



**APPROVED DECEMBER 12, 2017**

**MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
THURSDAY, MAY 25, 2017**

**PRESENT:**

**Steven T. Walther, Chairman, presiding**

**Caroline C. Hunter, Vice Chair**

**Lee E. Goodman, Commissioner**

**Matthew S. Petersen, Commissioner**

**Ellen L. Weintraub, Commissioner**

**Alec Palmer, Staff Director<sup>1</sup>**

**Lisa Stevenson, Acting General Counsel**

**Dayna C. Brown, Secretary and Clerk**

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<sup>1</sup> Ms. Patricia Orrock, Chief Compliance Officer, represented Staff Director Palmer



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**Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:17 A.M. on Thursday, May 25, 2017 with a quorum present.**

**\*\*\*\*\***

**Chairman Walther opened the meeting with comments on the use of foreign money in the American political system. He noted the different views held with regard to what the Federal Election Commission can and cannot do, and the importance of educating people on this. He stated that recent events have made it clear that money has seeped into our system in a variety of ways, and our regulatory system does not adequately address the matter. He further stated that issues have arisen with respect to the jurisdiction of the extent to which the Federal Election Commission may participate in connection with the enforcement or disclosure relating to the use of foreign money in our electoral system. Unfortunately, misunderstandings have occurred with respect to some of the information that has been provided in that regard. Chairman Walther stated that on September 15, 2016, the Commission directed the General Counsel's Office to prioritize those cases involving allegations of foreign influence, and noted that the most recent list included roughly 15 such matters. In addition to prioritizing these matters, the Chairman requested that the Commission take some steps to provide the public with information. The Chairman specifically asked the Staff Director, and those involved in creating**

and maintaining the agency's website, to use an easily locatable page to outline the agency's role in the use of foreign money in American politics, to include the status of opinion cases. He also noted that this effort could include the agency's conference materials and videos under the tutelage of Greg Scott and the Commission's Information Division, and perhaps some of the agency's Matters Under Review that have been decided. The Chairman reiterated his desire that the General Counsel's Office insure the prioritization of these cases. Lastly, Chairman Walther asked that the Commissioners take a look at what they can do to make clear what the Commission can and cannot do in terms of providing guidance to the public, as a means of educating the public so that there are fewer enforcement issues.

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**I. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON TED CRUZ FOR SENATE (TCFS) (A13-05)**

**Memorandum from the Chief Compliance Officer and Audit Division dated April 25, 2017**

**Agenda Document No. 17-19-A**

**(Resolved on tally pursuant to removal of objection(s))**

**This matter was resolved on tally and was not discussed.**

**II. RESUBMISSION: AUDIT DIVISION RECOMMENDATION MEMORANDUM ON  
THE COLORADO REPUBLICAN COMMITTEE (CRC) (A13-12)**

**Memorandum from the Chief Compliance Officer and Audit Division  
dated May 2, 2017**

**Agenda Document No. 17-20-A**

**Ms. Mary Moss of the Audit Division explained that the revised memorandum before the Commission contained revised recommendations pertaining to the Independent Expenditure and Recordkeeping for Communications Findings based on the documents submitted by the Colorado Republican Committee (CRC) on March 20, 2017.**

**Ms. Zuzana Pacious and Mr. Thomas Hintermister of the Audit Division, Acting General Counsel Lisa Stevenson, and Chief Compliance Officer Patricia Orrock participated in the discussion that followed.**

**Chairman Walther recognized Commissioner Weintraub who**

**MOVED to approve the Audit Division Recommendation Memorandum on the Colorado Republican Committee Party as set forth in Agenda Document No. 17-20-A.**

**The motion failed by a vote of 2-3 with Commissioners Walther and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.**

**Chairman Walther recognized Commissioner Goodman who**

**MOVED to approve Agenda Document No. 17-20-A, on the matter of the Audit Division Memorandum on the Colorado**

**Republican Committee, subject to the following amendments:**

- 1. Amend Finding 1.C. (Misstatement of Financial Activity – Unreported Bank Account) by deleting the proposed finding and moving the issue to the Additional Issues Section of the Audit Report with text concluding that the Commission had insufficient evidence to substantiate an unreported convention account owned and maintained by the CRC, and noting that the CRC should not allow its EIN number to be used by other organizations.**
- 2. Amend Finding 2.A., as follows:**
  - i. The CRC failed to properly disclose independent expenditures totaling at least \$694,681.89; and**
  - ii. Of the 68 direct mailers not correlated with invoices, the CRC failed to properly disclose independent expenditures for at least 51 direct mailers.**
- 3. Amend Finding 2.B., as follows:**

**The CRC failed to file 24 and 48-hour reports for independent expenditures totaling at least \$694,681.89 and at least 51 direct mailers for which the Commission does not have the invoices.**

**Commissioner Goodman stated that he was bound to find that the mailers and at least one radio ad constituted independent expenditures that were never reported because CRC never came forward with at least an affidavit attesting that all of their direct mail programs were run pursuant to the same volunteer program and procedures for which they had contemporaneous records of people signing in and signing out.**

**Ms. Orrock participated in the discussion that continued.**

**Commissioner Goodman modified Amendment 1 regarding Finding 1.C. in his original motion to remove the word “concluding” and to reflect disagreement among the Commissioners as to that conclusion.**

**The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.**

**III. DRAFT ADVISORY OPINION 2017-02**

**War Chest, LLC by Charles R. Spies, Esq. and  
James E. Tyrrell III, Esq.**

**Agenda Document No. 17-21-A (Draft A)**

**Mr. Joseph Wenzinger of the General Counsel's Office presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to the request of War Chest, LLC. The requestor asks several questions regarding a proposal to offer political committees a web-based bank deposit program that would invest political committee funds into a FDIC insured money market account. The Draft concludes that the requestor may provide the services described in the request, but that political committees may not use their investment trust accounts with the requestor as campaign depositories. The Draft also concludes that the political committees would not be required to list the sub-custodian banks as depositories on their Statements of Organizations,**

though political committees would be required to list the intermediary depository at which each political committee would have its own account.

Commissioner Goodman acknowledged Mr. James E. Tyrrell, III, Esq., who was present to answer Commissioners' questions, and asked Mr. Tyrrell for his reaction to the draft.

Mr. Tyrrell participated in the discussion that followed.

Chairman Walther recognized Vice Chair Hunter who

**MOVED to approve Agenda Document No. 17-21-A.**

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

**IV. REG 2014-10: IMPLEMENTING THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2015**

**REG 2016-03: POLITICAL PARTY RULES**

**Memorandum from Commissioner Lee E. Goodman  
dated March 16, 2017**

**Agenda Document No. 17-16-A**

**(Held over from the March 23, 2017 meeting)**

Chairman Walther recognized Commissioner Goodman who stated that he did not intend to call for a vote on the matter, but rather wanted to keep the matter on the radar and before the Commission. He stated that, in the meantime, he was open to answering any questions the Commissioners may have.



**Chairman Walther recognized Commissioner Weintraub who stated that such a rulemaking was long overdue. She indicated that she was not in agreement with every position taken in Commissioner Goodman's resolution, but was willing to engage and perhaps authorize staff to draft a Notice of Proposed Rulemaking.**

**Discussion continued.**

**Chairman Walther recognized Commissioner Goodman who stated that, without objection, if there were at least four (4) Commissioners in agreement, that they ask the General Counsel's Office to begin drafting a proposal around the general concept of addressing parties.**

**Discussion resumed.**

**V. MANAGEMENT AND ADMINISTRATIVE MATTERS**

**There were no such matters.**

**\*\*\*\*\***

**Chairman Walther recognized Commissioner Goodman for a point of personal privilege. Commissioner Goodman stated that Michael Columbo would be leaving the agency in June to move to California and take up the private practice of law at the Nielson Merksamer firm. He stated that Mr. Columbo is a treasure who has been with the agency for eight – nine years. He was previously in private practice, and before that he was an Assistant U.S. Attorney.**

**Commissioner Goodman stated that Mr. Columbo has been invaluable counsel and a trusted friend, and he wished him well.**

**\*\*\*\*\***

**Chairman Walther recognized Commissioner Weintraub who added her good wishes to Mr. Columbo. She stated that he is an excellent attorney, and has been an asset to the agency.**

**\*\*\*\*\***

**Chairman Walther congratulated Mr. Columbo and noted that it has been a pleasure to work with him.**

**\*\*\*\*\***

**There being no further business to come before the Commission, the meeting adjourned at 10:55 A.M.**

**Signed:**



**Steven T. Walther**

**Chairman of the Commission**

**Attest:**



**Dayna C. Brown**

**Secretary and Clerk of the Commission**