



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 17, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2016-18

Constance Gadell-Newton
Robert J. Fittrakis
Ohio Green Party
1021 E. Broad Street
Columbus, Ohio 43205

Dear Ms. Gadell-Newton and Mr. Fittrakis:

We are responding to your request on behalf of the Ohio Green Party (the “Committee”) regarding its status as the state committee of a political party under the Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 (the “Act”), and Commission regulations. The Commission concludes that the Committee qualifies as the state committee of a national political party.

Background

The facts presented in this advisory opinion are based on your advisory opinion request (“AOR”) composed of letters received on August 31, 2016, and October 3, 2016, an email of October 3, 2016, and public filings with the Commission.

In 2001, the Commission determined that the Green Party of the United States (“GPUS”) was a national political party. Advisory Opinion 2001-13 (Green Party of the United States). The GPUS’s Secretary, Ms. Jan Martell, has confirmed by letter that the Committee “is an affiliated party of the Green Party of the United States” and “send[s] three delegates to the GPUS National Committee.” AOR038.

Attached to the request, a letter from the Committee to Ohio Secretary of State Jon Husted shows that the Committee “certif[ied] . . . the placement” of Jill Stein on the Ohio ballot as a candidate for President. AOR017. Mr. Husted accepted this certification, announcing that the Committee had certified Ms. Stein as Green Party candidate for the Ohio ballot. AOR019.

Ms. Stein received contributions or made expenditures in excess of \$5,000 according to disclosure reports filed with the Commission.¹

Pursuant to its constitution and bylaws, the Committee engages in various political activities intended to “preserve and restore viable ecosystems,” “establish social justice and equity,” “foster participatory democracy,” “promote and practice nonviolence as a means of conflict resolution,” and “ensure the rights of a community-based economic system for all people.” AOR005. These activities include “nominat[ing] or endors[ing] candidates, ratify[ing] platform positions, and initiat[ing] projects and issue campaigns.” AOR009.

The constitution and bylaws also set forth the organization and duties of various aspects of the Committee. For example, a State Central Committee, elected by direct vote of party members, prepares the platform ratification process, candidate endorsements, presidential elector selection, and process for selecting GPUS delegates. AOR006, AOR035. The State Central Committee also raises funds to support its activities and candidates, appoints voting special advisers or observers, recruits new members, promotes Green Party values, delegates tasks to subcommittees as necessary, and endorses activities. AOR006, AOR035. The constitution and bylaws also contain rules regarding the timing of various meetings, including a biennial state convention (AOR009); “transparency and internal democracy” (AOR009-010); and procedural rules applicable to meetings (AOR010-011).

Question Presented

Does the Committee qualify as a state committee of a political party within the meaning of the Act and Commission regulations?

Legal Analysis and Conclusion

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

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.” 11 C.F.R. § 100.14(a); 52 U.S.C. § 30101(15). A “political party” is an “association, committee, or organization that 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.” 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15.

The determination as to whether a state party organization qualifies as a state committee of a national political party turns on three elements: (1) the national party with which the state party organization is affiliated must itself be a “political party;” (2) the state party organization must be part of the official structure of the national party; and (3) the state party organization must be

¹ See, e.g., Jill Stein for President, FEC Report 3P at 2 (Oct. 20, 2016), <http://docquery.fec.gov/pdf/130/201610209034126130/201610209034126130.pdf> (showing net election cycle contributions totaling \$2,705,212.89).

responsible for the day-to-day operation of the national party at the state level. *See, e.g.*, Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia). The Commission therefore addresses each of these three elements in turn.

(1) *Qualification of the GPUS as Political Party*

The national party, the GPUS, must qualify as a “political party” under the Act and Commission regulations. The Commission has previously determined that the GPUS qualifies as a political party. Advisory Opinion 2001-13 (Green Party of the United States). The Commission is aware of no factual changes that would alter that conclusion.

(2) *Status of the Committee as Part of the Official Structure of the GPUS*

To determine whether a state party organization is part of the official structure of a national party, the Commission evaluates documentation from the national party. *See, e.g.*, Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia). The letter from Ms. Jan Martell, Secretary of the GPUS (AOR0038), confirms that the Committee is part of the official party structure of the GPUS.

(3) *Responsibility of the Committee for Day-to-Day Operation of the GPUS at the State Level*

To determine whether a state party organization is responsible for the day-to-day operations of a national party at the state level, the Commission considers: (a) whether the state organization has placed a federal candidate on the ballot (thereby qualifying as a “political party” under 52 U.S.C. § 30101(16)); and (b) whether the bylaws or other governing documents of the state party organization indicate activity commensurate with the day-to-day functions and operations of a political party at the state level. *See, e.g.*, Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

(a) *Candidate on the Ballot*

Because an organization must place a federal candidate on the ballot to qualify as a “political party,” *see* 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15, an organization must obtain ballot access for a federal candidate to qualify as a “state committee” of a political party. *See* 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a); Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

The Committee certified the GPUS’s nominee for President, Jill Stein, for the Ohio ballot, and the Secretary of State accepted this certification. AOR017, AOR019. Ms. Stein received contributions or made expenditures in excess of \$5,000 according to disclosure reports

filed with the Commission. Ms. Stein therefore satisfies the Act's definition of a "candidate." See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

(b) Day-To-Day Functions and Operations

In addition to gaining ballot access for a candidate for federal office, the Committee must show, in its bylaws, constitution, or other governing documents, that it is responsible for activity commensurate with the day-to-day functions and operations of a political party at the state level.

Pursuant to its constitution and bylaws, the Committee engages in various political party activities in Ohio. These activities include preparing a party platform, endorsing candidates, and selecting presidential electors and GPUS delegates. AOR007, AOR037-038. The constitution and bylaws provide for a biennial convention, at which candidates are nominated and endorsed. AOR0009, AOR0036. The governing documents also establish the organizational structure of the Committee and describe the responsibilities of the Committee's executive organs — the State Central Committee and Executive Committee — in furthering the activities of the party. AOR006-007, AOR036-037.

These governing documents indicate activity commensurate with the day-to-day functions and operations of a political party at the state level and are similar to other state party rules that the Commission has found sufficient to qualify an organization for state committee status. See, e.g., Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut); Advisory Opinion 2010-22 (Working Families Party of Connecticut). Therefore, the Committee satisfies the requirement of being responsible for the day-to-day operation of the GPUS at the state level pursuant to 52 U.S.C. § 30101(15) and 11 C.F.R. § 100.14(a).

Conclusion

The Commission determines that the Committee qualifies as the state committee of a national party committee under the Act and Commission regulations because: (1) The GPUS qualifies as a political party; (2) the Committee is part of the official structure of the GPUS; and (3) the Committee is responsible for the day-to-day operation of the GPUS at the state level.

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 their 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 blue ink, appearing to read "Matthew S. Petersen", with a long horizontal flourish extending to the right.

Matthew S. Petersen
Chairman