



AGENDA DOCUMENT NO. 12-28

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 12, 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

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 10:07 A.M. on Thursday, April 12, 2012 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for March 22, 2012
Agenda Document No. 12-20**

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the minutes for the meeting of March 22, 2012 as set forth in Agenda Document No. 12-20.

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. 12-23, 12-21-A, 12-22, 12-22-A, 12-24, and 12-24-A.

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 2012-07

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

**Agenda Document No. 12-23
(Submitted Late)**

Chair Hunter stated that Commissioner McGahn was recused from this matter and would not participate in the discussion.

Chair Hunter noted that Mr. Elias and Mr. Berkon, the 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 Feinstein for Senate's question as to whether it may accept additional contributions from contributors whose funds were embezzled by the Committee's treasurer without the additional contributions counting against the contributors' per-election limits to the Committee.

Mr. Elias participated in the discussion which followed.

Chair Hunter noted that the 60 day deadline is April 23, 2012, prior to the April 26 open meeting. On behalf of the requestor, Mr. Elias agreed to an extension until after April 26 so that this matter may be considered

at that meeting. Chair Hunter noted that the requestor should submit additional comments addressing the issues raised during the discussion prior to consideration of the next draft.

III. DRAFT ADVISORY OPINION 2012-08

Repledge by Eric M. Zolt

Agenda Document No. 12-21

**Agenda Document No, 12-21-A
(Submitted Late)**

Chair Hunter noted that this item would be held over to the next meeting to provide the requestor an opportunity to review and comment on the most recently released draft.

IV. DRAFT ADVISORY OPINION 2012-10

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

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

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

Chair Hunter noted that Mr. Sandler and Ms. Howard, the requestor's counsel, were available to answer Commissioners' questions.

Chair Hunter also noted that Commissioner McGahn had rejoined the meeting.

Chair Hunter recognized Ms. Esther Heiden 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 Greenberg Quinlan Rosner Research, Inc.'s (Greenberg Quinlan) proposal to conduct telephone surveys, using live operators, of New Hampshire voters. The surveys will be paid for either by Federal candidates or by nonprofit organizations. The surveys will refer only to Federal candidates, and will not mention any candidates for State or local office. New Hampshire state law requires disclaimers on certain political telephone surveys. Greenberg Quinlan asks whether the Act and Commission regulations preempt the New Hampshire state statute as applied to Greenberg Quinlan's proposed telephone surveys. Ms. Heiden summarized the conclusions reached in the four drafts.

Mr. Sandler participated in the discussion which followed.

Chair Hunter noted that this matter would be held over to the next meeting to provide the Commission with an opportunity to issue a revised draft to respond to the comments received.

The meeting recessed at 12:24 P.M. and reconvened at 12:35 P.M. with a quorum present.

V. DRAFT ADVISORY OPINION 2012-11

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

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

**Agenda Document No. 12-24-A
(Submitted Late)**

**Chair Hunter noted that Mr. Barr, the requestor's counsel, was
available to answer Commissioners' questions.**

**Chair Hunter recognized Mr. Neven Stipanovic 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 Free Speech's plan to run eleven advertisements
in various media and ask for donations from individuals to finance its
activities. Free Speech asks three questions: 1) will its advertisements
expressly advocate the election or defeat of a clearly identified Federal
candidate; 2) will its proposed donation requests solicit contributions; and
3) will its proposed activities require it to register and report with the
Commission as a political committee. Mr. Stipanovic summarized the
conclusions reached in both drafts.**

Mr. Barr participated in the discussion which followed.

Chair Hunter noted that the Commission will likely issue another draft response to this request.

Chair Hunter wished Mr. Kevin Deeley, Acting Associate General Counsel, a happy birthday.

IV. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 1:24 P.M.

Signed:

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

Attest:

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