

AGENDA DOCUMENT NO. 04-16

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION

THURSDAY, FEBRUARY 5, 2004

PRESENT:           Bradley A. Smith, Chairman, presiding  
                    Ellen L. Weintaub, 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 10:05 A.M. on Thursday, February 5, 2004, with a quorum present.

I. FINAL RULES ON EXTENSION OF THE ADMINISTRATIVE FINES PROGRAM

Agenda Document No. 04-14 (Submitted late)

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 04-14.

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

(continued)

In every instance except for Page 2,  
Line 22, insert the words "the day  
before the" in place of "[insert date  
of."

Chairman Smith recognized Commissioner Toner,

The motion carried on the vote of 6-0.

II. ADVISORY OPINIONS

A. Draft Advisory Opinion 2003-39

Credit Union National Association by counsel,  
Jan Witold Baran and D. Mark Renaud

Agenda Document No. 04-10

Chairman Smith recognized Mr. Daniel E. Pollner of the General Counsel's Office who presented draft Advisory Opinion 2003-39, concerning the application of the Federal Election Campaign Act of 1971 ("the Act"), and Commission regulations to a proposed plan whereby Local Government Employees' Federal Credit Union ("Local Government FCU") would match voluntary contributions to Credit Union Legislative Action Council of CUNA ("CULAC") from its executive and administrative personnel, individual account holders, and their families with donations to section 501(c)(3) charities of the contributors' choice.

A. Draft Advisory Opinion 2003-39  
(continued)

MOVED to approve draft Advisory Opinion 2003-39, as set forth in Agenda Document No.04-10.

B. Draft Advisory Opinion 2003-40

Agenda Document No. 04-09

Chairman Smith recognized Mr. J. Duane Pugh, Jr.  
of the General Counsel's Office who presented draft Advisory  
Opinion 2003-40, concerning the application of the Federal  
Election Campaign Act of 1971, as amended ("the Act"), to

II. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-40 (continued)

the reporting obligations of proposed independent expenditures by the U.S. Navy Veterans' Good Government Fund ("the Committee"), a Federal political committee.

A discussion followed.

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to approve draft Advisory Opinion 2003-40, as submitted in Agenda Document No. 04-09.

The motion carried on the vote of 6-0.

C. Draft Advisory Opinion 2003-38  
(Alternative Drafts)

Agenda Documents No. 04-12  
and No. 04-12-A

United States Representative Eliot Engel  
by counsel, Cassandra Lentchner

II.            ADVISORY OPINIONS            (continued)

C.    Draft Advisory Opinion 2003-38  
      (Alternative Drafts)            (continued)

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. 04-12 and No. 04-12-A.

The motion carried on the vote of 6-0.

The Chairman recognized Mr. Robert M. Knop of  
the General Counsel's Office who presented two proposed  
drafts of Advisory Opinion 2003-38, concerning the  
application of the Federal Election Campaign Act of 1971,  
as amended ("the Act"), and Commission regulations to the  
raising and spending of funds for reapportionment-related  
activities in Representative Engel's home state of New York.

II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38  
(Alternative Drafts) (continued)

A discussion followed.

\* \* \* \* \*

The meeting recessed at 11:30 A.M. and  
reconvened at 11:40 A.M. with a quorum present.

\* \* \* \* \*

II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38  
(Alternative Drafts) (continued)

The discussion resumed.

Chairman Smith recognized Commissioner Toner,  
who

MOVED to approve Alternative A  
of draft Advisory Opinion 2003-38,  
as submitted in Agenda Document  
No. 04-12.



II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38  
(Alternative Drafts) (continued)

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

A vote was not taken on Alternative B. It was noted by the Chairman that, pursuant to 11 CFR 112.4(a), a letter would be sent to the requestor by the General Counsel stating the Commission was unable to reach a decision in this Advisory Opinion.

II. ADVISORY OPINIONS (continued)

D. Draft Advisory Opinion 2003-37

Americans for a Better Country by  
Keith A. Davis, Treasurer

Agenda Document No. 04-11

It was agreed without objection to hold this matter over to the next open meeting on February 18, 2004, in order to allow more time to review the many comments received the preceding day.

III. ROUTINE ADMINISTRATIVE MATTERS

Chairman Smith recognized Staff Director Pehrkon who announced the Federal Communications Commission has established its electioneering data base, which is online at their website, and can be retrieved through the FEC website/electioneering communications page.

Federal Election Commission  
Minutes of an Open Meeting  
Thursday, February 5, 2004

Page 11

The meeting adjourned at 11:45 A.M.

Signed:

Bradley A. Smith  
Chairman of the Commission

Attest:

Mary W. Dove  
Secretary of the Commission

