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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 17-01-C**  
**AGENDA ITEM**  
**For meeting of March 23, 2017**

March 9, 2017

**MEMORANDUM**

TO: The Commission

FROM: Lisa J. Stevenson *LJS*  
Acting General Counsel

Adav Noti *AN*  
Associate General Counsel

Cheryl Hemsley *cafh*  
Attorney

Joanna S. Waldstreicher *JSW*  
Attorney

Subject: AO 2016-23 (Socialist Workers Party) Draft C

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 5:00 pm (Eastern Time) on March 20, 2017.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

1 ADVISORY OPINION 2016-23

2

3

4 Michael Krinsky, Esq.

5 Lindsey Frank, Esq.

6 Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C.

7 61 Broadway, 18<sup>th</sup> floor

8 New York, NY 10006-3791

9

**DRAFT C**

10 Dear Messrs. Krinsky and Frank:

11 We are responding to your advisory opinion request on behalf of the Socialist Workers  
12 Party, the Socialist Workers National Campaign Committee, and committees supporting  
13 candidates of the Socialist Workers Party (collectively the “SWP” or the “SWP committees”)  
14 concerning the renewal of a partial reporting exemption for the SWP. Based on the SWP’s status  
15 as a minor party and the long history of systematic harassment of the SWP and its members, and  
16 evidence of harassment after 2012, the Commission is renewing the partial reporting exemption  
17 until December 31, 2020.

18 **Background**

19 The facts presented in this advisory opinion are based on your advisory opinion request  
20 submissions received on October 31 and November 14, 2016 (“AOR”), and your comment dated  
21 February 16, 2017 (“Comment”).

22 *A. Partial Exemption History*

23 The SWP was first granted a partial reporting exemption in a consent decree that resolved  
24 *Socialist Workers 1974 Nat’l Campaign Comm. v. FEC*, Civ. No. 74-1338 (D.D.C. 1979). In  
25 that case, the SWP had alleged that certain disclosure provisions of the Act deprived the SWP  
26 and its supporters of their First Amendment rights because of the likelihood of harassment  
27 resulting from mandatory disclosure of contributors and vendors. Additionally, the SWP had  
28 alleged that the governmental interest in publicizing identifying information of contributors and

1 payees was diminished because, as a minor party, the possibility of an SWP candidate winning  
2 or influencing an election was remote. The consent decree exempted the SWP from the Act's  
3 requirements to disclose: (1) the names, addresses, occupations, and principal places of business  
4 of contributors to the SWP committees; (2) other political committees or candidates to whom the  
5 SWP committees made contributions; (3) lenders, endorsers, or guarantors of loans to the SWP  
6 committees; and (4) persons to whom the SWP committees made expenditures. The consent  
7 decree, however, required the SWP to maintain records in accordance with the Act and to file  
8 reports in a timely manner. On July 24, 1985, the court approved an updated settlement  
9 agreement with these requirements and partial reporting exemption.<sup>1</sup>

10 In 1990, the SWP sought an extension of the partial reporting exemption through the  
11 advisory opinion process in lieu of obtaining a new consent decree from the court. The  
12 Commission granted the same exemption provided by the previous consent decrees. The  
13 advisory opinion provided that the exemption would be in effect through December 31, 1996.  
14 *See* Advisory Opinion 1990-13 (SWP).

15 In response to each of the SWP's subsequent 1996, 2002, 2008, and 2012 requests, the  
16 Commission issued advisory opinions renewing the partial reporting exemptions. *See* Advisory  
17 Opinion 1996-46 (SWP); Advisory Opinion 2003-02 (SWP); Advisory Opinion 2009-01 (SWP);  
18 Advisory Opinion 2012-38 (SWP). The current exemptions apply to activity through December  
19 31, 2016.<sup>2</sup> *See* Advisory Opinion 2012-38 (SWP).

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<sup>1</sup> The 1985 agreement also exempted the SWP from reporting the identification of persons providing rebates, refunds, or other offsets to operating expenditures, and persons providing any dividend, interest, or other receipt.

<sup>2</sup> Advisory Opinion 2012-38 (SWP) specified that no later than 60 days prior to that date, the SWP could submit a new advisory opinion request seeking another renewal of the partial exemption. SWP first submitted a

1           B.     *Factual Update*

2           The factual basis for the SWP's prior reporting exemptions is set forth in the advisory  
3 opinions granting those exemptions. *See, e.g.*, Advisory Opinion 2012-38 (SWP). As discussed  
4 below, the SWP's current request presents facts regarding its activities since the reporting  
5 exemption was last renewed in 2012.

6                   1.     *Electoral Success*

7           The SWP's candidate for President in 2016 achieved general election ballot access in 7  
8 states and received approximately 12,000 votes.<sup>3</sup> The SWP has not placed any candidates on the  
9 ballot for the U.S. Senate or House of Representatives since 2012. AOR015, 189.

10                   2.     *Financial Activity*

11           Information presented in the request and in reports filed with the Commission indicates  
12 that a total of 406 persons made contributions to the SWP in 2016, including 86 persons who  
13 contributed over \$200. *See* AOR195-197. Reports filed with the Commission indicate that the  
14 SWP received contributions totaling \$11,324 prior to the general election in 2012, *see* Socialist  
15 Workers Campaign Committee, FEC Form 3X at 3 (Oct. 23, 2012),<sup>4</sup> \$1277 in 2013, *see* Socialist  
16 Workers National Campaign Committee, FEC Form 3X at 3 (Jan. 12, 2014),<sup>5</sup> and no  
17 contributions in 2014 or 2015. *See* Socialist Workers National Campaign Committee, FEC Form

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request for an advisory opinion on October 31, 2016, and a complete request was received on November 14, 2016.

<sup>3</sup>     *See* <http://www.fec.gov/pubrec/fe2016/2016presgeresults.pdf>.

<sup>4</sup>     <http://docquery.fec.gov/pdf/535/12940401535/12940401535.pdf>.

<sup>5</sup>     <http://docquery.fec.gov/pdf/761/14940022761/14940022761.pdf>.

1 3X at 3 (Jan. 19, 2015);<sup>6</sup> Socialist Workers National Campaign Committee, FEC Form 3X at 3  
2 (Jan. 17, 2016).<sup>7</sup> As of November 28, 2016 (the close of books for the 2016 post-general  
3 election report), the SWP’s total contributions for 2016 received amounted to \$82,372. *See*  
4 Socialist Workers National Campaign Committee, FEC Form 3X (Dec. 7, 2016).<sup>8</sup>

5 *3. Threats, Harassment, and Reprisals*

6 The SWP’s current request includes 33 exhibits attesting to 25 incidents of harassment or  
7 intimidation or of potential supporters stating that they feared being identified with the SWP.  
8 These submissions generally fall into three categories: (1) evidence regarding the fear that  
9 potential SWP supporters have of being identified as SWP supporters; (2) evidence regarding  
10 hostility and harassment from government authorities and law enforcement entities; and (3)  
11 evidence regarding hostility and harassment from private parties. The requestor states that this  
12 compilation of incidents “is not meant to be exhaustive, as acts of intimidation and harassment  
13 against the SWP and its supporters are frequent enough that they often go unreported to any  
14 central body.”

15 a. Evidence of Historical and Current Government Harassment  
16 Causing Fears Among Potential SWP Supporters

17 In its request, the SWP summarizes the history of harassment and disruption by  
18 government entities that lasted through the 1970s and that was the subject of lawsuits as late as

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<sup>6</sup> <http://docquery.fec.gov/pdf/198/15950046198/15950046198.pdf>.

<sup>7</sup> <http://docquery.fec.gov/pdf/750/201601179004511750/201601179004511750.pdf>.

<sup>8</sup> <http://docquery.fec.gov/pdf/106/201612079037734106/201612079037734106.pdf>.

1 the 1980s.<sup>9</sup> Additionally, the SWP cites (as it did in its 2012 advisory opinion request) certain  
2 government guidelines and programs for obtaining and maintaining information on U.S. citizens  
3 and residents.<sup>10</sup> The SWP’s request indicates that, along with the lengthy history of  
4 governmental harassment and disruption prior to 1990, these more recent developments in  
5 government surveillance could cause any person interested in supporting the SWP to reasonably  
6 fear that association with the SWP might subject them to government surveillance and  
7 harassment. The SWP also describes more recent governmental action towards groups that  
8 “engage in activism concerning issues that are also the subject of SWP activity.” AOR033.

9 The SWP’s request contains eight statements by SWP candidates and campaign workers  
10 relating to concerns expressed by potential SWP supporters regarding public identification with  
11 the SWP. These include six statements by campaign supporters and workers describing their  
12 experiences while campaigning and talking with potential supporters, selling subscriptions to  
13 SWP’s publication, the *Militant*, and working to get petition signatures. Individuals expressed  
14 fear that getting involved with the SWP or placing their names and addresses on subscription  
15 lists would result in scrutiny of them by governmental authorities, including immigration

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<sup>9</sup> Advisory Opinion 1990-13 (SWP) described FBI investigative activities between 1941 and 1976 that included: extensive use of informants to gather information on SWP activities and on the personal lives of SWP members; warrantless electronic surveillance; surreptitious entry of SWP offices; attempts to embarrass SWP candidates and to foment strife within the SWP and between the SWP and others; and frequent interviews of employers and landlords of SWP members. The description of these activities was set out in the Final Report of the Special Master Judge Breitel in *Socialist Workers Party v. Attorney General*, 73 Civ. 3160 (TPG) (S.D.N.Y., Feb. 4, 1980) and *Socialist Workers Party v. Attorney General*, 642 F. Supp. 1357 (S.D.N.Y. 1986); see also Advisory Opinion 2003-02 (SWP) n.8 for a description of FBI activities between 1941 and 1976.

<sup>10</sup> Specifically, the SWP points to alleged relaxation in FBI guidelines concerning investigations and information-gathering relating to threats to national security; increased federal support for, and involvement in, state and local “fusion centers,” described as “a collaborative effort of 2 or more [f]ederal, [s]tate, local or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend and respond to criminal or terrorist activity”; an increase in government surveillance of telephone and electronic communications; and relaxed privacy safeguards. See AOR108, 198, 380, 409.

1 authorities, or their being placed on a “government list,” or facing adverse employment action.  
2 *See* AOR757-768.

3 b. Interactions with Governmental Authorities

4 In addition to the evidence of broad government surveillance discussed above, the SWP  
5 raises three specific incidents of alleged governmental and law enforcement harassment and  
6 surveillance. In the first such incident, the SWP candidate for Vice President was stopped and  
7 his belongings examined by Australian immigration authorities before he could board a flight to  
8 the U.S. He was again stopped and searched by TSA staff upon landing in the U.S. AOR728.

9 The other two incidents involved local law enforcement officers. In one of the incidents,  
10 a police officer attempted to stop SWP canvassers by asking if they had a permit to campaign.  
11 AOR731. The second incident occurred when residents of two apartment complexes called the  
12 police to stop an SWP candidate and volunteer who were collecting ballot signatures. AOR733.

13 The SWP also describes six instances when prison officials prevented inmates from  
14 receiving issues of the *Militant* in one federal and three state prisons. In each instance, prison  
15 officials continued to deny inmates their right to receive the *Militant* until the *Militant* challenged  
16 the officials’ decisions. AOR594-727.

17 c. Hostility from Private Parties

18 The SWP submitted fourteen exhibits attesting to incidents of harassment, threats, or  
19 violence by private individuals or businesses. In one such incident, an SWP city council  
20 candidate’s home was burglarized, and the only item taken was a smartphone containing political  
21 contacts and call records. AOR570. Another incident involved SWP’s campaign headquarters  
22 in Los Angeles, where the office’s front window was shattered after a public event in October

1 2014. *See* AOR586. In both of these cases, police reports were filed but no arrests were made.  
2 *See* AOR570, 586.

3 Two SWP supporters state that they made contributions to the SWP with the  
4 understanding that the SWP was exempt from certain reporting obligations, and that if the SWP  
5 were required to report the names of its contributors, they would not contribute to the SWP  
6 because such reporting would negatively affect their employment. *See* AOR769-772.

7 The remainder of the exhibits describe disruption of SWP workers or candidates while  
8 they were distributing SWP literature or attempting to obtain ballot petition signatures. These  
9 incidents involved both verbal harassment and threats (*see* AOR570, 589, 592, 736-756) and  
10 physical mistreatment of SWP property (*see* AOR589). Many of these exhibits note that the  
11 harassment was specifically because the workers or candidates were associated with the SWP or  
12 believed to be associated with communism. *See* AOR570, 589, 736, 738, 744, 746, 751.

### 13 **Question Presented**

14 *Do the SWP, the Socialist Workers National Campaign Committee, other SWP party*  
15 *committees, and authorized committees of candidates of the SWP qualify for a continuation of*  
16 *their previous partial reporting exemption?*

### 17 **Legal Analysis and Conclusion**

18 Yes, the SWP, the Socialist Workers National Campaign Committee, other SWP party  
19 committees, and authorized committees of candidates of the SWP qualify for a continuation of  
20 the partial reporting exemption for reports covering activity through December 31, 2020.

21 The Act requires political committees to file with the Commission reports that identify  
22 individuals and other persons who make contributions over \$200 during the calendar year or

1 election cycle (depending on the type of committee), or who come within various other  
2 disclosure categories. 52 U.S.C. § 30104(b)(3), (5), (6); *see also* 52 U.S.C. § 30101(13). But the  
3 Supreme Court has recognized the important First Amendment right of political privacy  
4 generally and has held that under certain circumstances the Act’s disclosure requirements are  
5 unconstitutional as applied to a minor party because the burden that such disclosure might  
6 impose on the party’s exercise of its First Amendment rights outweighs the government’s  
7 relatively insubstantial interest in that party’s disclosure. *Buckley v. Valeo*, 424 U.S. 1, 71-72  
8 (1976).<sup>11</sup> The Court recognized that “[t]hese movements are less likely to have a sound financial  
9 base and thus are more vulnerable to falloffs in contributions. In some instances fears of reprisal  
10 may deter contributions to the point where the movement cannot survive.” *Id.* at 71. Similarly,  
11 “the governmental interest in disclosure is diminished when the contribution in question is made  
12 to a minor party with little chance of winning an election,” or where “contributions to a minor  
13 party . . . are concerned, for it is less likely that the candidate will be victorious.” *Id.* at 67.

14 Because “[m]inor parties must be allowed sufficient flexibility in the proof of injury to  
15 assure a fair consideration of their claim” for a reporting exemption, “[t]he evidence offered need  
16 show only a reasonable probability that the compelled disclosure of a party’s contributors’ names  
17 will subject them to threats, harassment, or reprisals from either Government officials or private  
18 parties.” *Id.* at 74. “The proof may include, for example, specific evidence of past or present  
19 harassment of members due to their associational ties, or of harassment directed against the

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<sup>11</sup> *See Brown v. Socialist Workers ’74 Campaign Committee (Ohio)*, 459 U.S. 87, 91-92 (1982); *Gibson v. Florida Legislative Committee*, 372 U.S. 539 (1963); *NAACP v. Button*, 371 U.S. 415 (1963); *Shelton v. Tucker*, 364 U.S. 479 (1960); *NAACP v. Alabama*, 357 U.S. 449, 462-63 (1958); *Sweezy v. New Hampshire*, 354 U.S. 234, 265-67 (1957) (Frankfurter, J., *concurring*); *see also Americans for Prosperity Foundation v. Harris*, 182 F. Supp. 3d 1049 (C.D. Cal. 2016).

1 organization itself. A pattern of threats or specific manifestations of public hostility may be  
2 sufficient.” *Id.*

3 A. *SWP’s Status as a Minor Party*

4 The Commission must first determine whether the SWP continues to maintain its status  
5 as a minor party, such that the governmental interest in ensuring that SWP’s financing is  
6 disclosed to the public is reduced. *See Buckley*, 424 U.S. at 68-74; *ProtectMarriage.com v.*  
7 *Bowen*, 830 F. Supp. 2d 914, 930 (E.D. Cal. 2011) (noting that disclosure exception is “not for  
8 the majority, but for those groups in which the government has a diminished interest”), *aff’d in*  
9 *part and dismissed in part*, 752 F.3d 827 (9th Cir. 2014).

10 As evidenced by the low vote totals for SWP candidates, the lack of success in ballot  
11 access, and the small total amounts of contributions to SWP committees, the Commission  
12 concludes that the SWP continues to be a minor party that is out of the mainstream, as it has been  
13 each time that the Commission has considered its reporting exemption. The SWP’s presidential  
14 ballot access in 2016 (seven states) was insignificant, its vote total (12,000 nationwide) was far  
15 too small to influence the outcome of the race, and its contributions received — approximately  
16 \$84,000 over a four-year period — represent less than 1/100th of 1% of the funds raised by the  
17 major parties during that time. *See* 2014 and 2016 National Political Party Committee  
18 Summaries.<sup>12</sup> The SWP remains a “small and unpopular political party.” *McArthur v. Smith*,  
19 716 F. Supp. 592, 593 (S.D. Fla. 1989); *cf. ProtectMarriage.com*, 830 F. Supp. 2d at 928 (E.D.  
20 Cal. 2011); *FEC v. Hall-Tyner Election Campaign Comm.*, 678 F.2d at 420 (2d Cir. 1982).

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<sup>12</sup> <http://www.fec.gov/disclosure/partySummary.do>

1           B.       *Probability of Threats, Harassment, and Reprisals*

2           Next, the Commission must assess the probability that persons associated with the SWP  
3 would be subject to threats, harassment, and reprisal if their identities were disclosed. The  
4 Commission assesses this probability by examining instances of threats, harassment, and  
5 reprisals directed at the SWP or its supporters, both historically and since the most recent  
6 reporting exemption was granted.

7           As explained above and in prior advisory opinions, there is a long history of threats,  
8 harassment, and reprisals against the SWP and its supporters by government agencies and private  
9 parties. Courts have detailed “the substantial evidence of both governmental and private hostility  
10 toward and harassment of SWP members and supporters,” *Brown v. Socialist Workers ’74*  
11 *Campaign Committee (Ohio)*, 459 U.S. 87, 98-99 (1982) (internal quotation marks omitted),  
12 such as “massive” FBI surveillance, *id.* at 99. *See also Socialist Workers Party v. Attorney*  
13 *General*, 642 F. Supp. 1357 (S.D.N.Y. 1986); *Socialist Workers Party v. Attorney General*, 666  
14 F. Supp. 621 (S.D.N.Y. 1987). Similarly, in its prior advisory opinion requests, the SWP has  
15 provided the Commission with accounts of serious incidents of harassment by private parties  
16 over the last several decades. *See Advisory Opinion 1990-13 (SWP)*; *Advisory Opinion 1996-46*  
17 *(SWP)*; *Advisory Opinion 2003-02 (SWP)*; *Advisory Opinion 2009-01 (SWP)*; *Advisory*  
18 *Opinion 2012-38 (SWP)*. The Commission once again recognizes the historical pattern of  
19 previous actions against the SWP as a factor weighing in favor of renewing the partial reporting  
20 exemption, as this history may discourage individuals from getting involved with the SWP for  
21 fear of harassment or surveillance by government agencies. *See, e.g., Advisory Opinion 2012-38*  
22 *(SWP)*; *Advisory Opinion 2009-01 (SWP)*.

1           It is in the context of this historical backdrop that the present evidence presented by the  
2 requestors must be considered. *Buckley*, 424 U.S. at 74. For the period during which the most  
3 recent reporting exemption was in effect (January 1, 2013 through December 31, 2016), the SWP  
4 notes that it experienced government harassment when the SWP's 2016 vice presidential  
5 candidate was stopped and his belongings examined by Australian immigration authorities  
6 before he could board a flight to the U.S. The request notes that he was again harassed when he  
7 was stopped and searched by TSA staff upon landing in the U.S. The SWP also submits  
8 evidence regarding government surveillance of certain other domestic activist groups whose  
9 areas of advocacy overlap substantially with the SWP's. In particular, the SWP points to a  
10 September 2010 report by the Department of Justice's Inspector General regarding surveillance  
11 of groups such as People for the Ethical Treatment of Animals, Greenpeace, the Catholic Worker  
12 Movement, and the Thomas Merton Center, as well as other sources demonstrating government  
13 surveillance of additional groups, including more recent studies and news articles.<sup>13</sup>

14           This ongoing record of federal and local governmental harassment continues to have a  
15 present-day chilling effect. For example, a number of SWP personnel filed sworn statements  
16 that individuals had been reluctant to sign petitions or subscribe to SWP literature for fear of  
17 scrutiny by governmental authorities. And the evidence presented suggests that harassment of  
18 the SWP by police still occurs as well: The SWP submits evidence regarding several incidents  
19 of police officers being called by residents when SWP workers were canvassing at apartment

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<sup>13</sup> See, e.g., AOR108, 198, 380.

1 complexes. In each incident, the arrival of the officers disrupted the SWP’s activities. AOR731,  
2 733.

3       Regarding threats, harassment, and reprisals by non-government actors, the SWP submits  
4 evidence of incidents that raise legitimate concern by those associated with the SWP. For  
5 example, the SWP presents evidence that at least two people were afraid that associating with the  
6 SWP would impact their employment. AOR768, 771. The SWP also documents two physical  
7 incidents: The theft from an SWP city council candidate’s home of a smartphone containing  
8 political contacts and call records, *see* AOR570, and the breaking of the front window of the  
9 SWP’s campaign headquarters in Los Angeles. *See* AOR586. In both cases, police reports were  
10 filed but law enforcement officials did not arrest anyone for these acts. *See* AOR570, 586, 589.

11       The evidence presented does not need to demonstrate to a certainty that harassment  
12 would inexorably follow a revocation of the partial reporting exemption. There need be only “a  
13 reasonable probability that compelled disclosure” would result in “threats, harassment, or  
14 reprisals from either Government officials or private parties.” *Buckley*, 424 U.S. at 74. Based on  
15 consideration of the evidence from 2012 through 2016, the Commission concludes that there is a  
16 reasonable probability that SWP contributors and vendors doing business with the SWP and  
17 committees supporting SWP candidates would face threats, harassment, or reprisals if their  
18 names and identifying information were disclosed.

19       *C. Balancing the Public Interest in Disclosure Against the Probability of Threats,*  
20       *Harassment, and Reprisals*

21       The SWP has been subject to serious and widespread threats, harassment, and reprisals  
22 from both government and private parties. As discussed above, the Commission must weigh

1 against such threats of violence or harassment the governmental interest in obtaining identifying  
2 information of contributors and recipients of expenditures. See *Brown*, 459 U.S. at 92;  
3 *ProtectMarriage.com*, 830 F. Supp. 2d at 930.

4 The SWP and committees supporting its candidates receive very small amounts of  
5 contributions and very low vote totals in partisan elections relative to other political parties. This  
6 suggests that the activities of the SWP, its candidates, and committees supporting its candidates  
7 have little, if any, impact on federal elections. The governmental interest in disclosure of donors  
8 to a political party raising in total an average of approximately \$21,000 per year during the most  
9 recent Presidential election cycle is reduced substantially compared to more successful parties.  
10 *Hall-Tyner*, 678 F.2d at 421. Moreover, such a minor party rarely has “a firm financial  
11 foundation,” meaning that a “decrease in contributions may threaten [its] very existence.” *Id.* at  
12 420. That appears to be the case for the SWP.

13 The disclosure provisions of the Act aim to deter corruption and the appearance of  
14 corruption, but “the governmental interest in disclosure is diminished when the contribution in  
15 question is made to a minor party with little chance of winning an election,” or where  
16 “contributions to a minor party . . . are concerned, for it is less likely that the candidate will be  
17 victorious.” *Buckley*, 424 U.S. at 67, 70. Not only does the SWP have “little chance of winning  
18 an election” given that none of its candidates have ever won an election, there is also no evidence  
19 that the SWP has been or could be used as a vehicle for diversion.

#### 20 *D. Conclusion*

21 The governmental interest in obtaining the names, addresses, and other identifying  
22 information of SWP contributors and vendors doing business with the SWP committees in

1 connection with federal elections remains very low and continues to be outweighed by the  
2 reasonable probability of threats, harassment, or reprisals resulting from such disclosure, as  
3 demonstrated by the credible evidence submitted by the SWP in its request and Comment. The  
4 Commission thus grants the SWP committees a further continuation of the partial reporting  
5 exemption provided for in the consent agreements and renewed in previous advisory opinions.  
6 As required in previous advisory opinions, each of the SWP committees must assign a code  
7 number to each individual or entity from whom or which it receives one or more contributions  
8 aggregating in excess of \$200 in a calendar year or applicable election cycle (depending upon the  
9 type of political committee).<sup>14</sup> *See, e.g.*, Advisory Opinion 2009-01 (SWP); Advisory Opinion  
10 2012-38 (SWP).

11 The partial reporting exemption will apply to the following sections of the Act: 52  
12 U.S.C. § 30104(b)(3) (receipts of a political committee); § 30104(b)(5) and (6) (expenditures and  
13 disbursements by a political committee); § 30104(e) (reporting by political committees);  
14 § 30104(f) (electioneering communication disclosure); and § 30104(g) (independent expenditure  
15 reporting).<sup>15</sup> Please note that the SWP and the committees supporting SWP candidates must still

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<sup>14</sup> Each political committee entitled to the exemption must assign a code number to each individual or entity from whom it receives one or more contributions aggregating in excess of \$200 in a calendar year (if an unauthorized committee) or in excess of \$200 during the election cycle (if an authorized committee). That code number must be included in FEC reports filed by each committee in the same manner that full contributor identification would otherwise be disclosed. Consistent with the requirement that the committees comply with the recordkeeping provisions of the Act, the committee's records must correlate each code number with the name and other identifying data of the contributor who is represented by that code.

<sup>15</sup> If an SWP committee does not qualify as a political committee and makes an electioneering communication that must be reported under 52 U.S.C. § 30104(f), it must disclose the name of the broadcasting station even though it would be exempt from disclosing names and addresses of donors and all other vendors. Additionally, the SWP's request concerns the granting of the partial exemption to both SWP party and candidate committees. The partial exemption does not extend to individual SWP supporters who, as individuals, engage in activity that might require them to file reports of their own, for example, the filing of reports of electioneering communications under 52

1 comply with all other reporting obligations such as electronic filing and reporting their  
2 independent expenditures while omitting the names and identifications of contributors, donors,  
3 and vendors.

4 In sum, based on the record presented, the Commission grants this partial reporting  
5 exemption to reports covering the next four years, *i.e.*, through December 31, 2020. At least 60  
6 days prior to December 31, 2020, the SWP may submit a new advisory opinion request seeking a  
7 renewal of the exemption. If a request is submitted, the Commission will consider the factual  
8 information then presented as to harassment after December 31, 2016, or the lack thereof, in  
9 making a decision regarding renewal.

10 The Commission emphasizes that the SWP committees must comply with all of the  
11 remaining requirements of the Act and Commission regulations. These committees must file  
12 reports containing the information required by 52 U.S.C. § 30104(b) with the exception of the  
13 information specifically exempted, and they must keep and maintain records as required under  
14 52 U.S.C. § 30102 with sufficient accuracy so as to be able to provide information, otherwise  
15 exempt from disclosure, in connection with a Commission investigation. In addition to  
16 complying with the requirements of the consent decrees, the SWP committees must file all  
17 reports required under 52 U.S.C. § 30104(a) in a timely manner. The SWP committees must also  
18 comply with the provisions of the Act governing the organization and registration of political  
19 committees. *See, e.g.*, 52 U.S.C. §§ 30102-03. Finally, the SWP committees must comply with  
20 the Act's contribution limitations, prohibitions, and disclaimer provisions. 52 U.S.C. §§ 30116-  
21 30123, 30125.

