party officers election would be accepted via email until midnight.

Members discussed holding a presidential primary. Nick Blessing explained his proposal for holding the primary over email and giving members one week to submit their votes. All members agreed that there was no need to delay voting until June. There was a unanimous vote in favor of holding the voting period on the week of May 11. All members agreed to the selection of candidates in the proposal. Treasurer, Paul Krumm suggested that ranked choice voting would not be necessary because only three candidates qualified for the primary. All members agreed that ranked choice voting would not be used for the primary. All members also agreed that we would use approximately 25% as the threshold for receiving one delegate. All members agreed to select the delegates to the convention at the meeting following the voting period.



**FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**

STATEMENT OF CHAIR CAROLINE C. HUNTER¹

The Federal Election Commission has absolutely no jurisdiction over election administration, including whether states permit vote-by-mail. The Commission is charged with the administration, enforcement, and formulation of policy with respect to the Federal Election Campaign Act, the Presidential Election Campaign Fund, and the Presidential Primary Matching Account.

May 29, 2020

¹ This statement was previously issued on March 20, 2020