



AGENDA DOCUMENT NO. 12-60

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, AUGUST 2, 2012**

PRESENT:

Caroline C. Hunter, Chair, presiding

Ellen L. Weintraub, Vice Chair

Cynthia L. Bauerly, Commissioner

Donald F. McGahn II, Commissioner

Matthew S. Petersen, Commissioner

Steven T. Walther, Commissioner

Alec Palmer, Staff Director

Anthony Herman, General Counsel

Shawn Woodhead Werth, Secretary and Clerk

Chair Caroline C. Hunter called the Federal Election Commission to order in an open meeting at 10:15 A.M. on Thursday, August 2, 2012 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for June 21, 2012
Agenda Document No. 12-53**

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the minutes for the Open Session of June 21, 2012 as set forward In Agenda Document No. 12-53.

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

Chair Hunter recognized Vice Chair Weintraub who

MOVED to suspense the rules on the timely submission of agenda documents so the Commission can consider Agenda Document Nos. 12-54-A, 12-56, 12-56-A and 12-57.

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 2012-22

skimmerhat by Andrew Davis

Agenda Document No. 12-54 (Drafts A and B)

**Agenda Document No. 12-54-A (Draft C)
(Submitted Late)**

Chair Hunter noted that Mr. Andrew Davis, requestor's representative, was available via telephone to answer Commissioners' questions.

Chair Hunter recognized Mr. Theodore Lutz 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, and Commission regulations to skimmerhat's proposal to create a website at which users can identify candidates with whom they share values and make contributions to those candidates. He summarized the conclusions reached in the three drafts.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve Agenda Document No. 12-54-A, Draft C, and authorize the Office of General Counsel to make any technical and conforming changes.

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 2012-23

**Snake River Sugar Company;
Nyssa-Nampa Sugarbeet Growers Association, Inc.;
Elwyhee Sugarbeet Growers Association, Inc.;
Upper Snake River Valley Sugarbeet Growers Association, Inc.;
Minidoka County Sugarbeet Growers Association, Inc.;
Cassia County Sugarbeet Growers Association, Inc.;
Twin Falls County Sugarbeet Growers Association, Inc.; and
Northside Sugarbeet Growers Association, Inc.
by Jan Witold Baran, Esq. and D. Mark Renaud, Esq.**

Agenda Document No. 12-55

Chair Hunter noted that Mr. Jan Witold Baran and Mr. D. Mark Renaud, requestor's counsel, were available to answer Commissioners' questions.

Chair Hunter recognized Mr. Anthony Buckley 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, and Commission regulations to the proposal of the Snake River Sugar Company and the seven sugarbeet growers associations. The sugarbeet growers associations propose to solicit their members, executive and administrative personnel, and their families, as well as the shareholders and executive and administrative personnel of their corporate members and their families, for contributions to Snake River Sugar Company's separate segregated fund.

Chair Hunter recognized Vice Chair Weintraub who

**MOVED to approve Agenda Document No. 12-55,
Draft Advisory Opinion 2012-23, to the Snake
River Sugar Company and authorize the Office
of General Counsel to make any technical and
conforming changes.**

**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 2012-24

**Dean Peterson by Tony P. Trimble, Esq. and
Matthew W. Haapoja, Esq.**

**Agenda Document No. 12-56 (Drafts A and B)
(Submitted Late)**

**Agenda Document No. 12-56-A (Revised Draft B)
(Submitted Late)**

**Chair Hunter 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, and
Commission regulations to Mr. Peterson's proposal to form a publishing
company to publish, market, and distribute the autobiography of Mr. Lee
Byberg, a candidate for Congress. She summarized the conclusions
reached in the three drafts.**

Discussion followed.

Chair Hunter recognized Commissioner Petersen who

**MOVED to approve Draft A as set forth in Agenda
Document No. 12-56.**

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

Chair Hunter recognized Commissioner Bauerly who

**MOVED to approve Agenda Document No. 12-56-A,
Revised Draft B.**

**The motion failed by a vote of 1-5 with Commissioner Bauerly voting
affirmatively for the motion. Commissioners Hunter, McGahn, Petersen,
Walther and Weintraub dissented.**

**Chair Hunter noted that the Office of General Counsel would send a
letter to the requestor summarizing the votes in this matter.**

**The meeting recessed at 10:32 A.M. and reconvened at 10:49 A.M.
with a quorum present.**

Items V and VI (Draft Advisory Opinions 2012-26 and 2012-28) were discussed together.

V. DRAFT ADVISORY OPINION 2012-26

Cooper for Congress, ArmourMedia, Inc., and m-Qube, Inc. by Craig Engle, Esq., Brett G. Kappel, Esq., and Robert A. Davidson, Committee Treasurer

**Agenda Document No. 12-57
(Submitted Late)**

VI. DRAFT ADVISORY OPINION 2012-28

CTIA – The Wireless Association by Jan Witold Baran, Esq. and Caleb P. Burns, Esq.

Chair Hunter stated that the Commission will discuss Draft Advisory Opinions 2012-26 and 2012-28 today but will not vote on them because of the ten day comment period requirement at 2 U.S.C. § 437f(d). The Commission will accept comments on both requests until the close of business on Tuesday, August 7, 2012. The Commission plans to vote on both requests, on a tally vote basis, later that week.

Chair Hunter noted that Mr. Craig Engle and Mr. Brett Kappel, requestor's counsel for Draft Advisory Opinion 2012-26, and Mr. Caleb Burns, requestor's counsel for Draft Advisory Opinion 2012-28, were available to answer Commissioners' questions.

Chair Hunter recognized Mr. Theodore Lutz of the General Counsel's Office who presented Draft Advisory Opinion 2012-26 concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to the request from Cooper for Congress, ArmourMedia, Inc. and m-Qube, Inc. for the proposed receipt and processing of contributions by text message.

Mr. Lutz next presented the Advisory Opinion Request from CTIA – The Wireless Association (“CTIA”) which raises questions very similar to those raised by Cooper for Congress, ArmourMedia, Inc. and m-Qube, Inc. The Office of General Counsel plans to circulate a draft response to CTIA's request in the very near future. Conditioned on consideration of any comments received, the Office of General Counsel's recommended draft will likely conclude that CTIA's proposal is permissible and the draft's conclusion and reasoning is expected to follow those in Agenda Document No. 12-57 and Advisory Opinion 2012-17.

Mr. Engle and Mr. Burns participated in the discussion which followed.

Chair Hunter stated that the Commission looks forward to receiving additional information from the requestors and re-iterated that it plans to vote on both requests on a tally vote basis after the end of the comment period on Tuesday, August 7, 2012.

Chair Hunter recognized Commissioner Petersen who thanked his summer intern, Mr. Cody Rogers, for his assistance and wished him well as he returns to law school.

VII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:55 A.M.

Signed:

**Caroline C. Hunter
Chair of the Commission**

Attest:

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