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FEDERAL ELECTION COMMISSION
Washington, DC 20463


November 22, 2000


AGENDA ITEM
For Meeting of: 11-30-00


MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon 
Staff Director

FROM: Lawrence M. Noble 
General Counsel

N. Bradley Litchfield 
Associate General Counsel

Michael G. Marinelli 
Staff Attorney

Subject: Draft AO 2000-35

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for November 30, 2000.

Attachment

1 **ADVISORY OPINION 2000-35**

2
3 **Theodore Schlagel, Treasurer**
4 **Green Party of Washington State**
5 **18414 39th Avenue South**
6 **Seattle, WA 98188**

DRAFT

7
8 **Dear Mr. Schlagel:**

9
10 **This refers to your letter dated October 15, 2000 (received on October 26),**
11 **requesting an advisory opinion concerning the status of the Green Party of Washington**
12 **State ("the Party") as a State committee of a political party under the Federal Election**
13 **Campaign Act of 1971, as amended ("the Act"), and Commission regulations.**

14 **Your request includes the Party rules (the "rules") which detail various aspects of**
15 **the organization of the Party. The rules prescribe the manner in which the Party using**
16 **several different subgroups such as its State Coordinating Council, acts as the executive**
17 **authority for the Party and helps facilitate the selection of Party officers.¹ The rules**
18 **further detail the procedures for the holding of regular State Party conventions, the**
19 **endorsement of Party candidates and the approval of Party delegations to other**
20 **organizations. You state that the Party has successfully placed several candidates for**
21 **Federal office on the ballot for the 2000 elections. These candidates are Ralph Nader for**
22 **U.S. President, Winona LaDuke for Vice President, and Joseph Szwaja for U.S.**
23 **Representative from the 7th Congressional District.**

24 **You also state that the Party is not formally affiliated with either of the two national**
25 **Green Party organizations but maintains informal contact with both as well as with the**

¹ The Federal political committee registered by the Party is the Green Party of Washington State, which first filed with the Commission in 2000.

1 Nader Presidential campaign.² You affirm that Mr. Nader has publicly acknowledged his
2 nomination by the Party and the support it has given him at a September 23, 2000, event
3 at the Key Arena in Seattle, Washington.

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

12 The Commission has considered a variety of State party organizations in making
13 these determinations. Advisory Opinions 2000-21, 2000-14, 1999-26, 1998-27, 1998-24,
14 1998-2, and 1997-29. In reviewing State party affiliates of entities that qualified as
15 national committees of political parties under 2 U.S.C. §431(14), the Commission has
16 looked to the existence of a State affiliate agreement which "delineates activities
17 commensurate with the day-to-day operation of [a political party] on a State level," and
18 then concluded that to "the extent the relationship between [a political party] and an
19 affiliate is based on this agreement and the affiliate displays evidence of activity by

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² These two organizations are the Greens/Green Party USA and the State Association of Green Parties. In Advisory Opinion 1996-35, the Commission determined that Greens/Green Party USA did not qualify as the national committee of a political party because Mr. Nader, its 1996 Presidential candidate, did not qualify as a candidate under the Act and Commission regulations.

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 Opinion 1998-
3 24. The Commission has also granted State party committee status to organizations that
4 were affiliated with national political parties which had not achieved national committee
5 status. State committee status in these opinions was based on the existence of State
6 bylaws detailing activities commensurate with the day-to-day operation of a party on the
7 State level, and the placement of at least one Congressional candidate on the ballot.
8 Advisory Opinions 1998-27, 1998-23, 1997-29, and 1997-7. In reaching this conclusion,
9 the Commission made clear that a State political party could qualify as a State committee
10 without an affiliation with any national political party organization and indicated that a
11 State party's candidate must be a candidate under 2 U.S.C. §431(2) in order for that party
12 to satisfy the second requirement.³ Advisory Opinions 2000-14, 1998-27 and 1998-23;
13 *see also* Advisory Opinion 1976-95. The Commission has also granted State committee
14 status to a State affiliate of a qualified national party committee where its only Federal
15 candidates, as defined under the Act, were the Presidential and Vice Presidential
16 candidates of the national party. Advisory Opinion 1997-3.

17 As noted above, the Party's rules set out an identifiable organizational structure for
18 the Party with varying responsibilities. Party rules, articles IV, and V. As they delineate
19 activity commensurate with the day-to-day functions and operations of a political party on
20 a State level, the rules are consistent with the State party rules reviewed in previous

³ 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, record keeping, and reporting requirements. 2 U.S.C. §§432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

1 situations where the Commission has affirmed the State committee status of a political
2 organization. *See* Advisory Opinions 2000-21, 2000-14, 1999-26, and 1998-27. Again,
3 the fact that the Party is not affiliated with a recognized national committee, or other
4 national political party organization does not prevent its recognition as a State committee
5 of a political party. *See* Advisory Opinions 2000-21, 2000-14 and 1976-95.⁴ Therefore,
6 the 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. The Federal candidate identified in your request, Joseph Szwaja, was nominated by
11 the Party in 2000 and received the Green Party line on the Washington State ballot in the
12 2000 U.S. House of Representatives election in the 7th Congressional District of
13 Washington State. This candidate also registered his principal campaign committee and
14 filed disclosure reports with the Commission. Further, the reports filed by Mr. Szwaja's
15 committee indicate that his campaign received or expended in excess of \$5,000 in his
16 2000 campaign. Accordingly, the candidate meets the requirements of 2 U.S.C. §431(2).
17 Therefore, the Commission concludes that Mr. Szwaja's candidate status is relevant to
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⁴ The first non-major State party committee recognized by the Commission was the Liberal Party of New York in Advisory Opinion 1976-95. The most recent non-major, State party committees to be recognized as State committees of a political party were the Working Families Party of New York State in Advisory Opinion 2000-14 and the New York State Conservative Party in Advisory Opinion 2000-21.

1 the Party's claim to State committee status, and the Party, therefore, meets the second
2 element.⁵

3 In view of the fact that both elements discussed in this opinion have been
4 satisfied, the Commission concludes that the Green Party of Washington State qualifies
5 as the State committee of a political party under the Act and Commission regulations.

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

9 Sincerely,

10 Darryl R. Wold
11 Chairman

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13 Enclosures (AOs 2000-21, 2000-14, 1999-26, 1998-27, 1998-24, 1998-23, 1998-2, 1997-
14 1997-3, and 1976-95).

⁵ The Commission notes that you do not claim affiliated status with any national Green Party organization. Further, no national Green Party organization has received national committee status. Since Mr. Szwaja's candidacy allows the State Party to meet its requirements for State committee status, the Commission need not consider the question whether Mr. Nader's candidacy in these circumstances would be relevant to meeting the second element in a State committee analysis.