



AGENDA DOCUMENT NO. 08-41

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, NOVEMBER 13, 2008**

PRESENT:

Donald F. McGahn II, Chairman, presiding

**Steven T. Walther, Vice Chairman,
presiding for a portion of the meeting**

Cynthia L. Bauerly, Commissioner

Caroline C. Hunter, Commissioner

Matthew S. Petersen, Commissioner

Ellen L. Weintraub, Commissioner

Joseph F. Stoltz, Acting Staff Director

**Christopher Hughey, Deputy General Counsel,
representing Thomasenia P. Duncan,
General Counsel**

Mary W. Dove, Secretary

Chairman Donald F. McGahn II called the Federal Election Commission to order in an open meeting at 1:40 P.M. on Thursday, November 13, 2008, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for October 23, 2008
Agenda Document No. 08-33**

Chairman McGahn recognized Vice Chairman Walther, who

MOVED to approve the minutes for the Open Meeting of Thursday, October 23, 2008, as set forth in Agenda Document No. 08-33.

The motion carried on the vote of 6-0 with Commissioners

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively.

**II. DRAFT ADVISORY OPINION 2008-14
Melothé, Inc. by Marc E. Elias, Esquire**

**Agenda Document Nos. 08-39, 08-39-A, and 08-39-B
(Submitted late)**

Chairman McGahn recognized Vice Chairman Walther, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document Nos. 08-39, 08-39-A, and 08-39-B.

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINION 2008-14 (continued)

The Chairman recognized Mr. Neven Stipanovic of the General Counsel's Office who presented the three alternative drafts of Advisory Opinion 2008-14, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to Melothé, Inc.'s proposed Internet campaign-TV station.

A discussion followed.

Chairman McGahn recognized Commissioner Weintraub, who

MOVED to approve Draft B of AO 2008-14, as set forth in Agenda Document No. 08-39-A, as amended on Page 10, Line 11, as follows:

- a) delete the comma between the words "commentators" and "guests" and insert the word "and"**

- b) delete the comma after the word "guests" and delete the words "and hosts";**

further, to instruct the General Counsel's Office to make any necessary technical and conforming amendments.

The motion carried on the vote of 6-0.

III. REPORT OF THE AUDIT DIVISION ON EDWARDS FOR PRESIDENT

Agenda Document No. 08-34

(Placed on the agenda pursuant to the filing of objections by Commissioners Bauerly, Hunter, McGahn, and Petersen following circulation on a tally vote basis.)

The subject document was reviewed by Mr. Martin Favin of the Audit Division who presented an overview of the findings and recommendations.

Those who participated in the ensuing discussion were Mr. Joseph Stoltz, Acting Staff Director, Ms. Wanda Thomas, and Ms. Erica Lee of the Audit Division, and Mr. Lawrence Calvert and Mr. Lorenzo Holloway of the General Counsel's Office.

Chairman McGahn recognized Commissioner Bauerly, who

MOVED to adopt all of the findings in the audit report with one modification to include all funds received by Edwards for Senate in the transfer analysis.

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

The discussion resumed.

**III. REPORT OF THE AUDIT DIVISION ON EDWARDS FOR PRESIDENT
(continued)**

The Chairman recognized Commissioner Petersen, who

**MOVED to approve Findings 1, 2, 3, and 5, as set forth in
Agenda Document No. 08-34, and to revise Finding 4,
pursuant to the meeting discussion and to reflect the
previous vote.**

The motion carried on the vote of 6-0.

**It was agreed without objection to recirculate the revised report
to the Commission on a tally vote basis.**

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**The meeting recessed at 3:30 P.M. and reconvened at 3:45 P.M.
with a quorum present.**

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IV. REPORT OF THE AUDIT DIVISION ON SHARPTON 2004

Agenda Document No. 08-38

**(Placed on the agenda pursuant to the filing of objections by
Commissioners Hunter, McGahn, and Petersen following
circulation on a tally vote basis.)**

**Chairman McGahn recognized Ms. Rhonda Gillingwater of the
Audit Division who presented the findings in the Report of the Audit**

IV. REPORT OF THE AUDIT DIVISION ON SHARPTON 2004 (continued)

During her presentation, Ms. Gillingwater noted the following

amendment:

In Finding 3. Receipt of Prohibited Contributions, on Page 17, delete the last two sentences in the last paragraph, and substitute the following language:

“However, it appears that any limited voter registration activity undertaken by the Archer Group was coordinated with the Sharpton 2004 Campaign. The Archer Group reports that it was retained for the work performed at NAN’s expense by the Sharpton 2004 campaign manager, who had no role or position with NAN. The NAN Executive Director, who was responsible for NAN’s voter registration effort, stated that she had no role in retaining or managing the Archer Group effort, and that its work was not part of NAN’s overall voter registration effort. Further, the Archer Group reports that it actually did very little voter registration work during the time it was being paid by NAN. The Archer Group focused its efforts on the scheduling and advance logistics services for Sharpton in his role as a candidate. Approximately one month after being retained, its work was placed under the formal control of the Sharpton 2004 campaign manager. The Archer Group reports that there was little change in the nature of the responsibilities being performed when its billing arrangements moved from NAN to Sharpton 2004. Given the statements made by the Archer Group, the Sharpton 2004 campaign manager, and the NAN Executive Director, as well as the lack of records to contradict their accounts, it appears that the Archer Group services paid for by NAN were coordinated with, and were for the benefit of Sharpton 2004.”

Following discussion, Chairman McGahn recognized Commissioner

Petersen, who

MOVED to approve the Report of the Audit Division on Sharpton 2004, as set forth in Agenda Document No. 08-38, subject to the amendment noted above.

The motion carried on the vote of 6-0.

**V. REPORT OF THE AUDIT DIVISION ON THE MISSOURI DEMOCRATIC
STATE COMMITTEE**

Agenda Document No. 08-36

(Held over to the meeting on November 20, 2008.)

**VI. REPORT OF THE AUDIT DIVISION ON THE KUHL FOR CONGRESS
COMMITTEE**

Agenda Document No. 08-35

**(Chairman McGahn recused himself with respect to this
matter, and he was not present during the discussion.)**

**(Placed on the agenda pursuant to the filing of objections by
Commissioners Hunter and Petersen following circulation on
a tally vote basis.)**

**Vice Chairman Walther, now presiding, recognized Mr. Martin Favin
of the Audit Division who reviewed the audit findings in the subject report.**

**Commissioners Hunter and Petersen addressed their concerns
regarding the findings. Those who participated in the discussion were:
Mr. Joseph Stoltz, Acting Staff Director, Ms. Erica Lee, Mr. Favin, and Ms.
Wanda Thomas of the Audit Division, and Mr. Lawrence Calvert of the
General Counsel's Office.**

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**The meeting recessed at 4:55 P.M. and reconvened at 5:05 P.M.
with a quorum present.**

VI. REPORT OF THE AUDIT DIVISION ON THE KUHLMAN FOR CONGRESS COMMITTEE (continued)

The discussion resumed.

Vice Chairman Walther recognized Commissioner Weintraub, who

MOVED to approve the Report of the Audit Division on the Kuhl for Congress Committee, as submitted in Agenda Document No. 08-35.

The motion failed by a vote of 3-2 with Commissioners Bauerly, Walther, and Weintraub voting affirmatively. Commissioners Hunter and Petersen dissented. Commissioner McGahn was recused.

Following further discussion, Vice Chairman Walther recognized Commissioner Petersen, who

MOVED to return the Report of the Audit Division on the Kuhl for Congress Committee, as set forth in Agenda Document No. 08-35, to the Audit Division for revisions and to provide information consistent with the discussion at the table.

The motion carried on the vote of 5-0 with Commissioners Bauerly, Hunter, Petersen, Walther, and Weintraub voting affirmatively. Commissioner McGahn was recused.

VII. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further matters to come before the Commission,
the meeting adjourned at 5:30 P.M.**

Signed,

**Donald F. McGahn II
Chairman of the Commission**

Attest:

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