



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2001-13

Thomas Alan Linzey, Special Counsel  
Green Party of the United States  
2859 Scotland Road  
Chambersburg, Pennsylvania

David Cobb, Senior Counsel  
Green Party of the United States  
818 West 31<sup>st</sup> Street  
Houston, Texas 77018

Dear Mr. Linzey and Mr. Cobb:

This refers to your letter dated August 9, 2001, and later supplements, requesting an advisory opinion regarding whether the coordinating committee of the Green Party of the United States (the "National Green Party" or "Party") is a "national committee" of a political party for purposes of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations.<sup>1</sup>

***FACTUAL BACKGROUND***

You state that the Green Party of the United States is the natural outgrowth of the Association of State Green parties (the "ASGP"). You explain that the ASGP, formed shortly after the 1996 Presidential campaign, was intended to be the vehicle through which State Green parties in the United States would form a national Green Party. At the end of July 2001, the ASGP voted to formally become the Green Party of the United

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<sup>1</sup> According to the Party Bylaws, included with your request, the coordinating committee of the National Green Party is "the final decision making body of the Green Party." Party Bylaws, Article II, section 2. It is composed of representatives from the State parties and caucuses of under-represented groups. *Id.*

States and to seek recognition of the Party's Coordinating Committee as its National Committee.<sup>2</sup>

In 2000, the ASGP mounted a Presidential campaign in the United States with Ralph Nader as its Presidential candidate and Winona LaDuke as the ASGP's candidate for Vice-President.<sup>3</sup> You state that these candidates appeared on the ballots of 46 States and garnered close to 3% of the overall national vote. During 2000, various State Green parties affiliated with the ASGP also obtained ballot access for candidates for other Federal, State and local offices. Following the ASGP's 2000 Presidential nominating convention and the 2000 general election, the ASGP established temporary offices in Washington, D.C. and Boulder, Colorado.

Besides the involvement of the National Green Party in electoral contests, you cite various other elements of party building activity to support a claim to national committee status. Among these elements are: significant voter registration and get-out-the-vote activities,<sup>4</sup> the dissemination of Party information through print publications and electronic resources.<sup>5</sup>

The term "national committee" is defined by the Act as "the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission." 2 U.S.C. §431(14). See also 11 CFR 100.13. The term "political party" is defined by the Act "as 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).

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<sup>2</sup> There are two national organizations within the Green political movement, the Association of State Green Parties (now known as the Green Party of the United States) and the Greens/Green Party USA. In Advisory Opinion 1996-35, the Commission determined that Greens/Green Party USA did not qualify as the national committee of a political party, in part, because Mr. Nader, its 1996 Presidential candidate, did not qualify as a candidate under the Act and Commission regulations. Following the 1996 election and the failure of Greens/Green Party USA to qualify as a national committee of a political party, eleven State party organizations met at Middleburg, Virginia to create the Association of State Green Parties. The ASGP eventually grew to have 33 State party affiliate members before the filing of this request.

<sup>3</sup> On June 24 and 25, 2000, the ASGP hosted a national nominating convention at Denver, Colorado, to nominate the Party's Presidential and Vice-Presidential candidates. See Advisory Opinion 2000-18.

<sup>4</sup> As an example, you cite the efforts in Colorado, California, Nevada, and New Mexico where, from 1996 to 2000, the party's voter registration greatly increased party membership in these States from the 1996 membership numbers. The increase in membership numbers was, for example, 45% in California and 15,577% in Nevada.

<sup>5</sup> You state that the Party manages an Internet website ([www.greenpartyus.org](http://www.greenpartyus.org)) that contains, among other information, news releases and an online version of *Green Pages* (the official publication of the Green Party of the United States). In a phone conversation with Commission staff, Mr. Linzey, co-counsel for the requester, explained that while the National Green Party plans to establish a Federal committee, it will wait until the Commission acts on the current advisory opinion request before doing so. Several affiliated State parties maintain political committees that have registered and reported with the Commission.

Therefore, to determine whether the Green Party of the United States is eligible for national committee status, the Commission must first determine whether the Party qualifies as a "political party" under the Act. As indicated above, to qualify as a political party, the party organization must obtain ballot access for its Federal candidates, as defined in the Act. The Commission notes that in the 2000 elections, Mr. Nader and Ms. LaDuke achieved ballot access and qualified as candidates under the Act. See Advisory Opinions 2001-6 and 2000-18. In addition, from 1998 to 2001, 16 other Party candidates for Federal office also achieved ballot access and filed reports indicating that each of their campaigns received or expended in excess of \$5,000. Accordingly, each of them qualified as a candidate under 2 U.S.C. §431(2). On this basis, the Commission concludes that the Green Party of the United States would be a political party for purposes of the Act. See Advisory Opinions 1998-2, 1996-35, 1995-16, 1992-44 and 1992-30.

The Commission has applied a number of criteria to determine whether a political party or its committees have demonstrated sufficient activity on a national level to attain national committee status. A party committee demonstrates that it operates at the national level by the nomination of candidates for various Federal offices in numerous States; by engaging in certain activities on an ongoing basis (rather than with respect to a particular election) such as supporting voter registration and get-out-the-vote drives; and by publicizing issues of importance to the party and its adherents throughout the nation. Other indicia include the holding of a national convention, the establishment of a national office and the establishment of State affiliates. See Advisory Opinions 1998-2, 1996-35, 1995-16, 1992-44, and 1992-30.<sup>6</sup>

An examination of the submitted documents and information indicates that while some of the Party's projects are still in the planning stage or, although planned, have yet to occur, the Party has already undertaken significant party building activity of a national scope. The various party registration and get-out-the-vote-activities, the holding of a national convention in 2000, as well as efforts to publicize the Party's positions, indicate that the Green Party of the United States is engaging in activity comparable to other national party committees. See Advisory Opinions 1998-2, 1995-16 and 1992-30.

However, the most important element in determining whether a party committee operates at the national level is the degree to which its successful ballot access efforts extend beyond the Presidential and Vice-Presidential level to other Federal races as well. See Advisory Opinions 1998-2, 1996-35, 1995-16, 1992-44 and 1992-30. Commission records and other information from public sources, indicate that from 1998 to 2001, 16

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<sup>6</sup> In previous advisory opinions, the Commission concluded that a committee or political party did not qualify for national committee status if its activity was focused solely on the Presidential and Vice-Presidential election (Advisory Opinions 1980-131 and 1978-58), or if it was limited to one State (Advisory Opinion 1976-95), or if it had only very few Federal candidates on State ballots (Advisory Opinions 1992-44 and 1988-45), or if its Presidential candidate or other candidates did not qualify as candidates as defined in the Act and Commission regulations (Advisory Opinions 1997-29 and 1996-35).

individuals in 8 States, in several different sections of the nation, qualified as candidates under the Act and achieved ballot access, as Green Party Congressional candidates.<sup>7</sup> These results compare favorably with other recent national committee situations.<sup>8</sup> Considering these factors together, the Commission concludes that through the functions of its coordinating committee, the Green Party of the United States has manifested sufficient activity to qualify as the national committee of a political party for purposes of the Act and Commission regulations.

This determination of national committee status is applicable with regard to the contribution limitations of 2 U.S.C. §441a and the national party expenditures of 2 U.S.C. §441a(d). Since no specific transaction or activity relating to Chapters 95 or 96 of the Internal Revenue Code of 1954 is presented, this opinion does not reach any issues as to the future eligibility of the Presidential candidates of the Green Party to receive Federal matching funds under 26 U.S.C. §§9031-9042 for use in the primary elections, or as to any future entitlement to general election funding under 26 U.S.C. §§9001-9012. Similarly, this opinion does not reach the issue of any future entitlement of the Green Party of the United States to receive convention financing under 26 U.S.C. §9008.<sup>9</sup> Those issues would be addressed in the event that the national committee and its Presidential candidates apply for Federal funding pursuant to the procedures in the Commission regulations. 11 CFR Parts 9003, 9008 and 9033.

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<sup>7</sup> The eight States are Colorado, California, Pennsylvania, Michigan, New Jersey, Nevada, New Mexico, and New York. Affidavits of support have been provided by all these candidates as well as copies of affiliation agreements with the local State parties and the ASGP. Your request indicates that an additional two candidates, in two additional States, achieved ballot access. However, while these did qualify as candidates under 2 U.S.C. §431(2), they did so under State parties that were not formally affiliated with the Association of State Green Parties at the time they were candidates (or thereafter). Your request also includes affidavits of support from 13 other Federal candidates, but these individuals did not qualify as candidates under 2 U.S.C. §431(2).

The Commission notes that while most of the candidates (12 of the 16) and the representative States (6 of the 8) are from 2000, the Green Party has included candidates from 1998 and 2001. In several past advisory opinions concerning recognition of State committee status, the Commission has permitted a political party to use candidates from recent past election years to qualify for that status. See Advisory Opinions 1999-26, 1998-27 and 1998-23. The Commission finds it is likewise appropriate to do so for political party parties seeking national committee status, especially where, as is the situation of the Green Party of the United States, there is an active organization whose history spans several different election cycles.

<sup>8</sup> For example, the Commission granted national committee status to the Reform Party in Advisory Opinion 1998-2, where the Party had also achieved ballot access for 16 Congressional candidates in 8 States. In Advisory Opinion 1995-16, the Commission granted national committee status to the United States Taxpayers Party, which had achieved ballot status for 14 candidates in 6 States. The 1995 opinion was prior to Advisory Opinion 1996-35, which added the additional requirement that such candidates must also qualify as candidates under the Act.

<sup>9</sup> For example, while under 26 U.S.C. §9008(b) the existence of a national committee of a political party is one requirement in eligibility for convention funding, there are other requirements as well. See 26 U.S.C. §§9008(b)(2) and 9002(7).

This response constitutes an advisory opinion concerning the application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Sincerely,

(signed)

Danny L. McDonald  
Chairman

Enclosures (AOs 2001-6, 2000-18, 1999-26, 1998-27, 1998-23, 1998-2, 1997-29,  
1996- 35, 1995-16, 1992-44, 1992-30, 1988-45, 1980-131, 1978-58,  
and 1976-95)