AGENDA DOCUMENT NO. 04-45

MINUTES OF AN OPEN MEETING

OF THE

FEDERAL ELECTION COMMISSION

THURSDAY, APRIL 29, 2004

PRESENT: Bradley A. Smith, Chairman, presiding

Ellen L. Weintraub, Vice Chair

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

Chairman Bradley A. Smith called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, April 29, 2004, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for April 1, 2004
Agenda Document No. 04-38

Chairman Smith recognized Vice Chair Weintraub, who

> **MOVED to approve the minutes for the Open Meeting of Thursday, April 1, 2004, as submitted in Agenda Document No. 04-38.**

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

II. ADVISORY OPINIONS

A. Draft Advisory Opinion 2004-08

American Sugar Cane League by counsel, Paul G. Boron, III

Agenda Document No. 04-40

Chairman Smith recognized Ms. Margaret Perl of the General Counsel's Office, who presented draft Advisory Opinion 2004-08,

II. ADVISORY OPINIONS

A. Draft Advisory Opinion 2004-08 (continued)

concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to American Sugar Cane League's proposed granting of a severance benefits package to a former employee who recently resigned his position in order to become a Federal candidate.

Following discussion, the Chairman recognized Commissioner Toner, who

> **MOVED to approve draft Advisory Opinion 2004-08, as submitted in Agenda Document No. 04-40.**

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

B. Draft Advisory Opinion 2004-10

Metro Networks Communications, Inc. by Tom Fanning, National Director of Marketing

Agenda Document No. 04-39

II. ADVISORY OPINIONS

B. Draft Advisory Opinion 2004-10

(continued)

Chairman Smith recognized Mr. Richard Ewell of the General Counsel's Office who presented draft Advisory Opinion 2004-10, concerning the application of the "stand by your ad" disclaimer requirements in the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to Metro Networks' "live read" radio communications paid for by Federal candidates.

The Chairman recognized Vice Chair Weintraub, who

> MOVED to approve draft Advisory Opinion 2004-10, as submitted in Agenda Document No. 04-39, subject to the amendment offered by Chairman Smith, to wit:
>
> > Page 5, Line 10, delete the words "is running for Congress and she."

The motion carried on the vote of 6-0.

III. LEGISLATIVE RECOMMENDATIONS 2004

Agenda Document No. 04-41 (Submitted late)

Chairman Smith recognized Vice Chair Weintraub, who

> **MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 04-41.**

The motion carried on the vote of 6-0.

The Chairman recognized Mr. Kevin Salley of the Information Division who presented the subject document. During his presentation, Mr. Salley noted the following amendments:

> **Page 12, Line 24, insert the word "of" after the word "behalf";**
>
> **Page 23, Line 22, amend the remainder**

IV. REV. ALFRED C. SHARPTON/SHARPTON 2004 CONTINUING ENTITLEMENT TO PUBLIC FUNDS

Agenda Documents No. 04-42 and No. 04-43
(Submitted late)

Chairman Smith recognized Vice Chair Weintraub, who

> **MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 04-42 and No. 04-43.**

The motion carried on the vote of 6-0.

Chairman Smith recognized Mr. Albert Veldhuyzen of the General Counsel's Office who presented Agenda Document No. 04-42, Sharpton 2004 (LRA #644) – Final Determination to Suspend Funds. Those who participated in the discussion which followed were: Ms. Thomasenia Duncan, Mr. Veldhuyzen of the General Counsel's Office, and Mr. Joseph Stoltz of the Audit Division.

The Chairman recognized Commissioner McDonald, who

> **MOVED to take the following actions in the above-captioned matter:**
>
> 1. **Make a final determination to suspend matching fund payments to Rev. Alfred C. Sharpton and Sharpton 2004.**

IV. REV. ALFRED C. SHARPTON/SHARPTON 2004 CONTINUING ENTITLEMENT TO PUBLIC FUNDS

(continued)

2. **Approve the Statement of Reasons in Support of Final Suspension, as set forth in Agenda Document No. 04-42.**

3. **Approve the appropriate letters.**

The motion carried on the vote of 6-0.

Chairman Smith recognized Mr. Ray Lisi of the Audit Division who presented Agenda Document No. 04-43, Rev. Alfred C. Sharpton/ Sharpton 2004 – Certification/De-Certification for Payment of Matching Funds.

Chairman Smith recognized Commissioner McDonald, who

> **MOVED to approve Alternative Recommendation No. 1`, as set forth in Agenda Document No. 04-43, to suspend matching fund payments to Rev. Alfred C. Sharpton/Sharpton 2004 and to approve the letter to the Department of Treasury at Attachment 1.**

The motion carried on the vote of 6-0.

V. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters to come before the Commission. The meeting adjourned at 11:00 A.M.

Signed:

Bradley A. Smith
Chairman of the Commission

Attest:

Mary W. Dove
Secretary of the Commission