



AGENDA DOCUMENT NO. 06-38
APPROVED MAY 18, 2006

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 4, 2006

PRESENT:

Michael E. Toner, Chairman, presiding
Robert D. Lenhard, Vice Chairman
David M. Mason, Commissioner
Hans A. von Spakovsky, Commissioner
Steven T. Walther, Commissioner
Ellen L. Weintraub, Commissioner
Robert J. Costa, Acting Staff Director
Lawrence H. Norton, General Counsel
Mary W. Dove, Secretary

Chairman Michael E. Toner called the Federal Election Commission to order in an open meeting at 10:20 A.M. on Thursday, May 4, 2006, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for April 20, 2006
Agenda Document No. 06-34**

Chairman Toner recognized Vice Chairman Lenhard, who

**MOVED to approve the minutes for the
Open Meeting of Thursday, April 20, 2006,
as set forth in Agenda Document No. 06-34.**

The motion carried on the vote of 6-0 with Commissioners

Lenhard, Mason, Toner, von Spakovsky, Walther, and Weintraub voting affirmatively.

II. ADVISORY OPINIONS

Chairman Toner announced the agenda would be reordered and draft Advisory Opinion 2006-08 would be considered as the last item on the agenda.

**B. Advisory Opinion 2006-13
Dennis Spivack by counsel, Neil Reiff**

Agenda Document No. 06-36

II. ADVISORY OPINIONS (continued)

B. Advisory Opinion 2006-13 (continued)

Chairman Toner recognized Mr. Jonathan Levin of the General Counsel's Office who presented draft Advisory Opinion 2006-13 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to compensation received in connection with Mr. Spivack's work as an equity partner in a law firm while he is a candidate for Federal office.

The Chairman recognized Vice Chairman Lenhard, who

MOVED to approve draft Advisory Opinion 2006-13, as set forth in Agenda Document No. 06-36.

The motion carried on the vote of 6-0.

III. REPORT OF THE AUDIT DIVISION ON THE NEW DEMOCRAT NETWORK

(Placed on the agenda pursuant to the filing of objections by Commissioners Lenhard and Toner following circulation on a 72-hour tally vote.)

(Commissioner Weintraub recused herself with respect to this matter.)

Agenda Document No. 06-35

III. REPORT OF THE AUDIT DIVISION ON THE NEW DEMOCRAT NETWORK (continued)

Chairman Toner recognized Mr. Joseph Stoltz of the Audit Division who presented an overview of the findings in the audit report.

The Chairman and Vice Chairman raised similar objections which related to Finding 4, Disclosure of Federal Activity Paid from Non-federal Accounts.

A discussion followed.

The meeting recessed at 11:05 A.M. and reconvened at 11:20 A.M.

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It was agreed without objection that the Report of the Audit Division on the New Democrat Network be held over for a future meeting.

II. ADVISORY OPINIONS (continued)

**A. Advisory Opinion 2006-08
Matthew Brooks by counsel, Craig Engle**

The Chairman declared a second recess at 11:20 a.m. in order to consider a late comment received from Mr. Craig Engle, counsel for the requestor. The meeting reconvened at 11:55 A.M. with a quorum present.

II. **ADVISORY OPINIONS** (continued)

A. **Advisory Opinion 2006-08** (continued)

Agenda Document No. 06-37 (submitted late)

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-37.

The motion carried on the vote of 6-0.

Chairman Toner recognized Mr. Daniel Abramson of the General Counsel's Office who presented draft Advisory Opinion 2006-08 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to an as-yet unnamed corporation to be formed by Mr. Brooks.

A discussion followed.

The Chairman recognized Commissioner von Spakovsky, who

MOVED to approve revised draft Advisory Opinion 2006-08, as submitted in Agenda Document No. 06-37, as amended on Page 4, Line 15, to replace the word "create" with the word "author", with respect to Question No. 4, which begins on Page 6, Line 17, the answer to be revised from "no" to "yes" with a rationale to be circulated for approval on a tally vote basis.

II. ADVISORY OPINIONS (continued)

A. Advisory Opinion 2006-08 (continued)

The motion carried on the vote of 4-2 with Commissioners

Lenhard, Mason, Toner, and von Spakovsky voting affirmatively.

Commissioners Walther and Weintraub dissented.

IV. ROUTINE ADMINISTRATIVE MATTERS

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

The meeting adjourned at 12:25 P.M.

Signed:



**Michael E. Toner
Chairman of the Commission**

Attest:



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