

AGENDA DOCUMENT NO. 03-63

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, AUGUST 14, 2003

PRESENT: Ellen L. Weintraub, Chair, presiding
Bradley A. Smith, Vice Chairman,
presiding for a portion of the meeting
David M. Mason, Commissioner
Danny L. McDonald, Commissioner
Michael E. Toner, Commissioner
Alison Doone, Deputy Staff Director
for Management, representing
James A. Pehrkon, Staff Director
Lawrence H. Norton, General Counsel
Mary W. Dove, Secretary

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:15 A.M. on Thursday, August 14, 2003, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

- A. Minutes for July 24, 2003
Agenda Document No. 03-54
- B. Minutes for July 31, 2003
Agenda Document No. 03-55

Chair Weintraub recognized Vice Chairman Smith, who

MOVED to approve the minutes for the Open Meetings of Thursday, July 24, 2003, and Thursday, July 31, 2003, as set forth in Agenda Documents No. 03-54 and No. 03-55, respectively.

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

II. PROPOSED POLICY STATEMENT ON DEPOSITION
TRANSCRIPTS IN NONPUBLIC INVESTIGATIONS

Agenda Document No. 03-56

Chair Weintraub recognized Mr. Lawrence Calvert of the General Counsel's Office who presented the subject document and participated in the discussion which followed.

The Chair recognized Vice Chairman Smith,
who

MOVED to take the following actions
in the above-captioned matter:

1. Approve the Statement of Policy, as submitted in Agenda Document No. 03-56, for publication in the *Federal Register*.
2. Direct the Office of General Counsel to submit the Statement of Policy, as submitted in Agenda Document No. 03-56, to Congress in accordance with the Congressional Review Act, 5 U.S.C. § 801 et seq.

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

III. NOTICE OF PROPOSED RULEMAKING ON CANDIDATE TRAVEL

Agenda Document No. 03-61

The Chair recognized Vice Chairman Smith,
who

MOVED to suspend the rules on
the timely submission of agenda
documents in order to consider
Agenda Document No. 03-61.

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

Chair Weintraub recognized Mr. Richard Ewell
of the General Counsel's Office who presented the draft
Notice of Proposed Rulemaking on Candidate Travel.
During his presentation, Mr. Ewell offered an amendment
to Page 26, Line 10 which would replace the word "date"
with the word "time."

A discussion followed.

IV. NOTICE OF PROPOSED RULEMAKING ON
MULTICANDIDATE POLITICAL COMMITTEES
AND BIENNIAL CONTRIBUTION LIMITS

(continued)

The Chair recognized Vice Chairman Smith,
who

MOVED to approve the Notice of Proposed Rulemaking on Multi-candidate Political Committees and Biennial Contribution Limits, as submitted in Agenda Document No. 03-59, for publication in the *Federal Register*.

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

V. ADVISORY OPINIONS

A. Draft Advisory Opinion 2003-15

A. Draft Advisory Opinion 2003-15
(continued)

During his presentation, Mr. Marinelli noted the following amendments:

1. Page 6, Line 3: Change the dash to a hyphen.
2. Page 6, Line 11: Delete the word "therefore" from the first sentence, beginning it with "Because."
3. Delete Footnote 3 on Page 4.

V. ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2003-15
(continued)

4. Page 6, Footnote 5: Change the wording of the Footnote which now becomes Footnote 4, so that it reads:

"The Commission notes that legal expense funds established by national committees of political parties or related entities are subject to a different legal standard under 2 U.S.C. § 441i(a). See Explanation and Justification for Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49088-89 (July 29, 2002)."

A discussion followed.

Chair Weintraub recognized Commissioner McDonald,
who

MOVED to approve draft Advisory Opinion 2003-15, as submitted in Agenda Document No. 03-58, subject to the amendments noted above.

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

V. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-16

Providian National Bank by counsel,
Kenneth A. Gross and Ki P. Hong

Agenda Document No. 03-60

The Chair recognized Mr. Jeff Jordan of the General Counsel's Office who presented draft Advisory Opinion 2003-16 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed affinity credit card program between the bank and any national party committee.

Mr. Jordan noted an amendment on Page 8, Line 10, to replace the word "community" with the word "committee."

Chair Weintraub recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2003-16, as submitted in Agenda Document No. 03-60, as amended above.

B. Draft Advisory Opinion 2003-16
(continued)

Democratic Congressional Campaign
Committee by counsel, Judith L. Corley
and Brian G. Svoboda

Vice Chairman Smith, now presiding, recognized Ms. Dawn Odrowski of the General Counsel's Office who presented draft Advisory Opinion 2003-19 concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Bipartisan Campaign Reform Act of 2002

V. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-19
(continued)

("BCRA") (collectively, "the Act"), and Commission regulations to the DCCC's proposed sale of used office equipment and furniture.

During the discussion which followed, it was agreed without objection to take the following actions in Agenda Document No. 03-57:

1. Delete the phrase "in a *bona fide* arm's length transaction" on Page 4, Lines 9 and 10;
2. Delete the reference to "Advisory Opinion 2002-14" on Page 4, Line 11 and substitute "11 CFR 100.52(d)" in lieu thereof;
3. Delete the phrase "in a *bona fide* arm's length transaction" on Page 4, Line 12 and substitute the phrase "for the usual and normal charge" in lieu thereof;
4. Delete the words "in any political announcement or" on Page 4, Line 13;
5. Return the draft Advisory Opinion to the Office of General Counsel to redraft and recirculate on a tally vote basis.

VI. ROUTINE ADMINISTRATIVE MATTERS

Future Meeting Dates
Agenda Document No. 03-62

Chair Weintraub recognized Vice Chairman Smith,
who

MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 03-62; and, further, moved to approve
the future meeting dates in the document.

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

The meeting adjourned at 11:25 A.M.

Signed:

Ellen L. Weintraub
Chair of the Commission

Bradley A. Smith
Vice Chairman of the
Commission

Attest:

Mary W. Dove
Secretary of the
Commission