

AGENDA DOCUMENT NO. 03-77

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION

THURSDAY, OCTOBER 16, 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  
Scott E. Thomas, Commissioner  
Michael E. Toner, Commissioner  
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 10:25 A.M. on Thursday, October 16, 2003, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for October 9, 2003

Agenda Document No. 03-76

Chair Weintraub recognized Vice Chairman Smith, who

MOVED to approve the Minutes for the open meeting of Thursday, October 9, 2003, as submitted in Agenda Document No. 03-76.

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

II. DRAFT ADVISORY OPINION 2003-25

Weinzapfel for Mayor Committee,  
by counsel, Neil P. Reiff

Agenda Document No. 03-75

Vice Chairman Smith, now presiding, stated Chair Weintraub had recused herself with respect to the above-subject matter and would not be present during the discussion.

The Vice Chairman recognized Mr. Richard Ewell of the General Counsel's Office who presented draft Advisory Opinion 2003-25 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to advertisements to be run by the Weinzapfel Committee that will feature U.S. Senator Evan Bayh's endorsement of Mr. Weinzapfel for Mayor of Evansville, Indiana.

II. DRAFT ADVISORY OPINION 2003-25  
(continued)

Chair Weintraub recognized Commissioner Toner who offered the following proposed amendments to the draft:

1. Page 4, Footnote 3 amended to read:

"Congress did not define the phrase 'promotes, supports, attacks, or opposes.'"

2. Page 6, delete the sentence which begins on Line 7 and ends on Line 12.

3. Page 6 at the end of Line 22 insert the following sentence:

"Based on the facts you have presented, the 'Committed' advertisement falls into this category; the advertisement endorses the candidacy of Mr. Weinzapfel for Mayor of Evansville, not Senator Bayh for the U.S. Senate, and does not support, attack, promote or oppose any Federal candidate."

II. DRAFT ADVISORY OPINION 2003-25

(continued)

4. Delete the text which begins on Page 6, Line 23, through Page 7, Line 14.
5. Page 7, Line 15, insert the word "Furthermore" at the beginning of the sentence and change the word "would" to "does"; move the sentence to the end of the paragraph on Page 6, after the new sentence on Line 22 above.
6. Page 7, delete the text beginning with the sentence on Line 17 through Line 24.
7. Page 10, Lines 16 and 17, delete the words "well before the sixty day period" and insert the words "many months" in lieu thereof.

Following discussion, Vice Chairman Smith  
recognized Commissioner Toner, who

MOVED to approve draft Advisory  
Opinion 2003-25, as submitted  
in Agenda Document No. 03-75,  
subject to the amendments noted  
above.

II. DRAFT ADVISORY OPINION 2003-25  
(continued)

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

III. PETITION FOR RULEMAKING ON PAYROLL  
DEDUCTIONS BY TRADE ASSOCIATIONS:  
NOTICE OF AVAILABILITY

Agenda Document No. 03-74

Chair Weintraub, now presiding, recognized  
Ms. Esa Sferra of the General Counsel's Office who  
presented the subject document.

The Chair recognized Vice Chairman Smith,  
who

MOVED to approve the draft  
Notice of Availability, as  
set forth in Agenda Document  
No. 03-74, 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 11:05 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

