



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3092

DATE FILMED 10/31/90 CAMERA NO. 4

CAMERAMAN AS

20040803166

MARVIN J. FREEDMAN
6627 COLUMBUS DRIVE
MIDDLETON, WISCONSIN 53562

90 AUG -2 PM 4:27

July 24, 1990

MUR 3092

Federal Election Commission
Washington, D.C. 20463

ATTN: Mr. Stirton

Dear Mr. Stirton:

Pursuant to our telephone conversation this morning, enclosed is a football schedule campaign magnet titled "Kasten '92" which was being distributed at the Dane County Fair in Madison, Wisconsin last weekend on behalf of Sen. Robert Kasten's 1992 reelection efforts.

As we discussed, this campaign piece fails to disclose who paid for its production and distribution and is, therefore, a violation of federal election laws.

I hereby, under oath, am filing a formal complaint against Sen. Robert Kasten for violating federal election disclosure laws and request that the matter be investigated and appropriate action be taken. I am filing this complaint in my capacity as an individual.

Sincerely,



Marvin J. Freedman

Subscribed and sworn to before me
this 24 day of July 1990 in
Madison, Dane County, Wisconsin.

KASTEN '92



GREEN BAY 1990 SCHEDULE

PRE-SEASON SCHEDULE

Sat.	Aug 11	Cleveland at Green Bay (Bishop's Charles Game)	6:00 pm
Sat.	Aug 18	New Orleans at Madison	1:00 pm
Sat.	Aug 25	Atlanta at Milwaukee (Midwest Shrine Game)	5:00 pm
Fri.	Aug 31	Green Bay at Kansas City	7:00 pm

REGULAR SEASON

Sun.	Sept. 9	L.A. at Green Bay	12:00 noon
Sun.	Sept. 16	Chicago at Green Bay	12:00 noon
Sun.	Sept. 23	Kansas City at Green Bay	12:00 noon
Sun.	Sept. 30	at Detroit	12:00 noon
Sun.	Oct. 7	at Chicago	3:00 pm
Sun.	Oct. 14	at Tampa Bay	12:00 noon
Sun.	Oct. 21	Bye	
Sun.	Oct. 28	Minnesota at Milwaukee	12:00 noon
Sun.	Nov. 4	San Francisco at Green Bay	12:00 noon
Sun.	Nov. 11	at L.A.	3:00 pm
Sun.	Nov. 18	at Phoenix	3:00 pm
Sun.	Nov. 25	Tampa Bay at Milwaukee	12:00 noon
Sun.	Dec. 2	at Minnesota (night game)	7:00 pm
Sun.	Dec. 9	Seattle at Milwaukee	12:00 noon
Sun.	Dec. 16	at Philadelphia	3:00 pm
Sat.	Dec. 22	Detroit at Green Bay	11:30 am
Sun.	Dec. 30	at Denver	3:00 pm

(All kickoffs Wisconsin time)
Not paid for at taxpayers expense

Jeannette McClaren
Expires 10-14-1990

90 JUL 27 PM 4:24

FEDERAL ELECTION COMMISSION

21040303167



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 6, 1990

Mr. Marvin J. Freedman
6627 Columbus Drive
Middleton, WI 53562

RE: MUR 3092

Dear Mr. Freedman:

This letter acknowledges receipt on July 27, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Robert Kasten. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3092. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to be "Lg", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

90040303158



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1990

John Sturm, Treasurer
Kasten for Senate Committee, Inc.
757 Garrison Court
Delafield, WI 53018

RE: MUR 3092

Dear Mr. Sturm:

The Federal Election Commission received a complaint which alleges that the Kasten for Senate Committee, Inc. and you, as treasurer, may have violated sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3092. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the Office of the General Counsel, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

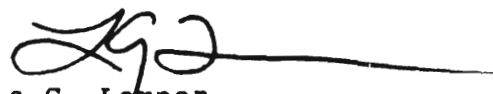
If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200.

970403169

For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: The Honorable Robert Kasten

900408031/0



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 1990

The Honorable Robert Kasten
United States Senate
Washington, D.C. 20510

RE: MUR 3092

Dear Mr. Kasten:

The Federal Election Commission received a complaint which alleges that the Kasten for Senate Committee, Inc. may have violated sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3092. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the Office of the General Counsel, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200.

92040303171

For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Kasten for Senate Committee, Inc.

0040303172



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 10, 1990

John Sturm, Treasurer
Kasten for Senate Committee, Inc.
757 Garrison Court
Delafield, WI 53018

Re: Mismatching
(MUR 3097/MUR 3092)

Dear Mr. Sturm:

Pursuant your conversation with Frances Hagan of this office on August 9, 1990, we would appreciate your cooperation in returning the correspondence that you received by error numbered MUR 3097, expeditiously. As she mentioned to you this information is confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Enclosed you will find a copy of the correct complaint numbered **MUR 3092**. You have 15 days from receipt of this letter to respond to the complaint in MUR 3092.

If you have any further questions, please contact Retha Dixon, Docket Chief, at (202)376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By:


Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: The Honorable Robert Kasten

90040303173

06C 7671

Kasten.
U.S. SENATE

90 AUG 30 AM 10:53

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 AUG 30 PM 2:48

August 24, 1990

Lawrence M. Noble
General Council
FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

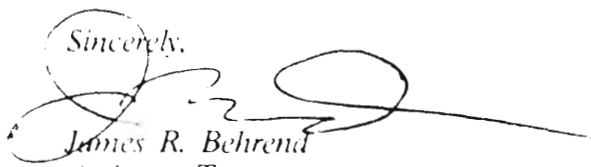
RE: MUR 3092

Dear Mr. Noble:

The purpose of this letter is to respond to a Federal Election Commission complaint, numbered MUR 3092, received by the Kasten for Senate Committee, Inc. on August 14, 1990 (copy attached).

It is our understanding that a refrigerator magnet, titled "Kasten '92", is the subject of a complaint filed with the FEC on July 24, 1990. We deny allegations specified in the complaint of July 24 that this magnet is in violation of federal election laws. Specifically, 11 C.F.R. Part 110.11 (a)(2) states that the disclaimer requirements of 11 C.F.R. Part 110.11 (a)(1) "do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed." This listing of permissible exceptions to the disclaimer requirements is not exclusive. The size of the magnet precludes it from bearing the requisite disclaimer. Thus, it is exempt under Part 110.11(a)(1) from the disclaimer requirements of federal election laws.

Sincerely,


James R. Behrend
Assistant Treasurer

- Encl: 1. Letter dated August 6, 1990
2. Letter dated August 10, 1990
3. Copy of complaint MUR 3092
4. Copy of 11 C.F.R. part 110.11(a)(1), 110.11(a)(2)

cc: The Honorable Robert W. Kasten, Jr.

from each campaign account reflects the allocation.

(e)(1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations in paragraph (a)(1) or (2) of this section, as long as—

(i) The event is a bona fide party event or appearance; and

(ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event were for the purpose of influencing the candidate's nomination or election.

(2)(i) An event or appearance meeting the requirements of paragraph (e)(1) of this section and occurring prior to January 1 of the year of the election for which the individual is a candidate is presumptively party-related;

(ii) Notwithstanding the requirements of paragraph (e)(1) of this section, an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of Part 110.

(iii) The presumptions in paragraphs (e)(2)(i) and (ii) of this section may be rebutted by a showing to the Commission that the appearance or event was, or was not, party-related, as the case may be.

(f)(1) Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States.

(2) Expenditures from personal funds made by a candidate for Vice President shall be considered to be expenditures by the candidate for President, if the candidate is receiving Gen-

eral Election Public Financing, see § 141.2(c).

(g) An expenditure is made on behalf of a candidate, including a Vice-Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making any expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee not authorized in writing, so long as it is requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

[41 FR 35948, Aug. 25, 1976, as amended at 45 FR 21329, Apr. 1, 1980; 54 FR 34114, Aug. 17, 1989; 54 FR 48580, Nov. 24, 1989]

§ 110.9 Miscellaneous provisions.

(a) *Violation of limitations.* No candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of Part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this Part 110.

(b) *Fraudulent misrepresentation.* No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) Fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) Willfully and knowingly participate in or conspire to participate in any plan or design to violate paragraph (b)(1) of this section.

(c) *Price index increase.* (1) Each limitation established by §§ 110.7 and 110.8 shall be increased by the annual percent difference of the price index,

Federal Election Commission

as certified to the Commission by the Secretary of Labor. Each amount so increased shall be the amount in effect for that calendar year.

(2) For purposes of paragraph (c)(1) of this section, the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) *Voting age population.* The Commission shall assure that there is annually published in the FEDERAL REGISTER an estimate of the voting age population based on an estimate of the voting age population of the United States, of each State, and of each congressional district. The term "voting age population" means resident population, 18 years of age or older.

§ 110.10 Expenditures by candidates.

(a) Except as provided in 11 CFR Parts 9001, *et seq.* and 9031, *et seq.*, candidates for Federal office may make unlimited expenditures from personal funds.

(b) For purposes of this section, "personal funds" means—

(1) Any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either:

- (i) Legal and rightful title, or
- (ii) An equitable interest.

(2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

(3) A candidate may use a portion of assets jointly owned with his or her spouse as personal funds. The portion of the jointly owned assets that shall be considered as personal funds of the candidate shall be that portion which is the candidate's share under the instrument(s) of conveyance or owner-

ship. If no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used shall be considered as personal funds of the candidate.

[41 FR 35948, Aug. 25, 1976, as amended at 48 FR 19021, Apr. 27, 1983]

§ 110.11 Communications; advertising (2 U.S.C. 411d).

(a)(1) Except as provided at 11 CFR 110.11(a)(2), whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate, or that solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or any other form of general public political advertising, a disclaimer meeting the requirements of 11 CFR 110.11(a)(1) (i), (ii), (iii) or (iv) shall appear and be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for and, where required, who authorized the communication. Each person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication, except on communications, such as billboards, that contain only a front face.

(i) Such communication, including any solicitation, if paid for and authorized by a candidate, an authorized committee of a candidate, or its agent, shall clearly state that the communication has been paid for by the authorized political committee; or

(ii) Such communication, including any solicitation, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but paid for by any other person, shall clearly state that the communication is paid for by such other person and, is authorized by such candidate, authorized committee or agent; or

(iii) Such communication, including any solicitation, if made on behalf of or in opposition to a candidate, but paid for by any other person and not authorized by a candidate, authorized

committee of a candidate or its agent, shall clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee.

(iv)(A) For solicitations directed to the general public on behalf of a political committee which is not an authorized committee of a candidate, such solicitation shall clearly state the full name of the person who paid for the communication.

(B) For purposes of this section, whenever a separate segregated fund solicits contributions to the fund from the persons it may solicit under the applicable provisions of 11 CFR Part 114, such communication shall not be considered a form of general public advertising and need not contain the disclaimer set forth in 11 CFR 110.11(a)(1)(iv)(A).

(2) The requirements of 11 CFR 110.11(a)(1) do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed. The requirements of 11 CFR 110.11(a)(1) do not apply to signwriting, watercolors or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.

(b)(1) No person who sells space in a newspaper or magazine to a candidate, an authorized committee of a candidate, or an agent of the candidate, for use in connection with the candidate's campaign for nomination or for election, shall charge an amount for the space which exceeds the comparable rate for the space for non-campaign purposes.

(2) For purposes of this section, "comparable rate" means the rate charged to a national or general rate advertiser, and shall include discount privileges usually and normally available to a national or general rate advertiser.

(2 U.S.C. 438(a)(8), 441a, 441d, 441e, 441f, 441g, 441h, 441i)

[41 FR 35948, Aug. 25, 1976, as amended; 45 FR 15120, Mar. 7, 1980; 48 FR 8806, M. 2, 1983]

§ 110.12 Honoraria (2 U.S.C. 441i).

(a) No individual while an elected or appointed officer or employee of any branch of the Federal government shall accept any honorarium of more than \$2,000.

(b) The term "honorarium" means a payment of money or anything of value received by an officer or employee of the Federal government, if it is accepted as consideration for an appearance, speech, or article. An honorarium does not include payment for or provision of actual travel and subsistence, including transportation accommodations, and meals for the officer or employee and spouse or an aide, and does not include amounts paid or incurred for any agents' fees or commissions.

(1) *Officer or employee.* The term "officer or employee of the Federal government," or "officer or employee" means any person appointed or elected to a position of responsibility or authority in the United States government, regardless of whether the person is compensated for this position and any other person receiving a salary, compensation, or reimbursement from the United States government, who accepts an honorarium for an appearance, speech, or article. Included within this class is the President; the Vice President; any Member of Congress; any judge of any court of the United States; any Cabinet officer; and any other elected or appointed officer or employee of any branch of the Federal government.

(2) *Appearance.* "Appearance" means attendance at a public or private conference, convention, meeting, social event, or like gathering, and the incidental conversation or remarks made at that time.

(3) *Speech.* "Speech" means an address, oration, or other form of oral presentation, regardless of whether presented in person, recorded, or broadcast over the media.

(4) *Article.* "Article" means a writing other than a book, which has been or is intended to be published.

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and that the federal officeholder or employee

exercises dominion or control over it and determines its subsequent use. However, an honorarium is not deemed accepted for the purposes of 11 CFR 110.12 if the federal officeholder or employee pays the honorarium to a charitable organization, or if the honorarium is paid to a charitable organization on behalf of the federal officeholder or employee. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code (Title 26, United States Code).

(6) *Charitable organization.* "Charitable organization" means any organization described in 26 U.S.C. 170(c).

(c) The term "honorarium" does not include—

(1) *An award.* An award is a gift of money or anything of value given—

(i) Primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civil achievement;

(ii) Based on a selection process with established criteria and which does not require the officer or employee to apply for or take any other action in the way of competition for the award;

(iii) Gratuitous under circumstances which do not require the recipient to make an appearance or speech, or write an article as a condition for receiving the award; and

(iv) Which is not made to serve in place of an honorarium or a contribution.

(2) *A gift.* A gift is a voluntary conveyance of real or personal property which is made gratuitously, and is not supported by consideration, and is not made to serve in place of an honorarium or a contribution.

(3) *A stipend.* A stipend is a payment for services on a continuing basis, including a salary or other compensation paid by news media for commentary on events other than the campaign of the individual compensated. A stipend cannot be paid by a political committee other than a candidate's principal campaign committee or other authorized committee to that candidate.

(2 U.S.C. 438(a)(8), 441a, 441d, 441e, 441f, 441g, 441h, 441i)

[41 FR 35948, Aug. 25, 1976, as amended at 45 FR 15120, Mar. 7, 1980; 47 FR 15098, Apr. 8, 1982; 48 FR 52567, Nov. 21, 1983]

§ 110.13 Nonpartisan candidate debates.

(a) *Staging organizations.* (1) A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and a nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(4) and which does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

(b) *Debate structure.* The structure of debates staged in accordance with 11 CFR 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

(2 U.S.C. 431(e), 431(f) and 441b)

[44 FR 76736, Dec. 15, 1979]

§ 110.14 Contributions to and expenditures by delegates and delegate committees.

(a) *Scope.* This section sets forth the prohibitions, limitations and reporting requirements under the Act applicable to all levels of a delegate selection process.

(b) *Definitions.* (1) *Delegate.* Delegate means an individual who becomes or seeks to become a delegate, as defined by State law or party rule, to a national nominating convention or to a State, district, or local convention, caucus or primary that is held to select delegates to a national nominating convention.

(2) *Delegate committee.* A delegate committee is a group of persons that receives contributions or makes expenditures for the sole purpose of influencing the selection of one or more delegates to a national nominating convention. The term "delegate committee" includes a group of delegates,

90 SEP 27 AM 10:48

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3092
DATE COMPLAINT RECEIVED
BY OGC: 7/27/90
DATE OF NOTIFICATION TO
RESPONDENT: 8/6/90
STAFF MEMBER: Frances B. Hagan

COMPLAINANT: Marvin J. Freedman
RESPONDENTS: Kasten for Senate Committee, Inc.
John Sturm, as treasurer
RELEVANT STATUTES: 2 U.S.C. § 441d(a)(1)
11 C.F.R. § 110.11(a)(2)
INTERNAL REPORTS CHECKED: disclosure indexes
FEDERAL AGENCIES CHECKED: none

I. GENERATION OF MATTER

On July 27, 1990, Marvin J. Freedman, an individual from Middleton, Wisconsin, filed a complaint alleging that the Kasten for Senate Committee, Inc. ("the Committee") violated the Act by failing to include the appropriate disclaimer on campaign materials distributed in connection with Senator Robert W. Kasten, Jr.'s 1992 re-election campaign. The Committee submitted its response on August 30, 1990 (Attachment 2).

II. FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441d(a)(1) requires that whenever any person, including an authorized candidate committee, makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through

2 3 3 4 0 3 1 7 7

According to the complaint, at the July 1990 Dane County Fair in Madison, Wisconsin, the Kasten campaign distributed refrigerator magnets bearing the heading "Kasten '92" and listing the Green Bay football schedule. The flat, 3 1/2 x 2 inch magnets did not contain a disclaimer stating who paid for and authorized the campaign communication. See Attachment B.

Based on our review of the evidence, it appears that the magnet is small enough to be considered exempt along with other "small items upon which the disclaimer cannot be conveniently printed." Thus, the regulatory exemption at 11 C.F.R.

\$ 110.11(a)(2) is applicable in this case. See AO 80-42 (applying the "small item exemption" to concert tickets). Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 441d(a)(1) in this matter.

III. RECOMMENDATIONS

1. Find no reason to believe that the Kasten for Senate Committee, Inc. and John Sturm, as treasurer, violated 2 U.S.C. § 441d(a)(1) on the basis of the complaint in this matter.
2. Approve the appropriate letters.
3. Close the file.

Lawrence M. Noble
General Counsel

September 26, 1990
Date

BY:

Lois G. Lerner *rs*
Lois G. Lerner
Associate General Counsel

Attachments

1. Committee response to complaint
2. Complaint

900403179



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *PH*
COMMISSION SECRETARY

DATE: OCTOBER 1, 1990

SUBJECT: MUR 3092 - FIRST GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 26, 1990.

The above-captioned document was circulated to the
Commission on THURSDAY, SEPTEMBER 27, 1990 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 Josefiak	_____
Commissioner McDonald	_____
Commissioner McGarry	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda
for TUESDAY, OCTOBER 16, 1990.

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

9 9 0 4 0 3 1 3 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3092
Kasten for Senate Committee, Inc.;)
John Sturm, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 16, 1990, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3092:

1. Find no reason to believe that the Kasten for Senate Committee, Inc. and John Sturm, as treasurer, violated 2 U.S.C. § 441d(a)(1) on the basis of the complaint in this matter.
2. Approve the appropriate letters as recommended in the General Counsel's report dated September 26, 1990.
3. Close the file.

Commissioners Aikens, Elliott, Josefiak, and McDonald voted affirmatively for the decision; Commissioners McGarry and Thomas dissented.

Attest:

10-17-90
Date

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1990

James R. Behrend, Assistant Treasurer
Kasten for Senate Committee, Inc.
416 E. Dean Road
Fox Point, Wisconsin 53217

RE: MUR 3092
Kasten for Senate Committee,
Inc., and John Sturm, as
treasurer

Dear Mr. Behrend:

On August 6, 1990, the Federal Election Commission notified the Kasten for Senate Committee, Inc., ("Committee") and John Sturm, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On October 16, 1990, the Commission found, on the basis of the information in the complaint, and information you provided, that there is no reason to believe the Committee and its treasurer violated 2 U.S.C. § 441d(a)(1). Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to be "L. G. Lerner", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

97040303102



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1990

CLOSED

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Marvin J. Freedman
6627 Columbus Drive
Middleton, Wisconsin 53562

RE: MUR 3092

Dear Mr. Freedman:

On October 16, 1990, the Federal Election Commission reviewed the allegations of your complaint dated July 24, 1990, and found that on the basis of the information provided in your complaint, and information provided by respondents, there is no reason to believe the Kasten for Senate Committee, Inc. and John Sturm, as treasurer, violated 2 U.S.C. § 441d(a)(1). Accordingly, on October 16, 1990, the Commission closed the file in this matter.

The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

20040303133



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 3092

DATE FILMED 10/31/90 CAMERA NO. 4

CAMERAMAN AS

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