



AGENDA DOCUMENT No. 10-66

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, SEPTEMBER 23, 2010**

PRESENT:

Matthew S. Petersen, Chairman, presiding

Cynthia L. Bauerly, Vice Chair

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Steven T. Walther, Commissioner¹

Ellen L. Weintraub, Commissioner

Alec Palmer, Acting Staff Director

Christopher Hughey, Acting General Counsel

Lisa Chapman, Recording Secretary

¹ Commissioner Walther was present for the discussion of items I through V.

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 10:17 A.M. on Thursday, September 23, 2010, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for August 26, 2010
Agenda Document No. 10-56

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve Agenda Document No. 10-56, the minutes of the meeting for August 26, 2010.

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

II. DRAFT ADVISORY OPINION 2010-16

EmblemHealth Services Company LLC and
Health Insurance Plan of Greater New York by
Jerry H. Goldfeder, Esq.
Agenda Document No. 10-57

Chairman Petersen recognized Ms. Cheryl Hemsley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the proposed payment by EmblemHealth LLC of administrative and solicitation costs for the Health Insurance Plan of Greater New York's separate segregated fund (Health Insurance Plan of Greater New York Federal Political Action Committee, the "SSF"); the renaming of the SSF; and the solicitation of contributions to the SSF.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to adopt Agenda Document No. 10-57, the Draft Advisory Opinion 2010-16 for EmblemHealth Services Company LLC and the Health Insurance Plan of Greater New York, and authorize the Office of General Counsel to make any necessary technical and conforming amendments.

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

III. DRAFT ADVISORY OPINION 2010-17

**Stutzman for Congress by Christopher Marston
Agenda Document No. 10-58
(Submitted Late)**

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 10-58, No. 10-59, No. 10-59-A, No. 10-59-B, No. 10-60, No. 10-60-A, No. 10-60-B, No. 10-61, No. 10-61-A and No. 10-61-B.

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

Chairman Petersen recognized Ms. Joanna Waldstreicher of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the treatment of undesignated contributions when the general election and the special election for the same Federal office are held on the same day.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to adopt Agenda Document No. 10-58, Draft Advisory Opinion 2010-17 for Stutzman for Congress, and authorize the Office of General Counsel to make any technical and conforming amendments.

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

IV. DRAFT ADVISORY OPINION 2010-18

Minnesota Democratic-Farmer-Labor Party by Marc E. Elias, Esq., and Jonathan S. Berkon, Esq.

Agenda Documents No. 10-59, No. 10-59-A and No. 10-59-B (Submitted Late)

The Chairman noted that counsel, Marc Elias and Jonathan Berkon, were present to answer any questions the Commission may have during the discussion.

Chairman Petersen recognized Ms. Esther Heiden of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of recount funds, raised for a 2008 recount and election contest, for future elections and recounts. A discussion followed.

Chairman Petersen recognized Commissioner McGahn, who

MOVED to adopt Draft B of Advisory Opinion 2010-18.

The motion failed on a vote of 3-3 with Commissioners Hunter, McGahn and Petersen voting affirmatively for the motion. Commissioners Bauerly, Walther and Weintraub dissented.

Following discussion, Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to adopt Draft A of Advisory Opinion 2010-18, Agenda Document No. 10-59.

The motion failed on a vote of 3-3 with Commissioners Bauerly, Walther and Weintraub voting affirmatively for the motion. Commissioners Hunter, McGahn and Petersen dissented.

Following discussion, Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to adopt Agenda Document No. 10-59-B, Draft C in Advisory Opinion 2010-18, and authorize the Office of General Counsel to make technical and conforming changes.

The motion carried on a vote of 5-0² with Commissioners Bauerly, Hunter, Petersen, Walther and Weintraub voting affirmatively for the decision. Commissioner McGahn abstained.

V. DRAFT ADVISORY OPINION 2010-19

Google by Marc E. Elias, Esq., and Jonathan S. Berkon, Esq.

Agenda Documents No. 10-61, No. 10-61-A and No. 10-61-B (Submitted Late)

The Chairman noted that counsel, Marc Elias and Jonathan Berkon, were present to answer any questions the Commission may have during the discussion.

Chairman Petersen recognized Mr. Tony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning

² The audio record reflects that the motion passed on a vote of 6-0; however, after the meeting, Commissioner McGahn's office clarified that he had abstained from voting with respect to this motion.

the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to Google's proposal to sell text ads to candidates, their authorized committees and other political committees and whether disclaimers are required on text ads generated when Internet users use Google's search engine to perform searches. A discussion followed.

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The meeting recessed at 11:38 A.M. and reconvened at 11:45 A.M. with a quorum present.

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V. DRAFT ADVISORY OPINION 2010-19 (continued)

Discussion resumed on Draft Advisory Opinion 2010-19.

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The meeting recessed at 11:55 A.M. and reconvened at 12:10 P.M. with a quorum present.

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V. DRAFT ADVISORY OPINION 2010-19 (continued)

Discussion resumed on Draft Advisory Opinion 2010-19.

It was agreed, without objection, to hold this matter over to later in the meeting.

VI. DRAFT ADVISORY OPINION 2010-20

National Defense PAC by Dan Backer, Esq.

Agenda Documents No. 10-60, No. 10-60-A and No. 10-60-B (Submitted Late)

The Chairman noted that counsel, Dan Backer, was present to answer any questions the Commission may have during the discussion.

Chairman Petersen recognized Mr. William Powers of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to a proposed plan to accept unlimited contributions from individuals, other political committees, corporations, and labor organizations to fund independent expenditures from a separate bank account and to allocate the cost of all of the Committee's administrative and operating expenses between accounts as it sees fit.

Chairman Petersen recognized Vice Chair Bauerly, who

**MOVED to approve Agenda Document No. 10-60-B,
revised Draft A in Advisory Opinion 2010-20, National
Defense PAC.**

The motion failed on a vote of 2-3 with Commissioners Bauerly and Weintraub voting affirmatively for the motion. Commissioners Hunter, McGahn and Petersen dissented. Commissioner Walther did not vote.

Chairman Petersen recognized Commissioner Hunter, who

**MOVED to approve Agenda Document No. 10-60-A,
Draft B of Advisory Opinion 2010-20.**

The motion failed on a vote of 3-2 with Commissioners Hunter, McGahn and Petersen voting affirmatively for the motion. Commissioners Bauerly and Weintraub dissented. Commissioner Walther did not vote.

VII. DRAFT ADVISORY OPINION 2010-19 (continued)

The Chairman recognized counsel, Marc Elias, who said he had not been able to contact the requestor. Therefore, it was agreed, without objection, to hold this matter over to a future meeting.

VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 12:55 P.M.**

Signed:

**Matthew S. Petersen
Chairman of the Commission**

Attest:

**Shawn Woodhead Werth
Secretary and Clerk of the Commission**
