

PRESENT: **Scott E. Thomas, Chairman, presiding**

Michael E. Toner, Vice Chairman

David M. Mason, Commissioner

Danny L. McDonald, Commissioner

Ellen L. Weintraub, Commissioner

James A. Pehrkon, Staff Director

Lawrence H. Norton, General Counsel

Mary W. Dove, Secretary

Chairman Scott E. Thomas called the Federal Election Commission to order in an open meeting at 10:05 A.M. on Thursday, January 27, 2005, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for December 16, 2004
Agenda Document No. 05-01**

Chairman Thomas recognized Vice Chairman Toner, who

MOVED to approve the minutes for the Open Meeting of Thursday, December 16, 2004, as submitted in Agenda Document No. 05-01.

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

II. DRAFT ADVISORY OPINION 2004-45

**Senator Ken Salazar and Salazar for Senate, by counsel
Marc E. Elias and Rebecca H. Gordon**

**Agenda Documents No. 05-03
and No. 05-03-A (Submitted late)**

Chairman Thomas recognized Vice Chairman Toner, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 05-03-A.

II. DRAFT ADVISORY OPINION 2004-45 (continued)

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

The Chairman recognized Ms. Mai Dinh of the General Counsel's Office who presented draft Advisory Opinion 2004-45 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the Salazar Committee's spending of contributions it raised during the 2004 election cycle under increased contribution limits pursuant to the "Millionaires' Amendment."

Chairman Thomas reviewed his revisions to the draft, as set forth in Agenda Document No. 05-03-A.

A discussion followed.

The Chairman recognized Commissioner Weintraub, who

**MOVED to approve draft Advisory Opinion
2004-45, as contained in Agenda Document
No. 05-03, as amended by Agenda Document
No. 05-03-A.**

There was further discussion.

The motion failed by a vote of 3-2 with Commissioners McDonald, Thomas, and Weintraub voting affirmatively. Commissioners Mason and Toner dissented.

II. DRAFT ADVISORY OPINION 2004-45 (continued)

Chairman Thomas recognized Commissioner McDonald, who

**MOVED to approve draft Advisory
Opinion 2004-45, as contained in
Agenda Document No. 05-03.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

**III. NOTICE OF PROPOSED RULEMAKING: *De Minimis*
EXEMPTION FOR THE DISBURSEMENT OF LEVIN FUNDS
BY STATE, DISTRICT, AND LOCAL PARTY COMMITTEES**

Agenda Document No. 05-04 (Submitted late)

Chairman Thomas recognized Vice Chairman Toner, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 05-04.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

Chairman Thomas recognized Ms. Cheryl Hemsley of the General
Counsel's Office who presented the subject document.

The Chairman recognized Vice Chairman Toner, who

**III. NOTICE OF PROPOSED RULEMAKING: *De Minimis*
EXEMPTION FOR THE DISBURSEMENT OF LEVIN FUNDS
BY STATE, DISTRICT, AND LOCAL PARTY COMMITTEES**

(continued)

**MOVED to approve the draft Notice of
Proposed Rulemaking, as set forth in
Agenda Document No. 05-04, for
publication in the *Federal Register*.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

**IV. NOTICE OF PROPOSED RULEMAKING: DEFINITION OF
AGENT FOR BCRA REGULATIONS ON COORDINATED AND
INDEPENDENT EXPENDITURES AND NON-FEDERAL FUNDS
OR SOFT MONEY (11 CFR 109.3 AND 300.2(b))**

Agenda Document No. 05-05 (Submitted late)

Chairman Thomas recognized Vice Chairman Toner, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 05-05.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

Chairman Thomas recognized Mr. Ron Katwan of the General

Counsel's Office who presented the subject document.

**IV. NOTICE OF PROPOSED RULEMAKING: DEFINITION OF
AGENT FOR BCRA REGULATIONS ON COORDINATED AND
INDEPENDENT EXPENDITURES AND NON-FEDERAL FUNDS
OR SOFT MONEY (11 CFR 109.3 AND 300.2(b))**

(continued)

The Chairman recognized Commissioner Weintraub, who

**MOVED to approve the draft Notice of
Proposed Rulemaking, as set forth in
Agenda Document No. 05-05, for
publication in the *Federal Register*.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

**V. FINAL RULES AND EXPLANATION AND JUSTIFICATION ON
CONTRIBUTIONS BY MINORS (11 CFR 110.19)**

Agenda Document No. 05-06 (Submitted late)

Chairman Thomas recognized Vice Chairman Toner, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 05-06.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

**V. FINAL RULES AND EXPLANATION AND JUSTIFICATION ON
CONTRIBUTIONS BY MINORS (11 CFR 110.19)**

(continued)

**Chairman Thomas recognized Ms. Amy Rothstein of the General
Counsel's Office who presented the subject document.**

A discussion followed.

The Chairman recognized Commissioner McDonald, who

**MOVED to approve the Final Rules and
Explanation and Justification, as set
forth in Agenda Document No. 05-06,
subject to a revision on Pages 12 and
13, so that the applicable language
regarding the third party prong of the
test is stated in full; and, that the
revised document be submitted for
publication in the *Federal Register* and
transmittal to Congress.**

There was further discussion.

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

VI. ROUTINE ADMINISTRATIVE MATTERS

2005 MEETING DATES

Agenda Document No. 05-02

Chairman Thomas recognized Vice Chairman Toner, who

VI. ROUTINE ADMINISTRATIVE MATTERS (continued)

2005 MEETING DATES (continued)

**MOVED to approve the 2005 Meeting Dates,
as set forth in Agenda Document No. 05-02,
subject to the following amendments:**

**that the Open Meeting scheduled for
Thursday, February 17, 2005, be changed
to Monday, February 14, 2005, and the
meeting scheduled for Thursday, March 17,
2005 to begin at 2:00 P.M. with all other
meetings to begin at 10:00 A.M.**

The motion carried on the vote of 5-0 with Commissioners

Mason, McDonald, Thomas, Toner, and Weintraub voting affirmatively.

The meeting adjourned at 11:05 A.M.

Signed:

**Scott E. Thomas
Chairman of the Commission**

Attest:

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