



APPROVED DECEMBER 12, 2017

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
WEDNESDAY, SEPTEMBER 20, 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

Lisa Stevenson, Acting General Counsel

Dayna C. Brown, Secretary and Clerk

Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:36 A.M. on Wednesday, September 20, 2017 with a quorum present.

I. DRAFT ADVISORY OPINION 2017-10

Citizens Against Plutocracy by Victor Tiffany

Agenda Document No. 17-39-A (Draft A)

**Agenda Document No. 17-39-B (Draft B)
(Submitted Late)**

Chairman Walther stated that this was the only item on the agenda for today's meeting, and acknowledged that the requestor, Mr. Victor Tiffany, was participating via telephone. Chairman Walther then recognized Vice Chair Hunter who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider Agenda Document No. 17-39-B, Draft B of Advisory Opinion 2017-10, Citizens Against Plutocracy.

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

Chairman Walther thanked Mr. Tiffany for his patience and then recognized Ms. Esther Gyory of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election

Campaign Act of 1971, as amended (the Act), and the Commission regulations to Citizens Against Plutocracy's request. The requestor seeks a determination from the Commission as to whether its proposal to ask candidates to sign a document it has developed called, "A Contract for American Renewal," would result in a coordinated communication under the Act and Commission regulations. Both Drafts conclude that the requestor's proposal to ask candidates to sign a contract would not result in a coordinated communication.

Chairman Walther recognized Vice Chair Hunter who thanked Mr. Tiffany for his patience, and stated that the Commission has worked to harmonize Drafts A and B. Vice Chair Hunter then

MOVED to approve Agenda Document No. 17-39-A, Draft A, as amended at the Table:

- 1. On page 2, delete footnote 1, replacing it with the following:**

The Committee also asks about the permissibility of the activities of "movement activists," who would "follow[] in [the Committee's] footsteps." AOR002. To the extent that the activists' activities are indistinguishable in all material aspects from the activity with respect to which this advisory opinion is rendered, they may rely on the Commission's conclusions in this advisory opinion. See 52 U.S.C. § 30108(c)(1)(B).

- 2. On page 4, line 9 through most of line 12, delete the following:**

***see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 430 (Jan. 3, 2003) ("Although the term 'public communication' covers a broad range of**

communications, it does not cover . . . those transmitted using the Internet and electronic mail.”).

- 3. On page 5, delete footnote 2, replacing it with the following:**

The Commission notes that “a candidate’s ... response to an inquiry about that candidate’s ... positions on legislative or policy issues, but not including a discussion of campaign plans, projects, activities or needs, does not satisfy any of the conduct standards in [11 CFR 109.21(d)].” 11 C.F.R. 109.21(f).

Chairman Walther then recognized Commissioner Weintraub who incorporated the following edits into Vice Chair Hunter’s motion:

- 4. On page 4, lines 16 through 19, delete the following sentence:**

Moreover, because a communication must meet all three prongs of the coordinated communication test in section 109.21 to be deemed coordinated, it is unnecessary for the Commission to consider whether the Committee’s proposed activities would meet the conduct or payment prongs of the test.

- 5. On page 3, line 14, insert the phrase “Under the regulations” so that the last sentence of the paragraph reads:**

Under the regulations, a communication must satisfy all three prongs to be deemed a “coordinated communication.”

The motion carried by a vote of 4-0 with Commissioners Goodman, Hunter, Petersen, and Weintraub voting affirmatively for the decision. Commissioner Walther abstained.

II. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 10:45 A.M.**

Signed:


Steven T. Walther

Chairman of the Commission

Attest:



**Dayna C. Brown
Secretary and Clerk of the Commission**