

AGENDA DOCUMENT NO. 04-15

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION

THURSDAY, JANUARY 29, 2004

PRESENT:           Bradley A. Smith, Chairman, presiding  
  
                      Ellen L. Weintraub, Vice Chair  
  
                      David M. Mason, Commissioner  
  
                      Danny L. McDonald, Commissioner  
  
                      Scott E. Thomas, Commissioner  
  
                      Michael E. Toner, Commissioner  
  
                      James A. Pehrkon, Staff Director  
  
                      Lawrence H. Norton, General Counsel  
  
                      Mary W. Dove, Secretary

Chairman Bradley A. Smith called the Federal Election Commission to order in an open meeting at 2:05 P.M. on Thursday, January 29, 2004, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

- A. Minutes for January 7, 2004  
Agenda Document No. 04-06
  
- B. Minutes for January 15, 2004  
Agenda Document No. 04-07

Chairman Smith recognized Vice Chair Weintraub  
who

MOVED to approve the minutes  
for the Open Meetings of  
Wednesday, January 7, 2004,  
and Thursday, January 15,  
2004, as submitted in Agenda  
Documents No. 04-06 and  
No. 04-07, respectively.

The motion carried on the vote of 6-0 with  
Commissioners Mason, McDonald, Smith, Thomas, Toner,  
and Weintraub voting affirmatively.

II. DRAFT ADVISORY OPINION 2004-01

Bush-Cheney '04, Inc. and Alice Forgy Kerr  
for Congress by Messrs. Benjamin L. Ginsberg,  
Thomas J. Josefiak, and William H. Piper, III

Agenda Documents No. 04-08, No. 04-08-A,  
No. 04-08-B, and No. 04-08-C

Chairman Smith recognized Vice Chair Weintraub,

who

MOVED to suspend the rules on the  
timely submission of agenda documents  
in order to consider Agenda Documents  
No. 04-08, No. 04-08-A, No. 04-08-B,  
and No. 04-08-C.

The motion carried on the vote of 6-0.

Chairman Smith recognized Mr. J. Duane Pugh, Jr.,  
of the General Counsel's Office who presented an overview  
of the subject document, and he noted the following amendment:

Page 5, Lines 13 and 14, delete the words  
"expressly for its advertisements."

II. DRAFT ADVISORY OPINION 2004-01 (continued)

The Chair recognized Commissioner Mason who presented his proposed amendment, as contained in Agenda Document No. 04-08-C. A discussion followed.

At the conclusion of the discussion, Chairman Smith recognized Commissioner Mason, who

MOVED to revise Agenda Document No. 04-08, with regard to disclaimers, to state the Commission has made no decision regarding ads run prior to January 19, 2004.

The motion failed by a vote of 3-3 with Commissioners Mason, Smith, and Toner voting affirmatively. Commissioners McDonald, Thomas, and Weintraub dissented.

The proposed amendments set forth in Agenda Documents No. 04-08-A and No. 04-08-B by Chairman Smith and Commissioner Toner, respectively, were addressed. There was further discussion.

II. DRAFT ADVISORY OPINION 2004-01 (continued)

The Chair recognized Vice Chair Weintraub,  
who

MOVED to approve Agenda Document  
No. 04-08, subject to the follow-  
ing amendments:

- a) Page 5, delete Lines 11 through 15, beginning with the word "Moreover" on Line 11;
- b) Page 10, Line 21, include the cite "11 CFR 110.11(c)(1)";
- c) Include the amendment in Agenda Document No. 04-08-A, as amended to incorporate technical amendments, as necessary;
- d) Include the amendments in Agenda Document No. 04-08-B.

The motion carried on the vote of 6-0.

III. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters  
to come before the Commission.

The meeting adjourned at 3:30 P.M.

Signed:

Bradley A. Smith  
Chairman of the Commission

Attest:

Mary W. Dove  
Secretary of the Commission