



FEDERAL ELECTION COMMISSION
Washington, DC 20463

2004 DEC 15 P 4: 12

AGENDA ITEM

For Meeting of: 12-16-04

SUBMITTED LATE

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence H. Norton
General Counsel

Rosemary C. Smith
Associate General Counsel

Brad C. Deutsch
Assistant General Counsel

Richard T. Ewell
Attorney

Ron B. Katwan
Attorney

SUBJECT: Amendment to Agenda Document No. 04-110, regarding
Draft Advisory Opinion 2004-41

The Office of General Counsel proposes the following amendment to the referenced Agenda Document:

On Page 12, Lines 1-3: Replace sentence beginning "In addition . . ." with the following: "In addition, during the past twelve years, only one CUNA Mutual board member has also been a member of the CUNA board and one former CUNA board member is currently a CUNA Mutual employee (but not an officer). Other than these two individuals, no CUNA Mutual or CUNA employee has been a member of the other organization's board."

Recommendation

The Office of General Counsel recommends that the Commission approve this amendment to Draft Advisory Opinion 2004-41.



FOLEY & LARDNER LLP
ATTORNEYS AT LAW

WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON, D.C. 20007-5143
202.672.5300 TEL
202.672.5399 FAX
www.foley.com

December 15, 2004

VIA FACSIMILE (202) 219-3923

WRITER'S DIRECT LINE
202.295.4081
cmitchell@foley.com EMAIL

CLIENT/MATTER NUMBER
077008-0103

Mr. Brad Deutsch, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: Draft Advisory Opinion 2004-41 on behalf of CUNA Mutual
Insurance Society

Dear Mr. Deutsch:

This is to memorialize our telephone conversation in which I advised you of a mistake of fact in the draft Advisory Opinion referenced above. On page 12 of the draft, a sentence appears, part (but not all) of which is factually incorrect, no doubt based on an email message to your office from me last month, to-wit: "In addition during the past twelve years, only one CUNA Mutual board member has also been a member of the CUNA board and no CUNA or CUNA Mutual employee has been a member of the other organization's board."

The underlined part of that sentence is incorrect and should read as follows: "...and only one CUNA Mutual employee has been a member of the CUNA Board of Directors."

We do not believe that the error is material in that these were sequential, not simultaneous positions and do not reflect any overlapping or interlocking control of either organization by the other nor was the sequential employment of this one individual an indication or the result of a 'formal or ongoing relationship or an indication of a successor entity'. Rather, the individual was a former Board member and executive of CUNA who left CUNA and subsequently was employed by CUNA Mutual based on his individual knowledge and expertise.

I apologize for the confusion. While we do not believe this correction changes in any way the conclusions reached in the draft, I did want to make certain that the ultimate Advisory Opinion is completely factually correct.

Please contact me if you have further questions.

BRUSSELS
CHICAGO
DETROIT
JACKSONVILLE

LOS ANGELES
MADISON
MILWAUKEE
NEW YORK

ORLANDO
SACRAMENTO
SAN DIEGO
SAN DIEGO/DEL MAR

SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE
TAMPA

TOKYO
WASHINGTON, D.C.
WEST PALM BEACH

002.1312112.1



Mr. Brad Deutsch, Esq.
December 15, 2004
Page 2

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq.
Counsel to CUNA Mutual

cc: Mr. James L. Carney, Esq.