



**AGENDA DOCUMENT NO. 13-32**

**MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
THURSDAY, JULY 25, 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**

**Shawn Woodhead Werth, Secretary and Clerk**

**Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:44 A.M. on Thursday, July 25, 2013 with a quorum present.**

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**Chair Weintraub noted that Commissioner Walther would participate in today's meeting by telephone.**

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**Chair Weintraub took a moment for two points of personal privilege. She recognized Ms. Bonnie Jarrett, a member of the General Counsel's staff, who is leaving the Commission to attend law school, and wished her well in her new endeavor.**

**Chair Weintraub also cited the story of former President George H. W. Bush whose selfless action, in solidarity with the 2 year old son of a member of his security detail who is suffering from leukemia, serves as a shining example of how the values of those in public service are reflected in their actions involving friends, neighbors, and the nation.**

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**I. CORRECTION AND APPROVAL OF MINUTES**

**Minutes for June 27, 2013  
Agenda Document No. 13-28-A**

**Minutes for July 11, 2013  
Agenda Document No. 13-29**

**Chair Weintraub recognized Vice Chairman McGahn who**

**MOVED to approve Agenda Document Nos.  
13-28-A and 13-29, the minutes for the open  
sessions held on June 27, 2013 and July 11, 2013.**

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

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**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. 13-31, 13-31-A, 13-31-B, 13-30, 13-27, and 13-21-K.**

**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**

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

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

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

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

**Chair Weintraub recognized requestors' counsel, Mr. Elias and Mr. Berkon, who were available to answer Commissioners' questions.**

**Chair Weintraub recognized Ms. Esther Heiden 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 received from the Democratic Governors Association (DGA) and Jobs & Opportunity (J&O). DGA is an unincorporated 527 political organization whose membership consists of incumbent Democratic governors. J&O will be a 527 political organization whose members will consist only of DGA's executive director and chief operating officer. Unlike DGA, no officeholders or candidates will be members of J&O. DGA and J&O both intend to engage in federal election activity in connection with the 2014 elections. They ask whether they may use nonfederal funds to pay for such activity. Ms. Heiden summarized the distinctions among the three Drafts and requested the authority to make technical and conforming changes to any Draft approved by the Commission.**

**Messrs. Elias and Berkon participated in the discussion which followed.**

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**Chair Weintraub proposed that the Commission consider the remaining Draft Advisory Opinions next on the agenda, followed by a short recess during which the Commission will attempt to reach consensus on a response for Draft Advisory Opinion 2013-04.**

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**III. DRAFT ADVISORY OPINION 2013-05**

**Representative Elton Gallegly**

**Agenda Document No. 13-26**

**Chair Weintraub recognized Mr. Neven Stipanovic 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 Representative Gallegly's request to use campaign funds to pay for storage costs. Representative Gallegly retired from Congress in January 2013 and has hundreds of boxes of officeholder and campaign documents in storage, most of which will be sent to the California Lutheran University for archiving. He plans to complete his review of these documents and dispose of them by the end of 2013. He is paying, and will continue to pay, the usual and normal charge of approximately \$300 per month to store these materials in a commercial public storage facility. He asks whether he may use campaign funds to pay**

**the temporary storage costs of the items pending their final disposition.**

**Mr. Stipanovic asked that the Commission authorize technical and conforming amendments if the Draft is approved.**

**Chair Weintraub recognized Vice Chairman McGahn who**

**MOVED to approve Draft Advisory Opinion 2013-05 and authorize the Office of the 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 2013-06**

**Democratic Senatorial Campaign Committee  
by Marc E. Elias, Esq., Andrew H. Werbrock, Esq.,  
Jonathan S. Berkon, Esq., and Tyler J. Hagenbuch, Esq.**

**Agenda Document No. 13-30  
(Submitted Late)**

**Chair Weintraub recognized requestor's counsel, Mr. Elias and Mr. Berkon, who were available to answer Commissioners' questions.**

**Chair Weintraub recognized Ms. Jessica Selinkoff of the General Counsel's Office who presented the draft advisory opinion concerning how the terms "spouse" and "family" apply to legally married same-sex spouses under certain provisions of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. The Democratic Senatorial**

**Campaign Committee (DSCC) asks three questions: 1) may the DSCC apply the spouse contribution rule at 11 C.F.R. § 110.1(i) to contributions it receives from legally married same-sex spouses; 2) may a Senate candidate who is legally married to a same-sex spouse utilize jointly owned assets under two provisions of the Commission's regulations under the same conditions as a Senate candidate who is married to an opposite-sex spouse; and 3) may DSCC representatives appear at restricted-class events under 11 C.F.R. § 114.3(c)(2) at which legally married same-sex spouses are present as families of other restricted class members. She also asked that the Commission authorize technical and conforming amendments if the Draft is approved.**

**Mr. Elias participated in the discussion that followed.**

**Chair Weintraub recognized Vice Chairman McGahn who**

**MOVED to approve Draft Advisory Opinion 2013-06 and authorize the Office of the General Counsel to make any technical and conforming edits.**

**Discussion continued.**

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

**V. DRAFT ADVISORY OPINION 2013-07**

**Dan Winslow for US Senate Committee  
by Mr. Dan Winslow, Esq. and Mr. Craig Engle, Esq.**

**Agenda Document No. 13-27  
(Submitted Late)**

**Chair Weintraub recognized Ms. Selinkoff 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 Committee's request that asks if it may apply the spousal contribution rule at 11 C.F.R. § 110.1(i) to contributions it receives from legally married same-sex spouses. She also asked that the Commission authorize technical and conforming amendments if the Draft is approved.**

**Chair Weintraub recognized Vice Chairman McGahn who**

**MOVED to approve Draft Advisory Opinion 2013-07 and authorize the Office of the General Counsel to make any technical and conforming edits.**

**Chair Weintraub recognized Commissioner Hunter who asked that one of the technical and conforming amendments include a correction to the numbers in the last sentence on Page 1 of the Draft to reflect the most recent report filed by the Committee.**

**Chair Weintraub restated Vice Chairman McGahn's motion as modified by Commissioner Hunter.**

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

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**The meeting recessed at 12:56 P.M. and resumed at 2:18 P.M. with a quorum present.**

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**IV. DRAFT ADVISORY OPINION 2013-04 (continued)**

**Chair Weintraub stated that, based on discussion during the luncheon recess, this matter would be held over to a future meeting.**

**VI. OGC ENFORCEMENT MANUAL**

**(To be held over to a future meeting)**

**General Counsel's Memorandum dated June 12, 2013  
Agenda Document No. 13-21  
(Held over from the June 27, 2013 meeting)**

**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  
(Held over from the June 27, 2013 meeting)**

**General Counsel's Memorandum dated June 26, 2013  
Agenda Document No. 13-21-B  
(Held over from the June 27, 2013 meeting)**

**The General Counsel's Authority to Recommend Reason to  
Believe to the Commission under Section 111.8  
Agenda Document No. 13-21-C  
(Held over from the June 27, 2013 meeting)**

**Information Sharing with the Department of Justice –  
General Counsel's Memorandum dated June 26, 2013  
Agenda Document No. 13-21-D  
(Held over from the June 27, 2013 meeting)**

**DOJ Requests for Documents - Notice to Commission –  
General Counsel's Memorandum dated June 26, 2013  
Agenda Document No. 13-21-E  
(Held over from the June 27, 2013 meeting)**

**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  
(Held over from the June 27, 2013 meeting)**

**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  
(Held over from the June 27, 2013 meeting)**

**Relationship between the FEC and DOJ - General Counsel's  
Memorandum dated June 26, 2013  
Agenda Document No. 13-21-H  
(Held over from the June 27, 2013 meeting)**

**Department of Justice's Proposed Changes to the FECA -  
General Counsel's Memorandum dated June 26, 2013  
Agenda Document No. 13-21-I  
(Held over from the June 27, 2013 meeting)**

**Proposed MOU between the Commission and DOJ - General  
Counsel's Memorandum dated June 26, 2013  
Agenda Document No. 13-21-J  
(Held over from the June 27, 2013 meeting)**

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

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**Chair Weintraub recognized Vice Chairman McGahn for a moment of personal privilege.**

**Vice Chairman McGahn acknowledged the passing of former Commissioner Joan D. Aikens. He noted that Commissioner Aikens was one of the original members of the Commission when she was first appointed in 1975, and continued to serve until her retirement in 1998. During that period, she served as Chairman in 1978, 1986, 1992, and the first eight months of 1998 before her retirement.**

**The Vice Chairman shared remarks from Commission staff and a former colleague about her professionalism and influence on and support of staff. He noted her other accomplishments, volunteer activities, and educational background. He explained that although he never appeared before her, he always found her to be very fair and someone he looked to as a role model in many ways.**

**Chair Weintraub thanked Vice Chairman McGahn for sharing his kind words about Commissioner Aikens.**

**VII. MANAGEMENT AND ADMINISTRATIVE MATTERS**

**There being no further business to come before the Commission,  
the meeting adjourned at 2:24 P.M.**

**Signed:**

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

**Attest:**

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