

AGENDA DOCUMENT NO. 03-68
APPROVED SEPTEMBER 25, 2003

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, AUGUST 28, 2003

PRESENT: Ellen L. Weintraub, Chair, presiding
Bradley A. Smith, Vice Chairman
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

Chair Ellen L. Weintraub called the Federal Election Commission to order in an open meeting at 10:08 A.M. on Thursday, August 28, 2003, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for August 14, 2003
Agenda Document No. 03-63

Chair Weintraub recognized Vice Chairman Smith, who

MOVED to approve the minutes for the Open Meeting of Thursday, August 14, 2003, as submitted in Agenda Document No. 03-63.

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

II. ADVISORY OPINIONS

A. Draft Advisory Opinion 2003-20

U.S. Representative Silvestre Reyes
by J. Fernando Barrueta, Hispanic
College Fund, Inc.

Agenda Document No. 03-64

The Chair recognized Mr. Robert Knop of the General Counsel's Office who presented draft Advisory Opinion 2003-20, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the written solicitation of donations by Representative Reyes to a scholarship fund that the Hispanic College Fund, Inc. seeks to establish in the name of Representative Reyes.

Chair Weintraub recognized Commissioner McDonald, who

MOVED to approve draft Advisory
Opinion 2003-20, as submitted in
Agenda Document No. 03-64.

The motion carried on the vote of 6-0.

II. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-22

American Bankers Association and
ABA BankPAC by counsel, Kenneth A.
Gross and Ki P. Hong

Agenda Document No. 03-65

Chair Weintraub recognized Mr. Albert Kiss of the General Counsel's Office who presented draft Advisory Opinion 2003-22, concerning the application of the Federal Election Campaign Act of 1971 ("the Act"), and Commission regulations to the collecting and forwarding of contribution checks for ABA's separate segregated fund ("SSF"), ABA BankPAC, by executives of ABA member corporations.

A discussion followed.

The Chair recognized Vice Chairman Smith, who

MOVED to approve draft Advisory Opinion 2003-22, as submitted in Agenda Document No. 03-65.

The motion carried on the vote of 6-0.

III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES

Agenda Documents No. 03-66,
No. 03-66-A, and No. 03-66-B

Chair Weintraub recognized Vice Chairman

Smith, who

MOVED to suspend the rules
on the timely submission of
agenda documents in order to
consider Agenda Documents
No. 03-66-A and No. 03-66-B.

The motion carried on the vote of 6-0.

The Chair recognized Ms. Mai Dinh of the General
Counsel's Office who presented an overview of the subject
document and the accompanying amendments in Agenda Document
No. 03-66-A. During her presentation, Ms. Dinh noted several
typographical changes to the documents.

Chair Weintraub recognized Mr. Joseph Stoltz of
the Audit Division for comments.

A discussion followed.

III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES (continued)

The Chair recognized Vice Chairman Smith,

who

MOVED to amend Agenda Document
No. 03-66 on Page 8, Lines 12
and 13 by deleting the words
"...is more likely to reflect
an exchange of unequal value"
and replacing with the words
"should result in a rebuttable
presumption that the exchange
is not for fair market value."

The motion carried on the vote of 6-0.

Chair Weintraub presented amendments to

Agenda Document No. 03-66, to wit:

Page 9, Line 4: Replace "(a)(2)(i)
and (ii)" with "(a)(2)(i), (ii) and (iv)";

Page 27, Line 8: Delete "and";

Page 27, Line 12: Insert "and" after
"practice";

Page 27, after Line 12: Insert
"(iv) Whether the person leasing the
mailing list actually uses the list."

It was agreed without objection to accept
the amendments.

III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES (continued)

The Chair recognized Commissioner Mason who presented his amendments in Agenda Document No. 03-66-B, and he further proposed to amend No. 1 by replacing the word "appropriate" with the word "adequate."

A discussion followed.

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The meeting recessed at 11:35 A.M. and reconvened at 11:55 A.M. with a quorum present.

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III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES (continued)

The discussion resumed. It was agreed without objection to amend the new paragraph in Agenda Document No. 03-66-B, No. 2, to read as follows:

III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES (continued)

"The Commission also seeks comment on whether a candidate may acquire personal ownership of a list in other ways. For example, a candidate may sign a fundraising appeal for an organization other than his or her principal campaign committee and receive the use of responsive names, in compliance with Commission regulations. Should the use of the list be viewed as a property interest of the candidate's principal campaign committee, the candidate personally, or both? How significant to that determination are the terms of an agreement purporting to confer a property interest on the principal campaign committee, the candidate personally, or both?"

Chair Weintraub recognized Ms. Rosemary Smith of the General Counsel's Office who offered an amendment to Agenda Document No. 03-66-A, Page 2, No. 9, as follows:

Delete the words "political committee" and replace with the word "entity."

III. NOTICE OF PROPOSED RULEMAKING ON MAILING
LISTS OF POLITICAL COMMITTEES (continued)

Chair Weintraub recognized Commissioner Mason,

who

MOVED to approve the Notice of Proposed Rulemaking, as set forth in Agenda Document No. 03-66, as amended, and further amended by Agenda Document No. 03-66-A, as amended, and further amended by Agenda Document No. 03-66-B, as amended, for publication in the *Federal Register*; and to authorize the Office of General Counsel to incorporate any necessary technical and conforming amendments.

The motion carried on the vote of 6-0.

IV. NOTICE OF PROPOSED RULEMAKING ON PARTY
COMMITTEE PHONE BANKS

Agenda Documents No. 03-67
and No. 03-67-A

The Chair recognized Vice Chairman Smith,

who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 03-67-A.

The motion carried on the vote of 6-0.

IV. NOTICE OF PROPOSED RULEMAKING ON PARTY
 COMMITTEE PHONE BANKS (continued)

Chair Weintraub recognized Ms. Mai Dinh of the General Counsel's Office who presented the subject document.

Following discussion, the Chair recognized Commissioner Mason, who

MOVED to approve the Notice of Proposed Rulemaking, as set forth in Agenda Document No. 03-67, as amended by Agenda Document No. 03-67-A, for publication in the *Federal Register*.

The motion carried on the vote of 5-0
with Commissioners Mason, Smith, Thomas, Toner, and Weintraub voting affirmatively.

V. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters
to come before the Commission.

The meeting adjourned at 12:15 P.M.

Signed:



Ellen L. Weintraub
Chair of the Commission

Attest:



Mary W. Dove
Secretary of the
Commission