



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

THIS IS THE BEGINNING OF MUR # 3530

DATE FILMED 7-9-92 CAMERA NO. 4

CAMERAMAN E.S.S.

92040904859

STEPHEN J. BRITZ

ATTORNEY AT LAW
150 SOUTH STREET
P. O. BOX 468
ANNAPOLIS, MARYLAND 21404

ANNAPOLIS (301) 267-8545
BALTIMORE (301) 269-0122
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FAX (301) 269-6586

OF COUNSEL
RICHARD E. SOTHEBON, JR.

Pre-MUR 253

January 13, 1992

Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: John C. Astle
Maryland First District

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF FEDERAL COUNSEL
92 JAN 16 PM 3:39

Gentlemen:

Enclosed please find a copy of an advertisement that appeared in the January 8, 1992 issue of "Pennysaver," a locally distributed free advertising/classified ad exchange.

You will note that there was omitted from the advertisement an Authorization Notice, as required.

Be assured that this omission was an oversight on the part of the campaign and will not happen again; any further questions concerning this matter may be directed to my attention.

Thank you for your assistance in this matter.

Very truly yours,



Stephen J. Britz

SJB:vms
enclosure

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
92 JAN 16 AM 11:13

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JOHN ASTLE FOR CONGRESS



**JOHN ASTLE NEEDS YOUR HELP TO
BE YOUR NEXT CONGRESSMAN**

I Don't Want Your Money. I Want You To VOTE.

John is running for Congress because:

He believes that government is too fat ... overspending, wasteful spending and poor management have created huge deficits at all levels of government.

He believes that taxpayers are already overburdened.

He believes that some Congressmen who vote themselves a raise while their constituents are losing their jobs are out of touch with the people.

He believes that your congressman should be looking after your money ... not protecting his fat cat friends in shady S&L deals.

He believes that it is time for a change ... to a congressman who is one of us and who will represent our interests.

John deserves your support because:

He has a proven track record of leadership as a state legislator.

He has made a lifetime commitment to public service.

He has the experience to continue effectively working for you in Congress.

He has the courage to live his convictions.

He can't be bought by the highest bidder.

He calls Maryland home.

John needs your help because:

This is a grassroots campaign - people talking to people.

John does not have access to the fat cat out-of-state contributors that are financing the incumbent!

This election is not for sale ... government by the people, for the people begins with YOU.

You make a difference by spreading the word.

Is the 1st Congressional District sent for sale to the highest bidder?

Not I want to make a difference. I want a congressman I can depend on to represent me:

Name: _____

Address: _____

Phone: _____

Send to P.O. Box 145 • Annapolis, MD 21404
or call Astle for Congress: (410) 266-7255

"Say you saw it in the Pannysaver"

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 4, 1992

Mr. Stephen J. Britz
Attorney
150 South Street
P.O. Box 468
Annapolis, Maryland 21404

RE: Pre-NUR 253

Dear Mr. Britz:

This is to acknowledge receipt of your letter on behalf of Astle for Congress, dated January 13, 1992, pertaining to an advertisement published in the January 8, 1992, issue of Pennysaver. You will be notified as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please call me at (202) 219-3690. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

Veronica M. Gillespie

Veronica M. Gillespie
Attorney

Enclosure
Procedures

cc: Mr. John C. Astle
51 Fleet Street
Annapolis, MD 21401

Astle for Congress
Harry L. Dunn, Treasurer
2700 Summerview Way #202
Annapolis, MD 21401

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RECEIVED
F.E.C.
SECRETARIAT

02 MAY 11 PM 12:30

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

PRE-NUR 253

STAFF MEMBER: Veronica Gillespie

SOURCE: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS: Astle For Congress and
Harry L. Dunn, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441d(a)
11 C.F.R. § 110.11(a)(1)

REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: NONE

I. GENERATION OF MATTER

This matter is before the Commission as a result of a sus-
sponte submission by Counsel on behalf of John C. Astle ("the
candidate"), Astle For Congress ("the Committee") and Harry
L. Dunn, as treasurer.¹ Attachment 1. Counsel brought this
matter to the attention of the Commission after discovering
that an advertisement appearing in the January 8, 1992 issue of
Pennysaver, lacked the appropriate disclaimer as required by
the Federal Election Campaign Act of 1971, as amended ("the
Act").

II. FACTUAL AND LEGAL ANALYSIS

The Act requires that whenever any person makes an
expenditure for the purpose of financing a communication which

1. John Astle lost the 1992 primary election for the Democratic
nomination in the First Congressional District in the State of
Maryland with 14 percent of the vote.

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expressly advocates the election or defeat of a clearly identified candidate or solicits any contribution through any direct mailing or any other type of general public political advertising, the communication must carry certain disclaimers.

2 U.S.C. § 441d(a). "Person" includes political committees.

2 U.S.C. § 431(11). If the communication is paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, it shall clearly state that the communication has been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1) and 11 C.F.R.

§ 110.11(a)(1)(i). If the communication is paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, it shall clearly state that the communication is paid for by such other persons and authorized by such candidate, political committee, or agent.

2 U.S.C. § 441d(a)(2) and 11 C.F.R. § 110.11(a)(1)(ii).

Finally, if the communication is not authorized by a candidate, an authorized political committee of a candidate, or its agents, but paid for by others, it shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3) and 11 C.F.R.

§ 110.11(a)(1)(iii).

As previously noted, according to the information contained in the submission, Counsel claims that the required disclaimer was omitted from the advertisement appearing in the January 8, 1992, issue of Pennysaver, which is a "locally

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distributed free advertising/classified ad exchange" publication. Counsel further avers that "this omission was an oversight on the part of the campaign and will not happen again." Attachment 1, p. 1.

The advertisement, titled "John Astle For Congress," expressly advocates the election of John Astle for Congress. The ad displays a photograph of the candidate and states that he "needs your help to be your next congressman." In italicized print, the ad states that "I don't want your money. I want you to vote". The ad then lists reasons why Mr. Astle is running for Congress, why he deserves the readers' support and explains why he needs the readers' help.

In short, as counsel concedes, the advertisement lacks the appropriate disclaimer required under the Act and the Commission's regulations. Based on the foregoing, this Office recommends that the Commission find reason to believe that the Committee and Harry L. Dunn, as treasurer, violated 2 U.S.C. § 441d(a), by failing to include the appropriate disclaimer on an advertisement that explicitly advocates the election of John Astle for Congress. However, given the isolated nature of the omission and in light of the agency's priorities and resources, this Office recommends that the Commission exercise its prosecutorial discretion and take no further action. This Office will send a letter of admonishment to the respondents.

IV. RECOMMENDATIONS

1. Open a NUR.
2. Find reason to believe that Astle For Congress and Harry L. Dunn, as treasurer, violated 2 U.S.C.

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§ 441d(a), but take no further action.

3. Close the file.
4. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

5/8/92
Date

BY:

[Signature]
Lois G. Lerner
Associate General Counsel

Attachment:

1. January 13, 1992 letter

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. ENNONS /DONNA ROACH *OR*
COMMISSION SECRETARY

DATE: MAY 14, 1992

SUBJECT: PRE-MUR 253 - FIRST GENERAL COUNSEL'S REPORT
DATED MAY 8, 1992

The above-captioned document was circulated to the Commission on MONDAY, MAY 11, 1992 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

- Commissioner Aikens _____
- Commissioner Elliott _____
- Commissioner McDonald _____
- Commissioner McGarry _____
- Commissioner Potter XXX
- Commissioner Thomas _____

This matter will be placed on the meeting agenda for TUESDAY, MAY 19, 1992.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Astle For Congress and)
Harry L. Dunn, as treasurer)

PRE-MUR 253

(MUR 3530)

CLOSED

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 19, 1992, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to PRE-MUR 253:

1. Open a MUR.
2. Find reason to believe that Astle For Congress and Harry L. Dunn, as treasurer, violated 2 U.S.C. § 441d(a), but take no further action.
3. Close the file.
4. Approve the appropriate letter as recommended in the General Counsel's report dated May 8, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

5-21-92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 8, 1992

Stephen J. Britz
Attorney
150 South Street
P.O. Box 468
Annapolis, Maryland 21404

RE: MUR 3530
Astle For Congress and
Harry L. Dunn, as treasurer

Dear Mr. Britz:

On May 19, 1992, the Federal Election Commission found reason to believe that your clients, Astle For Congress (the "Committee") and Harry L. Dunn, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to your clients.

The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that communications expressly advocating the election or defeat of a clearly identified candidate must contain the appropriate disclaimer pursuant to 2 U.S.C. § 441d(a). Your clients, Astle For Congress and Harry L. Dunn, as treasurer, should take immediate steps to insure compliance with this requirement in the future.

If you have any questions, please direct them to Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
General Counsel's Report

92040904869



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3530

DATE FILMED 7-9-92 CAMERA NO. 4

OPERATOR E.E.S.

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