



AGENDA DOCUMENT NO. 12-32
APPROVED MAY 10, 2012

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 26, 2012**

PRESENT:

Caroline C. Hunter, Chair, presiding

Ellen L. Weintraub, Vice Chair

Cynthia L. Bauerly, Commissioner

Donald F. McGahn II, Commissioner

Matthew S. Petersen, Commissioner

Steven T. Walther, Commissioner¹

Alec Palmer, Staff Director

Anthony Herman, General Counsel

Shawn Woodhead Werth, Secretary and Clerk

¹ Commissioner Walther participated via telephone for portions of the meeting.

Chair Caroline C. Hunter welcomed all of the children to the Commission's "Bring Our Daughters and Sons to Work Day." With the assistance of the children, she called the Federal Election Commission to order in an open meeting at 10:04 A.M. on Thursday, April 26, 2012 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for April 12, 2012
Agenda Document No. 12-28**

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the minutes for the meeting of April 12, 2012 as set forth in Agenda Document No. 12-28.

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

Chair Hunter recognized Vice Chair Weintraub who

MOVED to waive the rules on the timely submission of agenda documents so that the Commission may consider Agenda Document Nos. 12-29, 12-22-B, 12-22-C, 12-24-B, and 12-27.

The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen and Weintraub voting affirmatively for the decision. Commissioner Walther did not vote.

II. DRAFT ADVISORY OPINION 2012-12

Dunkin' Brands, Inc. by William H. Minor, Esq.

Agenda Document No. 12-25

Chair Hunter noted that Mr. Minor, the requestor's counsel, was available to answer Commissioners' questions. She also welcomed Natalie and Georgia, Mr. Minor's daughters, to the Commission.

Chair Hunter recognized Mr. Tony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Dunkin' Brands, Inc.' separate segregated fund's proposal to solicit and accept contributions from its non-corporate franchisees/licensees, as well as from the executive and administrative personnel of Dunkin' Brands' corporate franchisees/licensees.

Mr. Minor participated in the discussion which followed.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the answer to Dunkin' Brands, Inc. as set forth in Agenda Document No. 12-25, Draft Advisory Opinion 2012-12.

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

**The meeting recessed at 10:14 A.M. and reconvened at 10:26 A.M.
with a quorum present.**

III. DRAFT ADVISORY OPINION 2012-08

Repledge by Eric M. Zolt

Agenda Document No. 12-21

Agenda Document No, 12-21-A (Draft B)

(Held over from the meeting of April 12, 2012)

**Chair Hunter noted that Professor Zolt, the requestor's
representative, was available via telephone to answer Commissioners'
questions.**

**Chair Hunter recognized Mr. Theodore Lutz of the General Counsel's
Office who presented the draft advisory opinion concerning the application
of the Federal Election Campaign Act of 1971, as amended, and
Commission regulations to Repledge's proposal to establish a Web-based
platform that would allow individuals to remove pledged funds in equal
amounts from opposing candidates for Federal office and, instead, to
donate their funds to charitable organizations. Repledge asked a series of
questions relating to its proposal. Mr. Lutz summarized the conclusions
reached in both drafts.**

Professor Zolt participated in the discussion which followed.

Chair Hunter noted that this matter would be held over until later in the meeting. (See page 11.)

IV. DRAFT ADVISORY OPINION 2012-09

Points for Politics, LLC by Cleta Mitchell, Esq.

**Agenda Document No. 12-29
(Submitted Late)**

Chair Hunter noted that Mr. David Urban and Mr. John Simms, the requestor's representatives, were available to answer Commissioners' questions.

Chair Hunter recognized Mr. Joshua Blume of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Points for Politics, LLC's proposal to offer a patented system to individuals and political committees that converts points that are awarded by corporations to individual consumers as incentives to purchase the corporation's goods or services (such as frequent flyer miles) into monetary equivalents that those individuals could then contribute to political committees.

Discussion followed.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the draft answer in Advisory Opinion 2012-09 as set forth in Agenda Document No. 12-29.

The motion carried on a vote of 5-1 with Commissioners Bauerly, Hunter, McGahn, Petersen and Weintraub voting affirmatively for the decision. Commissioner Walther dissented.

V. DRAFT ADVISORY OPINION 2012-10

**Greenberg Quinlan Rosner Research, Inc.
by Joseph E. Sandler, Esq. and Elizabeth
L. Howard, Esq.**

(Held over from the meeting of April 12, 2012)

Agenda Document No. 12-22 (Drafts A, B and C)

Agenda Document No. 12-22-A (Draft D)

**Agenda Document No. 12-22-B (Revised Draft D)
(Submitted Late)**

**Agenda Document No. 12-22-C (Draft E)
(Submitted Late)**

Chair Hunter recognized Ms. Esther Heiden of the General Counsel's Office who introduced the six drafts for the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Greenberg Quinlan Rosner Research, Inc.'s proposal. Ms. Heiden summarized the conclusions reached in Revised Draft D and Draft E.

Mr. Sandler participated in the discussion which followed.

Chair Hunter recognized Commissioner Petersen who

MOVED to approve Draft E with the following changes:

- 1. On Page 4, Lines 9 – 11: beginning on Line 9, strike the remainder of the sentence after “surveys” and replace it with “made on behalf of Federal candidates, their authorized committees, or other Federal political committees that refer only to candidates for Federal office.”**
- 2. On Page 7, Line 5: strike the language “Federal candidates” and replace it with “Federal candidates, their authorized committees, or other Federal political committees that refer only to candidates for Federal office.”**
- 3. Make any technical and conforming changes.**

Discussion resumed.

The motion carried on a vote of 5-1 with Commissioners Bauerly,

Hunter, McGahn, Petersen and Walther voting affirmatively for the decision.

Commissioner Weintraub dissented.

VI. DRAFT ADVISORY OPINION 2012-11

**Free Speech by Benjamin T. Barr, Esq. and
Stephen R. Klein, Esq.**

(Held over from the meeting of April 12, 2012)

Agenda Document No. 12-24

Agenda Document No. 12-24-A (Draft B)

**Agenda Document No. 12-24-B (Draft C)
(Submitted Late)**

Chair Hunter noted that Mr. Barr and Mr. Klein, the requestor's counsel, were available to answer Commissioners' questions.

Chair Hunter recognized Mr. Neven Stipanovic of the General Counsel's Office who introduced the three drafts for the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Free Speech's proposed activities. Mr. Stipanovic summarized the conclusions reached in the three drafts.

Mr. Barr participated in the discussion which followed.

Chair Hunter recognized Commissioner Petersen who

**MOVED to approve Draft C of Draft Advisory
Opinion 2012-11 as set forth in Agenda
Document No. 12-24-B.**

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

Chair Hunter recognized Vice Chair Weintraub who

**MOVED to approve Draft B as set forth in Agenda
Document No. 12-24-A.**

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

Chair Hunter directed the Office of General Counsel to prepare a draft response which includes answers to those questions on which the Commissioners agree and circulate it on a tally vote basis.

VII. DRAFT ADVISORY OPINION 2012-13

Physician Hospitals of America by Edward M. Shack, Esq.

Agenda Document No. 12-26

Chair Hunter recognized Mr. Tony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Physician Hospitals of America's (PHA) request. PHA asks whether the involvement of its member hospitals and their owners who are enrolled in government sponsored healthcare programs (such as Medicare and Medicaid) causes them to become federal contractors who would be prohibited from making contributions to independent expenditure-only political committees.

Chair Hunter recognized Vice Chair Weintraub who

**MOVED to approve Draft Advisory Opinion 2012-13
as set forth in Agenda Document No. 12-26.**

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

VIII. DRAFT ADVISORY OPINION 2012-14

**Shaun McCutcheon by Stephen M. Hoersting, Esq.,
Dan Backer, Esq., and Jerad Najvar, Esq.**

**Agenda Document No. 12-27
(Submitted Late)**

Chair Hunter noted that Mr. Hoersting and Mr. Backer, the requestor's counsel, were available to answer Commissioners' questions.

Chair Hunter recognized Mr. Tony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to Mr. McCutcheon's request to make aggregated contributions to Federal candidates totaling \$54,400 during the 2011-2012 election cycle.

Mr. Hoersting and Mr. Backer participated in the discussion which followed.

Chair Hunter recognized Commissioner Petersen who

**MOVED to approve Draft Advisory Opinion 2012-14
as set forth in Agenda Document No. 12-27.**

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

Chair Hunter noted that Item IX (Draft Advisory Opinion 2012-07) would be held over to the next meeting.

The meeting recessed at 11:25 A.M. and reconvened at 11:42 A.M. with a quorum present.

III. DRAFT ADVISORY OPINION 2012-08 (CONTINUED)

Professor Zolt participated in the resumption of the discussion.

Chair Hunter noted that the 60-day deadline for this matter is May 1, 2012. She stated that the General Counsel's staff will contact Professor Zolt with additional questions and about a possible extension of time for the Commission to issue its response.

IX. DRAFT ADVISORY OPINION 2012-07

Feinstein for Senate by Marc E. Elias, Esq., Kate Sawyer Keane, Esq., and Jonathan S. Berkon, Esq.

Agenda Document No. 12-23

(To be held over to a future meeting)

Chair Hunter noted that, absent objection, the Commission will record Commissioner Walther's votes for the matters on the agenda if the votes are received before the end of the day.

X. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 12:01 P.M.

Signed:



Caroline C. Hunter

Chair of the Commission

Attest:



Shawn Woodhead Werth

Secretary and Clerk of the Commission