



APPROVED MARCH 30, 2022

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
WEDNESDAY, NOVEMBER 10, 2021¹**

PRESENT:

Shana M. Broussard, Chair, presiding

Allen Dickerson, Vice Chair

Sean J. Cooksey, Commissioner

James E. "Trey" Trainor III, Commissioner

Steven T. Walther, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Lisa Stevenson, Acting General Counsel

Laura E. Sinram, Acting Secretary and Clerk²

Vicktoria J. Allen, Acting Deputy Secretary³

¹ The meeting was conducted virtually.

² Acting Secretary and Clerk Laura Sinram moderated the meeting.

³ Acting Deputy Secretary Vicktoria Allen was the recording secretary for the meeting.

Chair Shana M. Broussard called the Federal Election Commission to order in an open meeting at 1:11 P.M. on Wednesday, November 10, 2021 with a quorum present.

I. DRAFT ADVISORY OPINION 2021-12

Congressman Adam Schiff and Schiff for Congress by Stephen J. Kaufman, Esq.

Agenda Document No. 21-37-A (Draft A)

Agenda Document No. 21-37-B (Draft B)

Chair Broussard recognized Ms. Heather Filemyr, Mr. Theo Lutz and Mr. Robert Knop of the General Counsel's Office. Ms. Filemyr presented the draft advisory opinion request from Congressman Adam Schiff and his principal campaign committee, Schiff for Congress. The requestors ask whether Schiff for Congress may rent its email list to be used to promote a book written by Congressman Schiff and published by Random House. Both Drafts conclude that the rental of the committee's email list for fair market value is not a personal use of a committee asset, and that the payment to rent the list is not a contribution where the committee would receive the fair market value of the list rental.

Mr. Kaufman participated in the discussion that followed regarding the Congressional Ethics Committee's approval of the agreement and the current industry standards for these agreements.

Chair Broussard recognized Commissioner Cooksey who

**MOVED to approve Agenda Document No. 21-37-B
(Draft B).**

Commissioner Weintraub stated that she will not be able to support the motion and noted that while the two drafts were somewhat similar, Draft A was more consistent with the Commission's precedent and practice.

Chair Broussard stated that she would also support Draft A and noted that the use of the Libertarian National Committee, Inc. Advisory Opinion (AO 2002-14) was consistent with the Commission's ongoing application of the precedent.

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

Chair Broussard recognized Commissioner Weintraub who

**MOVED to approve Agenda Document No. 21-37-A
(Draft A).**

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

Chair Broussard recognized Commissioner Weintraub who recommended that the General Counsel's Office prepare a letter noting that the Commission agreed that the proposed activity was ok but could not agree on the reason.

Commissioner Walther stated his support for Commissioner Weintraub's suggestion. Chair Broussard concurred with Commissioner Walther. Vice Chair Dickerson stated that he would join the motion.

Mr. Kaufman noted that, while he was hoping for an approval and direction, he would request a result that provides his clients with the security they need to proceed with the proposed activity.

Discussion continued.

Ms. Filemyr stated that the General Counsel's Office could prepare a draft in line with what they have done in other matters where the Commission did not agree on reasoning and circulate it to the Commission.

Chair Broussard stated that the matter would be held over.

Ms. Filemyr participated in the discussion that followed regarding the request time frame and noted that the Commission is still within the December 6, 2021 deadline for the request.

II. DRAFT ADVISORY OPINION 2021-10

Retail Benefits, Inc. by Anthony Ward, Esq.

Agenda Document No. 21-38-A (Draft A)

Chair Broussard recognized Mr. Tony Ward, Esq., Mr. Michael Rousseau, and Mr. Steve St. Martin for Retail Benefits, Inc. (RBI).

Chair Broussard recognized Ms. Joanna Waldstreicher and Ms. Amy Rothstein of the General Counsel's Office. Ms. Waldstreicher presented the draft advisory opinion request from Retail Benefits, Inc. RBI is a for-profit corporation that enters into licensing agreements with for-profit and non-profit affiliates that allow the affiliates to use customized versions of RBI's browser extensions and mobile apps to offer loyalty programs to the affiliate's customers and supporters. RBI proposes to offer a similar business arrangement to political committees to use for fundraising purposes. RBI asks whether its proposal is permissible under the Act and Commission regulations, and whether the proposed activity would require it to file reports with the Commission. The Draft concludes that the proposed activity is permissible because RBI would be acting as a commercial vendor in providing its services to participating political committees and would comply with all requirements with forwarding contributions. The Draft further concludes that RBI would not be required to file any reports with the Commission.

Chair Broussard recognized Vice Chair Dickerson who

**MOVED to approve Agenda Document No. 21-38-A
(Draft A).**

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

III. DRAFT ADVISORY OPINION 2021-11

**DSCC and DCCC by Marc E. Elias, Esq.,
Jacquelyn K. Lopez, Esq., Rachel L.
Jacobs, Esq., Shanna M. Reulbach, Esq.,
and Elizabeth P. Poston, Esq.**

Agenda Document No. 21-38-A (Draft A)

This matter was held over to a future meeting.

**Chair Broussard recognized Commissioner Trainor who acknowledged
the FEC staff members who are veterans for Veteran's Day.**

**Chair Broussard thanked Commissioner Trainor and acknowledged
Vice Chair Dickerson and others watching who are veterans.**

IV. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission, the
meeting adjourned at 1:26 P.M.**

Signed:

A handwritten signature in blue ink that reads "Shana M. Broussard". The signature is written in a cursive style with a large initial 'S'.

**Shana M. Broussard
Chair of the Commission (2021)**

Attest:

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