



APPROVED OCTOBER 18, 2023

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, AUGUST 10, 2023¹**

PRESENT:

Dara Lindenbaum, Chair, presiding

Sean J. Cooksey, Vice Chairman

Shana M. Broussard, Commissioner

Allen J. Dickerson, Commissioner

James E. "Trey" Trainor III, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Lisa Stevenson, Acting General Counsel

Laura E. Sinram, Secretary and Clerk

Vicktoria J. Allen, Deputy Secretary²

Zainab Smith, Management and Program Analyst³

¹ This meeting was conducted as a hybrid meeting with virtual and in-person participants.

² Deputy Secretary Vicktoria Allen was the recording secretary for the meeting.

³ Management and Program Analyst Zainab Smith moderated the meeting.

Chair Dara Lindenbaum called the Federal Election Commission to order in an open meeting at 10:32 A.M. on Thursday, August 10, 2023 with a quorum present.

Chair Lindenbaum recognized Vice Chairman Cooksey who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Document No. 23-19-C.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

**I. REG 2023-02 (ARTIFICIAL INTELLIGENCE IN CAMPAIGN ADS) –
DRAFT NOTIFICATION OF AVAILABILITY**

Memorandum to the Commission dated August 3, 2023

Agenda Document No. 23-20-A

Chair Lindenbaum recognized Ms. Jennifer Waldman of the General Counsel's Office who presented the matter. Agenda Document No. 23-20-A contains a Draft Notification of Availability for a Petition for Rulemaking submitted by Public Citizen. The petition asks the Commission to specify in regulations or guidance that the Federal Election Campaign Act's regulatory

provision regarding the fraudulent misrepresentation of campaign authority applies to deliberately deceptive artificial intelligence campaign advertisements. The Notification seeks comment on whether the Commission should commence a rulemaking based on this petition. The comment period will run for 60 days following publication of the notification in the Federal Register. After the comment period has concluded, and after the comments have been considered, the Commission may decide whether to initiate a rulemaking.

Mr. Robert Knop of the General Counsel's Office participated in the discussion that followed.

Chair Lindenbaum recognized Commissioner Dickerson who

MOVED to adopt Agenda Document No. 23-20-A.

The motion carried by a vote of 6-0 with Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voting affirmatively for the decision.

II. PROPOSED FINAL AUDIT REPORT ON COMMUNICATIONS WORKERS OF AMERICA – COPE POLITICAL CONTRIBUTIONS COMMITTEE (A21-09)

Memorandum to the Commission dated July 6, 2023

Agenda Document No. 23-18-A

This matter was held over to a future meeting.

III. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON STEVE DAINES FOR MONTANA (A21-04)

Memorandum to the Commission dated May 25, 2023

Agenda Document No. 23-15-A

(Held over from the meeting of July 13, 2023)

This matter was held over to a future open meeting.

IV. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON CITIZENS FOR WATERS (A21-01)

Memorandum to the Commission dated July 21, 2023

Agenda Document No. 23-17-A

This matter was held over to a future open meeting.

V. DRAFT ADVISORY OPINION 2023-05

Alamo PAC by Jason Torchinsky, Esq., Jessica Furst Johnson, Esq., and Hon. Matthew Petersen, Esq.

Agenda Document No. 23-19-A (Draft A)

Agenda Document No. 23-19-B (Draft B)

Agenda Document No. 23-19-C (Draft C)

Chair Lindenbaum recognized Mr. Jason Torchinsky and the Honorable Matthew Petersen, former FEC Commissioner, who appeared on behalf of the requestor. Chair Lindenbaum also recognized Mr. Evan Christopher of the General Counsel's Office who presented the matter.

The requestor, Alamo PAC, is the leadership PAC of Senator John Cornyn. Alamo PAC uses an existing hard money contribution account to make contributions to federal candidates and committees. Alamo PAC proposes to open a second, hard money “non-contribution account,” into which it will solicit and receive contributions consistent with the amount and source limitations of the Act for the sole purpose of making independent expenditures. In the alternative, if the Commission finds that the Act does not permit this first proposal, Alamo PAC proposes that the second account be administered and overseen by a special committee whose members are appointed without any involvement of and whose decision making is not approved by Senator Cornyn.

Draft A concludes that the Committee’s proposal would not be permissible under the Act because Alamo PAC has said it will not aggregate contributions to both accounts and will treat each account as if it has a separate contribution limit. That would allow Alamo PAC to raise as much as \$10,000 per contributor per year in excess of the \$5,000 per year per contributor limit laid out in the Act. For the same reason, because the second account would still be a part of an entity that was established by Senator Cornyn, even if it were overseen by a special committee as proposed, Draft A also finds the alternative proposal impermissible.

Draft B concludes that the proposed second account is permissible because nothing in the Act or Commission regulations explicitly prohibits Alamo PAC from opening a second account and receiving contributions consistent with the Act's amount and source limitations for the sole purpose of making independent expenditures.

Draft C agrees with Draft A with respect to the primary request but concludes that the alternative request would be permissible because, although the Act prohibits Alamo PAC from opening the second account under its ordinary operating and management structure, if the second account were overseen as proposed in the alternative request, the second account would not be established, financed, maintained or controlled by Senator Cornyn and, thus, would not violate the Act.

Mr. Torchinsky participated in the discussion that followed.

Chair Lindenbaum recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 23-19-A.

The motion failed by a vote of 3-3 with Commissioners Broussard, Lindenbaum, and Weintraub voting affirmatively for the motion. Commissioners Cooksey, Dickerson, and Trainor dissented.

Chair Lindenbaum recognized Vice Chairman Cooksey who

MOVED to approve Agenda Document No. 23-19-B, which is Draft B.

The motion failed by a vote of 1-5 with Commissioner Cooksey voting affirmatively for the motion. Commissioners Broussard, Dickerson, Lindenbaum, Trainor, and Weintraub dissented.

Chair Lindenbaum recognized Commissioner Trainor who

MOVED to approve Agenda Document No. 23-19-C.

The motion failed by a vote of 2-3 with Commissioners Dickerson and Trainor voting affirmatively for the motion. Commissioners Broussard, Lindenbaum, and Weintraub dissented. Commissioner Cooksey abstained.

VI. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:16 A.M.

Signed:

A handwritten signature in black ink, appearing to read 'Dara Lindenbaum', written over a horizontal line.

**Dara Lindenbaum
Chair of the Commission**

Attest:

**Vicktoria J. Allen
Deputy Secretary of the Commission**

**Laura E. Sinram
Secretary and Clerk of the Commission**