



AGENDA DOCUMENT NO. 09-50

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, JULY 16, 2009**

PRESENT:

Steven T. Walther, Chairman, presiding

Matthew S. Petersen, Vice Chairman

Cynthia L. Bauerly, Commissioner

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Ellen L. Weintraub, Commissioner

Robert A. Hickey, Staff Director

Thomasenia P. Duncan, General Counsel

Mary W. Dove, Secretary

Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:13 A.M. on Thursday, July 16, 2009, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**A. Minutes for Thursday, June 18, 2009
Agenda Document No. 09-40**

**B. Minutes for Thursday, June 25, 2009
Agenda Document No. 09-41**

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to approve the minutes for the Open Meetings of Thursday, June 18, 2009, and Thursday, June 25 2009, as set forth in Agenda Documents No. 09-40 and No. 09-41, respectively.

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

II. DRAFT ADVISORY OPINION 2009-13

**The Black Rock Group
by William J. McGinley, Esq.**

**Agenda Document No. 09-42 (Drafts A & B)
Agenda Document No. 09-42-A (Revised Draft A)
(submitted late)**

(Commissioner Weintraub recused)

II. DRAFT ADVISORY OPINION 2009-13 (continued)

The Chairman recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 09-42-A.**

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

**Chairman Walther recognized Mr. Neven Stipanovic of the General
Counsel's Office who presented the alternative drafts of the subject
advisory opinion, concerning the application of the Federal Election
Campaign Act of 1971, as amended (the "Act"), and Commission
regulations to activities of BRG, a newly formed consulting company of
The Black Rock Group.**

**A discussion followed, and Mr. William McGinley, on behalf of The
Black Rock Group, responded to questions by the Commissioners.**

**It was agreed without objection, to hold this matter over to the
next open meeting.**

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**There was a recess at 11:15 A.M., and the meeting reconvened at
11:25 A.M. with a quorum present.**

**III. REPORT OF THE AUDIT DIVISION ON EDWARDS FOR PRESIDENT
(2004)**

Agenda Document No. 09-43

The Chairman recognized Mr. Martin Favin of the Audit Division who presented the subject audit and offered the following amendments in Finding 4. (Transfer of Funds from Edwards for Senate):

On Page 5, the last sentence of Finding 4. to read: "As a result, there were not 4 votes to approve the recommendations of the Audit staff, and the Commission voted 6-0 to have the audit report reflect the discussion held at the Open Meeting."

On Page 23, the last paragraph of Finding 4. preceding the last sentence, and after the word "problematic." insert a new sentence, "Other Commissioners were of the view that the transfer process should be considered as a whole."

On Page 23, the last sentence of Finding 4. to read: "As a result, there were not 4 votes to approve the recommendations of the Audit staff, and the Commission voted 6-0 to have the audit report reflect the discussion held at the Open Meeting."

Chairman Walther recognized Commissioner Bauerly, who

MOVED to approve the Report of the Audit Division, as set forth in Agenda Document No. 09-43, subject to the amendments noted above.

The motion carried on the vote of 6-0.

**IV. DRAFT FINAL RULE ON REORGANIZATION OF NATIONAL VOTER
REGISTRATION ACT REGULATIONS**

Agenda Document No. 09-44 (submitted late)

The Chairman recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 09-44.**

The motion carried on the vote of 6-0.

**Chairman Walther recognized Mr. Joshua Blume of the General
Counsel's Office who presented the draft Final Rule that would transfer
responsibility for administering the National Voter Registration Act
regulations from the Federal Election Commission to the Election
Assistance Commission.**

Chairman Walther recognized Commissioner Hunter, who

**MOVED to approve the draft Final Rule and
Explanation and Justification on Reorganization
of National Voter Registration Act Regulations, as
set forth in Agenda Document No. 09-44, for publication
in the *Federal Register*, and to authorize the General
Counsel's Office to make any necessary technical
and conforming amendments.**

The motion carried on the vote of 6-0.

**V. NOTICE OF DISPOSITION OF PETITIONS FOR RULEMAKING –
ALTERNATIVES A & B**

Agenda Document No. 09-45 (submitted late)

The Chairman recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 09-45.**

The motion carried on the vote of 6-0.

**Chairman Walther recognized Ms. Esther Heiden of the General
Counsel's Office who presented the alternative drafts of the subject
document.**

**Following discussion, the Chairman recognized Commissioner
McGahn, who**

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

- 1. Decline to open a rulemaking in response to the Petition
for Rulemaking filed on May 25, 1999, by Mary Clare
Wohlford, William T. Wohlford, and Martin T. Mortimer.**
- 2. Decline to open a rulemaking in response to the Petition
for Rulemaking filed on April 10, 2002, by counsel for CBS
Broadcasting, Inc.; American Broadcasting Companies, Inc.;
Cox Enterprises, Inc.; Gannett Co., Inc.; Belo Corp; National
Broadcasting Co., Inc.; News America Incorporated; The
New York Times Company; Post-Newsweek Stations, Inc.;
National Association of Broadcasters; Radio and Television**

**V. NOTICE OF DISPOSITION OF PETITIONS FOR RULEMAKING –
ALTERNATIVES A & B (continued)**

News Directors Association; Society of Professional Journalists; and Tribune Company.

3. Approve Alternative B of the Notices of Disposition, as set forth in Agenda Document No. 09-45, for publication in the *Federal Register*.

4. Approve the appropriate letters to the petitioners: Mr. and Mrs. Wohlford, Mr. Mortimer, and counsel for CBS Broadcasting, Inc.; American Broadcasting Companies, Inc.; Cox Enterprises, Inc.; Gannett Co., Inc.; Belo Corp.; National Broadcasting Co., Inc.; News America Incorporated; The New York Times Company; Post-Newsweek Stations, Inc.; National Association of Broadcasters; Radio and Television News Directors Association; Society of Professional Journalists; and Tribune Company.

The motion carried on the vote of 4-2 with Commissioners Hunter,

McGahn, Petersen, and Walther voting affirmatively. Commissioners

Bauerly and Weintraub dissented.

**VI. PROPOSED AGENCY PROCEDURE: NOTICE TO RESPONDENTS
IN NON-COMPLAINT GENERATED MATTERS**

**Agenda Document No. 09-38
(Held over from the meeting of June 25, 2009)**

Agenda Document No. 09-49 (submitted late)

Chairman Walther recognized Vice Chairman Petersen, who

**VI. PROPOSED AGENCY PROCEDURE: NOTICE TO RESPONDENTS
IN NON-COMPLAINT GENERATED MATTERS**

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 09-49.**

The motion carried on the vote of 6-0.

Following discussion, Chairman Walther recognized Vice Chairman

Petersen, who

**MOVED to approve the Proposed Agency Procedure:
Notice to Respondents in Non-Complaint Generated
Matters, as set forth in Agenda Document No. 09-49,
for publication in the *Federal Register*, and to instruct
the General Counsel's Office to make any necessary
technical and conforming amendments.**

The motion carried on the vote of 6-0.

The following items were held over to the next open meeting on

July 30, 2009:

**VII. AGENCY PROCEDURE FOR NOTICE TO NAMED RESPONDENTS OF
ADDITIONAL MATERIAL FACTS OR ADDITIONAL POTENTIAL
VIOLATIONS**

Agenda Document No. 09-46

**VIII. AGENCY PROCEDURE FOR NOTICE TO POTENTIAL RESPONDENTS
IN ENFORCEMENT MATTERS**

Agenda Document No. 09-47

**IX. MODIFICATION OF AGENCY PROCEDURE FOR PROBABLE CAUSE
HEARINGS**

Agenda Document No. 09-48

X. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 12:00 P.M.**

Signed:

**Steven T. Walther
Chairman of the Commission**

Attest:

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