



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 3745

DATE FILMED 6/23/93 CAMERA NO. 4

CAMERAMAN P.S.J.

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OAC 8552



★ DEMOCRATIC
★ CONGRESSIONAL
★ CAMPAIGN COMMITTEE

Vic Fazio, CA
Chairman

March 4, 1993

MUR 3745

93 MAR -4 PM 2:07

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

Dear Commissioners:

The Democratic Congressional Campaign Committee ("DCCC") files this complaint charging violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), 2 U.S.C. §§ 431 et seq., and related regulations of the Federal Election Commission ("FEC"), 11 C.F.R. §§ 100.1 et seq., by Mark Neumann, a candidate for the United States Congress in the special election to be held in the 1st District of Wisconsin, and Citizens for Neumann '93 Committee ("the Committee"), his principal campaign committee (hereinafter referred to as "Respondents").

Respondents have violated the Act by failing to file the Statement of Candidacy and Statement of Organization required for candidates for federal office. This violation is particularly egregious because Neumann committed the same violations when he ran for Congress during the 1992 elections.

Under the Act, a candidate for federal office must file a Statement of Candidacy within 15 days of becoming a candidate. 2 U.S.C. § 432(e). An individual becomes a candidate, among other means, once he or she has raised or spent in excess of \$5,000 to influence a federal election. On the Statement of Candidacy, the candidate must designate a principal campaign committee, which, in turn, must register within 10 days of designation.

According to press reports (copies enclosed), Neumann announced on January 30, 1993 that he would kick off his campaign for federal office on February 6, 1993. Evidence of Neumann's active campaign both before and after that date

430 SOUTH CAPITOL STREET • WASHINGTON, DC. 20003 • (202) 863-1500

CONTRIBUTIONS TO THE DCCC ARE NOT TAX DEDUCTIBLE

Printed and authorized by the Democratic Congressional Campaign Committee

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is plentiful. A solicitation letter dated January 1, 1992¹ (copy attached) states clearly that Neumann is running for office and solicits funds for his campaign. The disclaimer on the letter states that the mailing was paid for by "Citizens for Neumann '93 Committee." The Committee also published an ad in a local newspaper which appear on February 8, 1993.

The materials published by the Neumann campaign list at least two campaign office addresses. Presumably Neumann or the Committee is paying the expenses (rent and other overhead) associated with maintenance of such offices.

Further, an Associated Press story dated January 31, 1993 (copy attached), reports that Neumann had commissioned a poll related to the upcoming special election. The poll was apparently conducted by Public Opinion Strategies. A typical congressional district-wide poll by a professional pollster will cost far in excess of \$5,000. In fact, Neumann paid Public Opinion Strategies \$15,000 for a similar poll during his 1992 campaign.

Other news articles (copies attached) have made it clear that Neumann is a candidate actively campaigning in the special election in the 1st District of Wisconsin.

Between the mailing, the brochure, the poll, and the campaign offices, it is clear that Neumann and the Committee have raised and spent far in excess of \$5,000. As of today, March 4, 1993, no Statement of Candidacy or Statement of Organization have been filed with the Federal Election Commission.

Neumann ran for the same office during the 1992 elections. In connection with that race, he committed the same violations. His Statement of Candidacy was not filed until November 1991. Yet reports eventually filed showed that he had received over \$10,000 towards his campaign by February 1991, and spent over \$5,000 by April 1991.

¹Presumably, this is a typo and the date should read January 1, 1992.

Federal Election Commission
March 4, 1993
Page 3

This flaunting of the campaign laws should NOT be tolerated. Especially in this special election, where time is short, a candidate should not be allowed to campaign actively without complying with the specific provisions of the law designed to ensure the public is informed about that campaign.

On the basis of the foregoing, the DCCC asks that the FEC take immediate steps to correct this violation, and to impose any and all penalties grounded in the violations alleged in this complaint.

Very truly yours,

Genie Norris
Genie Norris
Executive Director

Subscribed and sworn to before me this day,
the 4 day of March, 1993.

Suzanne Abele-Ebanks
Notary Public

SUZANNE ABELE-EBANKS
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires October 31, 1994

My Commission expires: _____

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Associated Press Story on Neumann Poll

HEADLINE Poll Gives Builder Mark Neumann GOP Edge for Aspin Seat
LENGTH ESTIMATED INFORMATION UNITS: 2.8 Words: 359
DATE 01/21/93
SOURCE THE ASSOCIATED PRESS POLITICAL SERVICE (APOL)
Origin: JANESVILLE, Wis.
Category: State and Regional
(Copyright 1993. The Associated Press. All Rights Reserved)
POLITICS (PLT)
NS NME
RE

* JANESVILLE, Wis. (AP) - A poll for Republican Mark Neumann puts the Janesville builder in a dead heat with state Democratic Chairman Jeffrey Neubauer of Racine for the seat vacated by former Rep. Les Aspin, D-Wis.

The poll said Neumann, who made an unsuccessful bid for Aspin's seat last November, held a slim 33 percent to 31 percent lead over Neubauer in a general election contest. Two points are within the poll's margin of error.

Neubauer led fellow Democrats Peter Barca of Kenosha, Wayne Wood of Janesville and Judith Robson of Beloit in name recognition, the campaigning."

The poll was conducted by Public Opinion Strategies of Alexandria, Va. It had a margin of error of plus or minus 5.6 percentage points.

Weeden said he would make a final decision on his candidacy this weekend and make an announcement early next week.

"It's likely I'm going to make a run at it," he said.

Other Republicans said to be considering the race include Racine County District Attorney Lennie Weber and U.S. Marshal Fred Faulk.

Updated: YY93 MM01 DD23

Category: JA210336

End of Story Reached

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REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee
(Summary Page)

USE FEC MAILING LABEL
OR
TYPE OR PRINT

1. NAME OF COMMITTEE (in full) CITIZENS FOR NEUMANN		200374 XW
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported. 4450 MILTON AVENUE, SUITE 104		2. FEC IDENTIFICATION NUMBER C00256032
CITY, STATE and ZIP CODE JANESVILLE, WI 53546	STATE/DISTRICT WI/	3. IS THIS REPORT AN AMENDMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

CITIZENS FOR NEUMANN

VENDOR NAME & ADDRESS	PURPOSE	P/G	DATE	AMOUNT
TANN, Robert 1811 GERSHWIN DR JANESVILLE WI 53545	Payroll	P	8-03-92	1,562.20
WISCONSIN BOARD OF ELECTIONS 132 E WILSON ST MADISON WI	COPIES	P	8-04-92	32.70
FOX HILLS BUSINESS PLAZA 4450 Milton Avenue JANESVILLE WI 53546	AUGUST RENT	P	8-04-92	603.00
WISCONSIN POWER & LIGHT 17 S RIVER JANESVILLE WI 53545	UTILITIES	P	8-04-92	7.30
PUBLIC OPINION STRATEGIES, LP 99 CANAL CENTER PLAZA ALEXANDRIA VA 22314	POLLING & EXPENSES	P	8-04-92	15,150.75
CREATIVE MARKETING P.O. BOX 1371 JANESVILLE WI 53547	BROCHURES/POSTERS	P	8-04-92	2,514.75
NEUMANN HOMES 4450 Milton Ave JANESVILLE WI 53546	COPIES/FAX/PAPEL	P	8-04-92	104.14
OFFICE DEPOT 676 S WINTHROP WAY MADISON WI 53706	LONG DISTANCE PHONE	P	8-04-92	125.02
PHONES PLUS 123 W MILWAUKEE JANESVILLE WI 53545	BOX RENTAL	P	8-04-92	63.00
JOILEY, PATRICIA BT 1 BOX 360 GENOA CITY WI 53128	POLL LISTS	P	8-04-92	25.00
TWIN LAKES, VILLAGE OF 108 E. Main Street TWIN LAKES WI	MAP	P	8-04-92	2.00
HPI FILM & VIDEO 2927 YARMOUTH GREENWAY WI 53711	DEPOSIT ON FILMING	P	8-04-92	300.00

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Mark Neumann is running for Congress!

Mark Neumann is running 210 miles across the entire length of the 1st Congressional District - and back again.

He's running for an America where small business isn't taxed out of business. Where deficit reduction begins now and jobs creation doesn't wait. Where health care isn't a promise made, but a promise kept.

Say hello to Mark Neumann as he runs through your community:

CLINTON	February 8th
ALLEN'S GROVE	February 9th
DARIEN	February 10th
DEHAVAN	February 11th
ELKHORN	February 12th
WILLIAMS BAY	February 13th

To Get In The Race, Call 608/758-8446

MARK

NEUMANN

C O N G R E S S ' 9 3

Fold for by Orders for Neumann 20 Committee, Jacques Clark, Treasurer

MARK

NEUMANN

CONGRESS '93

3204 Washington Ave. (Hwy 20)
Racine, Wisconsin 53405
414/637-7880 FAX/637-9518

January 1, 1992 4450 Milton Ave., Suite 104
Janesville, Wisconsin 53546
608/756-0446 FAX/756-1161

Dear Friend:

"The time has come to give something back..."

When I announced my candidacy last February for Congress in the 1st District against Les Aspin, people wondered if we knew what we were getting into.

Deciding to run against one of the most well known, well financed and most powerful men in Congress was not easy but it had to be done. And although we didn't win, we met and listened to tens of thousands of people across the 1st District like yourself.

In fact, over one hundred thousand people agreed with our message and voted for me in November. Our strong campaign, built on the support of people like you, stirred national interest. We achieved more than anyone thought possible.

In my mind there was no other choice but to stand up and do something about the problems facing us today. Our national debt is still going up. We must cut wasteful government spending. We must continue to create jobs right here at home and make sure affordable and quality health care is available to more people.

While the nation voted for a change in the Presidency and while three months have passed since the last election those issues still face us head on as the new administration begins its work in Washington.

What has changed is that our Congressman, Les Aspin, has left Congress to become Secretary of Defense and the 1st District has the opportunity to send a new representative to Washington.

That is why I am writing you today. You had a chance to hear our message in the last campaign and as I prepare to run again I need your help. I know together we can win and let me tell you why.

The 1st District is our home. From East Troy where I grew up and met my wife Sue, to U.W. Whitewater where I attended college, from Milton where I taught school and began my first business to Janesville where Sue and I have raised our three children and all the way to Racine and Kenosha county where we've built many new homes for Wisconsin families.

Our efforts in the last campaign demonstrated to the people of Wisconsin our commitment to the importance of the views of all the people, and to personally give back 110% to those who supported us.

(over)

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We learned much from our experiences in the last race. For example, we all know now how expensive it can be to run for Congress. My family and I sacrificed much to do what it takes to win and we will do so again but we must have your help to achieve success.

Your contribution of \$500, \$250, \$100, \$75, \$50 or even \$10 will help us get our campaign up and running. Opportunities like this don't often come up so quickly.

We must have someone in Washington who will work to make sure the changes the people voted for in November occur. But we must also make sure the scales remain balanced and that all of the people have a voice.

I learned in my business that one person alone does not account for its success. It is by surrounding yourself with people who provide you with the tools for success that make good things happen. It was everyone at my home-building business in Janesville between 1987 and 1991 that allowed it to grow by 1200%.

We can achieve similar success in this race for Congress and fighting the ills facing our nation. We will put your check for \$100, \$75, \$50, \$25 or whatever you can afford to work immediately to win this race.

Time is very short! We could have as little as three months to prepare for the primary and only 1 additional month to prepare for the general election.

We have grown up together in this district, I have taught and coached many of you and your children in school. I have helped you buy or build many of your homes and you have walked side-by-side with my family and me to the local grocery store and to church on Sunday.

Together we took on a challenge last November no one thought was possible. We surpassed everyone's wildest expectations. Together we can win this special election for Congress.

Thank you for your help.

Sincerely,

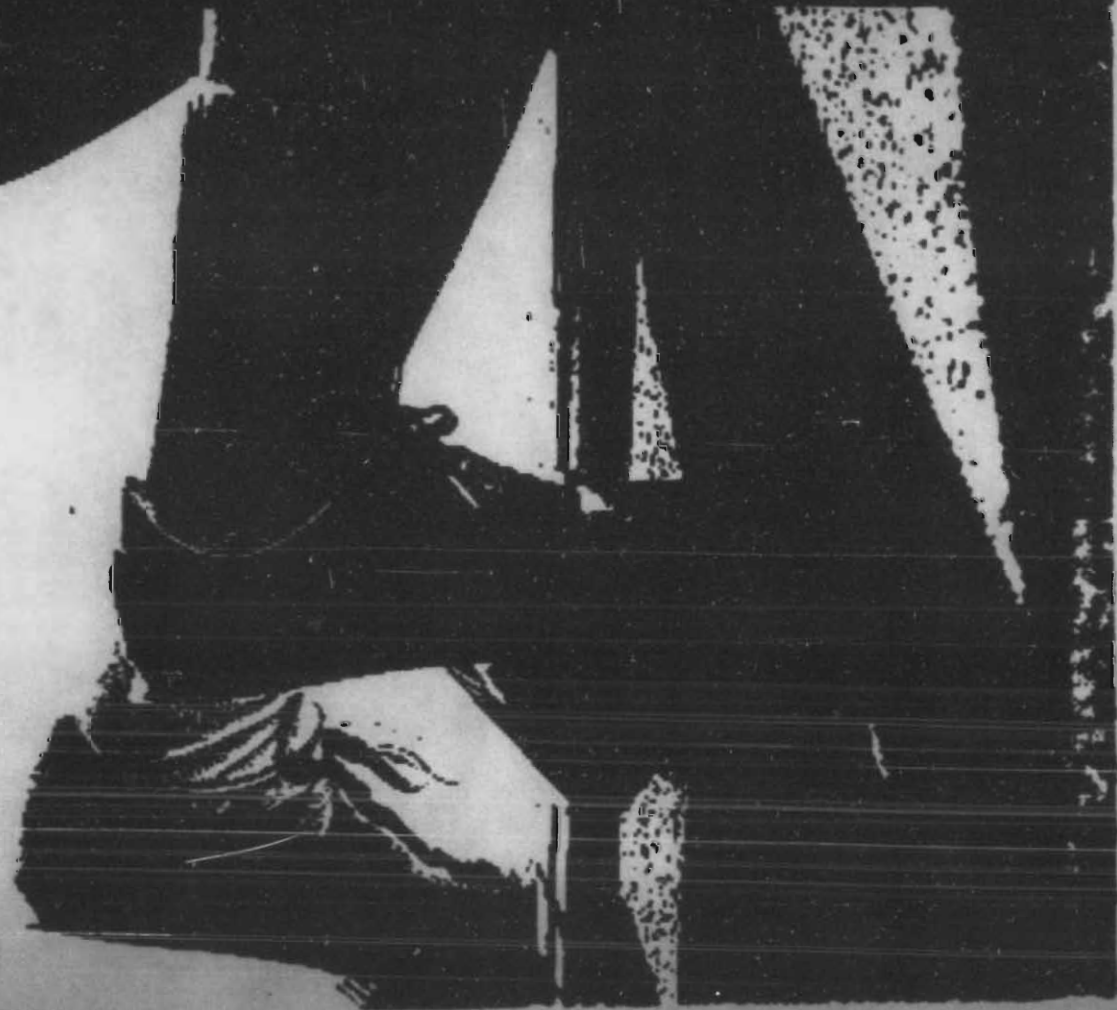

Mark Neumann

P.S. We can get our campaign up and running again very quickly with your immediate reply. A check to Citizens for Neumann for \$50, \$35, \$25, \$10 or even \$5 will help us get a head start on our opponents.

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LET'S GET OUR ECONOMY
RUNNING AGAIN.



MARK NEUMANN FOR CONGRESS. RUNNING FOR WISCONSIN.



MARK NEUMANN. HIS STORY.

High school sweethearts Mark and Sue Neumann were born and raised in Wisconsin. Today, they are the parents of three children: Andy (15) and Matt (10) and daughter Tricia (14).

Growing up, Mark worked his way through college waiting tables and washing dishes. He earned a teacher's degree, and began teaching math and coaching high school basketball. One team he worked with went to the state tournament.

Mark and Sue then took a chance on the American dream and he started his own company. Today, his home building business is recognized as one of the nation's 300 fastest growing companies. This business has provided good jobs for hundreds of local workers.

But more important to Mark than his hard work turned success, is that he is a father and neighbor who cares enough to get involved. From working on the first Habitat for Humanity, to volunteering at the local YMCA,

Mark also serves as a basketball coach for our neighborhood children. For Mark Neumann, it's family and friends first.

CREATING JOBS

As a small businessman, Mark Neumann understands that small business is the back bone of our economy. That's why he'll fight to end government regulations which needlessly burden small business and cost us jobs. He'll work to develop training for displaced workers. And he'll push for new, secure jobs for everyone.

FIGHTING TAX INCREASES

Mark Neumann is determined to end unnecessary tax increases. Instead, he wants to balance the federal budget by cutting wasteful spending, eliminating government perks, and most importantly, creating jobs and workers who are productive and self-sufficient.

PROVIDING QUALITY HEALTH CARE

Mark Neumann is committed to reforming

America's health care system, making it both affordable and accessible to all while also maintaining its quality. He supports a managed care system in which health care providers and insurance companies form partnerships

PAYING OFF THE DEFICIT

Our government has a \$4.2 trillion dollar debt. That comes to \$16,800 for every citizen. The only way to pay off a debt of this magnitude is to have a plan. Mark Neumann does: Eliminate all wasteful spending and cap federal spending increases to 2% per year.

LET'S GET OUR
ECONOMY RUNNING
AGAIN.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 9, 1993

Democratic Congressional Campaign Committee
Genie Norris, Executive Director
430 South Capitol St.
Washington, DC 20003

RE: MUR 3745

Dear Ms. Norris:

This letter acknowledges receipt on March 4, 1993, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Mr. Mark Neumann, Citizens for Neumann '93, and Jacquelyn Clark, as treasurer. 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 3745. 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.

Sincerely

A handwritten signature in cursive script, reading "Jonathan Bernstein", is written over the typed name.

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 9, 1993

Citizens for Neumann '93
Jacquelyn Clark, Treasurer
4450 Milton Ave., Suite 104
Janesville, WI 53546

RE: MUR 3745

Dear Ms. Clark:

The Federal Election Commission received a complaint which indicates that the Citizens for Neumann '93 Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("The Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3745. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, 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 General Counsel's Office, 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.

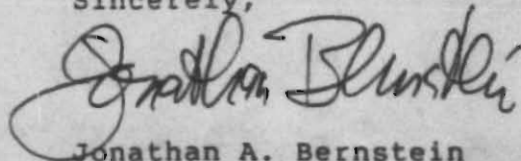
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

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Citizens for Neumann '93
Jacquelyn Clark, Treasurer
Page 2

If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1993

Mr. Mark Neumann
4328 Fox Hills Dr.
Janesville, WI 53546

RE: MUR 3745

Dear Mr. Neumann:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3745. Please refer to this number in all future correspondence.

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 General Counsel's Office, 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.

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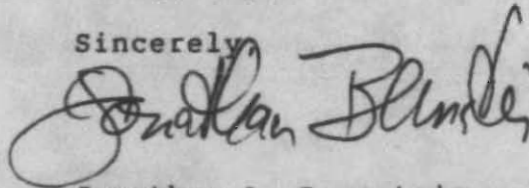
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Mr. Mark Neumann

Page 2

If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

93040943798

MARK

NEUMANN

CONGRESS '93

3204 Washington Ave. (Hwy 20)
Racine, Wisconsin 53405
414/637-7880 FAX/637-9518

4450 Milton Avenue, Suite 104
Janesville, Wisconsin 53546
608/758-0446 FAX/758-1161

March 23, 1993

Mr. Lawrence Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: MUR 3745 Response to Complaint

Dear Mr. Noble:

The purpose of this letter is to respond to the Complaint filed by the Democratic Congressional Campaign Committee against the Neumann '93 Committee. The complaint was received by the Committee on March 12, 1993.

The Neumann '93 Committee filed both FEC form 1 and 2 on March 6, 1993 by overnight mail. The forms were also filed with the local reporting entity as required by the Act. Mark Neumann became a candidate on or about December 24, 1992 pursuant to the provisions of 2 USC 431(2)(A). Failure to file the required forms was an inadvertent oversight without intent to avoid the public disclosure requirements of the Act.

As the record will show, Mark Neumann was a candidate for the First Congressional seat of Wisconsin against Les Aspin in November of 1992. As a result of that candidacy, all contributions and expenditures through December 31 were timely filed in the 1992 Year End Report. Therefore, with regard to information available on the public record, Mark Neumann had actually disclosed more information than most other candidates in the race.

Sincerely,

Gail E Hansen

Gail Hansen
Treasurer
Citizens for Neumann '93 Committee

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR #3745
DATE COMPLAINT RECEIVED
BY OGC: March 4, 1993
DATE OF NOTIFICATION TO
RESPONDENTS: March 9, 1993
STAFF MEMBER: Helen J. Kim

COMPLAINANTS: Genie Norris, Executive Director of
Democratic Congressional Campaign
Committee

RESPONDENTS: Mark Neumann
Citizens for Neumann '93 and
Gail E. Hansen, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(2)
2 U.S.C. § 432(e)(1)
2 U.S.C. § 433(a)
11 C.F.R. § 100.7(b)(1)
11 C.F.R. § 100.8(b)(1)

INTERNAL REPORTS CHECKED: Citizens for Neumann '93 Disclosure
Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint submitted on
March 4, 1993 by Genie Norris, Executive Director of the
Democratic Congressional Campaign Committee. The complaint
alleges that Mark Neumann, Citizens for Neumann '93 and
Gail E. Hansen ("Committee"), as treasurer, violated provisions of

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the Federal Election Campaign Act of 1971, as amended ("the Act").¹ The respondents were notified of the complaint on March 9, 1993, and submitted their response on March 25, 1993.

II. FACTUAL AND LEGAL ANALYSIS

A. Complaint Allegations

Mark Neumann was a candidate in the May 4, 1993 special election for the United States House of Representatives in the First Congressional District in Wisconsin. Mr. Neumann was also a candidate in the 1992 general election for the same seat.

The complaint alleges that for the 1993 special election, Mr. Neumann became a candidate as early as January 1, 1993 but failed to designate a principal campaign committee within 15 days of that date. The complaint also makes similar allegations regarding Mr. Neumann's candidacy in the 1992 general election.

To support the allegations regarding the 1993 special election, the complaint includes a letter soliciting funds for Mr. Neumann. This solicitation, sent January 1, 1993, indicates that Mr. Neumann is a candidate for the 1993 special election and states that "your contribution . . . will help us get our campaign up and running."² At the bottom of the solicitation, it states

1. The Committee filed a Statement of Organization on March 5, 1993, listing Jacquelyn Clark as treasurer. This Office originally notified Citizens for Neumann '93 and Jacquelyn Clark, as treasurer, of the complaint's allegations. Subsequently, on March 19, 1993, the Committee amended its Statement of Organization to reflect that Gail E. Hansen is the current treasurer. Thus, the recommendations in this report will concern Gail E. Hansen, as treasurer of the Committee.

2. The date on the solicitation is January 1, 1992. The contents of the letter suggest that this was a typographical error and the year should have been 1993.

"a check to Citizens for Neumann . . . will help us get a head start on our opponents." The complaint also includes other printed materials such as an advertisement in a local newspaper published by the Committee explicitly stating that Mr. Neumann is "running for Congress."

In its response, the Committee states that Mr. Neumann became a candidate on December 24, 1992 and that he designated the Committee as his principal campaign committee on March 6, 1993 and the Committee filed a Statement of Organization on this same date.³ The Committee claims that the failure to file the forms was an oversight. Furthermore, as a result of Mr. Neumann's candidacy in the November 1992 election, Mr. Neumann disclosed all financial information for the calendar year 1992. Thus, the Committee claims Mr. Neumann actually disclosed more information than other candidates in the 1993 special election.

B. Legal Principles

An individual becomes a "candidate" for purposes of the Act's registration and reporting requirements when he, or another person on his behalf, has received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2) and 11 C.F.R. § 100.3(a). Under Commission regulations, the terms "contribution" and "expenditure" do not include funds received or payments made solely to determine whether an individual should become a candidate. 11 C.F.R. §§ 100.7(b)(1)(i) and

3. Although the response states that the documents were filed on March 6, 1993, the date stamp on the face of the documents indicate that they were filed on March 5, 1993.

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100.8(b)(1)(i). This "testing the waters" exception does not apply to campaign activities indicating that an individual has decided to become a candidate for federal office. 11 C.F.R. §§ 100.7(b)(1)(ii)(B) and 100.8(b)(1)(ii)(B).

Once an individual becomes a candidate, all funds received during the "testing the waters" period become contributions subject to the Act's reporting requirements. 11 C.F.R. §§ 100.7(b)(1)(i) and 100.8(b)(1)(i). These contributions must be reported with the first report filed by the principal campaign committee. Id. According to the regulations, raising funds in excess of could reasonably be expected to be used for "testing the waters" or undertaking activities designed to amass campaign funds that would be spent after becoming a candidate, can be construed as activities that indicate an individual has decided to become a candidate. 11 C.F.R. §§ 100.7(b)(1)(ii)(B) and 100.8(b)(1)(ii)(B).

If the "testing the waters" exception does not apply and the individual meets the threshold for candidacy, he must designate a principal campaign committee within fifteen days. 2 U.S.C. § 432(e)(1). The principal campaign committee must file a Statement of Organization within ten days after being designated by the candidate. 2 U.S.C. § 433(a).

C. Discussion

The solicitation letter and other materials included with the complaint indicate that Mark Neumann decided to become a candidate earlier than when he filed his Statement of Candidacy for the 1993 special election. Indeed, the respondents concede

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that Mr. Neumann became a candidate on December 24, 1992, seventy-two days before he filed his Statement of Candidacy designating Citizens for Neumann as his principal campaign committee. Thus, it appears that Mark Neumann failed to designate a principal campaign committee within 15 days of becoming a candidate.

Because Mr. Neumann should have designated a principal campaign within fifteen days of December 24, 1992, the date he actually triggered candidacy, according to 2 U.S.C. § 433(a), his principal campaign committee was obligated to file a Statement of Organization within ten days of this required date of designation. The Committee, however, registered some time after Mr. Neumann actually triggered candidacy in December, 1992. Thus, the Committee may have violated 2 U.S.C. § 433(a).⁴

The complaint also notes that Mark Neumann may have become a candidate for the 1992 election earlier than when he filed his Statement of Candidacy on November 14, 1991. According to the complaint, Mr. Neumann may have triggered the \$5,000 threshold for

4. Although section 433(a) can be interpreted to suggest that the date of actual designation is what triggers the principal campaign committee's liability, such an interpretation could allow a principal campaign committee to circumvent its registration and reporting obligations during the time when an individual triggers candidacy and when he actually designates a principal campaign committee. In previous matters addressing similar circumstances, the Commission, however, has made findings against the candidate for section 432(e)(1) and the principal campaign committee for section 433(a). See, e.g., MUR 2615 (Harriett Wieder). Furthermore, in recognition of concerns stemming from the application of sections 432(e)(1) and 433(a), the Commission has recommended to Congress that the sections should be revised to require the candidate and his principal campaign committee to register simultaneously.

candidacy as early as February 1991. Because there appeared to be no specific allegation regarding the 1992 candidacy, the Committee's response did not address this issue.

A review of the principal campaign committee's disclosure report for 1991 activity reveals that the Committee received a total of \$18,782.00 for the period beginning February 4, 1991 to October 30, 1991 (the date fifteen days before Mr. Neumann designated his principal campaign committee). It appears that \$18,552.00 of the receipts were received from the candidate. The Committee's disclosure reports also show that it disbursed \$15,089.79 for the same period, and the listed purpose for each disbursement indicates that each disbursement could have been made for testing the waters activity. Furthermore, it appears that much of the receipts and disbursements for 1991 were made on or after September 1, 1991, only two months before Mr. Neumann was obligated to designate a principal campaign committee.⁵

In previous matters addressing "testing the waters" issues, the Commission has determined that similar circumstances involving even greater amounts of money did not trigger candidacy under the Act. See, e.g., MUR 3425 (Paul Coverdell) and MUR 2710 (Judge Harvey Sloane). Thus, in view of these previous enforcement matters and absent a more specific allegation, this Office does not make any recommendations regarding the issue of Mr. Neumann's candidacy for the 1992 election.

5. Of the \$18,782.00 in receipts and \$15,089.79 in disbursements for the period in question, a total of \$10,230.00 was received and a total of \$7412.21 was disbursed on or after September 1, 1993.

D. Discussion of Disposition

Therefore, based on the foregoing discussion, this Office recommends that the Commission find reason to believe Mark Neumann violated 2 U.S.C. § 432(e)(1) for failing to designate a principal campaign committee within fifteen days of becoming a candidate for the 1993 special election. This Office also recommends that the Commission find reason to believe that Citizens for Neumann and Gail E. Hansen, as treasurer, violated 2 U.S.C. § 433(a).

Although the respondents may have violated the Act, certain mitigating factors exist that militate against pursuing these respondents. The candidate did ultimately designate a principal campaign committee which disclosed all of the financial activity for the period in question. Furthermore, because the Committee had been filing reports on a regular basis as a result of serving as Mr. Neumann's 1992 principal campaign committee, the untimely designation and registration did not cause any delay in disclosing the candidate's financial activity.⁶

In this case, however, the activity giving rise to the violations did not result in a lack of disclosure for the period in question.

6. The Committee's 1992 Year End report included all activity through December 31, 1992, and the next report, the 12 Day Pre-Primary Report, was not due until March 25, 1993--twenty days after the Statements of Candidacy and Organization were filed. The Committee filed the 12 Day Pre-Primary Report, disclosing activity for the period January 1, 1993 through March 17, 1993, on March 25, 1993.

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Thus, an admonishment would serve as a sufficient sanction in this matter.

Therefore, in view of these mitigating factors and the Commission's enforcement priorities, this Office recommends that the Commission exercise its prosecutorial discretion and take no further action against Mark Neumann, Citizens for Neumann '93 and Gail Hansen, as treasurer, and the close file. This Office will send an appropriate admonishment letter to these respondents.

III. RECOMMENDATIONS


1. Find reason to believe that Mark Neumann violated 2 U.S.C. § 432(e)(1), but take no further action.
2. Find reason to believe that Citizens for Neumann '93 and Gail E. Hansen, as treasurer, violated 2 U.S.C. § 433(a), but take no further action.
3. Approve the appropriate letters.
4. Close the file.

Lawrence M. Noble
General Counsel

Date

6/10/93

BY:


Lois G. Lerner
Associate General Counsel

Attachment
Response to Complaint

93040943807

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Mark Neumann;) MUR 3745
Citizens for Neumann '93 and)
Gail E. Hansen, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 16 1993, the Commission decided by a vote of 5-0 to take the following actions in MUR 3745:

1. Find reason to believe that Mark Neumann violated 2 U.S.C. § 432(e)(1), but take no further action.
2. Find reason to believe that Citizens for Neumann '93 and Gail E. Hansen, as treasurer, violated 2 U.S.C. § 433(a), but take no further action.

(Continued)

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3. Approve the appropriate letters, as recommended in the General Counsel's Report dated June 10, 1993.
4. Close the file.

Commissioners Aikens, Elliott, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote.

Attest:

6-16-93
Date

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

Received in the Secretariat:	Friday, June 11, 1993 10:53 a.m.
Circulated to the Commission:	Friday, June 11, 1993 12:00 p.m.
Deadline for vote:	Wednesday, June 16, 1993 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 18, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Genie Norris, Executive Director
Democratic Congressional Campaign
Committee
430 South Capitol Street
Washington, D.C. 20003

RE: MUR 3745


Dear Ms. Norris:

This is in reference to the complaint you filed with the Federal Election Commission on March 4, 1993, concerning possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

Based on that complaint, on June 16, 1993, the Commission found that there was reason to believe Mark Neumann violated 2 U.S.C. § 432(e)(1) and the Citizens for Neumann '93 Committee ("Committee") and Gail Hansen, as treasurer, violated 2 U.S.C. § 433(a), provisions of the Act, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against Mark Neumann, the Committee and Gail Hansen, as treasurer, and closed the file in this matter on June 16, 1993. This matter will become part of the public record within 30 days. 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).

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Helen J. Kim
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 18, 1993

Gail Hansen, Treasurer
Citizens for Neumann '93
Committee
4450 Milton Avenue, Suite 104
Janesville, Wisconsin 53546

RE: MUR 3745
Mark Neumann, Citizens for
Neumann '93 Committee, and
Gail Hansen, as treasurer

Dear Ms. Hansen:

On June 16, 1993, the Federal Election Commission found reason to believe that Mark Neumann violated 2 U.S.C. § 432(e)(1) and Citizens for Neumann '93 Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 433(a), provisions 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. The General Counsel's Report which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that failing to designate a principal campaign committee within 15 days of triggering candidacy and failing to register within 10 days of designation appear to be violations of 2 U.S.C. §§ 432(e)(1) and 433(a). You should take immediate steps to insure that this activity does not occur in the future.


The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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Gail Hansen
Page 2

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Scott E. Thomas
Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3745
DATE FILMED 6/23/93 CAMERA NO. 4
CAMERAMAN E.E.S.

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