

From the Desk Of:

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September 11, 2001

Michael Marinelli, Esq.
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463

RE: Green Party of the United States Advisory Opinion Request (AOR), AOR 2001-13
Reply to Letter of Mr. Les Evenchick, dated August 27, 2001

Dear Mr. Marinelli,

The Green Party of the United States (GP-US) is filing this Reply to the Letter submitted by Les Evenchick which challenges the Advisory Opinion Request submitted by the Green Party of the United States. We have taken this opportunity to correct several false and misleading statements made by Mr. Evenchick in his communication of August 27, 2001.

At the outset, we would note that Mr. Evenchick has submitted his letter as an individual, not as a representative of any organization. In addition, Mr. Evenchick has failed to include any documentary evidence or affidavits to support his allegations. Several of the more serious misstatements have been selected as the focus of this Reply, and individual replies to each of his primary allegations follow:

1. Mr. Evenchick declares that the "Green Party of the United States (GP-US) was created this past July 2001 at the Coordinating Committee meeting of the Association of State Green Parties (ASGP)." *See* Evenchick Letter at 1, para. 2. This is simply untrue. As the Advisory Opinion Request recounts in detail, the State Green Parties which were formally affiliated members of the Association of State Green Parties (ASGP) simply voted to change the name of the organization to the "Green Party of the United States" at their July, 2001 gathering in Santa Barbara, California.

The change of name was embodied in the "Boston Agreement" which was approved by representatives from the ASGP and the "Greens/Green Party USA". That Agreement was the result of negotiations between the two organizations and outlined a process by which the ASGP would change its name to the "Green Party of the United States" while the GPUSA would become a non-electoral organization focused on building a green "movement" of individual Greens across the United States.

Following the unanimous approval of the "Boston Agreement" by negotiators from both organizations, the ASGP Coordinating Committee promptly moved to approve the Agreement and then proceeded to implement the provisions of the Agreement. As part of that implementation, the ASGP formally voted to change its name to the Green Party of the United States. The individual members of the GPUSA eventually held a vote on the Agreement, but the vote - while obtaining a majority vote of approval of its members - failed to obtain the two-thirds approval necessary under that organization's bylaws.

Thus, Mr. Evenchick's assertion that the Green Party of the United States was "created" in July is simply incorrect. The Association of State Green Parties (ASGP) was formally launched in November of 1996 in Middleburg, Virginia, and has since acquired the formal affiliation of thirty-three (33) State Green Parties. As the final part of its evolution, the ASGP has now become the "Green Party of the United States" and is seeking recognition of its status as the National Committee of the Green Party.

2. Mr. Evenchick declares that the "ASGP was created by a group of former GPUSA members and others after the 1996 elections." See Evenchick Letter at 1, para 3. That statement is simply incorrect. The Middleburg, Virginia meeting at which the ASGP was founded following the November, 1996 elections was hosted by the Green Party of Connecticut and the Green Party of Maine - two state parties with no prior connections to the GPUSA. See Attachment One to this Reply.

In fact, the birth of the ASGP was caused by the frustration of State Green Parties with GPUSA's unwillingness to establish an organization that recognized the existence of electorally oriented State Parties. Up until that point, the GPUSA did not recognize, and did not enable affiliation, of State Green Parties. Because of that, many of the State Party organizations - which formed the core of the Nader/LaDuke presidential effort in 1996 - were so frustrated with the GPUSA organization that the ASGP was launched to lay the framework for the organization that would eventually seek recognition as the National Committee of the Green Party in the United States.

3. Mr. Evenchick intimates that "GPUSA representative Howie Hawkins" is opposed to the Green Party of the United States' filing for National Committee status. See Evenchick Letter at 1, para. 4. That statement is simply incorrect. As Mr. Evenchick acknowledges later in his Letter, Howie Hawkins has actually filed an affidavit supporting the Green Party of the United States' AOR. See Attachment Seventeen to the AOR, Affidavit of Howie Hawkins.

4. Mr. Evenchick suggests that "no single national organization" of the Green Party exists which incorporates a majority of Green Party members. See Evenchick Letter at 2, para.4. That statement is simply incorrect. Currently, thirty-three (33) State Green Parties have affiliated with the Green Party of the United States. By most estimates, only thirty-six formally structured State Party organizations exist in the United States, and thus, the Green Party of the United States is the only Green Party organization which encompasses almost all of the State Parties which have formed. Several of the remaining unaffiliated State Green Parties are currently seeking accreditation with the Green Party of the United States.

Since its inception, ASGP Legal Advisors have assisted State Green Parties with ballot access issues, tax issues, FEC compliance issues, and the creation of Bylaws and Rules which comply with State Election Code requirements. Green Party of the United States' Legal Advisors continue to offer this assistance to newly forming State Green Parties. In fact, Senior Legal Advisor David Cobb, Esq. recently traveled to Jackson, Mississippi to deliver the keynote address to the Founding Convention of the Green Party of Mississippi, held from September 8 to September 9, 2001. It is anticipated that this new State Party will be initiating the process to request affiliation with the Green Party of the United States in the very near future.

The ASGP, and the resulting Green Party of the United States, has also been recognized as the official Green Party in the United States by the European Federation of Green Parties. Following that international recognition, the ASGP was awarded voting delegates to the first ever Global Greens Conference held in Australia April 14-16, 2001. During its entire history, the GPUSA organization was never recognized by any country's Green Party as the Green Party in the United States.

5. Mr. Evenchick suggests that the Green Party of Alaska's failure to affiliate with the Green Party of the United States translates into that State Party's opposition to the Advisory Opinion Request. *See* Evenchick Letter at 2, para. 6. It does not. The Green Party of Alaska sent a delegate to the Santa Barbara, CA meeting of the Green Party of the United States and the Green Party of Alaska has expressed support of this AOR. The Green Party of the United States has also requested that the Green Party of Alaska send a letter of support to the FEC concerning this AOR.

6. Mr. Evenchick states that "8 or 9 states are dually affiliated with both GPUSA and ASGP thereby demonstrating that 2 separate national green party organizations exist." *See* Evenchick Letter at 2, para. 7. While it is true that nine State Parties are currently dually affiliated with both organizations, it is also true that no State Party is solely affiliated with the GPUSA. It is also true that most of the State Party affiliates of the GPUSA are in the process of disaffiliating - or considering disaffiliation - at gatherings to be held over the next several months.

As a result of the GPUSA's failure to follow through with the terms of the Boston Agreement and as a result of disagreements with the operating nature of the organization over the past several years, many State Parties have formally disaffiliated from the GPUSA. Those include the Green Party of Pennsylvania, the Green Party of Georgia, the Green Party of Colorado, the Green Party of Michigan, and the Green Party of Florida.

Of the nine State Parties currently dually affiliated, most are currently considering disaffiliation from that organization. Those with pending proposals for disaffiliation are: the Green Party of Wisconsin, the Green Party of New Jersey, the Green Party of Massachusetts, and the Green Party of Virginia.

State Parties currently considering disaffiliation from the GPUSA include the Green Party of Illinois, the Green Party of Maryland, and the Green Party of Minnesota.

Following the actions of those State Parties to disaffiliate from the GPUSA organization, only three State Party organizations will continue to be affiliated with the organization. Those will include the Green Party of Missouri (which includes only one local organization - the Gateway Greens in St. Louis), the Green Party of North Carolina (which, in the opinion of the Green Party of the United States, is not yet a formally structured State Party), and the Green Party of New York State.

It should be noted that regardless of formal affiliation status, several of the State Green Parties currently affiliated with the GPUSA have communicated with the FEC that they support the Green Party of the United States' AOR. The Green Party of Massachusetts has already sent a letter of support directly to the FEC, and other State Parties are expected to follow.

7. Mr. Evenchick claims that the Green Party of the United States is "less entitled" to the "Green Party" name than the GPUSA organization. *See* Evenchick Letter at 3, para. 1. While the FEC has not been asked to rule on the "entitlement" of one group to a specific name, the Green Party of the United States feels that it has met or exceeded all of the criteria necessary for the granting of National Committee status to the Coordinating Committee of the Green Party of the United States. Through this filing, the Green Party of the United States is representing the interests of its State Party affiliates, who unanimously voted to support the filing of this AOR to the FEC at the July Santa Barbara meeting.

8. Mr. Evenchick intimates that the ASGP's Nominating Convention in Denver was actually not the ASGP's Nominating Convention but an amalgamation of local and state Green Party organizations, and GPUSA members. *See* Evenchick Letter at 3, para. 2. That is simply incorrect. Even a cursory perusal of the media materials, convention materials, and composition of the organizing committee reveal that the Convention was entirely an ASGP event. Although Mr. Evenchick claims that the GPUSA co-planned the event, he repudiates himself several lines down, where he states that the "GPUSA held a separate Congress". Clearly, those two claims cannot be reconciled, and thus, he fails to dispute that the Nominating Convention was planned and carried out by the ASGP Steering Committee, its State Party affiliates, and ASGP staff.

The Green Party of the United States also notes that Mr. Evenchick stated that the GPUSA "endorsed" the Nader candidacy. While that organization may have "endorsed" Nader, the organization did not "nominate" Mr. Nader, and Mr. Nader did not accept an "endorsement" or "nomination" by the GPUSA organization. Mr. Nader did, however, formally accept the endorsement of the ASGP at the Denver Nominating Convention, and Mr. Nader ran solely as the nominee of the ASGP organization.

Attached to this Reply is an Affidavit from Mr. Nader in support of the AOR submitted by the Green Party of the United States. *See* Attachment Two to this Reply.

9. Mr. Evenchick claims that Mr. Nader "ran as a candidate of the Green Party USA" in 1996. *See* Evenchick Letter at 3, para. 6. That is simply incorrect. Although, as with other claims, Mr. Evenchick fails to provide any documentation to support this claim, Mr. Nader did not accept the nomination of any organization in 1996, and his "non-campaign" was carried out by independent efforts by State Green Parties and by the efforts of a "Draft Nader Clearinghouse" established in Washington, D.C. In addition, as a non-candidate, Mr. Nader did not receive or spend over \$5,000 and thus, was not considered a candidate for purposes of federal election law.

At the 2000 Nominating Convention, Mr. Nader and Ms. LaDuke were nominated by the ASGP organization and both accepted the ASGP's nomination. The almost-unanimous nomination was the result of proportional votes cast by State Green Parties.

10. Mr. Evenchick questions the federal candidates who filed affidavits supporting the Green Party of the United States "before it was even created" and questions the post-dating of Mr. Hawkins' affidavit. *See* Evenchick Letter at 3, para. 7. First, as explained above, the Green Party of the United States was not simply "created" in July of 2001 - the Green Party of the United States is simply the final evolution of the ASGP into the national Green Party organization. We believe that the post-dating of the affidavit was simply a clerical error by Mr. Hawkins; and since Mr. Hawkins is not being used as a federal qualifying candidate for purposes of the AOR, we believe that the clerical error is irrelevant. At the request of FEC Staff, however, we would seek a clarification from Mr. Hawkins.

11. Mr. Evenchick also intimates that the Green Party of the United States' filing was done in a secretive manner and that the AOR and the decision to file for National Committee status were prepared without the input of the State Parties and members of the Green Party. *See* Evenchick Letter at 3, para. 9. The decision to file for status, however, was the result of a careful and deliberate process to ensure that State Parties and candidates for federal office supported the filing prior to its drafting. As part of that effort, the Green Party of the United States posted the full text of the AOR thirty days in advance of its filing onto its website, and relied extensively on State Parties and candidates to provide affidavits and materials necessary for a comprehensive filing. All comments received during that thirty day period following the posting of the AOR were then incorporated into the AOR prior to its filing with the FEC. As such, the AOR was prepared with full input and consent from State Green Parties, and the unanimous vote to submit the AOR to the FEC was evidence of the complete support of State Party representatives for this filing.

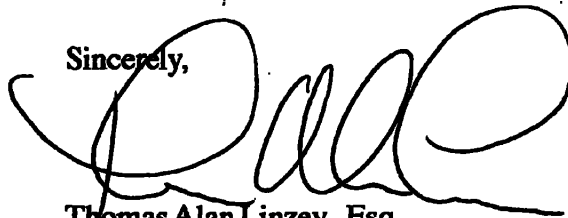
Moreover, ever since its submission to the FEC, the AOR has been available on the Green Party of the United States' website.

12. Mr. Evenchick apparently attempts to argue that the Green Party of New York's filing for State Committee status in 1996 - as an affiliate of the GPUSA organization - suggests that the Green Party of New York State is not in favor of this AOR. See Evenchick Letter at 4, para. 1. Nothing could be further from the truth. In fact, the Green Party of New York State decided to affiliate with the ASGP in November of 1997, as evidenced by the letter sent from the Green Party of New York State to the FEC on December 31, 1998. That filing alerted the FEC to the dual affiliation status of that organization. See Attachment Three to this Reply.

In addition, the Green Party of New York State voted specifically at the Santa Barbara, California meeting in support of the submission of the AOR to the FEC. In addition, several New York Green Party candidates have also filed affidavits with the Commission supporting this filing. Accordingly, it is clear from the prior actions of that body and the attachments to this AOR, that the Green Party of New York State is fully supportive of this filing.

We thank you for this opportunity to clarify and correct Mr. Evenchick's statements on these issues. If you desire additional clarification, please don't hesitate to contact either Thomas Linzey, Special Legal Counsel, or David Cobb, Senior Legal Advisor to the Green Party of the United States at the addresses or phone numbers below.

Sincerely,



Thomas Alan Linzey, Esq.
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2859 Scotland Road
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"Building an Association of State Green Parties"

A conference sponsored by the Green Parties of

Maine and Connecticut and

Glenora Farm, Middleburg, Virginia

November 16 - 17, 1996

FRIDAY EVENING:

Light buffet for early arrivals,

Regional and small group meetings (self-generated)

SATURDAY, November 16th

Continental Breakfast buffet - 8:00 a.m.

PLENARY - 9:00 - 10:30 a.m.

Welcome and Introductions: Participants introduce themselves

**"Building the Greens on the People's Campaign for the
Presidency: The Draft Nader Campaign"**

John Rensenbrink

"51 Ways to Grow: How to become a state party"

Thomas Linzey

Small Group Discussions - 10:30 a.m.

"What worked, what didn't work in your state"

PLENARY - Noon - 1:00 p.m.

**"Making it all work: creating a service-oriented
information center"**

Linda Martin/Bernardo Issel

Lunch Buffet -

Small Group Discussions - 2:00 - 3:00

"The options for making it all work"

PLENARY - 3:15-5:00 p.m.

"Group Report-back and facilitated discussion"

Break/7th inning stretch

PLENARY - 5:15-6:30

**"Overcoming the Fear of fund-raising and running a state
clearinghouse" Jane Livingston/John Goeke**

Dinner Buffet -

SATURDAY Evening Workshops: (volunteer facilitators/presenters)

- Options:** Networking with a Web Page
Candidate recruitment
Writing your party by-laws
Writing and adopting a state platform
Organizing 101
Other?

SUNDAY, November 17

Breakfast Buffet

SUNDAY Morning Workshops 9:00 - 11:00 a.m.

- Options:** (continue from Saturday evening)
Guerrilla Media and other promotional tactics
Building a process for adopting a national platform
Planning the next meeting

BRUNCH WITH RALPH NADER 11 - 2:00 p.m.

"Building a Third Force in American Politics"

Open Discussion with Presidential Candidate Nader

Small Group Strategy Sessions 2:30-4:00

"Making it all work: Creating an association of state parties"

PLENARY: Report Back -- 4:15-6:00

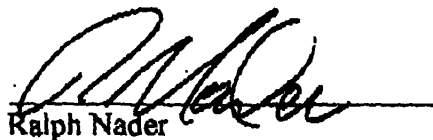
CLOSE: "Reading by Annie Goeke"

Special thanks to our gracious hostess Elaine Broadhead for making it all possible. Without Glenora Farm, we simply could NOT have found the resources to come together so soon after the campaign.

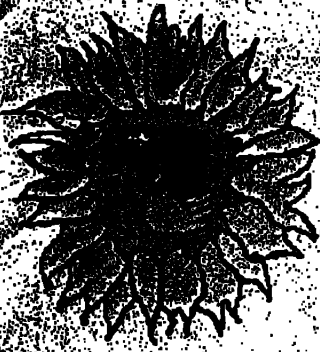
Green Blessings and Peace to Elaine and her generous Middleburg friends and neighbors.

The informal Middleburg conference planning group -- Nancy Allen, John Bodin, Marie Colandrea, Ronnie Dugger, Bert Garskof, John and Annie Goeke, Bernardo Issel, Thomas Linzey, Linda Martin and John Rensenbrink

I, Ralph Nader, do support the advisory opinion request of the Green Party of the United States for National Committee Status.

A handwritten signature in black ink, appearing to read 'R. Nader', written over a horizontal line.

Ralph Nader
September 6, 2001



Greens/Green Party of New York State

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Ecological Responsibility
Social and Economic Justice
Grassroots Democracy
Nonviolence
Decentralization
Community-based Economics
Feminism
Respect for Diversity
Personal & Global Responsibility
Future Focus

Associate General Counsel N. Bradley Litchfield
Federal Election Commission
Office of General Counsel
999 E. Street, NW
Washington, D.C. 20463

December 31, 1998

Dear Mr. Litchfield,

This communication is intended as a supplement to Advisory Opinion 1996-43 concerning the status of the Green Party of New York State.

At the time of the submission of the request for the Advisory Opinion, the GPoNYS was solely affiliated at the national level with the Greens/Green Party USA (G/GPUSA).

As of November 15, 1997 the GPoNYS became affiliated with the Association of State Green Parties (ASGP). The GPoNYS has agreed to send a delegate to meetings of that national organization, in addition to the representative sent from the GPoNYS to meetings of the G/GPUSA.

Therefore, the GPoNYS is currently affiliated with both national organizations, the G/GPUSA (Greens/Green Party USA) and the ASGP (Association of State Green Parties). This dual affiliation should not affect our state committee status, granted through A.O. 1996-43.

Our new Clearinghouse Coordinator is Mark Dunlea. He takes office on January 1, 1999. If you have any questions concerning this letter, please contact him at the number or address below.

Mark Dunlea
156 Big Toad Way
Poestenkill NY 12140
518-286-3411

Yours for a better world,

David Levner, Clearinghouse Coordinator

A Note on Green Party Organizing in the United States Prior to the Formation of the Association of State Green Parties (ASGP) and the Resulting Green Party of the United States

The first Green Party organization in the United States was formed in August of 1984 in St. Paul, Minnesota and named the "Green Committees of Correspondence" after groups formed prior to - and during - the American Revolution. The first meeting of the organization was hosted by Charlene Spretnak, co-author of "Green Politics", and consisted of the adoption of the Green Party's "10 key values" to guide the organization.

The first National Gathering of Greens was held in July of 1987 in Amherst, Massachusetts. At that Gathering, a split between individuals wanting to form an electorally-based Green Party and those individuals who believed that the Green Party should focus solely on issue activism, became apparent. That split led to the formation of the Left Green Network (for movement activists) and the Green Party Organizing Committee (for those seeking to form an electorally based Green Party) within the Green Committees of Correspondence organization.

In November of 1990, Jim Sykes ran for Governor as a Green Party candidate and secured ballot status for the Alaska Green Party. In 1991, the California Green Party secured ballot status through voter registration. During that time period, several other states - including Maine, New Mexico, Oregon, and Hawai'i - began organizing to create legally recognized and structured state Green Parties.

At an August, 1991 Green Gathering, the Green Committees of Correspondence was dissolved, and a new structure was created. That new structure was named the "Greens/Green Party USA". The structure provided no recognition for State Green Parties, and solely recognized individuals from local and regional Green organizations as voting delegates.

In April of 1992, the Green Politics Network was formed separately and independently of the "Greens/Green Party USA" organization by those Greens focused on building an electorally oriented Green Party in the United States. The goal of the Network was to encourage the creation of State Parties and support State Green Parties after their formation.

From 1992 to 1995, the "Greens/Green Party USA" suffered a gradual but steady loss of momentum, with national gatherings hosted by the organization drawing fewer and fewer individuals. Most of the larger State Green Parties eschewed involvement with the organization.

In 1995, the Green Party of New Mexico hosted a national Green Gathering in Albuquerque, New Mexico. The State Green Parties of New Mexico and California began working on a "40 State Green Party Organizing Effort" as part of a coordinated attempt to build the foundation for a Green presidential campaign in 1996. Although widely supported by State Green Parties across the country, the electoral plan drew no formal support from the "Greens/Green Party USA" organization.

In November of 1995, Ralph Nader declared his intention to seek the California Green Party's presidential nomination. In January of 1996, Nader declared his intention to accept the presidential nomination of State Green Parties in Maine, New Mexico, Hawai'i, and Alaska. In August of 1996, Nader was formally nominated to run on the California Green Party ballot line for president, with Native American and human-rights activist Winona LaDuke as his vice-presidential runningmate. Shortly thereafter, the State Green Parties of New Mexico, Maine, Hawai'i, and Alaska formally nominated the Nader/LaDuke team.

Individuals active within several key State Green Parties created the Draft Nader Clearinghouse to support these efforts, and provided assistance to individuals in States who were attempting to place Nader and LaDuke onto their state ballots. Their efforts resulted in ballot access for the Nader/LaDuke team in twenty-two states, with an additional twenty-three states certifying the team for "write-in" status.

On August 2nd of 1996, and without internal democratic process, "Greens/Green Party USA" leaders filed an Advisory Opinion Request (AOR) with the FEC, claiming to be the National Committee of the Green Party in the United States, claiming to be the entity responsible for Nader's candidacy, and claiming to have run most Green campaigns from 1992 to 1996.

That filing created a furor among State Green Parties. Many candidates and state Green Parties publicly objected to the use of their names for the filing, and several filed letters of objection with the FEC. The FEC declined to recognize the "Greens/Green Party USA" as the National Committee due to the failure of Ralph Nader to qualify as a "candidate" under FEC regulations. Several State Green Parties viewed the action as an attempt by the "Greens/Green Party USA" organization to use the work of the State Green Parties to leverage federal recognition. Following that submission, a network of State Green Parties began discussing the formation of a formal national Green Party organization which would eventually be recognized as the National Committee of the Green Party in the United States.

In November of 1996 - ten days after the election - State Green Party representatives from across the country met in Middleburg, Virginia, to launch the Association of State Green Parties (ASGP). The meeting was called by the Green Party of Maine and the Green Party of Connecticut. Representatives from eleven State Parties, which had been authorized by their State Parties to form and join the organization, became the first State Green Parties to formally affiliate with the Association of State Green Parties.