

AGENDA DOCUMENT NO. 02-77

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, OCTOBER 31, 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, October 31, 2002, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for October 10, 2002
Agenda Document No. 02-75

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to approve the minutes for the open meeting of Thursday, October 10, 2002, as submitted in Agenda Document No. 02-75.

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

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS

Agenda Documents No. 02-76, No. 02-76-B
No. 02-76-C, No. 02-76-D, No. 02-76-E,
No. 02-76-F, No. 02-76-G, and No. 02-76-H.

(Note: No. 02-76-A was superseded by
No. 02-76-D)

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to suspend the rules on
the timely submission of agenda
documents in order to consider
the above-referenced agenda
documents.

The motion carried on the vote of 6-0.

Chairman Mason recognized Ms. Mai Dinh of the
General Counsel's Office who presented an overview of
the subject document. During her presentation, Ms. Dinh
presented the following amendments to Agenda Document
No. 02-76:

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

1. Delete Lines 3 through 8 on Page 48.
2. Insert the following language on Page 13, Line 18 after the word "respectively.":

"The committee must be permitted to accept general election contributions in order to designate contributions by presumption. Therefore, if a presidential candidate's authorized committee accepts public funding in the general election, the presumption is available to any such committees only to the extent they are permitted to accept contributions to a general election legal and accounting compliance fund."

(Note: Amendment No. 2 above was introduced later as Agenda Document No. 02-76-J.)

Chairman Mason recognized the following members of the General Counsel's staff: Mr. Duane Pugh, Mr. Michael Marinelli, Ms. Dawn Odrowski, and Ms. Anne Weissenborn; also, Mr. Joseph Stoltz of the Audit Division.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

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. 02-76-I.

The motion carried on the vote of 6-0.

The Chairman stated he proposed to discuss
the amendments in the order they were submitted, and
Commissioner Thomas was recognized first to present
his amendments, as submitted in Agenda Document
No. 02-76-B and his alternative, set forth in Agenda
Document No. 02-76-I.

A discussion followed.

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to approve the amendments
in Agenda Document No. 02-76-I,
subject to the following
modifications:

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

On Page 2, Nos. 4, 5, and 7
delete the words "next following
the day after the general election
preceding" and substitute the words
"starting on January 1 of" in lieu
thereof.

The motion carried on the vote of 6-0.

Chairman Mason recognized Commissioner Smith
who introduced his amendments in Agenda Document
No. 02-76-C regarding the definition of "solicit" as
it relates to contributions from foreign nationals.

Following discussion, the Chairman recognized
Commissioner Smith, who

MOVED to approve the amendments,
as set forth in Agenda Document
No. 02-76-C, to include the additional
language circulated at the table and
the suggested language proposed by
the Office of General Counsel.

The motion carried on the vote of 6-0.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

The Chairman presented his proposed amendments pertaining to contribution redesignations and reallocations. Following discussion, Commissioner Smith was recognized, and on behalf of Chairman Mason,

MOVED to approve the amendments, as set forth in Agenda Document No. 02-76-D, subject to the following amendment in Agenda Document No. 02-76:

Delete the language which begins on Page 24 at Line 12 through Page 25 at Line 5.

The motion carried on the vote of 6-0.

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The meeting recessed at 11:25 A.M. and reconvened at 11:40 A.M. with a quorum present.

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II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

Chairman Mason stated the next amendments to be considered were from Commissioner Toner in Agenda Document No. 02-76-E, noting that his proposed amendments to Agenda Document No. 02-76 on Pages 24, 25, 41, 47, 90, and 99 had been previously adopted or were included in the General Counsel's errata. Commissioner Toner presented his amendment regarding redesignation notices, which would amend the deadline from thirty days to sixty days.

A discussion followed.

The Chairman recognized Commissioner Toner,
who,

MOVED to amend Agenda Document
No. 02-76 on Page 16, Line 23;
Page 17, Line 3; Page 25, Lines
14 and 15; Page 86, Line 5; and
Page 87, Line 11 by deleting the
word "thirty" and substituting
the word "sixty" in lieu thereof.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

The motion carried on the vote of 4-2 with
Commissioners Mason, Sandstrom, Smith, and Toner voting
affirmatively. Commissioners McDonald and Thomas
dissented.

The Chairman recognized Commissioner Toner
who reviewed his proposed "safe harbor" amendments, as
contained in Agenda Document No. 02-76-E. Ms. Mai Dinh
of the General Counsel's Office presented technical and
conforming changes to the amendments; and Vice Chairman
Sandstrom offered an amendment, as set forth in Agenda
Document No. 02-76-G, No. 2, on Page 2, which was accepted
by Commissioner Toner.

Chairman Mason recognized Commissioner Toner,
who

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

MOVED to approve the "safe harbor" amendments, as set forth in Agenda Document No. 02-76-E, as amended by Agenda Document No. 02-76-G, and to incorporate conforming and technical amendments pursuant to the meeting discussion.

The motion carried on the vote of 6-0.

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The meeting recessed at 12:30 P.M. and reconvened at 2:05 P.M. with a quorum present.

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II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

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. 02-76-J.

The motion carried on the vote of 6-0.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

Chairman Mason recognized Commissioner Toner,

who

MOVED to approve the amendments,
as set forth in Agenda Document
No. 02-76-E, to the following
pages in Agenda Document No. 02-76:

- a) Page 25, Line 18;
- b) Page 30, line 18;
- c) Page 36, Line 11;
- d) Page 68, Line 5;
- f) Page 76, Lines 19-22.

The motion carried on the vote of 6-0.

The Chairman recognized Commissioner Toner,

who

MOVED to approve the amendments,
as set forth in Agenda Document
No. 02-76-E, to the following
pages in Agenda Document No. 02-76:

- a) Page 74, Line 22;
- b) Page 75, Line 2.

The motion carried on the vote of 6-0.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to approve the amendments
to Agenda Document No. 02-76,
as submitted in Agenda Document
No. 02-76-G, Page 2, No. 1.

The motion carried on the vote of 6-0.

The Chairman recognized Ms. Mai Dinh who
reviewed Attachment B of Agenda Document No. 02-76-F,
which was submitted by the Office of General Counsel.
Mr. Joseph Stoltz of the Audit Division participated
in the discussion which followed.

Chairman Mason recognized Vice Chairman
Sandstrom, who

MOVED to approve the amendments
in Attachment B of Agenda Document
No. 02-76-F.

The motion carried on the vote of 6-0.

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

Chairman Mason recognized Ms. Mai Dinh of the General Counsel's Office who presented the amendments in Attachment A of Agenda Document No. 02-76-F and Agenda Document No. 02-76-J.

There was a discussion of the "leadership PAC" issue. It was agreed without objection to delete the language in Agenda Document No. 02-76 on Page 48, Lines 3 through 8; to issue a Notice of Proposed Rulemaking on "leadership PACs" by December 12, 2002, establishing a 45-day comment period to January 31, 2003; and to take up the final rules as soon as possible thereafter.

The Chairman recognized Vice Chairman Sandstrom,
who

II. DRAFT FINAL RULES AND EXPLANATION
AND JUSTIFICATION FOR CONTRIBUTION
LIMITATIONS AND PROHIBITIONS (continued)

MOVED to approve Agenda Document No. 02-76-F, Attachment A, as amended at the table, Agenda Document No. 02-76-J, and to instruct the staff to make any necessary technical or conforming amendments, citation additions or corrections.

The motion carried on the vote of 6-0.

Chairman Mason recognized Vice Chairman Sandstrom, who

MOVED to approve the Final Rules and Explanation and Justification, as submitted in Agenda Document No. 02-76, as amended, for publication in the *Federal Register* and transmittal to Congress.

The motion carried on the vote of 6-0.

III. ROUTINE ADMINISTRATIVE MATTERS

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

The meeting adjourned at 3:20 P.M.

Signed:

David M. Mason
Chairman of the Commission

Attest:

Mary W. Dove
Secretary of the Commission

