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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA ITEM
For Meeting of: JUL 18 1996

July 10, 1996

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael G. Marinelli *Michael Marinelli*
Staff Attorney

SUBJECT: Draft AO 1996-27

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

Attachment

DRAFT

1
2 **ADVISORY OPINION 1996-27**

3
4 **James A. Boyd, Treasurer**
5 **Libertarian Party of Illinois**
6 **1602 Colonial Parkway**
7 **Inverness, IL 60067**

8
9 **Dear Mr. Boyd:**

10
11 **This refers to your letters dated June 15, and May 3, 1996 which request advice**
12 **concerning application of the Federal Election Campaign Act of 1971, as amended ("the**
13 **Act"), to the possible status of the Libertarian Party of Illinois ("the Illinois Party") as a**
14 **State party committee of the Libertarian Party of the United States of America ("the**
15 **National Party").**

16 **In 1976, the Commission confirmed that the National Party was a national**
17 **committee as defined by the Act. See Advisory Opinion 1975-129. You state in your**
18 **request that you believe the Illinois Party qualifies as a state committee of the National**
19 **Party. As evidence of this status, you submit a copy of the Illinois Party rules and its**
20 **convention rules. You also present evidence, which is substantiated by publicly available**
21 **sources, of the success of the Illinois Party in obtaining ballot access for its Federal**
22 **candidates in 1994. In addition, you include with your request a letter from the Chairman**
23 **of the National Party identifying your organization as an officially recognized affiliate of**
24 **the Libertarian Party of the United States of America.**

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

1 In Advisory Opinion 1992-30, the Commission determined the elements
2 necessary to qualify an organization as a state committee. The first requirement was the
3 existence of a state affiliate agreement which “delineates activities commensurate with
4 the day-to-day operation of [a political party] on a State level.” Advisory Opinion 1992-
5 30; see also Advisory Opinion 1995-49.¹ The Commission then concluded that “[t]o the
6 extent the relationship between [a political party] and an affiliate is based on this
7 agreement and the affiliate displays evidence of activity by obtaining ballot access for
8 both its Presidential and other Federal candidates..., [that] particular affiliate is a State
9 Committee of the [political party].” *Id.*

10 According to the Illinois Party’s governing documents submitted with your
11 request, the primary purpose of the State Party is “to promote the ideals specified in the
12 Libertarian Party Statement of Principles by any means consistent with those principles.”
13 Party Rules, Article II. The Party Rules also list the responsibility of the Party
14 organization to hold periodic State conventions. Party Rules, Article VII. The Party
15 Rules also contemplate the creation of local clubs and committees. Party Rules, Articles
16 VI and X. Finally, the convention rules outline the procedures for nominating State
17 candidates and for the selection of delegates to the national convention of the National
18 Party. Convention Rules, Articles IV and VI. These provisions are similar to the State
19 party rules reviewed in Advisory Opinions 1995-49 and 1992-30 as they delineate

¹ The agreement in Advisory Opinion 1992-30 governed the relationship between the Natural Law Party and any prospective state 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 activity commensurate with the day-to-day functions and operations of a political party
2 on a State level.

3 However, a second element is that the affiliate actually obtain ballot access for a
4 political party's Presidential and other Federal candidates. In 1992 the Illinois Party
5 achieved ballot access for the National Party's Presidential candidate. In 1994, the
6 Illinois Party gained ballot access for its Federal candidate in the 6th Congressional
7 District of Illinois. You also state that the Party received sufficient votes (5% for one
8 statewide race) in the November 1994 election to qualify for the ballot in 1996.² These
9 accomplishments meet the second and last element to qualify as a State committee of a
10 political party. Therefore, the Commission concludes that the Illinois Party is a State
11 party committee of the Libertarian Party of the United States of America.³

² You state that the Illinois Party will be supporting Party candidates for the U.S. Presidency and U.S. Senate and has already nominated a Senate candidate at its 1996 State convention.

³ 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, any other affiliate of the Libertarian Party of the United States, with State party rules similar to the Illinois Party, once it secures (or if it already has secured) Federal candidate ballot access for the 1996 election cycle (or a past election cycle) for at least one of its Congressional candidates, as well as the Party's Presidential and Vice Presidential candidates, may rely on the conclusions reached in this opinion.

