



AGENDA DOCUMENT NO. 04-76
APPROVED AUGUST 19, 2004

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, AUGUST 12, 2004

PRESENT:

Bradley A. Smith, Chairman, presiding

Ellen L. Weintraub, Vice Chair

David M. Mason, Commissioner

Danny L. McDonald, Commissioner

Scott E. Thomas, Commissioner

James A. Pehrkon, Staff Director

**James A. Kahl, Deputy General Counsel,
representing Lawrence H. Norton,
General Counsel**

Mary W. Dove, Secretary

Chairman Bradley A. Smith called the Federal Election Commission to order in an open meeting at 10:07 A.M. on Thursday, August 12, 2004, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for July 22, 2004
Agenda Document No. 04-67**

Chairman Smith recognized Vice Chair Weintraub, who

**MOVED to approve the minutes for the
Open Meeting of Thursday, July 22,
2004, as submitted in Agenda
Document No. 04-67.**

**The motion carried on the vote of 5-0¹ with Commissioners
Mason, McDonald, Smith, Thomas, and Weintraub voting affirmatively.**

II. DRAFT ADVISORY OPINIONS

A. Draft Advisory Opinion 2004-21

**Give to USA, Inc. by Matthew L. Ginsberg, Chief Executive
Officer, On Time Systems, Inc.**

Agenda Document No. 04-68

WITHDRAWN BY THE GENERAL COUNSEL'S OFFICE

¹ The original vote was 4-0, and without objection, Commissioner Thomas cast his vote later in the meeting.

II. **DRAFT ADVISORY OPINIONS** (continued)

B. **Draft Advisory Opinion 2004-23**

U.S. Oncology, Inc. Good Government Committee ("USON-GGC") by counsel, Thomas J. Spulak

Agenda Document No. 04-71 (submitted late)

(Commissioner Thomas recused himself with respect to this matter, and he was not present during the discussion.)

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 04-71.

The motion carried on the vote of 4-0 with Commissioners

Mason, McDonald, Smith, and Weintraub voting affirmatively.

Chairman Smith recognized Mr. Michael Marinelli of the General Counsel's Office who presented draft Advisory Opinion 2004-23 concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to proposed solicitations of contributions by U.S. Oncology, Inc. Good Government Committee ("USON-GGC"), a separate segregated fund ("SSF") of U.S. Oncology Inc. ("USON").

II. DRAFT ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2004-23 (continued)

During his presentation, Mr. Marinelli noted the following

amendments:

1. On Page 7, Line 5, insert a comma after the word "medical."
2. Insert a new footnote on Page 11, at the end of the sentence on Line 15 (which will be #8) to read as follows:

"On August 6, 2004, the Commission received a letter from the Executive Committee of the USON Policy Board discussing and supporting the USON advisory opinion request. Every Practice was to receive a copy of the letter."

A discussion followed.

The Chairman recognized Commissioner McDonald, who

MOVED to approve draft Advisory Opinion 2004-23, as submitted in Agenda Document No. 04-71, subject to the amendments noted above.

The motion carried on the vote of 4-0 with Commissioners

Mason, McDonald, Smith, and Weintraub voting affirmatively.

II. **DRAFT ADVISORY OPINIONS** (continued)

C. **Draft Advisory Opinion 2004-24**

NGP Software, Inc. by Nathaniel Pearlman, President

Agenda Document No. 04-69

Chairman Smith recognized Ms. Esa Sferra of the General Counsel's Office who presented draft Advisory Opinion 2004-24 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the use of contributor information from the Commission's online public records in a financial software system sold by NGP.

A discussion followed, and Chairman Smith proposed an amendment on Page 4, Lines 3 and 4, by deleting the remainder of the sentence after the word "purpose."

On Chairman Smith's behalf, Commissioner McDonald

MOVED to amend draft Advisory Opinion 2004-24, as submitted in Agenda Document No. 04-69, on Page 4, Lines 3 and 4, by deleting the remainder of the sentence after the word "purpose" which reads: "because NGP is a for-profit company that sells and services NGP Campaign Office for a profit."

II. DRAFT ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2004-24 (continued)

The motion carried on the vote of 5-0 with Commissioners

**Mason, McDonald, Smith, Thomas, and Weintraub voting
affirmatively.**

**Chairman Smith recognized Commissioner McDonald,
who**

**MOVED to approve draft Advisory
Opinion 2004-24, as submitted in
Agenda Document No. 04-69, as
amended above.**

The motion carried on the vote of 5-0 with Commissioners

**Mason, McDonald, Smith, Thomas, and Weintraub voting
affirmatively.**

D. Draft Advisory Opinion 2004-25

Senator Jon Corzine by counsel, Marc E. Elias

Agenda Document No. 04-70

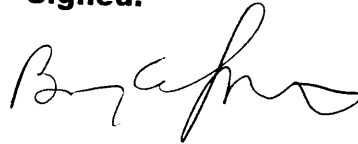
**It was agreed without objection that this matter would be held
over to the next open meeting on August 19, 2004.**

III. ROUTINE ADMINISTRATIVE MATTERS

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

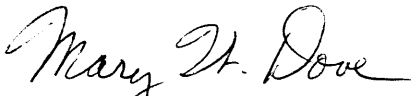
The meeting adjourned at 10:30 A.M.

Signed:



Bradley A. Smith
Chairman of the Commission

Attest:



Mary W. Dove
Secretary of the Commission

