



AGENDA DOCUMENT NO. 09-56

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
TUESDAY, JULY 28, 2009

PRESENT:

Steven T. Walther, Chairman, presiding

Matthew S. Petersen, Vice Chairman

Cynthia L. Bauerly, Commissioner

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Ellen L. Weintraub, Commissioner

Robert A. Hickey, Staff Director

Thomasenia P. Duncan, General Counsel

Mary W. Dove, Secretary

Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:06 A.M. on Tuesday, July 28, 2009, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for Thursday, July 16, 2009
Agenda Document No. 09-50**

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to approve the minutes for the Open Meeting of Thursday, July 16, 2009, as set forth in Agenda Document No. 09-50.

The motion carried on the vote of 6-0 with Commissioners

Bauerly, Hunter, McGahn, Petersen, Walther, and Weintraub voting affirmatively.

II. DRAFT ADVISORY OPINIONS

**A. Draft Advisory Opinion 2009-13
The Black Rock Group by William J. McGinley, Esq.
(Continued from the meeting of July 16, 2009)**

**Agenda Document No. 09-42 (Drafts A & B)
Agenda Document No. 09-42-A (Revised Draft A)
Agenda Document No. 09-42-B (Draft C) (submitted late)**

(Commissioner Weintraub recused)

The Chairman recognized Vice Chairman Petersen, who

II. DRAFT ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2009-13 (continued)

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 09-42-B.

The motion carried on the vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, and Walther voting affirmatively.

Commissioner Weintraub recused herself with respect to this matter and did not vote.

Chairman Walther recognized Mr. Neven Stipanovic of the General Counsel's Office who presented alternative Draft C of the subject advisory opinion, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to activities of BRG, a newly formed consulting company of The Black Rock Group.

A discussion followed, and Mr. William McGinley, on behalf of The Black Rock Group, responded to questions by the Commissioners.

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There was a recess at 10:50 A.M., and the meeting reconvened at 10:55 A.M. with a quorum present.

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II. DRAFT ADVISORY OPINIONS (continued)

A. Draft Advisory Opinion 2009-13 (continued)

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to return Draft Advisory Opinion 2009-13, as set forth in Agenda Documents No. 09-42, No. 09-42-A, and No. 09-42-B, to the General Counsel's Office for redrafting pursuant to the meeting discussion, and to circulate the redraft on a 48-hour tally vote basis.

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

Hunter, McGahn, Petersen, and Walther voting affirmatively.

Commissioner Weintraub recused herself with respect to this matter and did not vote.

**B. Draft Advisory Opinion 2009-14
Mercedes-Benz USA LLC and Sterling Truck Corporation
by Jan Witold Baran, Esq. and Caleb Burns, Esq.**

**Agenda Documents No. 09-54, No. 09-54-A, and
No. 09-54-B (submitted late)**

(Executive Assistant Kevin Plummer recused)

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 09-54, No. 09-54-A, and No. 09-54-B.

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

B. Draft Advisory Opinion 2009-14 (continued)

Chairman Walther recognized Mr. David Adkins of the General Counsel's Office who presented the proposed drafts of the subject advisory opinion, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to Mercedes-Benz USA LLC's proposal to pay the administrative costs of a separate segregated fund ("SSF") to be established by Sterling Truck Corporation, and whether the SSF may be referred to as "Daimler PAC."

The Chairman recognized Mr. Jan Witold Baran, representing the requestors, who responded to questions during the discussion which followed. When asked, Mr. Baran stated the requestors would agree to an extension to August 31, 2009.

It was agreed without objection, to hold this matter over to the next open meeting on Thursday, August 27, 2009.

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The meeting recessed at 11:45 A.M. and reconvened at 11:55 A.M. with a quorum present.

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II. DRAFT ADVISORY OPINIONS (continued)

**C. Draft Advisory Opinion 2009-15
Bill White for Texas, by Barry Hunsaker, Treasurer**

Agenda Document No. 09-55 (submitted late)

The Chairman noted the legal counsel for the requestor, James Cousar, would be representing the Committee by telephone to answer any questions the Commission may have during the discussion.

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 09-55.

The motion carried on the vote of 6-0.

The Chairman recognized Mr. Tony Buckley of the General Counsel's Office who presented two draft opinions concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the raising and acceptance of contributions for a special election that may not occur.

A discussion followed.

Chairman Walther recognized Vice Chairman Petersen, who

MOVED to approve Draft A of Draft Advisory Opinion 2009-15, as set forth in Agenda Document No. 09-55.

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

**D. Draft Advisory Opinion 2009-16
Libertarian Party of Ohio, by Michael Johnston, Treasurer**

Agenda Document No. 09-51 (submitted late)

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 09-51.**

The motion carried on the vote of 6-0.

**Chairman Walther recognized Mr. Theodore Lutz of the General
Counsel's Office who presented the draft opinion concerning the status of
the Libertarian Party of Ohio as a State party committee of a political
party under the Federal Election Campaign Act of 1971, as amended (the
"Act"), and Commission regulations.**

Chairman Walther recognized Commissioner Weintraub, who

**MOVED to approve Draft Advisory Opinion 2009-16,
as set forth in Agenda Document No. 09-51.**

The motion carried on the vote of 6-0.

**E. Draft Advisory Opinion 2009-17
Romney for President, Inc., by Benjamin L. Ginsberg, Esq.
and Glenn Willard, Esq.**

Agenda Document No. 09-53 (submitted late)

II. DRAFT ADVISORY OPINIONS (continued)

E. Draft Advisory Opinion 2009-17 (continued)

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 09-53.**

The motion carried on the vote of 6-0.

**The Chairman recognized Mr. Benjamin Ginsberg, representing the
requestor, who was present to address questions presented to him by the
Commission.**

**Chairman Walther recognized Ms. Cheryl Hemsley of the General
Counsel's Office who presented the two proposed drafts of the subject
advisory opinion concerning the application of the Federal Election
Campaign Act of 1971, as amended (the "Act"), and Commission
regulations to the proposed disposition of contributions, which either on
their face or when aggregated with other contributions by the same
contributor, exceed the contribution limitations set forth in the Act and
Commission regulations.**

A discussion followed.

II. DRAFT ADVISORY OPINIONS (continued)

E. Draft Advisory Opinion 2009-17 (continued)

Chairman Walther recognized Commissioner Weintraub, who

**MOVED to approve Draft A of Draft Advisory Opinion
2009-17, as set forth in Agenda Document No. 09-53.**

The motion failed by a vote of 3-3 with Commissioners Bauerly,

Walther, and Weintraub voting affirmatively. Commissioners Hunter,

McGahn, and Petersen dissented.

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to approve Draft B of Draft Advisory Opinion
2009-17, as set forth in Agenda Document No. 09-53.**

The motion failed by a vote of 3-3 with Commissioners Hunter,

McGahn, and Petersen voting affirmatively. Commissioners Bauerly,

Walther, and Weintraub dissented.

The Chairman recognized Vice Chairman Petersen, who

**MOVED to instruct the General Counsel's Office to
notify the requestor that the Commission was unable
to render an opinion in this matter.**

The motion carried on the vote of 6-0.

II. DRAFT ADVISORY OPINIONS (continued)

**F. Draft Advisory Opinion 2009-18
Penske Truck Leasing Co., L.P., Penske Truck
Leasing Corporation, and Penske Truck Leasing
Co., L.P. Political Action Committee, by Carol A.
Laham, Esq. and D. Mark Renaud, Esq.**

Agenda Documents No. 09-52 and No. 09-52-A
(submitted late)

(Rosemary Smith of the General Counsel's Office recused)
(Executive Assistant Kevin Plummer recused)

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Documents No. 09-52
and No. 09-52-A.**

The motion carried on the vote of 6-0.

**The Chairman recognized Ms. Christine Gallagher of the General
Counsel's Office who presented the proposed drafts of the subject
advisory opinion concerning the application of the Federal Election
Campaign Act of 1971, as amended (the "Act"), and Commission
regulations to the possible disaffiliation of the Penske PAC and the SSF of
the General Electric Company, the General Electric Company PAC.**

**The Chairman recognized Ms. Carol Laham and Mr. D. Mark
Renaud, who were representing the requestor.**

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

F. **Draft Advisory Opinion 2009-18** (continued)

Chairman Walther recognized Vice Chairman Petersen, who

**MOVED to approve Draft B of Draft Advisory
Opinion 2009-18, as set forth in Agenda
Document 09-52-A.**

The motion carried on the vote of 6-0.

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THE FOLLOWING MATTERS WERE HELD OVER:

III. **AGENCY PROCEDURE FOR NOTICE TO NAMED RESPONDENTS IN
ENFORCEMENT MATTERS OF ADDITIONAL MATERIAL FACTS OR
ADDITIONAL POTENTIAL VIOLATIONS**

Agenda Document No. 09-46-A

IV. **AGENCY PROCEDURE FOR NOTICE TO POTENTIAL NEW
RESPONDENTS IN ENFORCEMENT MATTERS**

Agenda Document No. 09-47-A

V. **MODIFICATION OF AGENCY PROCEDURE FOR PROBABLE CAUSE
HEARINGS**

Agenda Document No. 09-48

VI. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 12:35 P.M.**

Signed:

**Steven T. Walther
Chairman of the Commission**

Attest:

**Mary W. Dove
Secretary of the Commission**