

AGENDA DOCUMENT NO. 04-27

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, MARCH 11, 2004

PRESENT: Bradley A. Smith, Chairman, presiding
Ellen L. Weintraub, Vice Chair
David M. Mason, Commissioner
Danny L. McDonald, Commissioner
Scott E. Thomas, Commissioner
Michael E. Toner, Commissioner
Robert J. Costa, Deputy Staff Director
for Audit and Review, representing
James A. Pehrkon, Staff Director
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 10:05 A.M. on Thursday, March 11, 2004, with a quorum present.

I. ADVISORY OPINIONS

- A. Draft Advisory Opinion 2004-03
Dooley for the Valley by counsel,
Stephen J. Kaufman and Joseph M. Birkenstock

Agenda Document No. 04-22

Chairman Smith recognized Mr. Jonathan Levin of the General Counsel's Office who presented draft Advisory Opinion 2004-03, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the conversion of a principal campaign committee into a multicandidate committee.

Following discussion, the Chairman recognized Commissioner McDonald, who

MOVED to approve draft Advisory
Opinion 2004-03, as submitted in Agenda
Document No. 04-22.

I. ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2004-03
(continued)

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

* The original vote was 5-0. By unanimous consent, Commissioner Thomas was permitted to cast his vote later in the meeting.

B. Draft Advisory Opinion 2004-04
(Alternative Drafts)

Air Transport Association of America, Inc. by counsel, John C. Keeney, Jr.

Agenda Document No. 04-23

Chairman Smith recognized Mr. Steve Hajjar of the General Counsel's Office who presented two proposed drafts of Advisory Opinion 2004-04, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the Committee's selection of a shortened name for common usages such as on checks and stationery.

- I. ADVISORY OPINIONS (continued)
- B. Draft Advisory Opinion 2004-04
 (Alternative Drafts) (continued)

The Chairman recognized Vice Chair Weintraub
who

 MOVED to approve Alternative B
 of draft Advisory Opinion 2004-04, as
 submitted in Agenda Document No. 04-23.

A discussion followed. It was agreed without
objection to amend Page 6, Line 22, by inserting after
the word "committee" the following:

"provided that the Committee publicly
identifies itself as 'AirPAC' in the
future so that 'AirPAC' becomes the name
by which the committee is commonly known."

The motion carried on the vote of 6-0 subject
to the amendment noted above.

II. LAROUCHE'S COMMITTEE FOR A NEW BRETTON WOODS -
STATEMENT OF REASONS (LRA 565)

Agenda Document No. 04-24

(Placed on the agenda pursuant to the filing of an objection by Commissioner Toner following circulation on a 72-hour tally vote. Chairman Smith objected for the record.)

Chairman Smith recognized Commissioner Toner who stated his objection related to the markup section of the report and after further consideration he felt the report had reached the correct conclusion. He withdrew his objection and cast a vote of approval.

A discussion followed, and Chairman Smith stated he would let his objection stand for the record.

Therefore, the amended pre-meeting tally reflected a Commission decision by a vote of 5-1 to take the following actions in the above-captioned matter:

1. Determine that Lyndon H. LaRouche, Jr. and LaRouche's Committee for a New Bretton Woods must repay \$67,988 pursuant to 26 U.S.C. § 9038(b)(2)(A) and 11 C.F.R. § 9038.2(b)(2)(i) for non-qualified campaign expenses.

II. LAROUCHE'S COMMITTEE FOR A NEW BRETTON WOODS -
STATEMENT OF REASONS (LRA 565) (continued)

2. Determine that Lyndon H. LaRouche, Jr. and LaRouche's Committee for a New Bretton Woods must repay \$154,046 pursuant to 26 U.S.C. § 9038(b)(1) and 11 C.F.R. § 9038.2(b)(1) for matching funds received in excess of the candidate's entitlement.
3. Approve the Statement of Reasons, as set forth in Agenda Document No. 04-24.
4. Approve the appropriate letters.

Commissioners Mason, McDonald, Thomas, Toner, and Weintraub voted affirmatively. Commissioner Smith dissented.

III. ELIGIBILITY REPORT - REV. ALFRED C. SHARPTON/
SHARPTON 2004

Agenda Document No. 04-25
(Submitted late)

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. 04-25.

The motion carried on the vote of 6-0.

III. ELIGIBILITY REPORT - REV. ALFRED C. SHARPTON/
SHARPTON 2004 (continued)

The Chair recognized Mr. Ray Lisi of the Audit Division who presented the subject report.

Those who participated in the discussion which followed were: Ms. Michelle Abellera and Ms. Thomasenia Duncan of the Office of General Counsel; Mr. Joseph Stoltz and Mr. Robert Costa of the Audit Division; and Mr. John Gibson of the Reports Analysis Division.

Chairman Smith recognized Commissioner McDonald,
who

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

1. Determine that Rev. Alfred C. Sharpton/Sharpton 2004 have fulfilled the requirements set forth in 26 U.S.C. § 9033(a) and (b) and 11 CFR §§ 9033.1, 9033.2, and 9036.1(b) and have established eligibility to receive primary matching fund payment under 26 U.S.C. § 9037 and 11 CFR § 9037.1.
2. Initiate a review under 11 CFR § 9039.3 and to gather further evidence regarding the loans and unpaid reimbursement requests in question.

III. ELIGIBILITY REPORT - REV. ALFRED C. SHARPTON/
SHARPTON 2004 (continued)

3. Send a notification letter to the Candidate regarding the Commission's eligibility determination in accordance with 11 CFR § 9036.1(c)(3) and the Commission's Guideline for Presentation in Good Order; and, that the letter further advise that additional Matching Fund requests may be presented to the Commission for review on a monthly basis.
4. Notify the Secretary of the Treasury of the Candidate/Committee's eligibility to receive payments from the Presidential Primary Matching Payment Account and certify an initial payment of \$100,000.
5. Approve the Factual and Legal Analysis, as set forth in Agenda Document No. 04-25, in Attachment A on Pages 7, 8, and 9.

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

IV. ROUTINE ADMINISTRATIVE MATTERS

Meeting Schedule for the Remainder
of 2004

Agenda Document No. 04-21

Chairman Smith recognized Commissioner McDonald,
who

MOVED to approve the meeting
schedule for the remainder of 2004, as
submitted in Agenda Document No. 04-21.

The motion carried on the vote of 6-0.

There was no further business to come before the
Commission. The meeting adjourned at 11:45 A.M.

Signed:

Bradley A. Smith
Chairman of the
Commission

Attest:

Mary W. Dove
Secretary of the Commission

