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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 17-04-A
AGENDA ITEM
For meeting of January 25, 2017

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson ^{LJS by AN}
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Subject: AO 2016-26 (Green Party of Florida) Draft A

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 9:00 am (Eastern Time) on January 24, 2016.

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 2016-26

2

3 Harry Patterson

4 Green Party of Florida

5 P.O. Box 73

6 High Springs, FL 32655

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9 Dear Mr. Patterson:

DRAFT A

10 We are responding to your advisory opinion request on behalf of the Green Party of
11 Florida (the “Committee”) regarding its status as the state committee of a political party under
12 the Federal Election Campaign Act, 52 U.S.C. §§ 30101-30146 (“the Act”), and Commission
13 regulations. The Commission concludes that the Committee qualifies as the state committee of a
14 national political party.

15 ***Background***

16 The facts presented in this advisory opinion are based on your advisory opinion request
17 (“AOR”) composed of letters received on December 12 and December 23, 2016, an email of
18 December 21, 2016, and public filings with the Commission.

19 In 2001, the Commission determined that the Green Party of the United States (“GPUS”)
20 was a national political party. Advisory Opinion 2001-13 (Green Party of the United States).
21 The GPUS’s Secretary has confirmed by letter that the Committee “is an affiliated party of the
22 Green Party of the United States” and “send[s] three delegates to the GPUS National
23 Committee.” AOR048.

24 The Committee has certified to the Florida Bureau of Election Records that the
25 Committee nominated Jill Stein as the Green Party’s candidate for President, AOR019, and the
26 Florida Department of State included Jill Stein in its list of candidates for the 2016 general

1 election. AOR049-050. Ms. Stein received contributions and made expenditures in excess of
2 \$5,000 according to disclosure reports filed with the Commission.¹

3 According to its constitution, the Committee’s purpose includes: “foster[ing] the creation
4 and development of a Green Party in each county in Florida and to support those existing”;
5 “facilitat[ing] communications and learning about electoral politics and office-holding among all
6 the Green Parties in the State of Florida”; and “promot[ing] Green values within the existing
7 political process.” AOR003. The Committee “certif[ies] party nominations . . . [and] candidates
8 for presidential elections,” “facilitat[es] electoral politics, campaigns and office holding,” and
9 engages in various other political activities to promote its values. AOR010, AOR012, AOR023.

10 The constitution and bylaws set forth the organization and duties of various aspects of the
11 Committee. For example, a State Board of Trustees, elected at an annual general membership
12 meeting, “assist[s] and help[s] guide the Party in strategic planning, party building, leading state-
13 wide initiatives, and other such projects as are necessary or directed.” AOR037. The members
14 of the Board of Trustees also serve as members of a State Executive Committee, which is
15 authorized to amend bylaws, oversee the conduct of campaigns for party nominees, and oversee
16 the raising and spending of party funds. AOR040-041. The constitution and bylaws also set
17 forth the timing and operating procedures of various Committee meetings, including an annual
18 membership meeting. AOR012-013, AOR024-025.

¹ See, e.g., Jill Stein for President, FEC Report 3P at 2 (Dec. 8, 2016),
<http://docquery.fec.gov/pdf/225/201612099040595225/201612099040595225.pdf> (showing net election cycle contributions).

1 ***Question Presented***

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

4 ***Legal Analysis and Conclusion***

5 Yes, the Committee qualifies as a state committee of a political party under the Act and
6 Commission regulations.

7 A “state committee” is an organization that, “by virtue of the bylaws of a political party
8 . . . is part of the official party structure and is responsible for the day-to-day operation of the
9 political party at the State level, . . . as determined by the Commission.” 11 C.F.R. § 100.14(a);
10 52 U.S.C. § 30101(15). A “political party” is an “association, committee, or organization that
11 nominates a candidate for election to any federal office whose name appears on the election
12 ballot as the candidate of such association, committee, or organization.” 52 U.S.C. § 30101(16);
13 11 C.F.R. § 100.15. An individual is a candidate if the individual or his or her authorized
14 committee has received contributions aggregating in excess of \$5,000 or made expenditures
15 aggregating in excess of \$5,000. *See* 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a)(1).

16 To qualify as a state committee of a national political party, a state party organization
17 must (1) be affiliated with a national party organization that itself is a “political party” under the
18 Act; (2) be part of the official structure of the national party; and (3) be responsible for the day-
19 to-day operation of the national party at the state level. *See, e.g.*, Advisory Opinion 2016-18
20 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory
21 Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia).

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

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

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

6 To determine whether a state party organization is part of the official structure of a
7 national party, the Commission evaluates documentation from the national party. *See, e.g.*,
8 Advisory Opinion 2016-18 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State
9 Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39
10 (Green Party of Virginia). The letter from the Secretary of the GPUS confirms that the
11 Committee is part of the official party structure of the GPUS. AOR048.

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

14 The Commission has long explained that a state party organization is deemed responsible
15 for the day-to-day operations of a national party at the state level if (a) the state party
16 organization has placed a federal candidate on the ballot (thereby itself qualifying as a “political
17 party” under the Act); and (b) the state party organization’s bylaws or other governing
18 documents indicate activity commensurate with the day-to-day functions and operations of a
19 political party at the state level. *See, e.g.*, Advisory Opinion 2016-18 (Ohio Green Party);
20 Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2012-39
21 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

1 (a) *Candidate on the Ballot*

2 The Committee nominated Jill Stein for President and she appeared on Florida’s general
3 election ballot as the Committee’s candidate. AOR019, AOR049-050. Because Ms. Stein
4 disclosed receiving or spending more than \$5,000 in contributions or expenditures, she was a
5 “candidate” under the Act. *See* 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a). The Committee
6 thus placed a federal candidate on the ballot and thereby qualified as a political party under the
7 Act and Commission regulations.

8 (b) *Day-to-Day Functions and Operations*

9 Pursuant to its constitution and bylaws, the Committee endorses and nominates
10 candidates for state and federal offices (AOR043-044), elects delegates to the Green Party’s
11 national convention (AOR012), and organizes an annual membership meeting at which delegates
12 to the GPUS are elected and other party business is conducted (AOR024-025, AOR035). These
13 governing documents also establish the Committee’s organizational structure and empower its
14 executive organs — the Board of Trustees and the State Executive Committee — to manage the
15 Committee’s day-to-day affairs. AOR011-012, AOR029-041. Accordingly, the governing
16 documents demonstrate the Committee’s responsibility for the day-to-day functions and
17 operations of the GPUS at the state level, similar to other state party rules that the Commission
18 has found sufficient to qualify an organization for state committee status. *See, e.g.*, Advisory
19 Opinion 2016-18 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State
20 Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39
21 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

22 In sum, the Commission determines that the Committee qualifies as the state committee
23 of a national party committee under the Act and Commission regulations because: (1) the GPUS

1 is a political party; (2) the Committee is part of GPUS's official party structure; and (3) the
2 Committee is responsible for the day-to-day operation of the GPUS at the state level.

3 This response constitutes an advisory opinion concerning the application of the Act and
4 Commission regulations to the specific transaction or activity set forth in your request. *See* 52
5 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or
6 assumptions presented, and such facts or assumptions are material to a conclusion presented in
7 this advisory opinion, then the requestor may not rely on that conclusion as support for its
8 proposed activity. Please note that the analysis or conclusions in this advisory opinion may be
9 affected by subsequent developments in the law including, but not limited to, statutes,
10 regulations, advisory opinions, and case law. Any advisory opinions cited herein are available
11 on the Commission's website.

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On behalf of the Commission,

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Steven T. Walther
Chairman

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