



AGENDA DOCUMENT NO. 13-56

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, NOVEMBER 21, 2013**

PRESENT:

Ellen L. Weintraub, Chair, presiding

Lee E. Goodman, Vice Chairman

Caroline C. Hunter, Commissioner

Matthew S. Petersen, Commissioner

Ann M. Ravel, 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 10:13 A.M. on Thursday, November 21, 2013 with a quorum present.

Chair Weintraub recognized Vice Chairman Goodman who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider the late submission of Agenda Document Nos. 13-45-B, 13-49, 13-47, and 13-48.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

I. DRAFT ADVISORY OPINION 2013-15

**Conservative Action Fund
by Dan Backer, Esq. and Paul D. Kamenar, Esq.**

Agenda Document No. 13-45

Agenda Document No. 13-45-A (Drafts B and C)

**Agenda Document No. 13-45-B (Draft D)
(Submitted Late)**

(Held over from the November 14, 2013 meeting)

Chair Weintraub recognized requestor's counsel, Mr. Dan Backer, who was available to answer Commissioners' questions. She also noted that the Commission appreciated the comments received in this matter.

Chair Weintraub recognized Ms. Jessica Selinkoff of the Office of General Counsel 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 of the Conservative Action Fund, a non-connected committee, to accept contributions in Bitcoins, a privately issued digital currency. The requestor asks 24 questions which generally fall into 3 categories: 1) whether it may accept Bitcoins; 2) how it should deposit, value, and report contributions made using Bitcoins; and 3) whether it may disburse Bitcoins to pay for goods and services or to make contributions to other committees. Ms. Selinkoff summarized the distinctions among the four Drafts, three of which were discussed at the November 14 open meeting, and requested the authority to make technical and conforming changes to any Draft approved by the Commission.

Mr. Backer participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman Goodman who

**MOVED to approve Agenda Document No. 13-45-B,
Draft D for Draft Advisory Opinion 2013-15.**

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

Chair Weintraub stated that Item IV (Draft Interpretive Rule) would be considered before Item III (Draft Advisory Opinion 2013-17), because Vice Chairman Goodman is recused from the latter.

II. DRAFT ADVISORY OPINION 2013-16

**PoliticalRefund.org
by Dan Backer, Esq. and Paul D. Kamenar, Esq.**

**Agenda Document No. 13-49
(Submitted Late)**

Chair Weintraub recognized requestor's counsel, Mr. Dan Backer, 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. PoliticalRefund.org asks whether it may: 1) use data obtained from reports filed with the Commission to contact persons who have made contributions to candidates, to inform those contributors of their right to seek refunds of their contributions, and to facilitate requests for refunds; 2) display on its website aggregate information about contributors' requests for refunds; and 3) accept advertising on its website and sponsorship of its communications to

contributors. Ms. Waldstreicher also requested the authority to make any necessary technical and conforming changes to any Draft approved by the Commission.

Mr. Backer participated in the discussion that followed.

Chair Weintraub recognized Vice Chairman Goodman who

**MOVED to approve Agenda Document No. 13-49 and
authorize the Office of the General Counsel to make
any necessary technical and conforming edits.**

**The motion carried by a vote of 5-1 with Commissioners Goodman, Hunter,
Petersen, Ravel, and Walther voting affirmatively for the decision.**

Commissioner Weintraub dissented.

**IV. DRAFT INTERPRETIVE RULE REGARDING DATE OF POLITICAL PARTY
NOMINATIONS OF CANDIDATES FOR SPECIAL PRIMARY ELECTIONS
IN NEW YORK**

**Agenda Document No. 13-48
(Submitted Late)**

**Chair Weintraub recognized Ms. Cheryl Hemsley of the General
Counsel's Office who presented the Draft Interpretive Rule (the "Rule").
The Rule addresses the issue of whether the date of a primary in a special
election held pursuant to New York election law is: 1) the date on which
the party committee votes for its nominee or 2) the date on which the party
committee files a certification of nomination with the appropriate election
board. The Rule clarifies that, for purposes of the Act, the date a New York**

party committee chooses its candidate is the date of the special primary election, because the nomination is the direct result of the party election. The subsequent filing of a certification would formalize the nomination for state law, but it is not the primary itself. Ms. Hemsley also asked for authority to make any necessary technical and confirming amendments.

Chair Weintraub stated that this question arose recently. Because there appeared to be some confusion on this issue, the Commission wanted to provide guidance and is seeking comments before it votes on the Rule.

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

Chair Weintraub recognized Vice Chairman Goodman who

MOVED to direct the Office of the General Counsel to make the Draft Interpretive Rule, as set forth in Agenda Document No. 13-48, available for public comment and authorize the Office of the General Counsel to make any technical and conforming changes.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

III. DRAFT ADVISORY OPINION 2013-17

**Tea Party Leadership Fund
by Dan Backer, Esq. and Paul D. Kamenar, Esq.**

**Agenda Document No. 13-47 (Drafts A and B)
(Submitted Late)**

Chair Weintraub noted that Vice Chairman Goodman was recused from this matter and would not participate in the discussion.

Chair Weintraub recognized Ms. Esther Gyory 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. The requestor is a non-connected hybrid political committee which seeks an exemption from various reporting and disclosure requirements of the Act and Commission regulations. The requestor asserts that it has established a reasonable probability that disclosing its contributors and recipients of its disbursements would subject those persons to threats, harassment, or reprisals from governmental officials and private parties. Ms. Gyory summarized the distinctions between the two Drafts and requested the authority to make technical and conforming changes to any Draft approved by the Commission.

Mr. Backer participated in the discussion that followed.

Chair Weintraub recognized Commissioner Walther who

MOVED to approve Draft B as set forth in Agenda Document No. 13-47 and authorize the Office of the General Counsel to make appropriate technical and conforming amendments.

The motion failed by a vote of 3-2 with Commissioners Ravel, Walther, and Weintraub voting affirmatively for the motion. Commissioners Hunter and Petersen dissented. Commissioner Goodman was recused and did not vote.

Chair Weintraub recognized Commissioner Petersen who

MOVED to approve Draft A as set forth in Agenda Document No. 13-47 subject to the following changes:

a) On Line 1, Page 7 after the parenthetical, add the sentence:

Perhaps the most significant is the report of the Treasury Inspector General for Tax Administration that concluded that “the IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax exempt status based upon their names or policy positions instead of indications of potential political campaign intervention.” (Ex. A-1a).

b) On Line 20, Page 7 at the end of the sentence, add the sentence:

The Commission grants this exemption to reports covering through December 31, 2016.

c) Authorize the Office of the General Counsel to make any necessary technical and conforming edits.

The motion failed by a vote of 2-3 with Commissioners Hunter and Petersen voting affirmatively for the motion. Commissioners Ravel, Walther, and Weintraub dissented. Commissioner Goodman was recused and did not vote.

Chair Weintraub stated that the Commission does not condone any form of harassment against anyone who tries to express their political views.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:30 A.M.

Signed:

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

Attest:

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