



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 22, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2019-14

Jeff Daniels
Secretary
Arizona Libertarian Party
1000 N. Beeline Highway #139
Payson, AZ 85541

Dear Mr. Daniels:

We are responding to your advisory opinion request on behalf of the Arizona Libertarian Party (“AZLP”), regarding the application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), and Commission regulations to the Committee’s proposal to transfer \$2,000 to the Libertarian National Party (“LNP”) to help cover LNP’s cost of implementing the “state Customer Relationship Management System.” The Commission concludes that the proposed transfer is permissible, but would cause AZLP to exceed the monetary threshold requiring registration as a political committee.

Background

The facts presented in this advisory opinion are based on your letter received on April 5, 2019 and your email received on June 18, as well as AZLP’s and LNP’s publicly available websites.

The LNP is registered with the Commission, and in 1975, the Commission determined that the LNP is a national party committee. Advisory Opinion 1975-129 (National Committee of the Libertarian Party). The AZLP is the LNP’s state affiliate for Arizona, *see* Advisory Opinion Request at AOR001, and is not currently registered with the Commission as a federal political committee. In 2007 and 2016, the AZLP requested advisory opinions seeking Commission approval that AZLP qualified as a state committee of a national political party — the LNP. In each instance the Commission granted the request, finding that the AZLP was part of the official LNP structure and

carried out the day-to-day activities of the LNP in Arizona. *See* Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2007-02 (Arizona Libertarian Party). Each time the AZLP's status as a federal political committee was later terminated.¹ Examination of the AZLP's Bylaws on its website, <https://www.azlp.org/bylaws>, shows the same structure, operations, and duties as were present when the Commission determined it was a state committee of a national political party.

The LNP is offering its state affiliates the use of its Customer Relationship Management System ("CRM") free of charge; "there is no actual 'fee' to be onboarded to the CRM." AOR010. The CRM is a database in which state libertarian parties "store critical information; contact information on members, current and potential supporters, donors and candidates." AOR002. Onboarding a state affiliate to the CRM system involves "preparing their data set(s), web and CRM configuration, importing data and training." *See* LNP website: <https://my.lp.org/state-crm-project/>.

The LNP only adds a state affiliate to its CRM when the LNP has sufficient funds to cover the costs it incurs to do so, approximately \$2,000 for each state affiliate. AOR002. The LNP is actively soliciting funds on its public website for the purpose of onboarding more state affiliates. *Id.* The AZLP proposes transferring \$2,000 to the LNP to aid the LNP with the "cost of the overall CRM." AOR010. The AZLP has sufficient identifiable federally permissible funds to make the payment. AOR002. The AZLP represents that without the proposed transaction, it has not made sufficient contributions or expenditures to exceed the threshold requiring registration as a political committee. *Id.*

Question Presented

May the AZLP transfer \$2,000 to the LNP without registering with the Commission as a political committee?

Legal Analysis and Conclusion

The AZLP may transfer the funds to the LNP as proposed, but the transfer would require the AZLP to register as a political committee and file regular campaign finance reports with the Commission because the proposed sum would exceed the \$1,000 statutory threshold.

A "state committee" is an organization that, "by virtue of the bylaws of a political party . . . is part of the official party structure and is responsible for the day-to-day operation of the political party at the State level, . . . as determined by the Commission."

¹ In late 2016, the AZLP filed a termination report with the Commission in accordance with 11 C.F.R. § 102.4(a)(1). *See* Termination Report, <https://docquery.fec.gov/pdf/736/201701179041409736/201701179041409736.pdf>; the report was later accepted by the Commission and the AZLP was terminated as a registered political committee. *See* Termination Approval, <https://docquery.fec.gov/pdf/274/201701260300076274/201701260300076274.pdf>. *See also* Advisory Opinion 2016-14 (11 Libertarian State Committees) at n.2.

11 C.F.R. § 100.14(a); *see also* 52 U.S.C. § 30101(15). A state committee must register and report with the Commission if it receives contributions or makes expenditures aggregating in excess of \$1,000 during a calendar year. 52 U.S.C. § 30101(4)(A), (8)(A), (9)(A); 11 C.F.R. § 100.5(a). A state committee that surpasses this threshold must (1) register with the Commission by filing a Statement of Organization within 10 days of becoming a political committee and (2) begin filing periodic disclosure reports with the Commission. 11 C.F.R. §§ 102.1(d), 104.1(a).

As noted above, the Commission previously determined, on two separate occasions, that AZLP is a state committee of the LNP. *See* Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2007-02 (Arizona Libertarian Party). The Commission is aware of no factual changes that would alter its conclusions that the AZLP is the Arizona state committee of the LNP. However, because AZLP's political committee status had terminated when it ceased receiving contributions or making expenditures after the 2016 elections, the Commission must determine whether the proposed transfer of \$2,000 to the LNP requires AZLP to re-register as a political committee. The Commission concludes that it does.

Transfers of funds may be made in unlimited amount between a state party committee and a national party committee "whether or not they are political committees under 11 C.F.R. [§] 100.5 and whether or not such committees are affiliated." 11 C.F.R. § 102.6(a)(1)(ii); *see also* 52 U.S.C. § 30116(a)(4). The funds comprising such a transfer are subject to the amount limitations, source prohibitions, and reporting requirements of the Act. 11 C.F.R. § 102.6(a)(1)(iv); *see* 52 U.S.C. § 30125; 11 C.F.R. § 300.10(a). State and national party committees that transfer funds under 11 C.F.R. § 102.6(a)(1) "shall count such transfers against the reporting thresholds of the Act for determining whether an organization or committee is a political committee under 11 CFR [§] 100.5." 11 C.F.R. § 102.6(a)(2).

In this case, because the LNP and AZLP are, respectively, national and state party committees of the same party, the AZLP may transfer \$2,000 to the LNP using federally permissible funds as proposed, pursuant to 11 C.F.R. § 102.6(a)(1). However, under section 102.6(a)(2), that amount transferred must be counted against the reporting threshold for purposes of determining whether the AZLP is a political committee under section 100.5. Here, the proposed transfer on its own exceeds the \$1,000 threshold for attaining political committee status, and therefore would cause the AZLP to meet the statutory and regulatory definition of a political committee.

Accordingly, the Commission concludes that the AZLP may transfer federal funds to the LNP, but because the amount of the proposed transfer exceeds the yearly \$1,000 reporting threshold, the AZLP must register as a political committee and file periodic disclosure reports with the Commission.²

² If you proceed with this transaction, we recommend that you contact the Reports Analysis Division for guidance on how to report it to the Commission.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in cursive script, appearing to read "Ellen L. Weintraub".

Ellen L. Weintraub

Chair