



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 2, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2010-13

Mr. James Tall, Treasurer
Libertarian Party of Florida
P.O. Box 3012
Winter Park, FL 32790

Dear Mr. Tall:

We are responding to your inquiry regarding the status of the Libertarian Party of Florida (the "LPF") as a State 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 LPF qualifies as a State committee of a political party because: (1) the Libertarian Party qualifies as a political party; (2) the LPF is part of the official Libertarian Party structure; and (3) the LPF is responsible for the day-to-day operations of the Libertarian Party at the State level.

Background

The facts presented in this advisory opinion are based on your letter received on June 18, 2010, your email received on July 1, 2010, and publicly available information on the websites of the Commission and the Florida Division of Elections.

The LPF's Constitution, By-Laws, and Standing Rules detail various aspects of the function, organization, and operation of the LPF.¹ The LPF Constitution provides that the LPF's "object and purpose . . . is to engage in political action in the State of Florida, to serve as an affiliate organization of the Libertarian Party in national politics, and to serve as a nucleus for designated county affiliate organizations in matters of state-wide political action." LPF Constitution, art. I, sec. 2. The purposes of the LPF include "[s]upporting candidates for national office, nominating and supporting candidates for state and congressional district offices"; "[p]romoting, chartering and coordinating county affiliate parties within the State of Florida"; and "[e]ntering into political

¹ These documents are included in the advisory opinion request, which is available at <http://saos.nictusa.com/saos/searchao>.

information activities, including the promoting and securing of party members.” *Id.* at art. I, sec. 3.

The “affairs, properties, and funds” of the LPF are controlled and managed by the Executive Committee, which consists of the Officers (a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer), three Directors-at-Large, and one Regional Representative from each of the regions designated by the By-Laws. *Id.* at art. III, secs. 1–2. Members of the Executive Committee are elected by the delegates at the LPF’s Annual Business Meeting, as are delegates to the National Convention of the Libertarian Party. LPF By-Laws, art. III, sec. 1, and art. IV, sec. 5. The LPF has five Standing Committees, each tasked with various duties. LPF Constitution, art. III, secs. 3–8. The Electoral Victory Committee, for example, is responsible for nominating and endorsing candidates for political office. *Id.* at art. III, sec. 7; LPF Standing Rules, art. XIII.

A memorandum from Robert S. Kraus, Director of Operations of the Libertarian National Committee, confirms the status of the LPF as the Libertarian National Committee’s sole affiliate for the State of Florida.

The LPF placed a candidate for the United States Senate, Alex Snitker, on the 2010 general election ballot in Florida. Mr. Snitker is identified on the general election ballot in Florida as a candidate of the Libertarian Party.²

Question Presented

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

Legal Analysis and Conclusion

Yes, the LPF 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 by-laws 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. 2 U.S.C. 431(15); 11 CFR 100.14(a). 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); *see also* 11 CFR 100.15.

² The political party identification for Mr. Snitker appears on the Florida Division of Elections website at <http://election.dos.State.fl.us/candidate/CanList.asp> (last visited July 22, 2010). Although the 2008 general election ballot in Florida identified former Representative Bob Barr as a presidential candidate of the Libertarian Party, *see id.*, the LPF’s advisory opinion request relies solely on Mr. Snitker’s placement on the 2010 general election ballot as a candidate for the U.S. Senate.

The determination of whether a State party organization qualifies as a State committee of a political party turns on three elements: (1) the national party of which the State party organization is a part 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 responsible for the day-to-day operations of the national party at the State level. *See, e.g.*, Advisory Opinions 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and 2007-06 (Libertarian Party of Indiana). The Commission addresses each of these three elements in turn.

(1) Qualification of the Libertarian Party as a Political Party

First, the Commission must assess whether the national party qualifies as a “political party” under the Act and Commission regulations. 2 U.S.C. 431(15) and (16); 11 CFR 100.14 and 100.15; *see* Advisory Opinions 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and 2007-06 (Libertarian Party of Indiana). Since 1975, the Commission has recognized the Libertarian Party as a political party and the Libertarian National Committee as the national committee of the Libertarian Party. *See* Advisory Opinion 1975-129 (National Committee of the Libertarian Party); *see also* Advisory Opinions 2009-16 (Libertarian Party of Ohio) and 2008-16 (Libertarian Party of Colorado). The Commission is aware of no factual changes that would alter those conclusions.

(2) Status of LPF as Part of the Official Libertarian Party Structure

Second, the requesting organization must qualify as part of the official structure of the national party. 2 U.S.C. 431(15); 11 CFR 100.14(a). In previous advisory opinions, the Commission has considered supporting documentation indicating that the State party organization was part of the official party structure. *See, e.g.*, Advisory Opinions 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and 2007-06 (Libertarian Party of Indiana). Here, the memorandum from Robert S. Kraus, Director of Operations of the Libertarian National Committee, suffices to establish that the LPF is part of the Libertarian Party’s official party structure.

(3) Responsibility of the LPF for the Day-to-Day Operations of the Libertarian Party

Third, the requesting organization must maintain responsibility for the day-to-day operations of the national party at the State level. 2 U.S.C. 431(15); 11 CFR 100.14(a). In previous advisory opinions, the Commission has evaluated this third element by considering: (a) whether the requesting organization has placed a “candidate” on the ballot (thereby qualifying as a “political party”); and (b) whether the by-laws or other governing documents of the requesting organization indicate activity commensurate with the day-to-day functions and operations of a political party at the State level.³ *See, e.g.*,

³ Where appropriate, the Commission may also consider the operation of State law in making these determinations. *See* 11 CFR 100.14(a).

Advisory Opinions 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and 2007-06 (Libertarian Party of Indiana).

Ballot placement on behalf of a “candidate” by the State party organization 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 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and advisory opinions cited therein.

The LPF has placed Alex Snitker on the 2010 Florida ballot as the Libertarian Party’s candidate for U.S. Senate. Disclosure reports filed with the Commission confirm that Mr. Snitker’s principal campaign committee received contributions or made expenditures in excess of \$5,000⁴ and, therefore, Mr. Snitker satisfies the Act’s definition of a “candidate.” *See* 2 U.S.C. 431(2); 11 CFR 100.3(a). Accordingly, the LPF qualifies as a “political party” under the Act.

The LPF Constitution, By-Laws, and Standing Rules detail the organizational structure of the LPF and establish specific responsibilities for the LPF’s officers and committees. *See* LPF Constitution, art. I, secs. 2–3, and art. III, secs. 1–8; LPF By-Laws, art. III, sec. 1, and art. IV; LPF Standing Rules, art. I, and art. XIII. For example, they provide that the LPF is an affiliate of the Libertarian Party at the State level and is responsible for developing county affiliate parties within the State of Florida; holding conventions and meetings; and supervising efforts to provide party registration under State and Federal voting laws. LPF Constitution, art. I, secs. 2–3; LPF By-Laws, art. IV; LPF Standing Rules, art. I. The governing documents also provide that delegates at the LPF’s Annual Business Meeting elect the members of the Executive Committee, which controls and manages the “affairs, properties, and funds” of the LPF. LPF Constitution, art. III, sec. 2; LPF By-Laws, art. III, sec. 1.

Taken together, the LPF’s governing documents 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. *See, e.g.,* Advisory Opinions 2009-16 (Libertarian Party of Ohio), 2008-16 (Libertarian Party of Colorado), and 2007-06 (Libertarian Party of Indiana). Therefore, the LPF Constitution, By-Laws, and Standing Rules satisfy the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14(a).

Because all three elements of the definition of “State committee” are satisfied, the Commission determines that the LPF qualifies as a State committee of a political party under the Act and Commission regulations.

⁴ Disclosure reports showing contributions to Mr. Snitker appear on the Commission’s website at http://query.nictusa.com/cgi-bin/can_detail/S0FL00395/ (last visited July 22, 2010).

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. 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* 2 U.S.C. 437f(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. All cited advisory opinions are available on the Commission's website at <http://saos.nictusa.com/saos/searchao>.

On behalf of the Commission,

(signed)
Matthew S. Petersen
Chairman