

AGENDA DOCUMENT NO. 04-16
APPROVED FEBRUARY 18, 2004

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, FEBRUARY 5, 2004

PRESENT: Bradley A. Smith, Chairman, presiding
 Ellen L. Weintaub, Vice Chair
 David M. Mason, Commissioner
 Danny L. McDonald, Commissioner
 Scott E. Thomas, Commissioner
 Michael E. Toner, Commissioner
 James A. Pehrkon, Staff Director
 Lawrence H. Norton, General Counsel
 Mary W. Dove, Secretary

Chairman Bradley A. Smith called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, February 5, 2004, with a quorum present.

I. FINAL RULES ON EXTENSION OF THE ADMINISTRATIVE FINES PROGRAM

Agenda Document No. 04-14 (Submitted late)

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 04-14.

The motion carried on the vote of 6-0 with Commissioners Mason, McDonald, Smith, Thomas, Toner, and Weintraub voting affirmatively.

I. FINAL RULES ON EXTENSION OF THE ADMINISTRATIVE
FINES PROGRAM (continued)

The Chairman recognized Mr. Daniel E. Pollner of the General Counsel's Office who presented an overview of the subject document. During his presentation, Mr. Pollner noted the following amendment in the Explanation and Justification:

In every instance except for Page 2,
Line 22, insert the words "the day
before the" in place of "[insert date
of."

A discussion followed,

Chairman Smith recognized Commissioner Toner,
who

MOVED to approve the final rule
and Explanation and Justification,
as submitted in Agenda Document
No. 04-14, subject to the amendment
noted above, for publication in the
Federal Register and transmittal to
Congress.

The motion carried on the vote of 6-0.

II. ADVISORY OPINIONS

A. Draft Advisory Opinion 2003-39

Credit Union National Association by counsel,
Jan Witold Baran and D. Mark Renaud

Agenda Document No. 04-10

Chairman Smith recognized Mr. Daniel E. Pollner of the General Counsel's Office who presented draft Advisory Opinion 2003-39, concerning the application of the Federal Election Campaign Act of 1971 ("the Act"), and Commission regulations to a proposed plan whereby Local Government Employees' Federal Credit Union ("Local Government FCU") would match voluntary contributions to Credit Union Legislative Action Council of CUNA ("CULAC") from its executive and administrative personnel, individual account holders, and their families with donations to section 501(c)(3) charities of the contributors' choice.

II. ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2003-39
(continued)

The Chairman recognized Commissioner Toner,
who

MOVED to approve draft Advisory
Opinion 2003-39, as set forth in
Agenda Document No.04-10.

The motion carried on the vote of 4-2 with
Commissioners Mason, Smith, Toner, and Weintraub
voting affirmatively. Commissioners McDonald and
Thomas dissented.

B. Draft Advisory Opinion 2003-40

U.S. Navy Veterans' Good Government
Fund by Bill Meyers, Treasurer

Agenda Document No. 04-09

Chairman Smith recognized Mr. J. Duane Pugh, Jr.
of the General Counsel's Office who presented draft Advisory
Opinion 2003-40, concerning the application of the Federal
Election Campaign Act of 1971, as amended ("the Act"), to

II. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-40 (continued)

the reporting obligations of proposed independent expenditures by the U.S. Navy Veterans' Good Government Fund ("the Committee"), a Federal political committee.

A discussion followed.

Chairman Smith recognized Vice Chair Weintraub,
who

MOVED to approve draft Advisory
Opinion 2003-40, as submitted in
Agenda Document No. 04-09.

The motion carried on the vote of 6-0.

C. Draft Advisory Opinion 2003-38
(Alternative Drafts)

Agenda Documents No. 04-12
and No. 04-12-A

United States Representative Eliot Engel
by counsel, Cassandra Lentchner

II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38
(Alternative Drafts) (continued)

Chairman Smith recognized Vice Chair Weintraub,
who

MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Documents
No. 04-12 and No. 04-12-A.

The motion carried on the vote of 6-0.

The Chairman recognized Mr. Robert M. Knop of
the General Counsel's Office who presented two proposed
drafts of Advisory Opinion 2003-38, concerning the
application of the Federal Election Campaign Act of 1971,
as amended ("the Act"), and Commission regulations to the
raising and spending of funds for reapportionment-related
activities in Representative Engel's home state of New York.

II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38
(Alternative Drafts) (continued)

A discussion followed.

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The meeting recessed at 11:30 A.M. and
reconvened at 11:40 A.M. with a quorum present.

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II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38
(Alternative Drafts) (continued)

The discussion resumed.

Chairman Smith recognized Commissioner Toner,
who

MOVED to approve Alternative A
of draft Advisory Opinion 2003-38,
as submitted in Agenda Document
No. 04-12.

II. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-38
(Alternative Drafts) (continued)

The motion failed by a vote of 3-3 with Commissioners Mason, Smith, and Toner voting affirmatively. Commissioners McDonald, Thomas, and Weintraub dissented.

A vote was not taken on Alternative B. It was noted by the Chairman that, pursuant to 11 CFR 112.4(a), a letter would be sent to the requestor by the General Counsel stating the Commission was unable to reach a decision in this Advisory Opinion.

II. ADVISORY OPINIONS (continued)

D. Draft Advisory Opinion 2003-37

Americans for a Better Country by
Keith A. Davis, Treasurer

Agenda Document No. 04-11

It was agreed without objection to hold this
matter over to the next open meeting on February 18,
2004, in order to allow more time to review the many
comments received the preceding day.

III. ROUTINE ADMINISTRATIVE MATTERS

Chairman Smith recognized Staff Director
Pehrkon who announced the Federal Communications
Commission has established its electioneering data
base, which is online at their website, and can be
retrieved through the FEC website/electioneering
communications page.

The meeting adjourned at 11:45 A.M.

Signed:

Bradley A. Smith
Chairman of the Commission

Attest:

Mary W. Dove
Secretary of the Commission