



AGENDA DOCUMENT NO. 13-39
APPROVED SEPTEMBER 12, 2013

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, AUGUST 22, 2013**

PRESENT:

Ellen L. Weintraub, Chair, presiding

Donald F. McGahn II, Vice Chairman

Caroline C. Hunter, Commissioner

Matthew S. Petersen, Commissioner

Steven T. Walther, Commissioner

Alec Palmer, Staff Director

**Gregory R. Baker, Deputy General Counsel -
Administration**

Shawn Woodhead Werth, Secretary and Clerk

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:19 A.M. on Thursday, August 22, 2013 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for July 25, 2013
Agenda Document No. 13-32**

Chair Weintraub recognized Vice Chairman McGahn who

**MOVED to approve Agenda Document No. 13-32,
the minutes for the open session held on July 25, 2013.**

The motion carried by a vote of 5-0 with Commissioners Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2013-04

(Held over from the July 25, 2013 meeting)

**Democratic Governors Association and
Jobs & Opportunity by Marc E. Elias, Esq.
and Jonathan S. Berkon, Esq.**

Agenda Document No. 13-31 (Draft A)

Agenda Document No. 13-31-A (Draft B)

Agenda Document No. 13-31-B (Draft C)

Chair Weintraub recognized requestors' counsel, Mr. Elias, who was available to answer Commissioners' questions.

Mr. Elias and Mr. Adav Noti and Mr. Theodore Lutz of the General Counsel's Office participated in the discussion which followed.

Chair Weintraub proposed that the Commission ask the requestors for an extension until September 12, 2013, the date of the next open meeting. If the Commission can reach consensus on a proposal before that date, the draft response will be posted on the Commission's website to give the public and requestors an opportunity to comment on it. The Commission will then schedule a tally vote on the draft response.

Chair Weintraub recognized Mr. Elias who stated that he would confer with the requestors on the extension request and notify the Commission of their answer.

Chair Weintraub stated that this matter would be held over.

Chair Weintraub stated that Commissioner Walther had left the meeting as he was recused from the next matter on the agenda (Item III) and would not participate in the discussion.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Document Nos. 13-35-A, 13-21-L, and 13-37.

The motion carried by a vote of 4-0 with Commissioners Hunter, McGahn, Petersen, and Weintraub voting affirmatively for the decision.

III. DRAFT ADVISORY OPINION 2013-08

**American Veterinary Medical Association
by Isham R. Jones, III, Esq.**

Agenda Document No. 13-35

**Agenda Document No. 13-35-A
(Submitted Late)**

Chair Weintraub recognized Mr. Anthony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to the American Veterinary Medical Association's (AVMA) request. AVMA, a non-profit membership organization incorporated under Illinois law, asks whether it may solicit and accept contributions for its separate segregated fund from members of the Student American Veterinary Medical Association. Mr. Buckley noted that the Draft in Agenda Document No. 13-35-A is a revised version, in both red-lined and clean forms, of the Draft in Agenda Document No. 13-35 and takes into account the requestor's comments.

Chair Weintraub recognized requestor's counsel, Mr. Jones and Dr. Derrick Hall (by telephone) who were available to answer Commissioners' questions.

Mr. Jones participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman McGahn who

**MOVED to approve Agenda Document No. 13-35-A,
Draft Advisory Opinion 2013-08, and authorize the
Office of the General Counsel to make any technical
and conforming edits.**

The motion carried by a vote of 4-0 with Commissioners Hunter,

McGahn, Petersen, and Weintraub voting affirmatively for the decision.

Commissioner Walther was recused and did not vote.

IV. DRAFT ADVISORY OPINION 2013-09

**Special Operations Speaks PAC and Colonel Robert L. Maness
by Dan Backer, Esq. and Paul D. Kamenar, Esq.**

**Agenda Document No. 13-37
(Submitted Late)**

**Chair Weintraub recognized requestor's counsel, Mr. Backer, who was
available to answer Commissioners' questions. She also noted that
Commissioner Walther had re-joined the meeting.**

**Chair Weintraub recognized Ms. Cheryl Hemsley of the General
Counsel's Office who presented the draft advisory opinion concerning the
application of the Federal Election Campaign Act of 1971, as amended, and
Commission regulations to the request from Special Operations Speaks PAC
(PAC) and Colonel Maness. The PAC is a nonconnected, hybrid political
committee that registered with the Commission in July 2012, has received**

contributions from more than 50 persons, and has made contributions to 3 federal candidates including a \$2,600 contribution to Colonel Maness who is a candidate for federal office. The PAC wishes to contribute an additional \$2,400 to Colonel Maness which would exceed the contribution limits for persons other than multicandidate political committees. They ask whether, prior to making contributions to 5 federal candidates and qualifying for multicandidate status, the PAC may make, and Colonel Maness may accept, the additional contributions up to the higher limit for multicandidate committees.

Mr. Backer participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Agenda Document No. 13-37, Draft Advisory Opinion 2013-09, and authorize the Office of the General Counsel to make appropriate technical and conforming edits.

The motion carried by a vote of 5-0 with Commissioners Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

V. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE ARIZONA REPUBLICAN PARTY (ARP) (A11-21)

Memorandum from the Chief Compliance Officer and the Audit Division dated June 19, 2013

Agenda Document No. 13-33

Chair Weintraub recognized Mr. Gary Hache of the Audit Division who summarized the three findings in the Memorandum: 1) misstatement of financial activity; 2) reported coordinated party expenditures; and 3) reporting of debts and obligations.

Mr. Hache and Mr. Alex Boniewicz of the Audit Division participated in the discussion that followed.

Chair Weintraub recognized Commissioner Walther who

MOVED to approve Findings 1 and 3 in the Audit Division Recommendation Memorandum on the Arizona Republican Party (ARP).

The motion carried by a vote of 5-0 with Commissioners Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Discussion continued.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Finding 2 in the Audit Division Recommendation Memorandum on the Arizona Republican Party (ARP).

The motion failed by a vote of 3-2 with Commissioners Hunter, McGahn, and Petersen voting affirmatively for the motion. Commissioners Walther and Weintraub dissented.

Chair Weintraub recognized Commissioner Walther who

MOVED, with respect to approve Finding 2 of the Audit Division Recommendation Memorandum on the Arizona Republican Party, that only the reported expenditures of \$160,532 (the amount associated with the Schweikert for Congress mailer) should not be attributed to ARP's coordinated expenditure limit due to lack of clarity on the volunteer materials exemption.

Chair Weintraub recognized Vice Chairman McGahn who asked for clarification on Commissioner Walther's motion, stating that he would not support the motion if it included the word "only." Commissioner Walther amended his motion by deleting the word "only."

The motion carried by a vote of 5-0 with Commissioners Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Chair Weintraub noted that because the motion did not include the amounts associated with the Paul Gosar for Congress and the Kelly for Congress mailers the Audit Division will, pursuant to Directive 70, move that discussion to "Additional Issues."

VI. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE MISSISSIPPI DEMOCRATIC PARTY PAC (MDP) (A11-10)

Memorandum from the Chief Compliance Officer and the Audit Division dated August 1, 2013

Agenda Document No. 13-34

Chair Weintraub recognized Mr. Randy Harris of the Audit Division who summarized the four findings in the Memorandum: 1) misstatement of

financial activity; 2) disclosure of disbursements; 3) disclosure of occupation/name of employer; and 4) recordkeeping for employees.

Mr. Boniewicz of the Audit Division participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Agenda Document No. 13-34, the Audit Division Recommendation Memorandum on the Mississippi Democratic Party, with the understanding that the Audit Division will incorporate the edits pursuant to the meeting discussion and make any necessary technical and conforming edits in the Proposed Final Audit Report.

The motion carried by a vote of 4-1 with Commissioners Hunter, McGahn, Petersen, and Weintraub voting affirmatively for the decision. Commissioner Walther dissented.

VII. OGC ENFORCEMENT MANUAL

(To be held over to a future meeting)

**General Counsel's Memorandum dated June 12, 2013
Agenda Document No. 13-21**

**Memorandum from Vice Chairman Donald F. McGahn, Commissioner Caroline C. Hunter, and Commissioner Matthew S. Petersen dated June 12, 2013
Agenda Document No. 13-21-A**

**General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-B**

**The General Counsel's Authority to Recommend Reason to Believe to the Commission under Section 111.8 – General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-C**

**Information Sharing with the Department of Justice – General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-D**

**DOJ Requests for Documents - Notice to Commission – General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-E**

**Requests for Records or Information from Federal, State and Local Government Entities - General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-F**

**Enforcement Procedure 2011-XX: Requests for Information from the Department of Justice and other Criminal Law Enforcement Agencies - General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-G**

**Relationship between the FEC and DOJ - General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-H**

**Department of Justice's Proposed Changes to the FECA - General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-I**

**Proposed MOU between the Commission and DOJ - General Counsel's Memorandum dated June 26, 2013
Agenda Document No. 13-21-J**

**Background Information Regarding Proposed Enforcement Manual – Memorandum from Vice Chairman Donald F. McGahn dated July 25, 2013
Agenda Document No. 13-21-K**

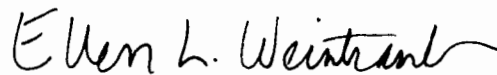
**(All of the above documents held over from the
July 25, 2013 meeting)**

**Agency Procedure for Notice to Named Respondents
in Enforcement Matters of Additional Material Facts
and/or Additional Potential Violations – Memorandum
from Commissioner Steven T. Walther dated August 21, 2013
Agenda Document No. 13-21-L
(Submitted Late)**

**Chair Weintraub recognized Vice Chairman McGahn who asked the
Chair to clarify why a matter that he asked to have placed on the agenda
pursuant to Directive 17 is being held over to a future meeting. Chair
Weintraub stated that she is exercising her prerogative as Chair to hold this
matter over. Discussion followed concerning this practice in general, and
specifically, holding over the OGC Enforcement Manual.**

The meeting adjourned at 12:26 P.M.

Signed:



**Ellen L. Weintraub
Chair of the Commission**

Attest:



**Shawn Woodhead Werth
Secretary and Clerk of the Commission**