AGENDA DOCUMENT NO. 02-56
APPROVED AUGUST 15, 2002

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, AUGUST 1, 2002

PRESENT:

David M. Mason, Chairman, presiding
Karl J. Sandstrom, Vice Chairman
Danny L. McDonald, Commissioner
Bradley A. Smith, Commissioner
Scott E. Thomas, Commissioner
Michael E. Toner, Commissioner
James A. Pehrkon, Staff Director
Lawrence H. Norton, General Counsel
Mary W. Dove, Secretary
Chairman David M. Mason called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, August 1, 2002, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for July 25, 2002

Agenda Document No. 02-54

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to approve the minutes for the open meeting of Thursday, July 25, 2002, as set forth in Agenda Document No. 02-54.

The motion carried on the vote of 6-0 with Commissioners Mason, McDonald, Sandstrom, Smith, Thomas, and Toner voting affirmatively.
II. ADVISORY OPINIONS

A. Draft AO 2002-08

David Vitter for Congress Committee by William J. Vanderbrook, Treasurer

Agenda Documents No. 02-52 and No. 02-52-A

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 02-52-A.

The motion carried on the vote of 6-0.

Chairman Mason recognized Mr. Michael Marinelli of the General Counsel's office who presented draft Advisory Opinion 2002-08 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed "transfer" of funds to the David Vitter for Congress Committee from a State committee controlled by Congressman David Vitter.
II. ADVISORY OPINIONS (continued)

A. Draft AO 2002-08 (continued)

Chairman Mason recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2002-08, as submitted in Agenda Document No. 02-52, as amended by Agenda Document No. 02-52-A.

The motion carried on the vote of 6-0.

B. Draft AO 2002-10

Green Party of Michigan by Marc Reichardt, Chair

Agenda Document No. 02-53

The Chairman recognized Vice Chairman Sandstrom, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 02-53.

The motion carried on the vote of 6-0.
II. ADVISORY OPINIONS (continued)

B. Draft AO 2002-10 (continued)

Chairman Mason recognized Mr. Marinelli of the General Counsel's office who presented draft Advisory Opinion 2002-10 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations concerning the status of the Green Party of Michigan as a State committee of a political party.

Chairman Mason recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2002-10, as submitted in Agenda Document No. 02-53.

The motion carried on the vote of 6-0.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS

Agenda Documents No. 02-55, No. 02-55-A, No. 02-55-B, No. 02-55-C, and No. 02-55-D

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 02-55, No. 02-55-A, No. 02-55-B, No. 02-55-C, and No. 02-55-D.

The motion carried on the vote of 6-0.

Chairman Mason recognized Ms. Rosemary Smith and Mr. Anthony Buckley of the General Counsel's office; Ms. Smith presented an overview of the subject document.

The Chairman stated the Commission would address the amendments submitted by the Commissioners in the order in which they appear in the document.
NOTICE OF PROPOSED RULEMAKING ON
ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Commissioner Smith
who reviewed proposed amendments at Pages 14, 15, 52,
and 54 in Agenda Document No. 02-55.

There was discussion.

The Chairman recognized Commissioner Smith,
who

MOVED to approve the amendments,
outlined above, as set forth in
Agenda Document No. 02-55-B,
Category I, Pages 1 and 2, as
amended.

The motion carried on the vote of 5-1 with
Commissioners Mason, McDonald, Sandstrom, Smith, and Toner
voting affirmatively. Commissioner Thomas dissented.

The Chairman presented an amendment in proposed
new section 100.29(c)(3) of Agenda Document No. 02-55.

A discussion followed.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

On behalf of Chairman Mason, a motion was offered by Commissioner Smith, who

MOVED to delete the language in Agenda Document No. 02-55, beginning at Page 18, Line 12, through Page 19, Line 19, and substitute the language as set forth in Agenda Document No. 02-55-C in lieu thereof.

The motion carried on the vote of 6-0.

The Chairman suggested an amendment in Agenda Document No. 02-55 (V. Other Exceptions) at Page 21, Lines 20 and 21, by deleting "a named Senator or Member of the House of Representatives regarding..." and substituting "various categories of public officials..." in lieu thereof. It was agreed without objection, to accept the amendment.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Commissioner Smith who presented proposed new language in Agenda Document No. 02-55, and

MOVED to insert a new sentence in Agenda Document No. 02-55, (V. Other Exceptions), at Page 21, at the end of Line 10, as set forth in Agenda Document No. 02-55-B, on Page 2, Category II.

The motion carried on the vote of 6-0.

The Chairman recognized Commissioner Thomas who presented substitute language in Agenda Document No. 02-55 under the title "Who may make or fund electioneering communications?"

A discussion followed.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Commissioner Thomas, who

MOVED to delete the language in Agenda Document No. 02-55 on Page 23, beginning on Line 10 through the end of the sentence on Line 18, and replace with the substitute language in Agenda Document No. 02-55-A on Page 3 in lieu thereof.

The motion carried on the vote of 6-0.

The Chairman recognized Commissioner Smith, who

MOVED to amend Agenda Document No. 02-55 at Page 32, Line 22, and Page 33, Line 1, as set forth in Agenda Document No. 02-55-B, on Pages 2 and 3, Category III.

The motion carried on the vote of 6-0.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

It was agreed without objection to amend Agenda Document No. 02-55 at Page 23, Line 2, by inserting a comma after the word "shows" and inserting the word "may" before the word "fall."

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The meeting recessed at 11:30 A.M. and reconvened at 11:50 A.M. with a quorum present.

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There was a discussion at § 100.29 (Electioneering communication), Alternative 1-A, and it was agreed without objection to amend Agenda Document No. 02-55 at Page 55, Lines 19, 20, and 21, pursuant to the meeting discussion.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Commissioner Toner, who

MOVED to insert the following sentence at § 100.29 in Agenda Document No. 02-55, on Page 54, Line 11, after "www.fec.gov."

"It shall be a complete defense against any charge that a communication reached 50,000 or more persons when the maker of an electioneering communication relies on such information posted on the website of the Federal Communications Commission prior to the date the communication is publicly distributed."

A discussion followed.

The motion carried on the vote of 6-0.
NOTICE OF PROPOSED RULEMAKING ON
ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Vice Chairman Sandstrom,
who

MOVED the following amendments
in Agenda Document No. 02-55:

1) Page 23, Line 7, insert
the following sentence after
the word "advertisement":

"Should the Commission create
an exemption for communications
aired exclusively over public
access channels?"

2) Page 23, Line 22, insert the
following sentence:

"In addition, the Commission seeks
comment on whether a 501(c)(4) or
527 organization that was previously
incorporated and that changes its
status to become a limited liability
company or similar type of entity
under state law would be permitted to
pay for electioneering communications
with funds that had been donated from
individuals to the 501(c)(4) or 527
organization during the time it was
incorporated."

The motion carried on the vote of 6-0.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

The Chairman recognized Commissioner Toner, who moved the following amendment in Agenda Document No. 02-55 at Page 15, Line 20, insert the following sentence:

"Separately, comments are sought on whether BCRA's electioneering communications restrictions apply at all to communications depicting Presidential or Vice Presidential candidates, other than 30 days before a party's national convention and 60 days before the general election, given that candidates can only be nominated for President or Vice President at their parties' national convention."

The motion carried on the vote of 6-0.
III. NOTICE OF PROPOSED RULEMAKING ON ELECTIONEERING COMMUNICATIONS (continued)

Chairman Mason recognized Ms. Rosemary Smith of the General Counsel's office who noted an additional correction to be included in Agenda Document No. 02-55-D, an errata sheet submitted by the General Counsel's office, as follows:

In Agenda Document No. 02-55, at Page 7, Line 14, insert the word "definition" after the word "communication."

Chairman Mason recognized Commissioner McDonald, who

MOVED to approve the draft Notice of Proposed Rulemaking on Electioneering Communications, as set forth in Agenda Document No. 02-55, as amended by Agenda Document No. 02-55-D, subject to the amendment noted above, to incorporate all amendments previously adopted and any other necessary technical and conforming amendments, and to submit the revised notice for publication in the Federal Register.

The motion carried on the vote of 6-0.
IV. ROUTINE ADMINISTRATIVE MATTERS

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

The meeting adjourned at 12:15 P.M.

Signed:
David M. Mason
Chairman of the Commission

Attest:
Mary W. Dove
Secretary of the Commission