



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 4, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2007-06

Mr. Todd Singer
Treasurer
Libertarian Party of Indiana
156 E. Market Street
Suite #405
Indianapolis, IN 46204

Dear Mr. Singer:

We are responding to your inquiry regarding the status of the Libertarian Party of Indiana (the "LPIN"), as a State party committee of a political party under the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. The Commission concludes that the LPIN qualifies as a State party committee because: (1) the Libertarian Party qualifies as a political party; (2) the LPIN is part of the official Libertarian Party structure; and (3) the LPIN is responsible for the day-to-day operation of the Libertarian Party at the State level.

Background

The facts presented in this advisory opinion are based on your letter received on March 21, 2007.

The Bylaws of the LPIN ("Bylaws") detail various aspects of the functions, organization and operation of the LPIN. They provide that the primary functions of the LPIN are to "(a) nominate and run candidates for statewide, state legislative and U.S. Congressional offices in the state of Indiana, (b) serve as an affiliate organization of the national Libertarian Party, and (c) charter and serve the needs of affiliated County Organizations throughout the state of Indiana." Bylaws, art. I, sec. 4. The LPIN is controlled and managed by the State Central Committee between State Conventions, which are held during the second quarter of each calendar year and which include the

Annual Business Meeting. Bylaws, art. V, sec. 2; art. VI, sec. 1 and 2. In even-numbered years, potential Libertarian candidates for statewide races, state legislative races, and U.S. Congressional races are nominated at the Annual Business Meeting. Bylaws, art. VI, sec. 11. Delegates to Libertarian Party national conventions and national committees and subcommittees are also selected at the Annual Business Meeting. Bylaws, art. VI, sec. 12 and 13.

The LPIN placed a candidate for U.S. Representative for Indiana's Ninth Congressional District on the 2006 Indiana general election ballot, and placed a candidate for President of the United States on the 2004 Indiana general election ballot.¹ These candidates were Mr. David Eric Schansberg and Mr. Michael Badnarik, respectively. Both candidates were listed on State ballots as candidates of the Libertarian Party.²

Since 1975, the Commission has recognized the Libertarian National Committee as the national committee of a political party. *See* Advisory Opinions 2002-14 (Libertarian National Committee) and 1975-129 (Libertarian National Committee). A letter from Mr. Robert S. Kraus, Director of Operations of the Libertarian National Committee, Inc., ("LNC") confirms the status of the LPIN as the LNC's sole affiliate for the State of Indiana.

Question Presented

Does the LPIN qualify as a State party committee within the meaning of the Act and Commission regulations?

Legal Analysis and Conclusion

Yes, the LPIN qualifies as a State committee of a political party within the meaning of the Act and Commission regulations.

A "political party" is an "association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization." 2 U.S.C. 431(16); 11 CFR 100.15. 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 such political party at the State level, as determined by the Commission. 2 U.S.C. 431(15); 11 CFR 100.14(a).

¹ These persons are "candidates" because they sought election to Federal office and either received contributions aggregating in excess of \$5,000, or made expenditures aggregating in excess of \$5,000. 2 U.S.C. 431(2) and 11 CFR 100.3(a).

² The ballot listing for Mr. David Eric Schansberg appears on the Indiana Secretary of State's website at <http://www.in.gov/apps/sos/election/general/general2006> (last visited Mar. 29, 2007), and the ballot listing for Mr. Michael Badnarik appears on the Indiana Secretary of State's website at <http://www.in.gov/apps/sos/election/general/general2004> (last visited Mar. 29, 2007).

The first question in determining whether a political committee is a State committee of a political party is whether the party itself qualifies as a “political party” under the Act and Commission regulations. *See, e.g.*, Advisory Opinion 2007-02 (Arizona Libertarian Party). As noted above, the Commission has previously determined that the Libertarian Party qualifies as a political party, and that the LNC qualifies as the national committee of the Libertarian Party. *See* Advisory Opinions 2002-14 (Libertarian National Committee) and 1975-129 (Libertarian National Committee). The Commission is aware of no factual changes that would alter those conclusions.

The second question in determining whether a political committee is a State committee of a political party is whether the requesting committee satisfies the remaining elements of the definition of a “State committee” of a political party. *See, e.g.*, Advisory Opinion 2007-02 (Arizona Libertarian Party). This determination consists of two inquiries: (1) whether the organization is part of the official party structure; and (2) whether the organization is responsible for the day-to-day operations of the political party at the State level, as determined by the Commission. *See* 2 U.S.C. 431(15) and 11 CFR 100.14.

In previous advisory opinions, the Commission has addressed the first inquiry by requiring supporting documentation from the national party indicating that the State party is part of the official party structure. *See, e.g.*, Advisory Opinion 2007-02 (Arizona Libertarian Party). Here, a letter from Mr. Robert S. Kraus, Director of Operations of the LNC, confirms the status of the LPIN as part of the LNC’s official party structure.³

With respect to the second inquiry, the Commission determines whether an organization is responsible for the day-to-day functions and operations of a political party at the State level by considering: (1) whether the organization has placed a “candidate” on the ballot (thereby qualifying as a “political party”); and (2) the bylaws or other governing documents of the State party organization.⁴ *See, e.g.*, Advisory Opinion 2007-02 (Arizona Libertarian Party).

A successful ballot access effort on behalf of a “candidate” is required because the requesting organization’s existence as a “political party” is necessary for State committee status. A State party organization must actually obtain ballot access for one or more “candidates,” as defined in the Act. *See* 2 U.S.C. 431(2), 431(15) and 431(16); 11 CFR 100.3(a), 100.14(a) and 100.15; *see also* Advisory Opinions 2007-02 (Arizona Libertarian Party), 2004-40 (Libertarian Party of Maryland), 2004-34 (Libertarian Party of Virginia), and 2003-27 (Missouri Green Party).

³ This document is included in the Advisory Opinion Request, which is available at <http://saos.nictusa.com/saos/searchao> (last visited Mar. 29, 2007).

⁴ Where appropriate, the Commission may also consider the operation of State law in making these determinations. *See* 11 CFR 100.14(a).

Two individuals identified in your request, Mr. David Eric Schansberg and Mr. Michael Badnarik, received contributions or made expenditures in excess of \$5,000 in their campaigns, according to disclosure reports filed with the Commission, and, therefore, both satisfy the Act's definition of a "candidate."⁵ *See* 2 U.S.C. 431(2) and 11 CFR 100.3(a). Mr. Schansberg appeared on the 2006 Indiana ballot as the LPIN's candidate for the U.S. House of Representatives, and Mr. Badnarik appeared on the 2004 Indiana ballot as the LPIN's candidate for U.S. President. Accordingly, the LPIN qualifies as a "political party" under the Act.

As noted above, the Bylaws detail the organizational structure for the LPIN and establish specific responsibilities for LPIN officials. *See* Bylaws, art. I, sec. 1 through 4; art. V, sec. 1 through 7; art. VI, sec. 1 through 13.⁶ The Bylaws delineate activity commensurate with the day-to-day functions and operations of a political party on a State level, and are consistent with the State party rules reviewed in previous situations where the Commission has recognized the State committee status of a political organization. Therefore, the Bylaws satisfy the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14(a).

Because all elements of the definition of "State committee" have been satisfied, the Commission determines that the LPIN 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 requester may not rely on that conclusion as support for its proposed activity. Most of the cited advisory opinions are available on the Commission's website at www.fec.gov.

Sincerely,

(signed)

Robert D. Lenhard
Chairman

⁵ Disclosure reports for Messrs. Schansberg and Badnarik appear on the Commission's website at <http://images.nictusa.com/cgi-bin/fecimg/?C00426692> and <http://images.nictusa.com/cgi-bin/fecimg/?C00384966> (last visited Mar. 29, 2007), respectively.

⁶ This document is included in the Advisory Opinion Request, which is available at <http://saos.nictusa.com/saos/searchao> (last visited Mar. 29, 2007).