

Elliott Johnson

AGENDA DOCUMENT #96-43

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA ITEM
For Meeting of: APR 18 1996

April 9, 1996

OK

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina *John Surina*
Staff Director

FROM: Lawrence M. Noble *Lawrence M. Noble*
General Counsel

N. Bradley Litchfield *N. Bradley Litchfield*
Associate General Counsel

Michael Marinelli *Michael Marinelli*
Staff Attorney

SUBJECT: Draft AO 1995-49

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for April 18, 1996.

Attachment

1
2 **ADVISORY OPINION 1995-49**

DRAFT

3
4 **Kurt Arbuckle, Treasurer**
5 **Natural Law Party of Texas**
6 **78 Patti Lynn Lane**
7 **Houston, Texas 77024**

8
9 **Dear Mr. Arbuckle:**

10
11 **This refers to your letters dated March 4, 1996, and December 27, 1995, which**
12 **request advice concerning application of the Federal Election Campaign Act of 1971, as**
13 **amended ("the Act"), to the possible status of the Natural Law Party of Texas ("the Texas**
14 **Party") as a State Party committee of the Natural Law Party of the United States of**
15 **America ("the National Party").**

16 **You state that in Advisory Opinion 1992-30, the Commission confirmed that the**
17 **National Party was a national committee as defined by the Act. It further confirmed the**
18 **status of several state affiliates of the National Party as state party committees of the**
19 **National Party. At the time of that opinion, you note that there was no state committee in**
20 **Texas. However, on October 14, 1995, the Texas Party was established at a meeting in**
21 **Austin, Texas.¹**

22 **You explain that party rules have been adopted and filed with the Texas Secretary**
23 **of State. You state that the Texas Party is presently accepting and has received**
24 **applications for nominations at its convention for both Federal and State offices. You**
25 **state that the Texas Party has registered with the Texas Ethics Commission as a political**

¹As documentation of the link between the Natural Law Party of Texas and the Natural Law Party of the United States of America, you have submitted a February 10, 1996 letter from the Party Chair of the National Party officially approving the rules of Texas Party. You also have submitted a copy of a check for \$500 that represents a contribution from the National Party which provided the Texas Party with its initial funding.

1 party and has received financial support from the National Party. You also state that, in
2 preparation for the period starting in March 1996 when the Party can gain ballot access in
3 Texas, the Party is preparing to begin the necessary petition drives. Fundraising efforts to
4 support the petition drives are also being planned. You therefore ask whether this activity
5 qualifies the Texas Party as the State party committee of the National Party.

6 Under the Act and Commission regulations, the term "state committee" means the
7 organization, which, by virtue of the bylaws of a political party, is responsible for the
8 day-to-day operation of such political party at the State level, as determined by the
9 Commission. See 2 U.S.C. §431(15) and 11 CFR 100.14.

10 In Advisory Opinion 1992-30, the Commission determined the elements
11 necessary to qualify an organization as a state committee. The first requirement was the
12 existence of a state affiliate agreement which "delineates activities commensurate with
13 the day-to-day operation of the Natural Law Party on a state level." Advisory Opinion
14 1992-30.² The Commission then concluded that "To the extent the relationship between
15 the Natural Law Party and an affiliate is based on this agreement and the affiliate displays
16 evidence of activity by obtaining ballot access for both its Presidential and other Federal
17 candidates..., [that] particular affiliate is a State Committee of the Natural Law Party."
18 *Id.*

² That agreement is of specific relevance to this opinion since it governed the relationship between the Natural Law Party and any prospective affiliate. It required that a state affiliate "support the National Party and its goals." The text of the agreement required that the affiliate use its "best efforts" to assist the National Party's candidates, as well as the affiliates' own local candidates, in obtaining ballot access. The affiliate was further required to engage in voter registration drives, state conventions and to solicit contributions and nominate candidates for Federal and State office.

1 A copy of the Texas Party's rules have been submitted with your request. They
2 state that the primary purpose of the Texas Party is "to elect Natural Law Party
3 candidates to office, to achieve the objectives of the Natural Law Party at the national and
4 state levels, and to perform the functions set forth in the election laws of the State of
5 Texas." Party Rules, Article II. The rules also list the responsibilities of the Texas
6 Party's executive committee. These include: "raising and dispersing funds," and
7 "assisting and supporting candidate's fund-raising efforts." Party Rules, Article IV,
8 section F. The rules also contemplate the holding of State and local conventions. Party
9 Rules, Article X. These provisions are compatible with the state party rules reviewed in
10 Advisory Opinion 1992-30 as they delineate "activity commensurate with the day-to-day
11 functioning operation of the Natural Law Party on a state level." Advisory Opinion
12 1992-30.

13 However, a second element is that the State Party actually obtain ballot access for
14 the National Party's Presidential and other Federal candidates. While the request
15 materials clearly indicate that the Texas Party plans to seek and achieve such ballot
16 access, it has not yet done so. The information in your request indicates that under Texas
17 State Law, the period to gain 1996 ballot access begins in March, 1996. Therefore, the
18 Commission concludes that the Texas Party is not, at the time of your request, a State
19 party committee of the National Party. The Commission, however, also concludes that
20 once the Texas Party does place the National Party's Presidential and other Federal

1 candidates on the Texas ballot, it will become a State party committee of the National
2 Party.³

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

6 Sincerely,

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Lee Ann Elliott
Chairman

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Enclosure (AO 1992-30)

³ The Commission notes that at the time of its 1992 advisory opinion request, the National Party had listed 31 state affiliates registered with the Commission. Of those, the Commission concluded that only seven currently qualified as state committees of the National Natural Law Party. These seven had, at the time of the request, secured ballot access for the Natural Law Party's Presidential and Vice Presidential candidates in 1992, as well as other Federal candidates. The Commission notes that any person involved in a specific activity indistinguishable in all its material aspects from the activity described in an advisory opinion may rely on its conclusions. 11 CFR 112.5(a). Therefore, once it secures Federal candidate ballot access for the 1996 election cycle for at least one of its Congressional candidates, as well as the Party's Presidential and Vice Presidential candidates, the Texas Party need not reapply to the Commission for recognition of state committee status. It may rely on the conclusion reached in this opinion and in Advisory Opinion 1992-30. Similarly, any other affiliate of the Natural Law Party may also rely on the conclusions reached in these two opinions.