

AGENDA DOCUMENT NO. 03-63  
APPROVED AUGUST 28, 2003

MINUTES OF AN OPEN MEETING  
OF THE  
FEDERAL ELECTION COMMISSION  
THURSDAY, AUGUST 14, 2003

PRESENT: Ellen L. Weintraub, Chair, presiding  
Bradley A. Smith, Vice Chairman,  
presiding for a portion of the meeting  
David M. Mason, Commissioner  
Danny L. McDonald, Commissioner  
Michael E. Toner, Commissioner  
Alison Doone, Deputy Staff Director  
for Management, representing  
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 10:15 A.M. on Thursday, August 14, 2003, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

- A. Minutes for July 24, 2003  
Agenda Document No. 03-54
- B. Minutes for July 31, 2003  
Agenda Document No. 03-55

Chair Weintraub recognized Vice Chairman Smith, who

MOVED to approve the minutes for the Open Meetings of Thursday, July 24, 2003, and Thursday, July 31, 2003, as set forth in Agenda Documents No. 03-54 and No. 03-55, respectively.

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

II. PROPOSED POLICY STATEMENT ON DEPOSITION  
TRANSCRIPTS IN NONPUBLIC INVESTIGATIONS

Agenda Document No. 03-56

Chair Weintraub recognized Mr. Lawrence Calvert of the General Counsel's Office who presented the subject document and participated in the discussion which followed.

The Chair recognized Vice Chairman Smith,  
who

MOVED to take the following actions  
in the above-captioned matter:

1. Approve the Statement of Policy, as submitted in Agenda Document No. 03-56, for publication in the *Federal Register*.
2. Direct the Office of General Counsel to submit the Statement of Policy, as submitted in Agenda Document No. 03-56, to Congress in accordance with the Congressional Review Act, 5 U.S.C. § 801 et seq.

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

III. NOTICE OF PROPOSED RULEMAKING ON CANDIDATE TRAVEL

Agenda Document No. 03-61

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. 03-61.

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

Chair Weintraub recognized Mr. Richard Ewell  
of the General Counsel's Office who presented the draft  
Notice of Proposed Rulemaking on Candidate Travel.  
During his presentation, Mr. Ewell offered an amendment  
to Page 26, Line 10 which would replace the word "date"  
with the word "time."

A discussion followed.

III. NOTICE OF PROPOSED RULEMAKING ON CANDIDATE TRAVEL (continued)

The Chair recognized Commissioner McDonald,  
who

MOVED to approve the Notice of Proposed Rulemaking on Candidate Travel, as submitted in Agenda Document No. 03-61, as amended, for publication in the *Federal Register*.

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

IV. NOTICE OF PROPOSED RULEMAKING ON MULTICANDIDATE POLITICAL COMMITTEES AND BIENNIAL CONTRIBUTION LIMITS

Agenda Document No. 03-59

Chair Weintraub recognized Mr. Richard Ewell of the General Counsel's Office who reviewed the subject document.

IV. NOTICE OF PROPOSED RULEMAKING ON  
MULTICANDIDATE POLITICAL COMMITTEES  
AND BIENNIAL CONTRIBUTION LIMITS

(continued)

The Chair recognized Vice Chairman Smith,  
who

MOVED to approve the Notice of  
Proposed Rulemaking on Multi-  
candidate Political Committees  
and Biennial Contribution Limits,  
as submitted in Agenda Document  
No. 03-59, for publication in the  
*Federal Register*.

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

V. ADVISORY OPINIONS

A. Draft Advisory Opinion 2003-15

United States Representative Denise  
Majette and the Committee to Re-Elect  
Congresswoman Denise Majette by counsel,  
G. Scott Rafshoon

Agenda Document No. 03-58

V. ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2003-15  
(continued)

The Chair recognized Mr. Michael Marinelli of the General Counsel's Office who presented draft Advisory Opinion 2003-15 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the solicitation and use of donations to a legal expense trust fund established by Representative Majette.

During his presentation, Mr. Marinelli noted the following amendments:

1. Page 6, Line 3: Change the dash to a hyphen.
2. Page 6, Line 11: Delete the word "therefore" from the first sentence, beginning it with "Because."
3. Delete Footnote 3 on Page 4.

V. ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2003-15  
(continued)

4. Page 6, Footnote 5: Change the wording of the Footnote which now becomes Footnote 4, so that it reads:

"The Commission notes that legal expense funds established by national committees of political parties or related entities are subject to a different legal standard under 2 U.S.C. § 441i(a). See Explanation and Justification for Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49088-89 (July 29, 2002)."

A discussion followed.

Chair Weintraub recognized Commissioner McDonald,

who

MOVED to approve draft Advisory Opinion 2003-15, as submitted in Agenda Document No. 03-58, subject to the amendments noted above.

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



V. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-16

Providian National Bank by counsel,  
Kenneth A. Gross and Ki P. Hong

Agenda Document No. 03-60

The Chair recognized Mr. Jeff Jordan of the General Counsel's Office who presented draft Advisory Opinion 2003-16 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed affinity credit card program between the bank and any national party committee.

Mr. Jordan noted an amendment on Page 8, Line 10, to replace the word "community" with the word "committee."

Chair Weintraub recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2003-16, as submitted in Agenda Document No. 03-60, as amended above.

V. ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2003-16  
(continued)

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

C. Draft Advisory Opinion 2003-19

Democratic Congressional Campaign  
Committee by counsel, Judith L. Corley  
and Brian G. Svoboda

Agenda Document No. 03-57

Chair Weintraub stated she had recused herself  
with respect to this matter and would not be present during  
the discussion.

Vice Chairman Smith, now presiding, recognized  
Ms. Dawn Odrowski of the General Counsel's Office who  
presented draft Advisory Opinion 2003-19 concerning the  
application of the Federal Election Campaign Act of 1971,  
as amended, and the Bipartisan Campaign Reform Act of 2002

V. ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2003-19  
(continued)

("BCRA") (collectively, "the Act"), and Commission regulations to the DCCC's proposed sale of used office equipment and furniture.

During the discussion which followed, it was agreed without objection to take the following actions in Agenda Document No. 03-57:

1. Delete the phrase "in a bona fide arm's length transaction" on Page 4, Lines 9 and 10;
2. Delete the reference to "Advisory Opinion 2002-14" on Page 4, Line 11 and substitute "11 CFR 100.52(d)" in lieu thereof;
3. Delete the phrase "in a bona fide arm's length transaction" on Page 4, Line 12 and substitute the phrase "for the usual and normal charge" in lieu thereof;
4. Delete the words "in any political announcement or" on Page 4, Line 13;
5. Return the draft Advisory Opinion to the Office of General Counsel to redraft and recirculate on a tally vote basis.

VI. ROUTINE ADMINISTRATIVE MATTERS

Future Meeting Dates  
Agenda Document No. 03-62

Chair Weintraub recognized Vice Chairman Smith,  
who

MOVED to suspend the rules on the  
timely submission of agenda documents  
in order to consider Agenda Document  
No. 03-62; and, further, moved to approve  
the future meeting dates in the document.

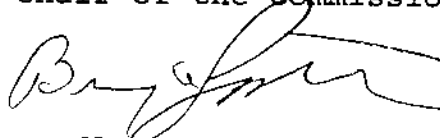
The motion carried on the vote of 5-0 with  
Commissioners Mason, McDonald, Smith, Toner, and  
Weintraub voting affirmatively.

The meeting adjourned at 11:25 A.M.

Signed:




Ellen L. Weintraub  
Chair of the Commission



Bradley A. Smith  
Vice Chairman of the  
Commission

Attest:



Mary W. Dove  
Secretary of the  
Commission