



APPROVED FEBRUARY 28, 2024

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, DECEMBER 14, 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

Maureen Benitz, Program Management 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 Program Management Analyst Maureen Benitz moderated the meeting.

Chair Dara Lindenbaum called the Federal Election Commission to order in an open meeting at 10:43 A.M. on Thursday, December 14, 2023 with a quorum present.

I. DRAFT ADVISORY OPINION 2023-08

Cowboy Analytics, LLC by Eric Wang, Esq.

Agenda Document No. 23-28-A (Draft A)

Agenda Document No. 23-28-B (Draft B)

Chair Lindenbaum recognized Mr. Eric Wang who appeared on behalf of the requestor, Cowboy Analytics, LLC (“Cowboy Analytics”). Chair Lindenbaum then recognized Ms. Joanna Waldstreicher of the General Counsel’s Office who presented the matter.

The requestor proposes to establish a nonconnected conduit political committee (“the PAC”) that would solicit and forward contributions earmarked for candidate committees. The PAC would operate a website offering contributors merchandise imprinted with political messages in exchange for making contributions through the PAC to the selected candidates and would deduct a portion of each contribution to cover its costs before forwarding to the designated candidates. The requestor also proposes a second scenario, where the PAC would solicit the purchase of its political merchandise separately from the making of any earmarked contributions. After an individual completes their

purchase, they would then be encouraged to make an earmarked contribution to a candidate. The request asks a number of questions about the treatment of contributions to the PAC and candidate committees and whether the PAC's costs for producing the merchandise and soliciting contributions would constitute independent expenditures.

Within each draft, the same conclusions are reached regarding the two proposed scenarios. Drafts A and B both conclude that the costs the PAC proposes to deduct from the earmarked contributions would be contributions to the PAC and not contributions to the designated candidate. Additionally, the PAC's payment for production and distribution of merchandise would not constitute in-kind contributions from the PAC to the candidate receiving the earmarked contributions.

Drafts A and B reach different conclusions about whether the PAC would have to report its costs of producing and distributing the merchandise or its costs to solicit earmarked contributions as independent expenditures. Draft A concludes that neither the merchandise nor the solicitation costs would constitute independent expenditures. Draft B concludes that both the merchandise and solicitation costs would constitute independent expenditures to the extent they contain express advocacy.

Mr. Wang participated in the discussion that followed.

Chair Lindenbaum recognized Commissioner Broussard who

MOVED to approve Agenda Document No. 23-28-B, Draft B.

Discussion continued.

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

Chair Lindenbaum recognized Vice Chairman Cooksey who

MOVED to approve Agenda Document No. 23-28-A, which is Draft A.

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

Mr. Wang participated in the discussion that followed.

Chair Lindenbaum recognized Vice Chairman Cooksey who

MOVED to instruct the Office General Counsel to draft a third draft response to the advisory opinion consistent with the overlapping answers of drafts A and B, and to circulate such draft for a tally vote to the Commission.

Ms. Waldstreicher participated in the discussion that followed.

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

II. REG 2021-01 (CANDIDATE SALARIES) – DRAFT FINAL RULES AND EXPLANATION AND JUSTIFICATION

Memorandum to the Commission dated December 7, 2023

Agenda Document No. 23-30-A

Chair Lindenbaum recognized Mr. Joseph Wenzinger of the General Counsel’s Office who presented the matter. The draft revises regulations concerning the use of campaign funds by a candidate’s principal campaign committee to pay compensation to the candidate. The Commission would be issuing these final rules in response to a petition for rulemaking filed by a former candidate for the United States House of Representatives. Given the 30-day Congressional review period for final rules of the Commission, the effective date of these final rules would be March 1, 2024.

Discussion followed.

Commissioner Broussard

MOVED to approve Agenda Document No. 23-30-A⁴, as recommended in the Memorandum to the Commission dated December 7, 2023.

⁴ Commissioner Broussard moved approval of Agenda Document No. 23-20-A; however, the Agenda Document No. for this item was No. 23-30-A. Therefore, a technical and conforming edit was made to this motion.

Discussion followed.

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

III. REG 2013-01 (TECHNOLOGICAL MODERNIZATION) – DRAFT FINAL RULES AND EXPLANATION AND JUSTIFICATION

Memorandum to the Commission dated December 7, 2023

Agenda Document No. 23-29-A

Chair Lindenbaum recognized Ms. Waldstreicher of the General Counsel's Office who presented the matter. These final rules modernize Commission regulations to address electronic communications and transactions as well as to facilitate electronic accounting, recordkeeping, reporting, and redesignation by political committees. The revisions also eliminate or update references to outmoded technologies. Given the 30-day Congressional review period for final rules of the Commission, the effective date of these final rules would be March 1, 2024.

Discussion followed.

Chair Lindenbaum recognized Commissioner Dickerson who

MOVED to approve Agenda Document No. 23-29-A, as recommended in the Memorandum to the Commission date December 7, 2023.

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

IV. DRAFT LEGISLTATIVE RECOMMENDATIONS

Memorandum to the Commission dated December 7, 2023

Agenda Document No. 23-27-A

Chair Lindenbaum recognized Mr. Duane Pugh of the Office of Congressional, Legislative and Intergovernmental Affairs who presented the matter.

Discussion followed.

Chair Lindenbaum recognized Vice Chairman Cooksey who

**MOVED to approve Agenda Document No. 23-27-A,
subject to the edits discussed by staff at the table.**

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

Chair Lindenbaum recognized staff who reached milestone anniversaries.

Chair Lindenbaum took a point of personal privilege to acknowledge the many accomplishments over the last year.

V. ELECTION OF OFFICERS FOR 2024

A. Chair

Chair Lindenbaum recognized Commissioner Weintraub who

MOVED to nominate Sean Cooksey to serve as Chair of the Federal Election Commission for the calendar year 2024.

Discussion followed.

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

B. Vice Chair

Chair Lindenbaum recognized Vice Chairman Cooksey who

MOVED to nominate Commissioner Ellen Weintraub to serve as Vice Chair of the Federal Election Commission for the calendar year 2024.

Discussion followed.

Chair Lindenbaum called the vote. The motion carried by a vote of 4-1 with Commissioners Broussard, Cooksey, Lindenbaum, and Weintraub voting affirmatively for the decision. Commissioner Trainor dissented. Commissioner Dickerson abstained.

Chair Lindenbaum recognized Vice Chairman Cooksey for a point of personal privilege. He thanked Chair Lindenbaum for their positive working relationship and acknowledged the many accomplishments the agency achieved over the last year.

VI. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:48 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 (2023)**

Attest:

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

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