

AGENDA DOCUMENT NO. 03-84

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION

THURSDAY, NOVEMBER 6, 2003

PRESENT: Ellen L. Weintraub, Chair, presiding  
Bradley A. Smith, Vice Chairman  
David M. Mason, Commissioner  
Scott E. Thomas, Commissioner  
Michael E. Toner, Commissioner  
James A. Pehrkon, Staff Director  
Rosemary C. Smith, Acting Associate  
General Counsel for Policy,  
representing Lawrence H. Norton,  
General Counsel  
Mary W. Dove, Secretary

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, November 6, 2003, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for October 16, 2003

Agenda Document No. 03-77

Chair Weintraub recognized Vice Chairman Smith, who

MOVED to approve the Minutes for the open meeting of Thursday, October 16, 2003, as submitted in Agenda Document No. 03-77.

The motion carried on the vote of 5-0 with Commissioners Mason, Smith, Thomas, Toner, and Weintraub voting affirmatively.

II. ADVISORY OPINIONS

A. Revised Draft Advisory Opinion 2003-23

Women Engaged in Leadership, Education,  
and Action in Democracy ("WE LEAD") by  
counsel, Joseph E. Sandler and Neil P. Reiff

Agenda Documents No. 03-78, No. 03-78-A,  
and No. 03-78-B

(Placed on the agenda pursuant to the filing  
of objections by Commissioners Mason, Smith,  
and Toner following circulation on a 72-hour  
tally vote basis)

The Chair recognized Vice Chairman Smith,

who

MOVED to suspend the rules on  
the timely submission of agenda  
documents in order to consider  
Agenda Document No. 03-78-B.

The motion carried on the vote of 5-0 with

Commissioners Mason, Smith, Thomas, Toner, and Weintraub  
voting affirmatively.

II. ADVISORY OPINIONS (continued)

A. Revised Draft Advisory Opinion 2003-23  
(continued)

The Chair recognized Mr. Robert Knop of the General Counsel's Office who presented revised draft Advisory Opinion 2003-23 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the earmarking, collection, and forwarding of contributions from individual donors to the presumptive Democratic Presidential nominee.

Chair Weintraub recognized Commissioner Toner who reviewed his proposed amendments, as outlined in Agenda Document No. 03-78-B. A discussion followed.

Commissioner Toner accepted the following amendments:

Page 6, Line 4: the revision to read "10 Day forwarding and other" before the word "requirements."

Amend the 5th line from the bottom to read: "the DNC certifications show that a candidate has become the party's presumptive nominee."

Delete the proposed amendment for Page 9, Line 2.

II. ADVISORY OPINIONS (continued)

A. Revised Draft Advisory Opinion 2003-23  
(continued)

Without objection, the proposed amendments in  
Agenda Document No. 03-78-B, as amended, were accepted.

The Chair recognized Commissioner Mason who  
presented his proposed amendments, as set forth in Agenda  
Document No. 03-78-A.

At the conclusion of the discussion, Commissioner  
Mason accepted the following amendments to Agenda Document  
No. 03-78-A:

Page 2, Line 15: delete the words "a  
candidate's committee, or its agents" and  
substitute the words "an authorized  
committee of a candidate, or an agent  
of either" in lieu thereof;

Page 2, Line 18: delete the words "by such  
authorized committee" and substitute the  
words "by such candidate, authorized  
committee or agent."

II. ADVISORY OPINIONS (continued)

A. Revised Draft Advisory Opinion 2003-23  
(continued)

Chair Weintraub recognized Commissioner Mason,

who

MOVED to approve revised draft  
Advisory Opinion 2003-23, as  
submitted in Agenda Document  
No. 03-78, as amended by Agenda  
Document No. 03-78-A, as amended,  
and further amended by Agenda  
Document No. 03-78-B, as amended.

The motion carried on the vote of 5-0 with  
Commissioners Mason, Smith, Thomas, Toner, and Weintraub  
voting affirmatively.

B. Draft Advisory Opinion 2003-26

Voinovich for Senate Committee by  
William L. Curlis, Treasurer

Agenda Document No. 03-83

II. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-26  
(continued)

Chair Weintraub recognized Mr. Michael Marinelli of the General Counsel's Office who presented draft Advisory Opinion 2003-26 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the proposed use of campaign funds received by Voinovich for Senate to refund contributions received by Voinovich for Governor.

A discussion followed.

The Chair recognized Commissioner Thomas, who

MOVED to approve draft Advisory Opinion 2003-26, as submitted in Agenda Document No. 03-83, subject to the following amendments:

Page 3: delete Footnote 5;

Page 4: delete the sentence which begins on Line 7 and ends on Line 10;

Delete the paragraph which begins on Page 4, Line 18 through Page 5, Line 4;

Page 5: delete Footnote 8.

II. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-26  
(continued)

The motion carried on the vote of 4-1 with  
Commissioners Mason, Smith, Thomas, and Weintraub voting  
affirmatively. Commissioner Toner dissented.

C. Draft Advisory Opinion 2003-27

Missouri Green Party, Inc. by  
Timothy V. Barnhart, Treasurer

Agenda Document No. 03-80

Chair Weintraub recognized Mr. Robert Knop of  
the General Counsel's Office who presented draft Advisory  
Opinion 2003-27 concerning the status of the Missouri Green  
Party, Inc. as a State committee of a political party under  
the Federal Election Campaign Act of 1971, as amended ("the  
Act"), and Commission regulations. During his presentation,  
Mr. Marinelli noted the following amendment:

Page 6, Line 2: change the words "Green  
Party of Missouri, Inc." to "Missouri  
Green Party, Inc."



II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-27  
(continued)

The Chair recognized Vice Chairman Smith,

who

MOVED to approve draft Advisory  
Opinion 2003-27, as submitted in  
Agenda Document No. 03-80, subject  
to the amendment noted above.

The motion carried on the vote of 5-0 with  
Commissioners Mason, Smith, Thomas, Toner, and Weintraub  
voting affirmatively.

III. NOTICE OF DISPOSITION FOR RULEMAKING ON MAILING  
LISTS OF POLITICAL COMMITTEES

Agenda Document No. 03-79

Chair Weintraub recognized Mr. Jonathan Levin of  
the General Counsel's Office who presented the subject  
document.

III. NOTICE OF DISPOSITION FOR RULEMAKING ON MAILING  
LISTS OF POLITICAL COMMITTEES

(continued)

Following discussion, the Chair recognized Vice  
Chairman Smith, who

MOVED to approve the Notice of  
Disposition, as submitted in  
Agenda Document No. 03-79, for  
publication in the *Federal  
Register*.

The motion carried on the vote of 5-0 with  
Commissioners Mason, Smith, Thomas, Toner, and Weintraub  
voting affirmatively.

IV. FINAL RULES ON PARTY COMMITTEE PHONE BANKS

Agenda Document No. 03-81

Chair Weintraub recognized Mr. Jonathan Levin of  
the General Counsel's Office who reviewed the above-  
captioned matter. During his presentation, Mr. Levin  
noted the following amendments:

IV. FINAL RULES ON PARTY COMMITTEE PHONE BANKS  
(continued)

1. Page 3, Line 8: change the date to September 25, 2003.
2. Page 8, Line 21: after the phrase "independent expenditure" change the period to a comma and insert the words "depending on the circumstances."
3. Page 12, Line 17: add the cites "See 2 U.S.C. 441a(d)(4)(A)(ii); 11 CFR 109.35(b)(2)."

A discussion followed.

The Chair recognized Vice Chairman Smith,

who

MOVED to approve the Final Rules and Explanation and Justification, as submitted in Agenda Document No. 03-81, subject to the amendments noted above, for publication in the *Federal Register* and transmittal to Congress.

The motion carried on the vote of 5-0 with Commissioners Mason, Smith, Thomas, Toner, and Weintraub voting affirmatively.

V. FINAL RULES ON MULTICANDIDATE COMMITTEE STATUS,  
CERTAIN CONTRIBUTION LIMITS, AND BIENNIAL  
CONTRIBUTION LIMITS

Agenda Document No. 03-82

Chair Weintraub recognized Mr. Richard Ewell of the General Counsel's Office who presented the subject document. During his presentation, Mr. Ewell noted the following amendments:

1. Page 5, Line 14: delete the words "individuals and";
2. Page 5, Line 15: delete the word "lacking" and substitute the word "with" in lieu thereof;
3. Page 10, Line 2: insert the words "per election" after "\$3,000."

During the discussion which followed, it was agreed without objection, that the cite should be changed on Page 5, Line 13, from 2 U.S.C. 434 to 2 U.S.C. 433.

Chair Weintraub recognized Vice Chairman Smith, who

V. FINAL RULES ON MULTICANDIDATE COMMITTEE STATUS,  
CERTAIN CONTRIBUTION LIMITS, AND BIENNIAL  
CONTRIBUTION LIMITS (continued)

MOVED to approve the Final Rules  
and Explanation and Justification,  
as submitted in Agenda Document  
No. 03-82, as amended, for  
publication in the *Federal Register*  
and transmittal to Congress.

The motion carried on the vote of 5-0 with  
Commissioners Mason, Smith, Thomas, Toner, and Weintraub  
voting affirmatively.

VI. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters to  
come before the Commission.

The meeting adjourned at 11:50 A.M.

Signed:

Ellen L. Weintraub  
Chair

Attest:

Mary W. Dove  
Secretary