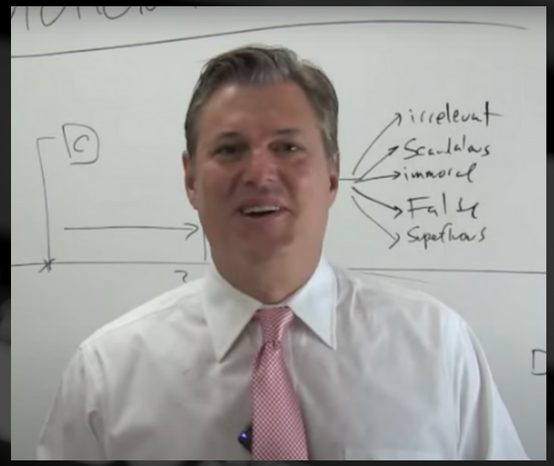
MUSIC LAW- FAIR USE

USING UNLICENSED MUSIC FOR POLITICAL CAMPAIGNS



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FAIR USE?

The Four "Fair Use Factors"

MUSIC IS PROTECTED BY COPYRIGHT

Sheet music, lyrics, vocals, master sound recording, etc.

BALANCING TEST

The Purpose and Character of the Use

The Nature of the Copyrighted Work

The Amount or Substantiality of the Portion Used

The Effect of the Use on the Potential Market for or Value of the Work

Presentations are tools that can be used as lectures, speeches, reports, and more.

WHAT DOES THAT MEAN TO THE POLITICIAN?

GET PERMISSION

THE ARTIST MAY NOT AGREE WITH YOUR VIEWPOINTS OR YOUR FAIR USE ARGUMENT

Politicians are not immune from Copyright infringement lawsuits

Respect the artist

$$$$$

CASE STUDIES

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BOBBY MCFERRIN VS. BUSH SENIOR

Artist: Bobby McFerrin

Year: 1988

Song at issue: Don't worry be happy!

Politician: George H.W. Bush (presidential campaign)

Result: McFerrin objected, and Bush changed theme to "This Land is Your Land" [McFerrin was a Dukakis Supporter}

"The landlord said your rent is late, we may have to litigate"

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ISAAC HAYES VS. BOB DOLE

Artist: Isaac Hayes / Rondor Music

Year: 1996

Song at issue: Soul Man

Politician: Bob Dole (presidential campaign)

Result: Artist objected (owners liberal) , and song changed to "American Boy" by Eddie Money

The crowd started chanting "Im a Dole Man"

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BOSTON VS. MIKE HUCKABEE

Artist: Boston

Year: 2008

Song at issue: More than a Feeling

Politician: Mike Huckabee (presidential campaign)

Result: Rights holder objected. Huckabee conceded to John McCain from Arizona.

Boston felt ripped off claiming they had never supported a political candidate

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JACKSON BROWNE VS. JOHN MCCAIN

Artist: Jackson Browne

Year: 2008

Song at issue: Running on empty (ad mocking Obama)

Politician: John McCain (presidential campaign)

Result: Undisclosed settlement & apology

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HEART VS. SARAH PALIN

Artist: Heart

Year: 2008

Song at issue: Barracuda!

Politician: McCain/Paylin (presidential campaign)

Result: Continued uses asserting a ASCAP blanket License

PER ASCAP: The ASCAP Political Campaign License agreement provides a blanket license to perform any or all of the millions of compositions in the ASCAP repertory. However, ASCAP members may ask ASCAP to exclude specific songs from a particular political campaign's license.

RUSH VS. RAND PAUL

Artist: Rush

Year: 2010

Song at issue: Tom Sawyer

Politician: Rand Paul

Result: Cease and Desist Letter

JOURNEY VS. NEWT GINGRICH

Artist: Journey

Year: 2011

Song at issue: Don't stop believing

Politician: Newt Gingrich

Result: Cease and Desist Letter

NOTE: Newt also challenged by Survivor over use of "Eye of the Tiger" song

TOM PETTY VS. MICHELE BACHMANN

Artist: Tom Petty

Year: various

Song at issue: I won't back down / American Girl

Politician: Michelle Bachmann

Result: Petty was an Al Gore supporter. Sent Cease and Desist

Kari Lake Governor Candidate also pursued for using song to challenge election

CYNDI LAUPER VS. DNC (ADVERTISEMENT)

Artist: Cyndi Lauper

Year: 2012

Song at issue: True Colors

Politician: DNC

Result: Ad removed from YouTube

Lauper said Mitt Romney can be discredit without using her song!

NEIL YOUNG VS. THE DONALD

Artist: Neil Young

Year: 2015

Song at issue: Rocking in the free world!

Politician: Donald Trump

Result: Young supported Bernie Sanders.
 Trump claimed blanket ASCAP license,but out of respect stopped using song.

thanks for watching!

KEY TAKEAWAYS

Get Permission
Public Domain?
Fair Use?

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