



FEDERAL ELECTION COMMISSION

Washington, DC 20463

April 1, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2004-09

Grace Ross and David Ebony Allen Barkley, Co-Chairs
Green-Rainbow Party
PO Box 440353
Somerville MA, 02144-0004

Dear Ms. Ross and Mr. Barkley:

This responds to your letter dated December 20, 2003, which you supplemented by an electronic mail message dated February 25, 2004, requesting an advisory opinion concerning the status of the Green-Rainbow Party (“the Party”) as a State committee of a political party under the Federal Election Campaign Act of 1971, as amended (“the Act”), and Commission regulations.

Background

Your request includes various documents including a copy of the Party bylaws (“the Bylaws”). This governing document details various aspects of the organization of the Party. It illustrates how the Party, through the State committee apparatus, engages in various activities in Massachusetts including: maintaining regular communication with and providing training, information and other services to local committees of the Green Party of the United States; formulating and disseminating statements of the Party’s policy and platform; coordinating and conducting the Party’s state campaigns; and the raising and disbursing of funds needed for operating the Party and the local Green Party committees.¹ You state that the Party successfully placed candidates for Federal office on the ballot in Massachusetts in the 2000 elections. These candidates were Ralph Nader for U.S President and Winona LaDuke for Vice President. You further state that the Party has maintained its ballot status by running statewide candidates in 2002 for Governor, Lieutenant Governor and Treasurer and receiving more than the mandated 3% of the

¹ The Federal political committee registered by the Party is the Green-Rainbow Party Federal Fund which first filed with the Commission in 2000.

votes cast in that election for retaining ballot status. Your request indicates that the Party is officially affiliated with the Green Party of the United States, which is one of the two national Green Party organizations.² Included with the request is a letter from Ms. Emily Citkowski, Green Party Operations Director, confirming the status of the Party as the affiliate of Green Party of the United States.³

Question Presented

Is the Party a State party committee within the meaning of the Act and Commission regulations?

Legal Analysis and Conclusions

Yes, the Party qualifies as a State party committee. Under the Act, the term “State committee” means the organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission. 2 U.S.C. 431(15). The Commission’s regulations include the additional factor that such organization must be “part of the official party structure” either by virtue of the political party’s bylaws or by operation of State law. 11 CFR 100.14. The definition of “State committee” also requires the existence of a political party. *Id.* The term “political party” is defined under 2 U.S.C. 431(16) and 11 CFR 100.15 as an association, committee, or organization that nominates or selects a candidate for election to any Federal office, whose name appears on the election ballot as the candidate of such association, committee, or organization. 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 aggregating in excess of \$5,000. 2 U.S.C. 431(2).

The existence of a political party is necessary for State committee status. This requires that the party organization actually obtain ballot access for one or more Federal candidates, as defined in the Act. *See* 2 U.S.C. 431(16); Advisory Opinions 2003-27, 2002-10, 2002-6, and 2002-3. The Federal candidate identified in your request, Mr. Nader, received or expended in excess of \$5,000 in his 2000 campaign according to disclosure reports filed with the Commission.⁴ Accordingly, Mr. Nader satisfies the Act’s definition of a “candidate.” 2 U.S.C. 431(2). Mr. Nader’s name appeared on the 2000

² The Green Party of the United States and the Greens/Green Party USA represent the Green political movement on a national level. These are separate unaffiliated organizations. *See* Advisory Opinions 2003-27 and 2001-13. In Advisory Opinion 2001-13, the Commission determined that the Green Party of the United States qualified as the national committee of a political party, while in Advisory Opinion 1996-35 the Commission concluded that the Greens/Green Party USA did not qualify for this status.

³ In the February 25, 2004 email message, the Party treasurer confirmed the Party’s status as the sole state affiliate of the Green Party of the United States in Massachusetts. He also stated that to the best of his knowledge there is no State affiliate of Greens/Green Party USA in Massachusetts.

⁴ The Commission has granted State committee status to a State affiliate of a qualified national party committee where its only Federal candidates, as defined under the Act, were the Presidential and Vice Presidential candidates of the national party. Advisory Opinions 2003-27, 2000-39, 1999-26, and 1997-3.

ballot in the State of Massachusetts as the Presidential candidate of the Party. Because Mr. Nader appeared on the 2000 ballot in Massachusetts as a candidate of the Party, the Commission concludes that the Party satisfies the definition of “political party” under the Act.

As stated in 2 U.S.C. 431(15), the next element of the requirements for State committee status is that the bylaws of a political party establish that the party entity is responsible for the day-to-day operation of such political party at the State level. *See also* 11 CFR 100.14(a). The Commission has considered either the bylaws of State party organizations or other governing documents in making these determinations. Advisory Opinions 2003-27, 2002-10, 2002-6 and 2002-3. In reviewing State party affiliates of organizations that qualified as national committees of political parties under 2 U.S.C. 431(14), the Commission has required supporting documentation indicating that the State party is affiliated with the national party committee. *See* Advisory Opinions 2002-10, 2002-6 and 2002-3.

As noted above, the Party’s governing document sets out the organizational structure for the Party and establishes specific responsibilities for Party officials. *See* Bylaws, sections 8, 9 and 12. As they delineate activity commensurate with the day-to-day functions and operations of a political party on a State level, the Bylaws meet the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14, and they are consistent with the State party rules reviewed in previous situations where the Commission has affirmed the State committee status of a political organization. *See* Advisory Opinions 2003-27, 2002-10, 2002-6 and 2002-3. The documentation you have provided also confirms the status of the Party as the State affiliate of an organization that has qualified as a national committee of a political party, the Green Party of the United States. *See* Advisory Opinions 2002-10, 2002-6, and 2002-3. Therefore, the Commission concludes that the Party meets this element.

Under the Commission’s regulations, the final element to obtain State party committee status is that the organization must be part of the official party structure. *See* 11 CFR 100.14. By virtue of being the State party organization in Massachusetts, the Party is part of the official party structure. Advisory Opinion 2003-27.

In view of the fact that all three elements discussed in this advisory opinion have been satisfied, the Commission concludes that the Green-Rainbow Party qualifies as a State committee of a political party under the Act and Commission regulations.

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* 2 U.S.C. 437f. 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.

Sincerely,

(signed)

Bradley A. Smith
Chairman

Enclosures (AOs 2003-27, 2002-10, 2002-6, 2002-3, 2001-13, 2000-39, 1999-26, 1997-3,
and 1996-35)