



AGENDA DOCUMENT NO. 06-17

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MARCH 9, 2006,
AND ITS CONTINUATION ON
MONDAY, MARCH 13, 2006**

PRESENT:

Michael E. Toner, Chairman, presiding
Robert D. Lenhard, Vice Chairman
David M. Mason, Commissioner
Hans A. von Spakovsky, Commissioner
Steven T. Walther, Commissioner
Ellen L. Weintraub, Commissioner
Robert J. Costa, Acting Staff Director
Lawrence H. Norton, General Counsel
Mary W. Dove, Secretary

Chairman Michael E. Toner called the Federal Election Commission to order in an open meeting at 10:07 A.M. on Thursday, March 9, 2006, with a quorum present.

The Chairman announced this meeting would be continued on Monday, March 13, at 2:00 P.M. at which time the Final Rules and Explanation and Justification for the Definitions of "To Solicit" and "To Direct" (11 CFR 300.2(m) and (n)) would be considered.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for February 23, 2006
Agenda Document No. 06-09**

Chairman Toner recognized Commissioner Lenhard, who

MOVED to approve the minutes for the Open Meeting of Thursday, February 23, 2006, as submitted in Agenda Document No. 06-09.

The motion carried on the vote of 6-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, Walther, and Weintraub voting affirmatively.

II. NOTICE OF AVAILABILITY RULEMAKING PETITION RE. EXCEPTION FOR CERTAIN "GRASSROOTS LOBBYING" COMMUNICATIONS FROM THE DEFINITION OF "ELECTIONEERING COMMUNICATIONS"

Agenda Document No. 06-13 (Submitted late)

II. **NOTICE OF AVAILABILITY RULEMAKING PETITION RE.
EXCEPTION FOR CERTAIN "GRASSROOTS LOBBYING"
COMMUNICATIONS FROM THE DEFINITION OF
"ELECTIONEERING COMMUNICATIONS"**

(continued)

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 06-13.

The motion carried on the vote of 6-0.

The Chairman recognized Ms. Cheryl Hemsley of the General
Counsel's Office who presented the subject document.

Chairman Toner recognized Commissioner von Spakovsky, who

MOVED to approve the Notice of Availability
to seek comment on whether the Commission
should initiate a rulemaking on the exception
proposed in the Petition, as set forth in Agenda
Document No. 06-13.

A discussion followed.

The motion carried on the vote of 4-2 with Commissioners
Mason, von Spakovsky, Toner, and Weintraub voting affirmatively.

Commissioners Lenhard and Walther dissented.

**III. FINAL RULES AND EXPLANATION AND JUSTIFICATION FOR
THE DEFINITIONS OF "TO SOLICIT" AND "TO DIRECT"
(11 CFR 300.2(m) and (n))**

(Held over to Monday, March 13, 2006, at 2:00 P.M.)

IV. ADVISORY OPINIONS

**A. Advisory Opinion 2006-01
Pac for a Change by Douglas Boxer, Committee Director**

Agenda Document No. 06-10

Chairman Toner recognized Mr. Anthony Buckley of the General Counsel's Office who presented draft Advisory Opinion 2006-01 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the Committee's purchase of books written by a Federal officeholder at a discounted rate from the publisher, and the Committee's use of those books as a gift for persons who raise at least \$100 for the Committee.

The Chairman recognized Commissioner Weintraub, who

**MOVED to approve draft Advisory Opinion
2006-01, as set forth in Agenda Document
No. 06-10.**

The motion carried on the vote of 6-0.

IV. ADVISORY OPINIONS

(continued)

- B. Advisory Opinion 2006-02
Robert Titley by counsel, Robert F. Bauer
and Judith L. Corley

Agenda Document No. 06-11

Chairman Toner recognized Mr. Jonathan Levin of the General Counsel's Office who presented draft Advisory Opinion 2006-02 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the establishment of a limited liability company that will express views on candidates and issues, and to the establishment by the company of a separate segregated fund ("SSF") that will solicit contributions from individuals who will pay dues to the company in order to become members.

A discussion followed.

The Chairman recognized Vice Chairman Lenhard, who

MOVED to approve draft Advisory Opinion 2006-02, as set forth in Agenda Document No. 06-11.

The motion carried on the vote of 5-1 with Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voting affirmatively. Commissioner Toner dissented.

IV. ADVISORY OPINIONS (continued)

**C. Advisory Opinion 2006-06
**Francine Busby for Congress by
Brandon Hall, Campaign Manager****

**Agenda Documents No. 06-14
and No. 06-14-A (Submitted late)**

Chairman Toner recognized Vice Chairman Lenhard, who

**MOVED to suspend the rules on
the timely submission of agenda
documents in order to consider
Agenda Documents No. 06-14
and No. 06-14-A.**

The motion carried on the vote of 6-0.

**The Chairman recognized Mr. Robert Knop of the General
Counsel's Office who presented Agenda Document No. 06-14, the
General Counsel's draft of Advisory Opinion 2006-06, concerning the
application of the Federal Election Campaign Act of 1971, as amended
("the Act"), and Commission regulations to the upcoming special general
election in California's 50th Congressional District.**

**Chairman Toner recognized Vice Chairman Lenhard who
introduced Agenda Document No. 06-14-A which he and Commissioner
von Spakovsky were submitting for consideration. During his
presentation, the Vice Chairman offered a friendly amendment to wit:**

IV. ADVISORY OPINIONS (continued)

C. Advisory Opinion 2006-06 (continued)

**Page 12, Line 19, delete the word "Those"
and the remainder of the sentence at Page 13,
Lines 1 through 4.**

A discussion followed.

* * * * *

**The meeting recessed at 11:05 A.M. and reconvened at
11:20 A.M. with a quorum present.**

* * * * *

IV. ADVISORY OPINIONS (continued)

C. Advisory Opinion 2006-06 (continued)

Chairman Toner recognized Vice Chairman Lenhard, who

**MOVED to approve draft Advisory Opinion
2006-06, as set forth in Agenda Document
No. 06-14-A, subject to the amendment
noted above, and to include any technical
and conforming amendments as necessary.**

There was further discussion.

**The motion carried on the vote of 4-2 with Commissioners
Lenhard, von Spakovsky, Walther, and Weintraub voting affirmatively.
Commissioners Mason and Toner dissented.**

V. ROUTINE ADMINISTRATIVE MATTERS

Future Meeting Dates

Agenda Document No. 06-12 (Submitted late)

Chairman Toner recognized Vice Chairman Lenhard, who

**MOVED to suspend the rules on the
timely submission of agenda documents
in order to consider Agenda Document
No. 06-12.**

The motion carried on the vote of 6-0.

The Chairman recognized Vice Chairman Lenhard, who

**MOVED to approve the future meeting
dates, as set forth in Agenda Document
No. 06-12.**

The motion carried on the vote of 6-0.

*** * * * ***

**The meeting recessed at 11:25 A.M. on Thursday, March 9, 2006,
and reconvened at 2:00 P.M. on Monday, March 13, 2006, with a quorum
present.**

**III. REVISED FINAL RULES AND EXPLANATION AND JUSTIFICATION
FOR THE DEFINITIONS OF "TO SOLICIT" AND "TO DIRECT"
(11 CFR 300.2(m) and (n))**

Agenda Document No. 06-15 (Submitted late)

Chairman Toner recognized Vice Chairman Lenhard who,

**MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 06-15.**

The motion carried on the vote of 6-0.

**Chairman Toner recognized Mr. Ron Katwan of the General
Counsel's Office who presented the subject draft.**

The Chairman recognized Commissioner Mason, who

**MOVED to approve the draft Revised Final
Rules and Explanation and Justification for
the definitions of "to solicit" and "to direct"
(11 CFR 300.2(m) and (n)), as set forth in
Agenda Document No. 06-15, and to authorize
the General Counsel's Office to make any
necessary technical and conforming amendments
prior to publication in the *Federal Register*.**

The motion carried on the vote of 4-2 with Commissioners

Mason, von Spakovsky, Toner, and Walther voting affirmatively.

Commissioners Lenhard and Weintraub dissented.

V. ROUTINE ADMINISTRATIVE MATTERS

**There were no routine administrative matters before the
Commission on March 13, 2006.**

The meeting adjourned at 2:10 P.M.

Signed:

**Michael E. Toner
Chairman of the Commission**

Attest:

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