



AGENDA DOCUMENT NO. 13-42
APPROVED OCTOBER 31, 2013

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, SEPTEMBER 12, 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

Lisa J. Stevenson, Deputy General Counsel - Law

Shelley E. Garr, Deputy Secretary

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:23 A.M. on Thursday, September 12, 2013 with a quorum present.

Chair Weintraub noted that Commissioner Walther was participating in today's meeting by telephone.

Chair Weintraub recognized Vice Chairman McGahn who, as a parliamentary inquiry, asked about the status of Item V, the OGC Enforcement Manual. Vice Chairman McGahn asked for a point of personal privilege to discuss the hold placed on the Manual. Discussion followed concerning the status of the Manual as well as the enforcement process.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for August 22, 2013
Agenda Document No. 13-39**

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve the minutes for the open session held on August 22, 2013 as set forth in Agenda Document No. 13-39.

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

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document Nos. 13-31-C (Revised Draft A), 13-38, and 13-40.

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 August 22, 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)

**Agenda Document No. 13-31-C (Revised Draft A)
(Submitted Late)**

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

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

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Agenda Document No. 13-31 (Draft A) with respect to Draft Advisory Opinion 2013-04.

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.

Mr. Noti participated in the discussion that continued.

Chair Weintraub recognized Commissioner Walther who

MOVED to approve the answer to Question 1 as set forth in Agenda Document No. 13-31 (Draft A) and authorize the Office of General Counsel to make any 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.

Mr. Elias participated in the discussion that continued.

III. DRAFT ADVISORY OPINION 2013-12

**Service Employees International Union
and Service Employees International Union
Committee on Political Education by
Mark Schneider, Esq.**

**Agenda Document No. 13-38
(Submitted Late)**

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

Chair Weintraub recognized Ms. Joanna Waldstreicher 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 the Service Employees International Union ("SEIU") and Service Employees International Union Committee on Political Education ("SEIU-COPE"). SEIU COPE receives its contributions mainly from SEIU's restricted class either by handwritten documentation or by electronic signatures provided via email or web-based communications. The requestors ask whether payroll deduction authorizations may be obtained from members of the restricted class through recorded telephone conversations subject to certain safeguards.

Mr. Schneider participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Agenda Document No. 13-38, Draft Advisory Opinion 2013-12, and authorize the Office of General Counsel to make any 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.

IV. DRAFT ADVISORY OPINION 2013-14

Martin Long

**Agenda Document No. 13-40
(Submitted Late)**

Chair Weintraub recognized Ms. Joanna Waldstreicher 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 Martin Long, a candidate for the U.S. House of Representatives for Massachusetts's Fifth Congressional District in a special primary election to be held on October 15, 2013. Mr. Long has self-published a book on an issue which he describes as central to his campaign. He will receive royalties but does not plan to donate them to charity. He proposes to refer to the book in printed campaign materials

that will be paid for by his principal campaign committee and asks whether the proposed reference to the book is consistent with the Act and Commission regulations.

Discussion followed.

Chair Weintraub recognized Vice Chairman McGahn who

MOVED to approve Agenda Document No. 13-40, with respect to Draft Advisory Opinion 2013-14, and authorize technical and conforming edits.

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.

V. OGC ENFORCEMENT MANUAL

**(To be held over to a future meeting)
(Held over from the meeting of August 22, 2013)**

**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**

**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**

VI. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 12:33 P.M.**

Signed:



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

Attest:



Shawn Woodhead Werth

Secretary and Clerk of the Commission



**Shelley E. Garr
Deputy Secretary of the Commission**