



AGENDA DOCUMENT NO. 12-45

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 24, 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, Commissioner

**Patricia Carmona, Chief Compliance Officer,
for Alec Palmer, Staff Director**

Anthony Herman, General Counsel

Shawn Woodhead Werth, Secretary and Clerk

Chair Caroline C. Hunter called the Federal Election Commission to order in an open meeting at 10:20 A.M. on Thursday, May 24, 2012 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for May 10, 2012
Agenda Document No. 12-37**

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the minutes for the meeting of May 10, 2012 as set forth in Agenda Document No. 12-37.

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. 12-36, 12-36-A, 12-39, and 12-38.

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

II. DRAFT ADVISORY OPINION 2012-15

**American Physical Therapy Association
by John J. Bennett, Esq.**

**Agenda Document No. 12-36
(Submitted Late)**

**Agenda Document No. 12-36-A (Draft B)
(Submitted Late)**

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 American Physical Therapy Association's (APTA) proposed plan to solicit its members who work at corporations wholly or partly owned by APTA members for contributions to APTA's separate segregated fund and to have the corporations collect and transmit those contributions to APTA's separate segregated fund through payroll deductions. APTA would pay the corporations for their services. Mr. Blume summarized the conclusions reached in both drafts.

Discussion followed.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the response to the American Physical Therapy Association, Advisory Opinion 2012-15, as set forth in Draft B, Agenda Document No. 12-36-A, along with technical and conforming amendments.

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

III. DRAFT ADVISORY OPINION 2012-17

**Red Blue T LLC, Armour Media, Inc., and m-Qube, Inc.
by Craig Engle, Esq. and Brett G. Kappel, Esq.**

**Agenda Document No. 12-39 (Drafts A and B)
(Submitted Late)**

Chair Hunter noted that Mr. Engle and Mr. Kappel, requestor's counsel, were available 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 the requestors' proposal that m-Qube, Inc. would provide its services as an aggregator to process contributions made to political committees via text messaging. The requestors ask whether the proposal complies with the forwarding, recordkeeping and reporting provisions of the Act, and satisfies the segregation requirements for commercial vendors that process political contributions. Mr. Lutz summarized the conclusions reached in both drafts.

Mr. Engle and Mr. Kappel participated in the discussion which followed.

Chair Hunter noted that this matter would be held over to the next open meeting.

IV. DRAFT ADVISORY OPINION 2012-20

**Markwayne Mullin by Jason Torchinsky, Esq. and
Shawn Sheehy, Esq.**

**Agenda Document No. 12-38
(Submitted Late)**

Chair Hunter noted that Mr. Torchinsky and Mr. Sheehy, requestor's counsel, were available to answer Commissioners' questions.

Chair Hunter recognized Ms. Jessica Selinkoff 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. Markwayne Mullin's request. He asks whether radio and television advertisements paid for by Mullin Plumbing, Inc. and Mullin Plumbing West Division, Inc. (the Mullin companies) would be electioneering communications when aired within the electioneering communication window. If so, Mr. Mullin also asks whether, when he files electioneering communication reports with the Commission, he must disclose the names of the Mullin companies' customers who paid \$1,000 or more for services rendered since January 1, 2011.

Mr. Torchinsky participated in the discussion which followed.

Chair Hunter noted that there would be a short recess to enable Mr. Torchinsky to consult with the requestor about a possible extension of the response deadline.

The meeting recessed at 12:20 P.M. and reconvened at 12:29 P.M. with a quorum present.

Chair Hunter recognized Mr. Torchinsky who stated that the requestor would grant an extension for a response until Wednesday, May 30, 2012.

Mr. Torchinsky and General Counsel Anthony Herman participated in the continuing discussion.

Chair Hunter thanked Mr. Torchinsky and noted the requestor's granting of the extension.

V. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE LEGACY COMMITTEE POLITICAL ACTION COMMITTEE (A09-22)

Memorandum from the Audit Division dated March 8, 2012

Agenda Document No. 12-30

Chair Hunter noted that this matter would be held over to the next open meeting.

VI. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE NATIONAL RIGHT TO LIFE POLITICAL ACTION COMMITTEE (NRLPAC) (A09-19)

Memorandum from the Audit Division dated April 26, 2012

Agenda Document No. 12-35

Chair Hunter introduced the matter. Mr. Martin Favin of the Audit Division summarized the Audit Division Recommendation Memorandum with respect to Finding 1 (the Misstatement of Financial Activity), the recommendation to remove Finding 2 (the Disclosure of Occupation and Name of Employer), and a Scope Limitation.

Ms. Erica Lee of the Audit Division also participated in the discussion which followed.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the Audit Division Recommendation Memorandum on the National Right to Life Political Action Committee (A09-19), set forth in Agenda Document No. 12-35, and direct staff to proceed in accordance with the discussion at the table.

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

VII. RULEMAKING PRIORITIES FOR 2012

**Memorandum from Chair Caroline C. Hunter and
Vice Chair Ellen L. Weintraub dated May 24, 2012**

**Agenda Document No. 12-40
(Submitted Late)**

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 No. 12-40.**

**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 the Commission has compiled a list of
rulemaking priorities for 2012 and a list of upcoming rulemaking
projects. There are two priorities for 2012: 1) the rulemaking on
independent expenditures and electioneering communications by
corporations and labor organizations; and 2) the rulemaking on
political committees that engage in independent spending.**

Chair Hunter recognized Vice Chair Weintraub who

**MOVED to approve Agenda Document No. 12-40, the
Rulemaking Priorities for 2012.**

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, yesterday, the Commission released many documents in response to the House Oversight Committee hearing held on November 3, 2011. She explained that the Commission issued a press release concerning these documents and included staff names and email addresses for the public to get more information or submit comments, and will hold a public hearing on September 12, 2012 to discuss enforcement issues. Chair Hunter said that the Enforcement documents, the Reports Analysis Division procedures, and the Audit Division materials are now available on the Commission's website.

Chair Hunter recognized Vice Chair Weintraub who noted that the public may not find these documents useful as they were primarily written for Commission staff and not with an eye toward making them accessible to the public, and the material includes many old documents. She emphasized current efforts to revise the Enforcement Manual, topics for the upcoming hearing, and anticipated helpful comments from the public on the Commission's enforcement process.

Chair Hunter thanked the Information Division for an excellent conference season in 2012. She noted that the conferences were sold out before the registration deadline and that these were the first conferences offered as webinars for those who could not attend in person.

Chair Hunter thanked Mr. Troy McCurry for his service to her, Commissioner McGahn and Commissioner Petersen. She noted that his vast array of experience was invaluable to the Commission and wished him well on his next endeavor.

VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 1:01 P.M.

Signed:

**Caroline C. Hunter
Chair of the Commission**

Attest:

**Shawn Woodhead Werth
Secretary and Clerk of the Commission**