



AGENDA DOCUMENT NO. 04-92

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION**

THURSDAY, SEPTEMBER 30, 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 10:07 A.M. on Thursday, September 30, 2004, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for September 9, 2004
Agenda Document No. 04-84**

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to approve the minutes for the Open Meeting of Thursday, September 9, 2004, as submitted in Agenda Document No. 04-84.

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

II. DRAFT ADVISORY OPINIONS

A. Draft Advisory Opinion 2004-29

**Representative Todd Akin and Todd Akin for Congress,
by counsel Clela Mitchell**

Agenda Documents No. 04-88 and No. 04-88-A

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. 04-88 and No. 04-88-A.

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2004-29 (continued)

Chairman Smith recognized Mr. Albert Kiss of the General Counsel's Office who presented draft Advisory Opinion 2004-29 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the involvement of Representative Todd Akin and Todd Akin for Congress ("the PCC") in support of, and opposition to, certain Missouri ballot initiatives. Mr. Kiss also summarized the amendments in Agenda Document No. 04-88-A.

The Chair recognized Commissioner Mason, who

MOVED to approve draft Advisory Opinion 2004-29, as submitted in Agenda Document No. 04-88, as amended by Agenda Document No. 04-88-A.

The motion carried on the vote of 6-0.

B. Draft Advisory Opinion 2004-35

Kerry-Edwards 2004, by counsel Marc Elias

Agenda Document No. 04-89

Chairman Smith recognized Vice Chair Weintraub, who

II. DRAFT ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2004-35 (continued)

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 04-89.

The motion carried on the vote of 6-0.

Chairman Smith recognized Mr. Duane Pugh of the General Counsel's Office who presented draft Advisory Opinion 2004-35 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to whether the Kerry-Edwards 2004 General Election Legal and Accounting Compliance Fund (the "GELAC") may pay any recount expenses that might arise. In his presentation, Mr. Pugh noted an amendment to the draft on Page 2, Line 21, to delete "("BCRA")," at the beginning of the line.

A discussion followed.

The Chair recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2004-35, as submitted in Agenda Document No. 04-89, as amended above.

The motion carried on the vote of 6-0.

II. **DRAFT ADVISORY OPINIONS** (continued)

C. **Draft Advisory Opinion 2004-32**

**Spirit Airlines, Inc., by Yvonne L. Ramos, Assistant
General Counsel and Director Governmental &
Community Affairs**

Agenda Document No. 04-85

The Chairman recognized Ms. Esa Sferra of the General Counsel's Office who presented draft Advisory Opinion 2004-32 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to proposed solicitations of contributions to Spirit's separate segregated fund, Spirit Airlines, Inc. PAC ("Spirit PAC"), from the directors and senior employees of Oaktree Capital Management LLC ("Oaktree").

A discussion followed.

Chairman Smith recognized Commissioner Toner, who

MOVED to amend draft Advisory Opinion 2004-32, as set forth in Agenda Document No. 04-85, by deleting Lines 13 through 20 on Page 5, and dropping Footnote 2 at the end of Line 12.

The motion carried on the vote of 6-0.

There was further discussion.

II. DRAFT ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2004-32 (continued)

Chairman Smith recognized Commissioner Toner, who

**MOVED to approve draft Advisory
Opinion 2004-32, as set forth in
Agenda Document No. 04-85, subject
to the amendments noted above.**

The motion carried on the vote of 6-0.

**III. FINAL RULES AND EXPLANATION AND JUSTIFICATION ON
INAUGURAL COMMITTEES**

Agenda Document No. 04-90

**FEC FORM 13: Report of Donations Accepted for Inaugural
Committees**

Agenda Document No. 04-90-A

The Chairman recognized Vice Chair Weintraub, who

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Documents No. 04-90
and No. 04-90-A.**

The motion carried on the vote of 6-0.

III. **FINAL RULES AND EXPLANATION AND JUSTIFICATION ON
INAUGURAL COMMITTEES** (continued)

**FEC FORM 13: Report of Donations Accepted for Inaugural
Committees** (continued)

Chairman Smith recognized Ms. Esa Sferra of the General Counsel's Office who reviewed the Final Rules on Inaugural Committees, as set forth in Agenda Document No. 04-90. The Chairman stated draft FEC Form 13 and instructions, implementing the reporting requirements for inaugural committees, which is Agenda Document No. 04-90-A, would be considered in tandem with the final rules. The Chairman recognized Ms. Dorothy Yeager of the Information Division who presented an overview of the subject document.

A discussion was held.

Chairman Smith recognized Vice Chair Weitraub, who

MOVED to approve the Final Rules and Explanation and Justification on Inaugural Committees, as set forth in Agenda Document No. 04-90, for publication in the *Federal Register* and transmittal to Congress, amended as follows:

Page 6, Line 13 insert "an" before "inaugural"

Page 6, Line 14 change "committees" to "committee"

Page 8, Line 21 insert "from a donor" after the word "more";

III. **FINAL RULES AND EXPLANATION AND JUSTIFICATION ON
INAUGURAL COMMITTEES** (continued)

**FEC FORM 13: Report of Donations Accepted for Inaugural
Committees** (continued)

and, FURTHER MOVED to approve FEC Form 13 and instructions, as set forth in Agenda Document No. 04-90-A, for transmittal to Congress, as amended on Page 4, Line 6, by changing "Presidential-elect" to "President-elect."

The motion carried on the vote of 6-0.

IV. **DRAFT NOTICE OF DISPOSITION OF PETITIONS FOR
RULEMAKING**

Agenda Document No. 04-82

Chairman Smith recognized Mr. Robert Knop of the General Counsel's Office who presented an overview of the subject document.

A discussion followed, and it was agreed without objection to hold this matter over to the meeting of October 21, 2004.

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There was a recess at 11:15 A.M. and the meeting reconvened at 11:25 A.M. with a quorum present.

V. ROUTINE ADMINISTRATIVE MATTERS

WEBSITE DEMONSTRATION

Agenda Document No. 04-87

Chairman Smith recognized Staff Director James A. Pehrkon who gave a demonstration of the redesigned and streamlined FEC Web site at www.fec.gov. Ms. Kathy Ryan, Special Assistant to the Staff Director, assisted in the presentation.

The meeting adjourned at 11:55 A.M.

Signed:

**Bradley A. Smith
Chairman of the Commission**

Attest:

**Mary W. Dove
Secretary of the Commission**

