



AGENDA DOCUMENT NO. 19-25-A

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 23, 2019

PRESENT: Ellen L. Weintraub, Chair, presiding
Matthew S. Petersen, Vice Chairman
Steven T. Walther, Commissioner
Caroline C. Hunter, Commissioner
Alec Palmer, Staff Director
Lisa Stevenson, Acting General Counsel
Dayna C. Brown, Secretary and Clerk

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:09 A.M. on Thursday, May 23, 2019 with a quorum present.

Chair Weintraub stated that the order of the matters on the agenda would be amended with Draft Advisory Opinion 2019-05 (System73) to be discussed first.

III. DRAFT ADVISORY OPINION 2018-12

Defending Digital Campaigns, Inc. by Marc Elias, Esq.
and Michael Toner, Esq.

Agenda Document No. 18-43-A (Draft A)

Agenda Document No. 18-43-B (Draft B)

Agenda Document No. 18-43-C (Draft C)

Agenda Document No. 18-43-D (Draft D)

Agenda Document No. 18-43-E (Final)
(Submitted Late)

(Held over from the meetings of October 11, 2018,
October 25, 2018, December 13, 2018, March 28,
2019, April 11, 2019, April 25, 2019, and May 9, 2019)

(This matter has been resolved on a tally vote by the
Commission)

Chair Weintraub stated that this matter was resolved on tally, with the answer made public on May 21st. Chair Weintraub expressed her pleasure that the Commission was able to resolve the matter. She highlighted that every member of the Commission was concerned about the issue of cybersecurity and worked very hard to find consensus. Discussion continued.

The Chair stated that the Commission would vote on the minutes and then discuss Draft Advisory Opinion 2019-05, followed by the Draft Interpretative Rule on Paying for Cybersecurity using Party Segregated Accounts.

Chair Weintraub recognized Vice Chairman Petersen who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider Agenda Documents No. 19-21-A, 18-43-E, and 19-18-B.

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

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for April 11, 2019
Agenda Document No. 19-20-A

Chair Weintraub recognized Vice Chairman Petersen who

MOVED to approve the minutes for the meeting held on April 11, 2019, as set forth in Agenda Document No. 19-20-A.

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

IV. DRAFT ADVISORY OPINION 2019-05

System73 by Craig Engle, Esq.

Agenda Document No. 19-18-A

Agenda Document No. 19-18-B
(Submitted Late)

(Held over from the meeting of May 9, 2019)

Chair Weintraub recognized Mr. Craig Engle, requestor's counsel, who was available to answer Commissioners' questions. The Chair then stated that the requestor made some revisions to their request and late yesterday the Commission released a new draft answer.

Chair Weintraub recognized Ms. Heather Filemyr of the General Counsel's Office who presented the draft advisory opinion request from System73, an incorporated communications technology network. The requestor asks whether it may enter into a license agreement with a political committee for the exclusive rights to livestream the committee's events. The requestor initially proposed to pay political committees a license fee for livestream rights. Based on that information, Draft A concluded that the proposal would result in

prohibited corporate contributions. Following the last open meeting, the requestor submitted supplemental information stating that it no longer plans to pay political committees as part of the proposed license agreements. In light of that supplemental material, Draft B concludes that System73's proposal, as revised, is permissible because it is within the media exemption.

Mr. Engle participated in the discussion that followed including, confirmation that any services provided by System73 to the committees would be at fair market value.

Chair Weintraub stated that given that Draft B was released late in the day yesterday, the public has not had long to review it and in her personal review of the draft, the discussion of previous advisory opinions could be streamlined. The Chair further stated that while she agrees with the result, there may be a revised version of Draft B, which the Commission can release relatively quickly and allow the requestor and the public an opportunity to comment.

Mr. Engle participated in the continuing discussion including the deadline in this matter, the potential for the Commission to resolve the matter via a tally vote, and the Commissioners' agreement that there was a path forward in this matter.

II. DRAFT INTERPRETIVE RULE ON PAYING FOR CYBERSECURITY
USING PARTY SEGREGATED ACCOUNTS

Agenda Document No. 19-21-A
(Submitted Late)

Chair Weintraub introduced the matter stating that it would not be voted on today, however, the issue of cybersecurity and improving the nation's defenses against cyberattacks was of deep concern to every member of the Commission, members of Congress, and other federal agencies. The Chair stated that this proposal, based on a bill from Senator Wyden's office which received widespread support, was an attempt to address this concern. She further stated that the Commission has made a good step forward with the Defending Digital Campaigns, Inc. advisory opinion in providing a way for campaigns and party committees to obtain access to cybersecurity services; however, this may not solve all the problems. Chair Weintraub stated that she made her proposal as an interpretive rule because she thought it was the fastest way to get it done, though she is also interested in trying to move forward on a number of rulemaking fronts, including a rulemaking to address the Segregated Party Accounts set up under the Cromnibus.

Discussion continued.

Chair Weintraub recognized Commissioner Walther who stated that the Commission received two comments on the proposal, one from Democracy21 and one from the Campaign Legal Center, both of whom believe it would be

illegal for the Commission to go in this direction unless the statute was to change. Commissioner Walther further stated that using building fund money for other purposes is beyond reasonable, with there being a huge leap between the law and the proposal.

Discussion continued.

Chair Weintraub recognized Commissioner Hunter who requested that, in the event that there is a rulemaking, her colleagues work together before putting out a draft.

Discussion continued on the Commission working together before putting out a draft notice of proposed rulemaking.

Chair Weintraub recognized Vice Chairman Petersen who stated that the Commission will need to think creatively about this issue that is obviously a concern on Capitol Hill and to the American public.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 10:40 A.M.

Signed:

Ellen L. Weintraub
Chair of the Commission

Attest:

Dayna C. Brown
Secretary and Clerk of the Commission