



AGENDA DOCUMENT NO. 04-84
APPROVED SEPTEMBER 30, 2004

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION

THURSDAY, SEPTEMBER 9, 2004

PRESENT:

- Bradley A. Smith, Chairman, presiding**
- Ellen L. Weintraub, Vice Chair**
- David M. Mason, Commissioner**
- Scott E. Thomas, Commissioner**
- 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 10:10 A.M. on Thursday, September 9, 2004, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for August 19, 2004
Agenda Document No. 04-77

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to approve the minutes for the Open Meeting of Thursday, August 19, 2004, as submitted in Agenda Document No. 04-77.

The motion carried on the vote of 4-0 with Commissioners Mason, Smith, Thomas, and Weintraub voting affirmatively.

II. DRAFT ADVISORY OPINIONS

A. Draft Advisory Opinion 2004-27

Quayle 2000, Inc. by William R. Neale, Treasurer

Agenda Document No. 04-80

Chairman Smith recognized Mr. Albert Kiss of the General Counsel's Office who presented draft Advisory Opinion 2004-27

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

A. **Draft Advisory Opinion 2004-27** (continued)

concerning the application of the Federal Election Campaign Act of 1971, ("the Act"), as amended by the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002) ("BCRA"), and Commission regulations, to Quayle 2000, Inc.'s ("the Committee") proposed use of campaign funds to reimburse two former employees for unpaid salary dating back to 1999.

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to approve draft Advisory Opinion 2004-27, as submitted in Agenda Document No. 04-80.

The motion carried on the vote of 4-0 with Commissioners Mason, Smith, Thomas, and Weintraub voting affirmatively.

B. **Draft Advisory Opinion 2004-28**

Iowa Ethics and Campaign Disclosure Board by W. Charles Smithson, Executive Director and Legal Counsel

Agenda Document No. 04-78

II. DRAFT ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2004-28 (continued)

Chairman Smith recognized Ms. Cheryl A.F. Hemsley of the General Counsel's Office who presented draft Advisory Opinion 2004-28 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to potential State disclosure requirements regarding donors to State party committee non-Federal office building funds.

The Chairman recognized Vice Chair Weintraub, who

MOVED to approve draft Advisory Opinion 2004-28, as submitted in Agenda Document No. 04-78.

The motion carried on the vote of 4-0 with Commissioners Mason, Smith, Thomas, and Weintraub voting affirmatively.

C. Draft Advisory Opinion 2004-30

Citizens United by Michael Boos, Vice President and General Counsel

Agenda Document No. 04-81

Chairman Smith recognized Ms. Amy Rothstein of the General Counsel's Office who presented draft Advisory Opinion 2004-30

II. DRAFT ADVISORY OPINIONS (continued)

C. Draft Advisory Opinion 2004-30 (continued)

concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to Citizens United's plans to buy television time to air a documentary film about presidential candidate John Kerry and his vice-presidential running mate, John Edwards, within sixty days before the general election on November 2, 2004; and, the application of the Act and Commission regulations to Citizens United's plans to advertise both the film and a book about Mr. Kerry on television and radio within sixty days before the upcoming general election.

During her presentation, Ms. Rothstein noted the following technical amendments:

Page 3, Line 17, change "VCR" to "videocassette";

Page 6, Lines 2-3, delete "written by Mr. Bossie";

Page 6, Line 8, change "Mr. Bossie's" to "the";

Page 13, Footnote 13, change "id." to the New York Post website address appearing in footnote 12;

Page 14, Line 7, change "VCR" to "videocassette" and insert "the Internet," between "DVD sales" and "in theaters."

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

C. **Draft Advisory Opinion 2004-30** (continued)

Chairman Smith offered the following amendments:

Page 8, Line 19, delete the word "not" after "would";

Page 8, Line 19, delete the words "means other than";

Page 9 delete the paragraph which begins on **Line 13** and ends on **Page 10, Line 3**, including footnote 10.

Page 12, delete the paragraph which begins on **Line 13** and ends on **Page 13, Line 4**, including footnote 13.

A discussion followed.

The Chairman recognized Vice Chair Weintraub, who

MOVED to approve draft Advisory Opinion 2004-30, as set forth in Agenda Document No. 04-81, subject to the amendments noted above by Ms. Rothstein and Chairman Smith; and, to instruct the General Counsel's Office to make any necessary and conforming amendments.

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

Mason, Smith, Thomas, and Weintraub voting affirmatively.

D. **Draft Advisory Opinion 2004-33**

The Ripon Society and U.S. Representative Sue Kelly by Counsel, Jan Witold Baran and Lee E. Goodman

Agenda Documents No. 04-83, No. 04-83-A and No. 04-83-B

II. DRAFT ADVISORY OPINIONS (continued)

D. Draft Advisory Opinion 2004-33 (continued)

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 04-83, No. 04-83-A, and No. 04-83-B.

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

Mason, Smith, Thomas, and Weintraub voting affirmatively.

Chairman Smith recognized Mr. Richard Ewell of the General Counsel's Office who presented draft Advisory Opinion 2004-33 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to proposed cable television advertisements featuring Representative Kelly and paid for by Ripon.

The Chairman recognized Vice Chair Weintraub who referred to amendments she had submitted in Agenda Document No. 04-83-B. Commissioner Thomas was recognized to review his amendments, as set forth in Agenda Document No. 04-83-A.

A discussion followed.

II. DRAFT ADVISORY OPINIONS (continued)

D. Draft Advisory Opinion 2004-33 (continued)

Chairman Smith recognized Vice Chair Weintraub, who

**MOVED to approve draft Advisory
Opinion 2004-33, as submitted in
Agenda Document No. 04-83, as
amended by Agenda Document
No. 04-83-B, on Page 5, Line 12,
and Page 11, Line 12.**

**The motion carried on the vote of 4-0 with Commissioners
Mason, Smith, Thomas, and Weintraub voting affirmatively.**

*** * * * ***

**The meeting recessed at 11:25 A.M. and reconvened at 11:35
A.M. with a quorum present.**

*** * * * ***

E. Draft Advisory Opinion 2004-31

Russ Darrow Group, Inc. by counsel, Cleta Mitchell

Agenda Document No. 04-79

**Chairman Smith recognized Mr. Robert Knop of the General
Counsel's Office who presented draft Advisory Opinion 2004-31
concerning the application of the Federal Election Campaign Act of**

II. DRAFT ADVISORY OPINIONS (continued)

E. Draft Advisory Opinion 2004-31 (continued)

1971, as amended ("the Act"), and Commission regulations to certain radio and television advertisements that RDG is planning to run.

Because of supplemental information received from the requester, Mr. Knop recommended that Footnote 1 be deleted from the draft.

Chairman Smith recognized Vice Chair Weintraub, who

MOVED to approve draft Advisory Opinion 2004-31, as set forth in Agenda Document No. 04-79, subject to the amendment noted above.

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

Mason, Smith, Thomas, and Weintraub voting affirmatively.

III. DRAFT NOTICE OF DISPOSITION OF PETITIONS FOR RULEMAKING

Agenda Document No. 04-82

It was agreed without objection to hold this matter over to the next open meeting on September 30, 2004.

IV. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters 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**