



AGENDA DOCUMENT NO. 09-62

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, AUGUST 27, 2009**

PRESENT:

Steven T. Walther, Chairman, presiding

Matthew S. Petersen, Vice Chairman

Cynthia L. Bauerly, Commissioner

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Acting Staff Director

Thomasenia P. Duncan, General Counsel

Mary W. Dove, Secretary

Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:20 A.M. on Thursday, August 27, 2009, with a quorum present.

On behalf of the Commission, Chairman Walther presented an opening statement in tribute to the late Senator Edward M. Kennedy.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for Tuesday, July 28, 2009
Agenda Document No. 09-56**

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to approve the minutes for the Open Meeting of Tuesday, July 28, 2009, as set forth in Agenda Document No. 09-56.

The motion carried on the vote of 6-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively.

II. DRAFT ADVISORY OPINIONS

**A. Draft Advisory Opinion 2009-14
Mercedes-Benz USA LLC and Sterling Truck Corporation
by Jan Witold Baran, Esq. and Caleb Burns, Esq.
(Continued from July 28, 2009)**

**Agenda Documents No. 09-54, No. 09-54-A, and
No. 09-54-B**

(Executive Assistant Kevin Plummer recused)

II. DRAFT ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2009-14 (continued)

Chairman Walther recognized Mr. David Adkins of the General Counsel's Office who presented the proposed drafts of the subject advisory opinion, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to Mercedes-Benz USA LLC's proposal to pay the administrative costs of a separate segregated fund ("SSF") to be established by Sterling Truck Corporation, and whether the SSF may be referred to as "Daimler PAC."

The Chairman recognized Mr. Jan Witold Baran, representing the requestors, who responded to questions during the discussion which followed.

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to approve draft Advisory Opinion 2009-14, as set forth in Agenda Document No. 09-54, with the exception of Question 3; and, to instruct the General Counsel's Office to include language in the letter to the requestor which states the question was considered but the Commission was unable to render an opinion on that question.

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

**B. Draft Advisory Opinion 2009-19
Club for Growth, by David Keating, Executive Director**

Agenda Document No. 09-57 (Drafts A & B)

Agenda Document No. 09-57-A (Draft C - submitted late)

(Executive Assistant Kevin Plummer recused)

The Chairman noted Mr. David Keating, on behalf of the requestor, was present to answer any questions the Commission may have during the discussion.

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 09-57-A.

The motion carried on the vote of 6-0.

The Chairman recognized Ms. Esther Heiden of the General Counsel's Office who presented the alternative drafts of Advisory Opinion 2009-19, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of contributor information contained in reports filed with the Commission.

A discussion followed.

II. DRAFT ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2009-19 (continued)

The Chairman recognized Vice Chairmen Petersen, who

**MOVED to approve Draft C of Advisory Opinion
2009-19, as set forth in Agenda Document No. 09-57-A.**

The motion carried on the vote of 4-2 with Commissioners

Bauerly, Hunter, McGahn II, and Petersen voting affirmatively.

Commissioners Walther and Weintraub dissented.

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The meeting recessed at 11:00 A.M. and reconvened at 11:10 A.M.

with a quorum present.

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II. DRAFT ADVISORY OPINIONS (continued)

**C. Draft Advisory Opinion 2009-20 (Alternative Drafts)
Visclosky for Congress by Treasurer Michael C. Malczewski**

Agenda Document No. 09-58

Agenda Document No. 09-58-A (submitted late)

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 09-58-A.**

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

**C. Draft Advisory Opinion 2009-20 (continued)
(Alternative Drafts)**

Chairman Walther recognized Ms. Esther Heiden of the General Counsel's Office who presented the proposed drafts of the subject advisory opinion, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of campaign funds to pay legal fees and expenses incurred by Representative Visclosky's current and former congressional staff members in connection with a Federal investigation of Representative Visclosky.

The Chairman reviewed Alternative Draft B, as contained in Agenda Document No. 09-58-A.

A discussion followed.

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to approve draft Advisory Opinion
2009-20, as set forth in Agenda Document
No. 09-58.**

The motion carried on the vote of 5-1 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Weintraub voting affirmatively.

Commissioner Walther dissented.

II. DRAFT ADVISORY OPINIONS (continued)

**D. Draft Advisory Opinion 2009-21
West Virginia Secretary of State by
Timothy G. Leach, Assistant General Counsel**

Agenda Document No. 09-59

Chairman Walther recognized Mr. Alexander Tausanovitch of the General Counsel's Office who presented the proposed draft of the subject advisory opinion, concerning the possible preemption of West Virginia state law by the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations.

The Chairman recognized Vice Chairman Petersen, who

**MOVED to approve draft Advisory Opinion
2009-21, as contained in Agenda Document
No. 09-59.**

The motion carried on the vote of 6-0.

**III. PROPOSAL TO REVISE COMMISSION'S PRACTICES FOR POSTING
LITIGATION DOCUMENTS ON THE FEC WEBSITE**

Agenda Document No. 09-61

This matter was held over to the next meeting.

IV. FUTURE MEETING DATES

The Chairman announced the schedule for future meeting dates would be circulated on a tally vote basis.

V. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 11:25 A.M.**

Signed:

**Steven T. Walther
Chairman of the Commission**

Attest:

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