

AGENDA DOCUMENT NO. 03-01

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
THURSDAY, DECEMBER 12, 2002

PRESENT: David M. Mason, Chairman, presiding

\*\* Ellen T. Weintraub, Vice Chair

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

James Kahl, Deputy General Counsel,  
representing General Counsel  
Lawrence H. Norton, for a portion  
of the meeting

Mary W. Dove, Secretary

\*\* The election of the Vice Chair was held during  
this meeting.

Chairman David M. Mason called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, December 12, 2002, with a quorum present.

I. SERVICE AWARD CEREMONY

Chairman Mason, assisted by Personnel Director Bill J. Fleming, presented the following service awards:

TEN YEAR SERVICE AWARDS:

Thomas Hintermister, Audit  
Anita Alexander, Office of General Counsel  
Holly Baker, Office of General Counsel  
Peter Blumberg, Office of General Counsel  
Elaine Devine, Office of General Counsel  
Eric Smith, Disclosure/Processing Branch  
Dorah Chacona, Reports Analysis Division  
Jennifer Boyt, Office of Administrative  
Review  
Rosemary Cabral, Staff Director's Office.

II. AUDIT MATTERS

A. Report of the Audit Division on Buchanan  
Foster, Inc.

Agenda Documents No. 02-86  
and No. 02-86-A

Chairman Mason recognized Commissioner Weintraub,  
who

MOVED to suspend the rules on  
the timely submission of agenda  
documents in order to consider  
Agenda Document No. 02-86-A.

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

Chairman Mason recognized Ms. Kimberly Hart of  
the General Counsel's Office who reviewed the memorandum  
on the postponement request by the Buchanan Foster Committee,  
as contained in Agenda Document No. 02-86-A.

A discussion followed.

II. AUDIT MATTERS (continued)

A. Report of the Audit Division on Buchanan  
Foster, Inc. (continued)

Chairman Mason recognized Commissioner Thomas,  
who

MOVED to accept the General Counsel's  
recommendations, as outlined in Agenda  
Document No. 02-86-A, to wit:

1. Deny the Committee's request for a  
postponement of the consideration  
of the Proposed Audit Report to  
allow the submission of a response.
2. Approve the appropriate letter  
notifying the Committee.

The motion carried on the vote of 6-0.

Chairman Mason recognized Mr. Alex Boniewicz  
of the Audit Division who presented the subject report.

A discussion followed, and Mr. Boniewicz,  
Mr. Joseph Stoltz and Mr. Robert Costa of the Audit  
Division, and Ms. Kimberly Hart of the General Counsel's  
Office responded to questions and comments.

II. AUDIT MATTERS (continued)

A. Report of the Audit Division on Buchanan Foster, Inc.

(continued)

Chairman Mason recognized Commissioner Smith,

who

MOVED to approve the Final Audit Report on Buchanan Foster, Inc. (BFI), as set forth in Agenda Document No. 02-86, except to accept the bonus payments and make appropriate revisions in the repayment calculations.

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

B. Report of the Audit Division - Gore 2000, Inc. (Primary)

Agenda Document No. 02-87

(Commissioner Toner recused himself with respect to this matter and was not present during the discussion.)

II. AUDIT MATTERS (continued)

B. Report of the Audit Division - Gore 2000,  
Inc. (Primary)

(continued)

The Chairman recognized Mr. Alex Boniewicz of the Audit Division who reviewed the final audit report of the above-captioned matter.

Those who participated in the discussion that followed were: Ms. Delanie Painter of the General Counsel's Office, Mr. Joseph Stoltz and Mr. Robert Costa of the Audit Division.

Chairman Mason recognized Commissioner McDonald, who

MOVED to approve the Final Audit Report - Gore 2000, Inc., as set forth in Agenda Document No. 02-87, as revised to reflect the approach to the wind down as recommended by the Office of General Counsel, with appropriate revisions to the repayment figures and calculations.

The motion carried on the vote of 5-0 with Commissioners Mason, McDonald, Smith, Thomas, and Weintraub voting affirmatively.

II. AUDIT MATTERS (continued)

C. Report of the Audit Division - Gore/  
Lieberman, Inc. and Gore/Lieberman  
General Election Legal and Accounting  
Compliance Fund (General)

Agenda Document No. 02-88

(Commissioner Toner recused himself  
with respect to this matter and was  
not present during the discussion.)

Chairman Mason recognized Mr. Delbert Rigsby  
of the General Counsel's Office, and Ms. Erica Lee and  
Mr. Joseph Stoltz of the Audit Division. Ms. Lee  
presented an overview of the subject report.

Chairman Mason recognized Commissioner Thomas,  
who

MOVED to approve the Final Audit  
Report on Gore/Lieberman, Inc.  
and Gore/Lieberman, Inc. General  
Election Legal & Accounting  
Compliance Fund, as submitted in  
Agenda Document No. 02-88, revised  
to be consistent with the treatment  
of wind down expenses in the Final  
Audit Report - Gore 2000, Inc.,  
subject to the deletion of Footnote 3  
on Page 6.

II. AUDIT MATTERS (continued)

C. Report of the Audit Division - Gore/  
Lieberman, Inc. and Gore/Lieberman  
General Election Legal and Accounting  
Compliance Fund (General)

(continued)

The motion carried on the vote of 5-0 with  
Commissioners Mason, McDonald, Smith, Thomas, and  
Weintraub voting affirmatively.

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The meeting recessed at 11:15 A.M. and  
reconvened at 11:25 A.M. with a quorum present.

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II. AUDIT MATTERS (continued)

D. Final Audit Report - Bush-Cheney 2000, Inc.  
(BC2000) and Bush-Cheney 2000 Compliance  
Committee, Inc. (BCCC)

Agenda Documents No. 02-92,  
No. 02-92-A, and No. 02-92-B

(Commissioner Toner recused himself  
with respect to this matter and was  
not present during the discussion.)

II. AUDIT MATTERS (continued)

D. Final Audit Report - Bush-Cheney 2000, Inc.  
(BC2000) and Bush-Cheney 2000 Compliance  
Committee, Inc. (BCCC)

(continued)

Chairman Mason recognized Commissioner Weintraub,

who

MOVED to suspend the rules on  
the timely submission of agenda  
documents in order to consider  
Agenda Documents No. 02-92-A  
and No. 02-92-B.

The motion carried on the vote of 4-0 with  
Commissioners Mason, Smith, Thomas, and Weintraub voting  
affirmatively.

Chairman Mason recognized Mr. Jeff Spilizewski  
and Mr. Thomas Nurthen of the Audit Division. Mr. Nurthen  
presented the audit findings and recommendations of the  
subject audit. During the discussion, Mr. Nurthen and  
Mr. Joseph Stoltz of the Audit Division and Mr. Albert  
Veldhuyzen of the General Counsel's Office responded to  
questions and comments.

II. AUDIT MATTERS (continued)

D. Final Audit Report - Bush-Cheney 2000, Inc.  
(BC2000) and Bush-Cheney 2000 Compliance  
Committee, Inc. (BCCC)

(continued)

Chairman Mason recognized Commissioner Weintraub,  
who

MOVED to approve the phone bank  
finding in Recommendation No. 1  
of Agenda Document No. 02-92.

The motion failed by a vote of 3-2 with  
Commissioners McDonald, Thomas, and Weintraub voting  
affirmatively. Commissioners Mason and Smith dissented.

Chairman Mason recognized Commissioner Smith,  
who

MOVED to approve the Final Audit  
Report - Bush-Cheney 2000, Inc.  
(BC2000) and Bush-Cheney 2000  
Compliance Committee, Inc. (BCCC),  
as submitted in Agenda Document  
No. 02-92, as amended to reflect  
the Commission's determinations.

The motion carried on the vote of 5-0 with  
Commissioners Mason, McDonald, Smith, Thomas, and  
Weintraub voting affirmatively.

ELECTION OF VICE CHAIR

The agenda was revised in order for the Commission to elect a new Vice Chair. Since the Sunshine Act Notice did not adequately cover the election, Chairman Mason recognized Commissioner Smith, who

MOVED that the Commission add to the agenda the election of the Vice Chair for the remainder of the calendar year 2002, and that the Commission determine, pursuant to 11 CFR § 2.7(d) that business so requires and no earlier public announcement was possible.

The motion carried on the vote of 6-0.

Chairman Mason recognized Commissioner Smith, who

MOVED to elect Commissioner Ellen L. Weintraub to serve as Vice Chair for the remainder of the calendar year 2002.

The motion carried unanimously. (6-0)

II. AUDIT MATTERS (continued)

E. Final Audit - Keyes 2000, Inc.

Agenda Document No. 02-93

Chairman Mason recognized Vice Chair Weintraub,  
who

MOVED to suspend the rules  
on the timely submission  
of agenda documents in  
order to consider Agenda  
Document No. 02-93.

The motion carried on the vote of 6-0.

Chairman Mason recognized Mr. Marty Kuest  
of the Audit Division who presented an overview of  
the audit findings in the subject report. Ms. Wanda  
Thomas, and Mr. Robert Costa participated in the  
discussion which followed.

Chairman Mason recognized Commissioner  
McDonald, who

MOVED to approve the Final  
Audit Report of Keyes 2000,  
Inc., as submitted in Agenda  
Document No. 02-93.

The motion carried on the vote of 6-0.

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The meeting recessed at 12:55 P.M. and reconvened at 2:35 P.M. with a quorum present.

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III. FINAL RULES AND EXPLANATION AND JUSTIFICATION FOR BCRA REPORTING

Agenda Document No. 02-94

Chairman Mason recognized Vice Chair Weintraub, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 02-94.

The motion carried on the vote of 6-0.

Chairman Mason recognized Ms. Mai Dinh, Mr. Duane Pugh, and Ms. Cheryl Hemsley of the General Counsel's Office. Mr. Pugh reviewed the draft final rules of the subject document.

III. FINAL RULES AND EXPLANATION AND JUSTIFICATION  
FOR BCRA REPORTING

(continued)

Chairman Mason recognized Commissioner Toner who presented proposed amendments at § 104.20 (Reporting electioneering communications). A discussion followed.

The Chairman recognized Commissioner Toner, who

MOVED to amend § 104.20(a)(3) in Agenda Document No. 02-94 on Page 62 at Line 19 by inserting the word "Persons" after "(3)", and beginning with the word "exercising" on Line 19, delete the remainder of the text through Line 2 on Page 63, and substitute the following in lieu thereof:

"officers, directors, executive directors or their equivalent, partners, and in the case of unincorporated organizations, owners of the entity or person making the disbursement for the electioneering communication."

The motion carried on the vote of 6-0.

III. FINAL RULES AND EXPLANATION AND JUSTIFICATION  
FOR BCRA REPORTING

(continued)

Chairman Mason recognized Commissioner Toner,

who

MOVED to amend § 104.20(a)(2)  
in Agenda Document No. 02-94  
on Page 62, by deleting Line  
13 through Line 18, and  
substituting the following in  
lieu thereof:

"(i) Costs charged by a vender,  
such as studio rental time,  
staff salaries, costs of video  
or audio recording media, and  
talent; or

"(ii) The cost of airtime on  
broadcast, cable or satellite  
radio and television stations,  
studio time, material costs,  
and the charges for a broker  
to purchase the airtime."

The motion carried on the vote of 6-0.

III. FINAL RULES AND EXPLANATION AND JUSTIFICATION  
FOR BCRA REPORTING

(continued)

Chairman Mason recognized Commissioner Toner,  
who

MOVED to approve amendments to the  
Explanation and Justification  
in Agenda Document No. 02-94, on  
Page 25 as follows:

Line 1: insert the words  
"out of pocket" before  
the word "costs";

Line 2: delete the words  
"of personnel, equipment  
and facilities";

Line 15: delete the word  
"could" and insert the  
words "will not" in lieu  
thereof.

The motion carried on the vote of 6-0.

There was a discussion of § 104.20(a)(1)  
(Definition of "Disclosure date").

III. FINAL RULES AND EXPLANATION AND JUSTIFICATION  
FOR BCRA REPORTING (continued)

Chairman Mason recognized Commissioner Thomas,  
who

MOVED the following amendments to Agenda  
Document No. 02-94:

- 1) Page 22, Line 10, delete the words  
"disclosure date' means one of  
two things. First";
- 2) Page 22, Line 11, delete the word  
"it" and substitute the words  
"disclosure date";
- 3) Page 22, Lines 13 and 14, delete the  
words "during that calendar year"  
and substitute the words "made at  
any time";
- 4) Page 22, Line 15, delete the words  
"during that calendar year";
- 5) Page 22, Line 15, delete the word  
"any" and substitute the word  
"even";
- 6) Page 22, Line 17, delete the word  
"not";
- 7) Page 22, Line 18, delete the word  
"Similarly" and substitute the word  
"Conversely";

III. FINAL RULES AND EXPLANATION AND JUSTIFICATION  
FOR BCRA REPORTING (continued)

- 8) Page 23, Line 1, delete the word "January" and substitute the words "November of one year";
- 9) Page 23, Line 1, delete the word "one" and substitute the words "the next";
- 10) Page 61, Line 21, delete the words "during a calendar year."

The motion carried on the vote of 6-0.

Chairman Mason recognized Commissioner Toner,

who

MOVED to approve the Final Rules and Explanation and Justification on Bipartisan Campaign Reform Act of 2002 Reporting, as set forth in Agenda Document No. 02-94, as amended, and to incorporate any technical and conforming amendments as appropriate, for publication in the Federal Register and transmittal to Congress.

The motion carried on the vote of 6-0.

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The meeting recessed at 4:00 P.M. and reconvened at 4:15 P.M. with a quorum present.

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IV. NOTICE OF PROPOSED RULEMAKING ON LEADERSHIP PACs

Agenda Documents No. 02-95,  
No.02-95-A, and No. 02-95-B

Chairman Mason recognized Vice Chair Weintraub,  
who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 02-95, No. 02-95-A, and No. 02-95-B.

The motion carried on the vote of 6-0.

The Chairman disclosed an ex parte communication he had received from United States Senator John S. McCain regarding Leadership PACs and stated this letter would be placed in the administrative file.

IV. NOTICE OF PROPOSED RULEMAKING ON LEADERSHIP  
PACs

(continued)

Chairman Mason recognized Ms. Mai Dinh and Mr. Tony Buckley of the General Counsel's Office. The presentation was made by Ms. Dinh who reviewed the three alternatives in the subject draft.

A discussion followed.

Chairman Mason recognized Vice Chair Weintraub,  
who

MOVED to approve the draft Notice of Proposed Rulemaking on Leadership PACs, as set forth in Agenda Document No. 02-95, as amended by Agenda Documents No. 02-95-A and No. 02-95-B.

The motion carried on the vote of 6-0.

V.           ROUTINE ADMINISTRATIVE MATTERS

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

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Chairman Mason recognized Vice Chair Weintraub  
who thanked the members of the Commission and the entire  
staff of the agency for the gracious welcome she has  
received this week.

The meeting adjourned at 4:55 P.M.

Signed:

David M. Mason  
Chairman of the Commission

Attest:

Mary W. Dove  
Secretary of the Commission

