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FEDERAL ELECTION COMMISSION

Washington, DC 20463

February 4, 1998

**AGENDA ITEM**  
**For Meeting of: 2-12-98**

**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  
Staff Attorney

SUBJECT: Draft AO 1997-29

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for February 12, 1998.

Attachment

1  
2 **ADVISORY OPINION 1997-29**

**DRAFT**

3  
4 **Tammy Davis and Rick Lass, Co-Chairs**  
5 **Green Party of New Mexico**  
6 **PO Box 22485**  
7 **Santa Fe, NM 87502**

8  
9 **Dear Ms. Davis and Mr. Lass:**

10  
11 **This refers to your letters dated December 16, and September 27, 1997, which**  
12 **request advice concerning application of the Federal Election Campaign Act of 1971, as**  
13 **amended ("the Act"), and Commission regulations to the possible status of the Green**  
14 **Party of New Mexico ("the Party") as a State committee of a political party.**

15 **Enclosed with your request is a copy of the Party's Bylaws. The Bylaws detail**  
16 **various aspects of the organization of the Green Party in New Mexico, including the**  
17 **manner in which a State convention is conducted to choose Presidential electors, State**  
18 **party officers, and delegates to the Party's pre-primary conventions. You also provide a**  
19 **copy of the Green Party newsletter which details some of the party-building activities of**  
20 **the Party. Your request includes a copy of an affiliation agreement between the New**  
21 **Mexico Green Party and the Association of State Green Parties. The Commission has**  
22 **also has received confirmation of your relationship with the Association of State Green**  
23 **Parties from that organization.<sup>1</sup> Finally, you provide letters from four candidates in**  
24 **several recent election cycles who achieved ballot access as Federal candidates of the**

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<sup>1</sup> You state that your organization is not affiliated with the Greens/Green Party USA which requested national committee status in Advisory Opinion 1996-35 and that you have no relationship with the Green Party of New York which was granted State committee status in Advisory Opinion 1996-43. For a brief description of the decentralized nature of the Green Party political movement in the United States, see Advisory Opinion 1996-35, footnote one.

1 Green Party of New Mexico and now associate themselves with the Party's request for  
2 State committee status.<sup>2</sup>

3 Under the Act and Commission regulations, the term "State committee" means the  
4 organization which, by virtue of the bylaws of a political party, is responsible for the day-  
5 to-day operation of such political party at the State level, as determined by the  
6 Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also  
7 requires the existence of a political party. The term "political party" is defined under 2  
8 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization which  
9 nominates a candidate for election to any Federal office whose name appears on the  
10 election ballot as the candidate of such association, committee, or organization.

11 The Commission has considered a variety of State party organizations in making  
12 these determinations. Advisory Opinions 1997-7, 1997-3, 1996-51, 1996-43, 1996-27,  
13 1995-49 and 1992-30. In reviewing State party affiliates of entities that qualified as  
14 national committees of political parties under 2 U.S.C. §431(14), the Commission has  
15 looked to the existence of a State affiliate agreement which "delineates activities  
16 commensurate with the day-to-day operation of [a political party] on a State level," and  
17 then concluded that "[t]o the extent the relationship between [a political party] and an  
18 affiliate is based on this agreement and the affiliate displays evidence of activity by

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<sup>2</sup> These New Mexico candidates are: Carol Miller, 1997 U.S. House candidate in the special election of the Third Congressional District; Abraham Gutmann, 1996 U.S. Senate Candidate; John A. Uhrich, 1996 U.S. House candidate in the First Congressional District; and Rex Johnson, 1994 U.S. House candidate in the Second Congressional District. The Commission notes that your request does not rely on the New Mexico ballot status of Ralph Nader as the Green Party's Presidential candidate in the 1996 Presidential election. As the Commission concluded in Advisory Opinion 1996-35, since Mr. Nader was not a candidate for purposes of the Act, his place on a ballot could not be used to advance a claim to national committee status; this would also apply to any State committee claim as well. See Advisory Opinions 1996-43 and 1996-35; see also footnote 3 below.

1 obtaining ballot access for both its Presidential and other Federal candidates, . . . [that]  
2 particular affiliate is a State Committee of the [political party]." Advisory Opinions  
3 1997-7 and 1996-27. The Commission has also granted State party committee status to  
4 organizations that had affiliated status with national political parties that had not achieved  
5 national committee status, based on the existence of State by-laws detailing activities  
6 commensurate with the day-to-day operation of a party on the State level and the  
7 placement of at least one Congressional candidate on the ballot. Advisory Opinions  
8 1997-7 and 1996-51. In reaching this conclusion, the Commission made clear that a State  
9 political party could qualify as a State party committee without an affiliation with any  
10 national political party organization and indicated that a State party's candidate must be a  
11 candidate under 2 U.S.C. §431(2) in order for that party to satisfy the second requirement.  
12 Advisory Opinion 1996-51; see also Advisory Opinion 1976-95.<sup>3</sup> Recently, the  
13 Commission granted State committee status to a State affiliate of a qualified national  
14 party committee where its only Federal candidates, as defined under the Act, were the  
15 Presidential and Vice Presidential candidates of the national party. Advisory Opinion  
16 1997-3.

17 As noted above, the Party's By-laws set out a comprehensive organizational  
18 structure for the Party from the statewide level down through various local levels. Rules  
19 5, 6, and 7. The By-laws are therefore consistent with the State party rules reviewed in  
20 the opinions cited above as they delineate activity commensurate with the day-to-day

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<sup>3</sup> 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). Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to various registration, recordkeeping, and reporting requirements. 2 U.S.C. §§432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

1 functions and operations of a political party on a State level. Advisory Opinions 1997-7  
2 1997-3, 1996-51, 1996-43, 1996-27, and 1995-49. You have also provided a copy of an  
3 affiliation agreement between the Party and the Association of State Green Parties.  
4 Further, in a November 17, 1997 letter to the Commission, the Association of State Green  
5 Parties confirmed your party's status as an affiliate of that organization. Therefore, the  
6 Commission concludes that the Party meets the first element.

7 As indicated above, the second element for qualifying as a State committee of a  
8 political party, and an essential element for qualifying as a political party, is that the party  
9 organization actually obtains ballot access for its Federal candidates, as defined in the  
10 Act. Three of the four recent Federal candidates of the Party, who attained ballot access  
11 in New Mexico, registered their principal campaign committees and filed disclosure  
12 reports with the Commission. Further, the filed reports of these three candidates indicate  
13 that each of their campaigns received or expended in excess of \$5,000. Accordingly,  
14 each of them qualified as a candidate under 2 U.S.C. §431(2). Therefore, the  
15 Commission concludes that the Party meets the second element.

16 In view of the fact that both elements discussed in this opinion have been  
17 satisfied, the Commission concludes that Green Party of New Mexico qualifies as the  
18 State committee of a political party under the Act and Commission regulations.

