

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AOs 2009-04 (Drafts A, B and C)  
Al Franken for U.S. Senate and the ) Agenda Documents No. 09-13, No. 09-  
Democratic Senatorial Campaign ) 13-A and No. 09-13-B  
Committee, by Marc E. Elias, Esq. )

AMENDED CERTIFICATION

I, Mary W. Dove, recording secretary of the Federal Election Commission open meeting on March 19, 2009 do hereby certify that the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 2-3

to approve Draft A of Advisory Opinion 2009-04, as set forth in Agenda Document No. 09-13.

Commissioners Bauerly and Walther voted affirmatively for the decision. Commissioners Hunter, McGahn II, and Petersen dissented. Commissioner Weintraub recused herself with respect to this matter and did not vote.

2. Failed by a vote of 2-1

to strike Footnote 1, in Agenda Document No. 09-13-A; accept the analysis in the opinion which references AO 2006-24; accept the proposed amendments on Page 3, beginning on Line 21 after the word "here;" and approve Agenda Document No. 09-13-A, as amended.

Commissioners McGahn II and Petersen voted affirmatively for the decision. Commissioner Bauerly dissented. Commissioners Hunter and Walther abstained. Commissioner Weintraub recused herself with respect to this matter and did not vote.

3. Decided by a vote of 5-0

- a. approve the answer to Question 1, as set forth in Agenda Document No. 09-13-A, subject to the following amendment:

On Page 3, Line 21, after the word "here." delete the period and insert a comma and insert the following new language:

"..and concluded that 'because election recount activities are in connection with a Federal election, any recount fund established by either a Federal candidate or the State Party must comply with the amount limitations, source prohibitions, and reporting requirements of the Act.' In that Advisory Opinion, the Commission explicitly stated that the national party committees 'must pay for all of the recount activities they conduct using entirely [funds subject to the limitations, prohibitions and reporting requirements of the Act].' Advisory Opinion 2006-24 (answer to question 3). The Commission further concluded that donations to such recount funds would not be aggregated with contributions from the same persons for purposes of the calendar year and aggregate biennial contribution limits."

- b. to authorize the General Counsel's Office to make any necessary technical and conforming amendments.

- c. to inform the requester that the Commission could not reach a conclusion on Question 2

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Walther voted affirmatively for the decision. Commissioner Weintraub recused herself with respect to this matter and did not vote.

Attest:

March 25 2009  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission