



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

THIS IS THE BEGINNING OF MJR # 3021

DATE FILMED 12/26/90 CAMERA NO. 2

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U.S. Department of Justice

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

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Washington, D.C. 20530

FEB 27 1989

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Noble:

Re: Anonymous circular concerning Senator Dennis De Concini

Enclosed herewith for whatever attention the Federal Election Commission may consider appropriate under 2 U.S.C. § 441d is a copy of material made available to the Federal Bureau of Investigation by Senator Dennis De Concini of Arizona, together with a copy of our prosecutive evaluation of this matter under those federal criminal laws potentially applicable to it.

For reasons expressed in our letter to United States Attorney Steve McNamee, we do not feel that either of the anonymous circulars allegedly involved in this matter indicate possible violations of federal laws within our jurisdiction.

Please let us know if we can assist you further.

Sincerely,

Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section
Criminal Division

Enclosures

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FEB 27 1989

WHO IS DENNIS DE CONCINI REALLY?



Let's start with who is in the photograph. The first man from the left is Evo DeConcini, the father of our own esteemed U.S. Senator. To Evo's immediate left is Joseph Bonnano, who for forty years was the "Don of Dons" of organized crime's five families in New York City and who was determined by a United States Senate Racketeering Sub-committee to be the world's leading narcotics boss.

Prior to 1954, Dennis DeConcini's father, Evo, had been the Arizona Attorney General (the state's leading prosecutor) as well as an Arizona Supreme Court Justice. Positions of public trust that lent Evo a great aura of respectability.

On December 16, 1954 Evo DeConcini testified as a character witness for Joseph Bonnano in U.S. District Court, Tucson, Arizona, thereby preventing the United States from deporting his "long time close friend and associate." Evo testified that in his opinion Joe Bonnano's reputation for truth "is excellent." Source: U.S. District Court transcript; The Arizona Project, p. 174-175.

Since 1943, the DeConcini and Bonnano families grew up together in Tucson. The Bonnano house was on the corner of Elm and Campbell. It was walled and heavily guarded by armed men. Dennis DeConcini grew up in this environment, frequently visiting Bonnano's fortress.

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When Dennis DeConcini first ran for the United States Senate in 1976, the Arizona Republic caught him accepting contributions from leading organized crime figures. One of those contributors was Victor Tronolone, long time accountant for mafia chieftain Joseph Bonnano. Why did organized crime believe it could do business with Dennis DeConcini?

Ralph Salerno is the former head of New York City's Organized Crime Bureau and is recognized as a world authority on the subject. About five years ago, the Arizona Republic reported that Salerno said that the connection between Evo DeConcini and Joe Bonnano is "shocking and alarming."

In a 1983 Arizona Republic article, Evo DeConcini claimed he always only knew Bonnano as a "cheese company executive." This incredible statement is from a man who was Arizona's Attorney General and Supreme Court Justice before he testified for Bonnano in 1954 at Bonnano's deportation hearing. Why did Evo think the government was trying so hard to rid the country of Bonnano - for selling bad cheese?

After he had agreed to testify for Joseph Bonnano, Evo acquired extreme wealth, power and influence which he generously spread among Dennis and Evo's other children. Dennis DeConcini is acknowledged to be the third richest man in the U.S. Senate.

Dennis DeConcini is not yet rich enough. He has just been caught again with his hand in the cookie jar. He used insider information gained as a U.S. Senator to make lucrative land deals to further add to his personal fortune and that of his family.

Dennis DeConcini was raised by a man who deliberately nurtured a close association with the leading organized crime figure in the United States. The man who raised Dennis was influential in the development of Dennis's personal philosophy. The voters have a right to know everything there is to know about Dennis DeConcini's associations with organized crime figures. They have a right to know why organized crime figures in Arizona believed they could do business with Dennis DeConcini.

Dennis has patterned his life after his father. He plays on the public trust to win office, cultivates questionable relationships and uses his office to enrich himself. Should this man sit in the most influential legislative body in the world? Should he have a voice in the appointment of judges to the federal bench? Should he be allowed to derail the careers of such prominent conservative judges as Robert Bork?

CATO

Second Distribution -
mailed to individuals
(2)

WHO IS DENNIS DE CONCINI REALLY?



Celebrating my son Joseph's confirmation at the Italian Village restaurant, Tucson, April 1955. Seated left to right: His godfather, Joseph Magliocco, the second in command to Joseph Profaci, Ora De Concini, and Judge Evo De Concini. Behind are restaurateurs Jenny and Michael Leonardi.



Introducing Salvatore's bride-to-be Rosalie Profaci (fifth from the left) to intimate friends and family at the Paulas Restaurant, Tucson, April 1956. On my right are Rosalie's mother, Rose, next to Judge Evo De Concini, and Fay. On my left are Mrs. Ora De Concini and Judge and Mrs. Paul Cella.



John Morales, some friends and I at the Latin Quarter welcoming home Judge and Mrs. D. Concini and their son Dino on their return from Italy in 1955.

Let's start with who is in the bottom photograph. The first man from the left is Evo DeConcini, the father of Arizona's esteemed U.S. Senator. To Evo's immediate left is Joseph Bonnano, who for forty years was the "Don of Dons" of organized crime's five families in New York City and who was determined by a United States Senate Racketeering Sub-committee to be the world's leading narcotics boss. You may recall the infamous Canadian and French Connections, Arizona Republic article 1982. (See also other pictures from A MAN OF HONOR, the Autobiography of Joseph Bonnano, Simon and Shuster, 1983, co-authored by Sergio Lalli.)

Prior to 1954, Dennis DeConcini's father, Evo, had been the Arizona Attorney General (the state's leading prosecutor) as well as an Arizona Supreme Court Justice, positions of public trust that lent Evo a great aura of respectability. On December 16, 1954 Evo DeConcini testified as a character witness for Joseph Bonnano in U.S. District Court, Tucson, Arizona, thereby preventing the United States from deporting his "long-time close friend and associate." Evo testified that in his opinion Joe Bonnano's reputation for truth "is excellent." Source: U.S. District Court transcripts: The Arizona Project, p. 174-175.

Is it appropriate to inquire as to who was Joe Bonnano's chief counsel or peace-time consigliere? Wouldn't the Don of Dons have the best counsel? Since 1943, when both Evo and Joe were in their early forties, the DeConcini and Bonnano families grew up together in Tucson. The Bonnano house was on the corner of Elm and Campbell. It was walled and heavily guarded by armed men. Dennis DeConcini grew up in this environment, frequently visiting Bonnano's fortress. It is curious that the Arizona Republic, the Phoenix Gazette, the Arizona Daily Star and the Tucson Daily Citizen had chosen not to put all of this together for their readers at election time. And one wonders also why they have closed to the public the

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are at the Arizona Republic and Phoenix Gazette. Could it be
for

When Dennis DeConcini first ran for the United States Senate in 1976, the Arizona Republic caught him accepting contributions from 10 leading organized crime figures. One of those contributors was Victor Tronolone, long time accountant for mafia chieftain Joseph Bonnano. Why did organized crime believe it could do business with Dennis DeConcini?

Ralph Salerno is the former head of New York City's Organized Crime Bureau and is recognized as a world authority on the subject of organized crime. About five years ago, the Arizona Republic reported that Salerno said at a seminar at the Camelback Inn that the connection between Evo DeConcini and Joe Bonnano is "shocking and alarming." In a 1983 Arizona Republic article, Evo DeConcini claimed he always only knew Bonnano as a "cheese company executive." This incredible statement is from a man who was Arizona's Attorney General and Supreme Court Justice before he testified for Bonnano in 1954 at Bonnano's deportation hearing. Why did Evo think the government was trying so hard to rid the country of Bonnano - for selling rancid cheese? After he had agreed to testify for Joseph Bonnano, Evo acquired extreme wealth, power and influence which he generally spread among Dennis and Evo's other children. Dennis DeConcini is acknowledged to be the third richest man in the U.S. Senate. Dennis DeConcini is not yet rich enough. He has just been caught again with his hand in the cookie jar. He used insider information gained as a U.S. Senator to make lucrative land deals to further add to his personal fortune and that of his family. (Tucson Examiner, November 1988 gives a complete and detailed report on the millions that were made and how it was done.)

Dennis DeConcini was raised by a man who deliberately nurtured a close association with the leading organized-crime figure in the United States. The man who raised Dennis was influential in the development of Dennis's personal philosophy. The American people have a right to know everything there is to know about Dennis DeConcini's associations with organized-crime figures. They have a right to know why organized-crime figures in Arizona believed they could do business with Dennis DeConcini.

Dennis has patterned his life after his father. He plays on the public trust to win office, cultivates questionable relationships and uses his office to enrich himself. Should this man sit in the most influential legislative body in the world? Should he have a voice in the appointment of judges to the federal bench? Should this man be on the White House's short list of candidates to direct the FBI or the newly created cabinet level "Drug Czar" of the U.S.? (Federal Drug Bill, signed November 18, 1988.) Should he command all the U.S. resources in the war on drugs, including our military resources and the budget for 24 different enforcement agencies? (See new Drug Bill.)

Drugs are a \$150 billion a year industry - larger than General Motors, Ford and Chrysler combined. In an industry this large it is essential that the regulators be groomed by those they intend to regulate. A naive young politician once asked me, "Why doesn't someone take all this information to the proper authorities?" I explained to the young man that "Dennis and his associates are the proper authorities."

Recently Senator DeConcini has expressed great concern about attacks on his "family". One wonders which family he really means. Can we really afford to let a cabinet post become a "family" affair. Remember Geraldine Ferraro? She could easily have become the Vice-president of the U.S., or later the president. Remember her connections? Don't forget Michael Corleone, in the movie "The Godfather," looked and sounded like an altar boy and later he acted like a boy scout? Didn't Dennis serve as an altar boy at St. Peter and Pauls in Tucson?

Do we really want the fox to guard the hen house? Do you want the son of a man who was primarily responsible for keeping in the U.S. the world's leading narcotics trafficker, to become the leader of our nation's war on drugs?

I have prepared a file substantiating the points made in this flyer. Copies of the file have been sent to President-elect George Bush; James Baker; syndicated columnists Patrick Buchanan, William Safire, Woodward and Bernstein, and Benjamin Bradley, Editor of the Washington Post; Catherine Graham, Publisher of the Washington Post; Mike Wallace of "Sixty Minutes" fame; Paul Harvey, Mutual News Network; Morton Downey, CBS talk-show host; Hugh Downs of "20/20" fame; William Webster, Director of the CIA; Attorney General Richard Thornburgh; the Director of the FBI; and the Director of the DEA.

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

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR # 210
STAFF MEMBER: A. Buckley

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

RESPONDENTS: Ed Finkelstein

RELEVANT STATUTES: 2 U.S.C. § 434(c)
2 U.S.C. § 441d(a)(3)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arises out of the referral to this Office by the U.S. Department of Justice of certain printed materials, which allegedly connect Senator Dennis DeConcini of Arizona with organized crime, and which were allegedly distributed in an attempt to influence an election for Federal office. The Justice Department referred this matter after determining that the materials involved did not indicate any violations of laws within the jurisdiction of that Department.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 434(c), an individual who makes an independent expenditure totalling more than \$250 must file a statement with the Commission. An independent expenditure is

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any

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authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

2 U.S.C. § 431(17). Additionally, any person who makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate must, if that communication is not authorized by any candidate, clearly state the name of the person who paid for the communication and that the communication is not authorized by any candidate or candidate's committee.

2 U.S.C. § 441d(a)(3).

Here, two flyers are involved. One was distributed to the general public in Arizona in the week prior to the 1988 general election in which Senator DeConcini was standing for re-election. (Attachment 1(7-8)). The other was mailed to all Members of Congress in late December 1988.^{1/} (Attachment 1(9-10)).

The first flyer contains a photograph which allegedly shows Senator DeConcini's father seated next to reputed organized crime boss Joseph Bonnano. The text of the flyer details the elder DeConcini's testimony at Mr. Bonnano's deportation hearing, implies that the DeConcinis and the Bonnanos are long-time family friends, alleges that Senator DeConcini was caught accepting campaign contributions from organized crime figures in 1976, and implies that Senator DeConcini's father

^{1/} These two documents are part of the materials referred to the Commission by the Justice Department.

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gained his wealth through connections to organized crime, and that Senator DeConcini maintains connections with organized crime figures in Arizona. The flyer concludes by asking: "Should this man sit in the most influential legislative body in the world? Should he have a voice in the appointment of judges to the federal bench? Should he be allowed to derail the careers of such prominent conservative judges as Robert Bork?"

Given that this flyer appeared one week prior to the general election and that it attempts to connect Senator DeConcini with organized crime, it appears that its purpose was to influence the Federal election in which Senator DeConcini was a candidate.

Additionally, this Office believes that this first flyer constitutes express advocacy. "Express advocacy" was first defined by the Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). More recently, the Court has determined that when a communication urges voters to vote for candidates who hold a certain position and identifies specific candidates who hold that position, such a message "is marginally less direct than 'Vote for Smith'" and "goes beyond issue discussion to express electoral advocacy." Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238, 248, 107 S.Ct. 616, 623 (1986). Likewise, the United States Court of Appeals for the Ninth Circuit has determined

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that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate."

Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 108 S.Ct. 151 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id.

Here, although the flyer does not specifically urge people to vote against Senator DeConcini, that is the only reasonable interpretation to be drawn from it. The election occurred one week after the distribution of the flyer; there was no other apparent reason for it to be distributed. Additionally, the flyer poses questions, as noted above, as to whether Senator DeConcini should remain in the Senate. The obvious answer to the questions, as phrased, is "No". The only way a reader of the flyer could take action which would be consistent with the wishes of the person or persons who distributed the flyer would be to vote against Senator DeConcini in the upcoming election. As the Furgatch court noted, "the failure to state with specificity the action required does not remove political speech from the coverage of the ... Act when it is clearly the kind of advocacy of the defeat of an identified candidate that Congress intended to regulate." Id. at 865.

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As this flyer constitutes express advocacy, it required the type of disclaimer detailed in Section 441d. No such disclaimer appears on the document; the name "CATO" at the end is the only clue to the identity of the author or authors, and is probably a reference to the Roman statesman Cato the Younger rather than anything else. As it appears that more than \$250 was spent in its production and distribution, the individual involved should have filed a statement with the Commission.

Although the contents of the second flyer are similar to those in the first, it does not appear that the Commission should take any action with regard to its production and distribution. All evidence indicates that this flyer was only distributed to Members of Congress, a group which comprises 535 individuals, only 7 of whom are eligible to vote in Arizona. Additionally, this flyer was distributed six years before Senator DeConcini could stand for re-election and two years before any other Federal election. Accordingly, it does not appear that it was intended that this flyer influence any election.

The FBI file states that, according to Senator DeConcini, he received a collect phone call at his office on January 5, 1989. Although the caller identified himself as Barry Goldwater, Senator DeConcini recognized that it was not Senator Goldwater's voice. The caller informed Senator DeConcini that a second version of the flyer was going out, that it would be devastating to the Goldwater and DeConcini

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families, and that Senator DeConcini should resign.

Senator DeConcini believes he recognized the voice as that of Ed Finkelstein, an independent candidate for the Arizona Senate seat to which Senator DeConcini was re-elected in 1988.

This Office believes that Senator DeConcini's identification of Mr. Finkelstein, the fact that the telephone conversation with Senator DeConcini strongly suggests a connection between the caller and the flyers, and the fact that Mr. Finkelstein was a political opponent of Senator DeConcini, warrants a belief that Mr. Finkelstein was involved in the production and distribution of the flyer. Accordingly, this Office recommends that the Commission find reason to believe that Ed Finkelstein failed to file a statement with the Commission regarding an independent expenditure of over \$250, in violation of 2 U.S.C. § 434(c), and failed to place a proper disclaimer on a communication expressly advocating the defeat of a candidate for Federal office, in violation of 2 U.S.C. § 441d(a)(3).^{2/} This Office also recommends approval of the attached letter and discovery request to Ed Finkelstein.

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Ed Finkelstein violated 2 U.S.C. §§ 434(c) and 441d(a)(3).

^{2/} If others were involved with Ed Finkelstein in the production and distribution of this flyer, and it cost over \$1,000, they would constitute a political committee, see 2 U.S.C. § 431(4)(A), and would have violated 2 U.S.C. §§ 433 and 434 by failing to register as a political committee and to report receipts and disbursements. This Office is withholding a recommendation in this regard pending the results of the investigation.

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3. Approve the attached letter, factual and legal analysis, and interrogatories and request for production of documents.

Lawrence M. Noble
General Counsel

Date 1-2-90

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Referral Materials
2. Proposed Letter
3. Proposed Interrogatories and Request for Production of Documents
4. Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: JANUARY 8, 1990

SUBJECT: Pre-MUR 210 - FIRST GENERAL COUNSEL'S REPORT
DATED DECEMBER 21, 1989

The above-captioned document was circulated to the Commission on Tuesday, December 26, 1989 at 4:00 p.m.

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

Commissioner Aikens	<u>XXXX</u>
Commissioner Elliott	<u>XXXX</u>
Commissioner Josefiak	<u>XXXX</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Thomas	<u> </u>

This matter will be placed on the meeting agenda for Tuesday, January 23, 1990 / - 9-90

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

90040813222

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ed Finkelstein) Pre-MUR 210

(-MUR
3021)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 9, 1990, do hereby certify that the Commission took the following actions with respect to Pre-MUR 210:

1. Failed in a vote of 2-3 to pass a motion to
 - a) Open a MUR.
 - b) Find reason to believe that Ed Finkelstein violated 2 U.S.C. §§ 434(c) and 441d(a)(3).
 - c) Approve the letter, factual and legal analysis and interrogatories and request for production of documents as recommended in the General Counsel's report dated January 2, 1990.

Commissioners McGarry and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott, and Josefiak dissented. Commissioner McDonald was not present.

(continued)

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2. Decided by a vote of 5-0 to take the following actions:
- a) Open a Matter Under Review (MUR).
 - b) Find reason to believe that Ed Finkelstein violated 2 U.S.C. § 433 by failing to register as a candidate and 2 U.S.C. § 434 by failing to register a political committee and report receipts and disbursements.
 - c) Direct the Office of General Counsel to draft an appropriate letter, an appropriate factual and legal analysis, and appropriate interrogatories and request for production of documents and circulate them for Commission approval on a tally vote basis.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present.

Attest:

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3021
Ed Finkelstein)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 9, 1990, the Commission considered this Office's recommendation that the Commission find reason to believe that Ed Finkelstein violated 2 U.S.C. §§ 434(c) and 441d(a)(3). Although this motion failed to pass, the Commission did find reason to believe that Ed Finkelstein violated 2 U.S.C. § 433 by failing to register as a candidate, and violated 2 U.S.C. § 434 by failing to register a political committee and report receipts and disbursements.

It appears that the Commission's intent was to find reason to believe that Ed Finkelstein violated 2 U.S.C. § 432 by failing to designate a political committee. Accordingly, this Office recommends that, in addition to its previous findings, the Commission find reason to believe that Ed Finkelstein violated 2 U.S.C. § 432, and that the Commission approve the attached letter, factual and legal analysis, and interrogatories and request for production of documents.

II. RECOMMENDATIONS

1. Find reason to believe that Ed Finkelstein violated 2 U.S.C. § 432.

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2. Approve the attached letter, Factual and Legal Analysis, and Interrogatories and Request for Production of Documents.

Lawrence M. Noble
General Counsel

Date 2/13/90

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Certification
2. Letter
3. Factual and Legal Analysis
4. Interrogatories and Request for Production of Documents

Staff assigned: A. Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ed Finkelstein) MUR 3021

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 16, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 3021:

1. Find reason to believe that Ed Finkelstein violated 2 U.S.C. § 432.
2. Approve the letter, Factual and Legal Analysis, and Interrogatories and Request for Production of Documents, as recommended in the General Counsel's report dated February 13, 1990..

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

Attest:

2-16-90

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Wed., Feb. 14, 1990	11:25 a.m.
Circulated to the Commission:	Wed., Feb. 14, 1990	4:00 p.m.
Deadline for vote:	Fri., Feb. 16, 1990	4:00 p.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

February 23, 1990

Ed Finkelstein
26 East Rillito Street
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Tuscon, AZ 85705

RE: MUR 3021

Dear Mr. Finkelstein:

On January 9, 1990, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 433 and 434, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Subsequently, on February 16, 1990, the Commission found reason to believe that you violated 2 U.S.C. § 432, another provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions and request for production of documents, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Ed Finkelstein
Page 2

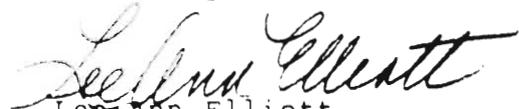
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Anthony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,


Lee Ann Elliott
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Interrogatories and Request
for Production of Documents

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Ed Finkelstein

MUR: 3021

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office shall designate in writing a political committee to serve as that candidate's principal campaign committee no later than 15 days after becoming a candidate. Pursuant to 2 U.S.C. § 431(2), a person is deemed to be a candidate if that individual seeks election to Federal office. An individual is deemed to seek election to Federal office if that individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2)(A). The term "contributions" encompasses any "gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The term expenditures encompasses any "purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing an election for Federal office." 2 U.S.C. § 431(9)(A)(i). Pursuant to 2 U.S.C. § 433(a), a political committee authorized by a candidate shall file a statement of organization with the Federal Election Commission no later than 10 days after being so designated. All political committees must file reports of receipts and disbursements with the Commission. 2 U.S.C. § 434(a).

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Evidence available to the Commission suggests that Ed Finkelstein is responsible for distributing a flyer to the general public in Arizona in the week prior to the 1988 general election. This flyer contains a photograph which allegedly shows Senator Dennis DeConcini's father seated next to reputed organized crime boss Joseph Bonnano. The text of the flyer details the elder DeConcini's testimony at Mr. Bonnano's deportation hearing, implies that the DeConcinis and the Bonnanos are long-time family friends, alleges that Senator DeConcini was caught accepting campaign contributions from organized crime figures in 1976, and implies that Senator DeConcini's father gained his wealth through connections to organized crime, and that Senator DeConcini maintains connections with organized crime figures in Arizona. The flyer concludes by asking: "Should this man sit in the most influential legislative body in the world? Should he have a voice in the appointment of judges to the federal bench? Should he be allowed to derail the careers of such prominent conservative judges as Robert Bork?"

Given that this flyer appeared one week prior to the general election and that it attempts to connect Senator DeConcini with organized crime, it is clear that its purpose was to influence the Federal election in which Senator DeConcini was a candidate.

According to Senator DeConcini, he received a collect phone call at his office on January 5, 1989. Although the caller identified himself as Barry Goldwater, Senator DeConcini

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1987 to January 30, 1989.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

20040813304

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

1. State whether you ever produced, distributed, or in any way contributed to the attached document.
2. If your answer to Question 1 is yes, provide an itemization of all costs associated with this document. Your itemization should include, but is not limited to, costs associated with salary, research, printing and distribution. Submit copies of all documentation related to any such costs.
3. If your answer to Question 1 is yes, describe the distribution of this document. Your description should include, but is not limited to, the number of people to whom this document was sent or given, each method of distribution, and the number of copies of the document that was distributed.
4. If your answer to Question 1 is yes, identify any person who aided you in, or who otherwise has knowledge of, any of these activities.
5. Itemize all other costs incurred by you, or by anyone on your behalf, for the purpose of advancing your candidacy for the U.S. Senate. Provide copies of all documents which in any way relate to such efforts.

2004031305

WHO IS DENNIS DE CONCINI REALLY?



Let's start with who is in the photograph. The first man from the left is Evo DeConcini, the father of our own esteemed U.S. Senator. To Evo's immediate left is Joseph Bonnano, who for forty years was the "Don of Dons" of organized crime's five families in New York City and who was determined by a United States Senate Racketeering Sub-committee to be the world's leading narcotics boss.

Prior to 1954, Dennis DeConcini's father, Evo, had been the Arizona Attorney General (the state's leading prosecutor) as well as an Arizona Supreme Court Justice. Positions of public trust that lent Evo a great aura of respectability.

On December 16, 1954 Evo DeConcini testified as a character witness for Joseph Bonnano in U.S. District Court, Tucson, Arizona, thereby preventing the United States from deporting his "long time close friend and associate." Evo testified that in his opinion Joe Bonnano's reputation for truth "is excellent." Source: U.S. District Court transcript; The Arizona Project, p. 174-175.

Since 1943, the DeConcini and Bonnano families grew up together in Tucson. The Bonnano house was on the corner of Elm and Campbell. It was walled and heavily guarded by armed men. Dennis DeConcini grew up in this environment, frequently visiting Bonnano's fortress.

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When Dennis DeConcini first ran for the United States Senate in 1976, the Arizona Republic caught him accepting contributions from leading organized crime figures. One of those contributors was Victor Tronolone, long time accountant for mafia chieftain Joseph Bonnano. Why did organized crime believe it could do business with Dennis DeConcini?

Ralph Salerno is the former head of New York City's Organized Crime Bureau and is recognized as a world authority on the subject. About five years ago, the Arizona Republic reported that Salerno said that the connection between Evo DeConcini and Joe Bonnano is "shocking and alarming."

In a 1983 Arizona Republic article, Evo DeConcini claimed he always only knew Bonnano as a "cheese company executive." This incredible statement is from a man who was Arizona's Attorney General and Supreme Court Justice before he testified for Bonnano in 1954 at Bonnano's deportation hearing. Why did Evo think the government was trying so hard to rid the country of Bonnano - for selling bad cheese?

After he had agreed to testify for Joseph Bonnano, Evo acquired extreme wealth, power and influence which he generously spread among Dennis and Evo's other children. Dennis DeConcini is acknowledged to be the third richest man in the U.S. Senate.

Dennis DeConcini is not yet rich enough. He has just been caught again with his hand in the cookie jar. He used insider information gained as a U.S. Senator to make lucrative land deals to further add to his personal fortune and that of his family.

Dennis DeConcini was raised by a man who deliberately nurtured a close association with the leading organized crime figure in the United States. The man who raised Dennis was influential in the development of Dennis's personal philosophy. The voters have a right to know everything there is to know about Dennis DeConcini's associations with organized crime figures. They have a right to know why organized crime figures in Arizona believed they could do business with Dennis DeConcini.

Dennis has patterned his life after his father. He plays on the public trust to win office, cultivates questionable relationships and uses his office to enrich himself. Should this man sit in the most influential legislative body in the world? Should he have a voice in the appointment of judges to the federal bench? Should he be allowed to derail the careers of such prominent conservative judges as Robert Bork?

CATO

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AFFIDAVIT

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

06C 5708

STATE OF Arizona
County of Pima

ss. Ed Finkelstein

90 MAR 16 AM 10:35

MUR 3021

90 MAR 16 PM 2:09

FEDERAL ELECTION COMMISSION

The undersigned being duly sworn according to law deposes and says:

In answer to interrogatories and request for production of documents,

(1) I never produced, distributed or in any way contributed to the document entitled "Who Is Dennis DeConcini Really?"

(2) My total cost in running for the U.S. Senate in 1988 was between \$300 and \$350, encompassing only travel and phone expense. No other costs in conjunction with my candidacy were incurred. The Tucson Examiner, which I have infrequently published since about 1985, is a commercial enterprise.

Questions 2,3 and 4 do not apply since I did not have anything to do with the document in question.

Furthermore, I did not call Sen. Dennis DeConcini telling him that I was Sen. Barry Goldwater; nor did I call him at any other time in relation to the election. Years ago, I called his office and spoke to his aide, Robert Maynes, to request an interview with the Senator. The interview was never granted. In assembling information for an article I published in The Examiner in the summer of 1988, I spoke once with Maynes and once with David DeConcini, the Senator's brother. The latter two conversations took place on the phone some time in later 1987, or more probably in the first quarter of 1988 and had to do with the Senator's land purchases on the Central Arizona Project.

The cost of printing The Examiner in the summer of 1988 was about \$550. The current issue cost about \$900.

I was not an independent candidate but a candidate of the New Alliance Party.

SUBSCRIBED TO AND SWORN before me a Notary Public this Ed Finkelstein day of

March , 19 90 . by

[Signature]
Notary Public

My Commission Expires:

MAY 05 1991

20040313309

TUCSON EXAMINER

Tucson, Arizona 85705

622-1893

NOW SOLD THROUGH VENDING MACHINES

THE TUCSON EXAMINER is a lively local newspaper, professionally edited, that offers a rich variety of interesting and useful articles for a wide readership. The format of fewer ads and more articles creates a favorable climate for advertising.

OPEN RATE is \$30 per column inch, \$27 per column inch for three times or more. Color available on certain pages, add \$150. Substantial discounts on larger ads and for frequency, as follows:

	one time	3 times
1 col x 1 in.	\$30	\$27
1 col x 2 in.	60	54
1 col x 3 in.	90	81
2 cols x 2 in.	120	108
2 cols x 2½ in.	150	135
2 cols x 3 in.	180	162 1/8p
2 cols x 6 in.	275	249 1/4p
4 cols x 6 in.	390	365 ½Page
4 cols x 12 in.	775	695 FP



THE CARTOON MAP

This is a rip roarin' depiction of the history and legend, flora, fauna and funny of our great state together with a street map of Tucson. Visitors and Tucson residents love it! Some restaurants use it as place mats. And we will laminate them if you wish. Distribution is through the major hotels, tourist attractions, the airport information booths, libraries and other outlets.

- 25,000 \$295
- 50,000 \$495
- 100,000 \$875
- 200,000 \$1695

Ad size is about 3 1/2 x 2 inches.



COP'S SEX RING BARED
DPS Chief Used Capitol as Pleasure Dome

WHAT A CROOK!
DeConcini Swipes \$5.8 Million in CAP Fraud

AGREEMENT

Advertiser-----places the following ad(s)-----date

9 0 0 4 0 3 1 3 1 0

BILL DATE: AUG 16, 1989
ACCOUNT NUMBER: 602-622-1893-113R

EDWIN S FINKELSTEIN
26 E RILLITO #13
TUCSON AZ 85705-5673

CURRENT CHARGES \$30.34
DUE SEP 06
PAST DUE \$90.60
TOTAL AMOUNT DUE \$120.94

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PAY U S WEST COMMUNICATIONS
TOTAL DUE



Detach here and return this part

USWEST COMMUNICATIONS @

BILL DATE: OCT 16, 1989
ACCOUNT NUMBER: 602-622-1893-113R

EDWIN S FINKELSTEIN
26 E RILLITO #13
TUCSON AZ 85705-5673

CURRENT CHARGES \$31.85
DUE NOV 06
PAST DUE \$97.48
TOTAL AMOUNT DUE \$129.33

41 01602622189301139 2938000000 0000974808 0001293307

PAY U S WEST COMMUNICATIONS
TOTAL DUE



Detach here and return this part

USWEST COMMUNICATIONS @

BILL DATE: JUN 16, 1989
ACCOUNT NUMBER: 602-622-1893-113R

EDWIN S FINKELSTEIN
26 E RILLITO #13
TUCSON AZ 85705-5673

CURRENT CHARGES \$25.37
DUE JUL 08
BALANCE \$30.06
TOTAL AMOUNT DUE \$55.43

41 01602622189301139 2938071789 0000300608 0000554303

PAY U S WEST COMMUNICATIONS
TOTAL DUE



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Arizona Daily
Rampant Corruption in the Courts

ED FINKELSTEIN'S
TUCSON

Examiner



Copyright 1989 Ed Finkelstein

Tucson's alternative independent newspaper

Vol. 2, No. 1

Tucson's mindless press.

DECONCINI LIED TO WIN

The Truth About the Land Deals—And Much More!

**Mo's
Macho
Madness**

**Disgrace at
City Hall**

**School Shows Porno
Movie to Kids**



George Burns' Key to a Long Life

**Booze,
Pot &
Nudity**

*On The Arizona
Daily Star*

Doomsday for Valley Bank?

2 3 5 4 0 3 1 5 3 1 3

**HO! YOU CAN BREW
DELICIOUS BEER**

No. 6 - Fall, 1985 Circulation: 84,000 copies (32,000 newspapers, 52,000 maps)

UA EXPERTS TELL HOW TO AVOID CANCER

**Tucson Psychic Gives
The Low Down on
How to Put Color**

**Developers Steal
Water From
Hydrants**

**Woman Is Lost
in Shopping Mall
Over 10 Hours**

**In Politics, What
You Don't See Is
What You Get**

**Revived, Visitor
Dies When
Mos' Take Over**



'Can I Burro a Hug?'

Abner, one of Tucson's favorite burros, gets a big hug from Wendy Dungan. The dark brown eight-year-old has lost his home because the lot he lived on with four ponies and a burro at Alvernon and Longfellow has been sold. Abner has been a neighborhood favorite for five years and many of the children who fed and talked to him said they would miss him. The burro is noted for his love of children and amiable disposition. He has a good friend, Otis, a beige Sicilian burro, who is less than half Abner's size, and the two good friends, Abner and Otis, will be together at their new home on a larger lot in Marana.

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Tucson Examiner

Editor-Publisher Ed Finkelstein Tucson, Arizona ©1986 Ed Finkelstein Summer No. 7



Psychic's Amazing TUCSON PREDICTIONS



Curvaceous Lynn Hall takes new job. See page 11.

**Did JFK Have
Death Wish?**

**False Reports Of
Child Abuse
Hit Many
Pima Families**

**Myth of
Small
Business**

BY B. FRIEDEMANN
Ronald Reagan, Yoko
Ono, Marilyn Monroe,
*What They Have
in Common*

**How to Win in
Traffic Court**

Survey Finds:
**Supermarkets
Often
Mischarge**

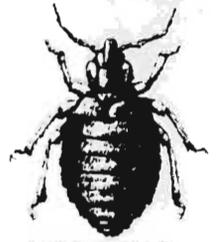
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Arizona Becoming Quickie Divorce Capital

25 cents

The Examiner

No. 9 ©1987 Ed Finkelstein



INSECTS MAY SPREAD AIDS



INSIDE EV MECHAM'S MIND

Fascinating Secret Character Traits Revealed by the Gov's Handwriting



Army Used Germ War on Americans

City's Ads Exploit Hopi Culture

Water Recharge Will Save Lives

Teens Freaked Out in Class— Student Saw Snakes at Feet
Page 2

How Stats Are Used as Propaganda

Hitler's Fake Fools World

Solar Collector

Joe Bell catches the rays while he reflects on a still glass of cold beer. Beverages vary greatly in the amount of calories they contain and add fat to the body. See story Page 4. Photo by Josh Boyer.

DeConcini's Big Secret

90040313316

BOOK BONUS

Ed Finkelstein's Tucson Examiner

© 1988 Ed Finkelstein

Tucson's alternative independent newspaper

No. 10

TIP FROM TEDDY
Give ego feed, not ego politics. Page 10.

COP'S SEX RING BARED

DPS Chief Used Capitol as 'Pleasure Dome'

WHAT A CROOK!



Sen. Dennis DeConcini

DeConcini Swipes \$5.8 Million in CAP Fraud

20040315317

90 JUN 12 PM 4:23

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ed Finkelstein) MUR 3021

SENSITIVE

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Ed Finkelstein, based on the assessment of the information presently available.

Date

6/12/90


Lawrence M. Noble
General Counsel

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90 JUL 31 PM 3: 20



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 31, 1990

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
General Counsel
SUBJECT: MUR 3021

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe were mailed on August , 1990. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to respondent

Staff person: T. Buckley

20040313312



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 31, 1990

Ed Finkelstein
26 East Rillito Street # 13
Tuscon, AZ 85705

RE: MUR 3021

Dear Mr. Finkelstein:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 9, 1990, the Federal Election Commission found reason to believe that you violated 2 U.S.C. §§ 433 and 434, and instituted an investigation in this matter. Subsequently, on February 16, 1990, the Commission found reason to believe that you violated 2 U.S.C. § 432.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

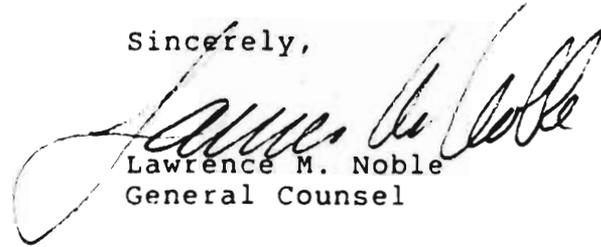
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Ed Finkelstein
Page 2

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence M. Noble".

Lawrence M. Noble
General Counsel

Enclosure
Brief

20040313321

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ed Finkelstein) MUR 3021
)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter arose as a referral from the U.S. Department of Justice of certain materials critical of United States Senator Dennis DeConcini. Those materials were distributed to the general public in Arizona during the week prior to the 1988 general election in which Senator DeConcini was standing for re-election. The Justice Department referred this matter after determining that the materials involved did not warrant criminal prosecution for any violations of laws within the jurisdiction of that Department.

On January 9, 1990, the Commission found reason to believe that Ed Finkelstein violated 2 U.S.C. §§ 433 and 434. Subsequently, on February 16, 1990, the Commission found reason to believe that Mr. Finkelstein had violated 2 U.S.C. § 432. These findings were based on evidence available to the Commission which suggested that Ed Finkelstein was responsible for distributing the materials contained in the Justice Department referral, and on the fact that Mr. Finkelstein was a political opponent of Senator DeConcini and was a candidate for the Senator's seat. It appeared that the costs of producing and distributing the materials, along with any and all other costs which Mr. Finkelstein might have incurred in promoting and

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advancing his candidacy, would have exceeded the \$5,000 threshold needed to trigger candidate status pursuant to 2 U.S.C. § 431(2). Mr. Finkelstein had not designated a political committee. Therefore, there was reason to believe that Ed Finkelstein had failed to designate a political committee, in violation of 2 U.S.C. § 432, and that his political committee had not registered as such with the Commission and had not reported receipts and disbursements, in violation of 2 U.S.C. §§ 433 and 434. The Commission approved interrogatories and a request for production of documents which were mailed to Mr. Finkelstein on February 23, 1990.

On March 16, 1990, this Office received a signed and sworn affidavit from Mr. Finkelstein. He states that he was not involved in the production or distribution of the flyer, and that he never called the Senator's office as was alleged in the referral materials. Further, Mr. Finkelstein states that he incurred expenses totalling no more than \$350 in running for the U.S. Senate in 1988.

Mr. Finkelstein's response included copies of his paper, the Tucson Examiner. Because one of the submitted copies contained an article about supposed connections between Senator DeConcini and organized crime which appeared similar to the flyer in question, this Office contacted Mr. Finkelstein for an explanation. He stated that he had seen the flyer prior to his writing the article and used one sentence in the flyer in his article. Although he thought the flyer well done and stated that friends told him that they thought he had produced it, he

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maintained that he had had nothing to do with it and had no knowledge of who produced it.

II. ANALYSIS

Pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"), each candidate for Federal office shall designate in writing a political committee to serve as that candidate's principal campaign committee no later than 15 days after becoming a candidate. 2 U.S.C. § 432(e)(1). Pursuant to 2 U.S.C. § 431(2), a person is deemed to be a candidate if that individual seeks election to Federal office; for purposes of the statute an individual is deemed to seek election to Federal office if that individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2)(A). The term "contribution" encompasses any "gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The term "expenditure" encompasses any "purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i). Pursuant to 2 U.S.C. § 433(a), a political committee authorized by a candidate shall file a statement of organization with the Federal Election Commission no later than 10 days after being so designated. All political committees must file reports of receipts and disbursements with the Commission. 2 U.S.C. § 434(a).

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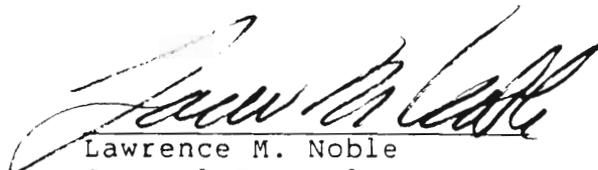
According to Mr. Finkelstein's affidavit, he never "produced, distributed or in any way contributed to the document entitled 'Who is Dennis DeConcini Really?'" He further denied involvement in the flyer in a subsequent phone conversation. He also has stated that he made expenditures totalling no more than \$350 in his campaign for the U.S. Senate in 1988 and that these were for costs of travel and phone expenses.

Given these denials and the limited amount he claims to have expended for his campaign, Mr. Finkelstein would not be deemed to have sought election to Federal office within the meaning of 2 U.S.C. § 431(2), and therefore would not have been a candidate for purposes of the Act in 1988. Accordingly, he would have been under no legal obligation to designate a political committee to serve as his principal campaign committee, or to have that committee file a statement of organization and report receipts and disbursements. Therefore, this Office recommends that the Commission find there is no probable cause to believe that Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434.

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find no probable cause to believe that Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434.

7/31/90
Date


Lawrence M. Noble
General Counsel

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90 OCT 31 AM 11:13

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
Ed Finkelstein) MUR 3021
)

NOV 14 1990

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 9, 1990, the Commission found reason to believe that Ed Finkelstein, who ran for the U.S. Senate from Arizona in the 1988 general election, violated 2 U.S.C. §§ 433 and 434. Subsequently, on February 16, 1990, the Commission found reason to believe that Mr. Finkelstein had also violated 2 U.S.C. § 432. These findings were based on evidence available to the Commission which suggested that Ed Finkelstein incurred expenses in promoting and advancing his candidacy which would have exceeded the \$5,000 threshold needed to trigger candidate status pursuant to 2 U.S.C. § 431(2). Based on information available to the Commission, it appeared that Mr. Finkelstein had incurred expenses in excess of \$5,000 by producing and distributing a flyer critical of Senator Dennis DeConcini in the weeks prior to the general election. However, Finkelstein did not file a statement of candidacy, nor did a principal campaign committee register and report on behalf of his campaign.

II. ANALYSIS (the General Counsel's Brief is incorporated herein by reference)

As a result of interrogatories submitted to Mr. Finkelstein and a subsequent phone call with him, this Office has confirmed that Mr. Finkelstein's expenses were far below the \$5,000

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threshold required to trigger candidate status. In a signed and sworn affidavit, Mr. Finkelstein stated that his only expenses incurred in conjunction with his "candidacy" were travel and phone expenses totalling between \$300 and \$350. In a subsequent phone conversation, Mr. Finkelstein stated that similarities between the flyer in question and an article in his paper, the Tuscon Examiner, resulted from the fact that he had seen the flyer before producing his article, but that he was not involved in the production or distribution of the flyer.

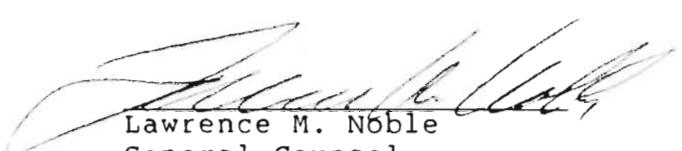
On July 31, 1990 a letter and a General Counsel's Brief were sent to Mr. Finkelstein notifying him that this Office was prepared to recommend that the Commission find no probable cause to believe that violations had occurred. No response has been received from Mr. Finkelstein.

It is the recommendation of this Office that the Commission find no probable cause to believe that Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434 and that the file in this matter be closed.

III. RECOMMENDATIONS

1. Find no probable cause to believe that Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434.
2. Close the file.
3. Approve the appropriate letters.

10/30/90
Date


Lawrence M. Noble
General Counsel

Staff Assigned: Tony Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ed Finkelstein) MUR 3021

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session of November 14, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3021:

1. Find no probable cause to believe that Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434.
2. Close the file.
3. Approve the letters recommended in the General Counsel's Report dated October 30, 1990.

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

Attest:

11/15/90

Date

Hilda Arnold

Hilda Arnold
Administrative Assistant

9 0 0 4 0 3 1 3 3 2 8



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 28, 1990

Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section
Criminal Division
U.S. Department of Justice
Washington, D.C. 20530

RE: MUR 3021
Ed Finkelstein

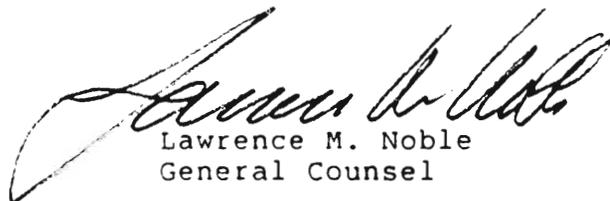
Dear Mr. Donsanto:

This is in reference to the matter involving Ed Finkelstein, which your office referred to the Federal Election Commission on February 27, 1989.

On November 14, 1990, the Commission found that there was no probable cause to believe Ed Finkelstein violated 2 U.S.C. §§ 432, 433 and 434, provisions of the Federal Election Campaign Act, as amended ("the Act"). This determination was based on evidence which demonstrated that Mr. Finkelstein had not been involved in the production or distribution of a flyer which was critical of Senator Dennis DeConcini of Arizona, and which had been distributed in Arizona in the week prior to the 1988 general election. Because Mr. Finkelstein appeared on the ballot along with Senator DeConcini, it had appeared prior to the Commission's investigation that costs associated with any involvement by him in the production and distribution of the flyer, as well as other costs he may have incurred in promoting his own election, may have placed him above the Act's \$5,000 threshold for candidate status, and thus his failures to designate a principal campaign committee and report receipts and disbursements would have constituted violations of the Act.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Act. If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 28, 1990

CLOSED

Ed Finkelstein
26 East Rillito Street # 13
Tuscon, AZ 85705

RE: MUR 3021

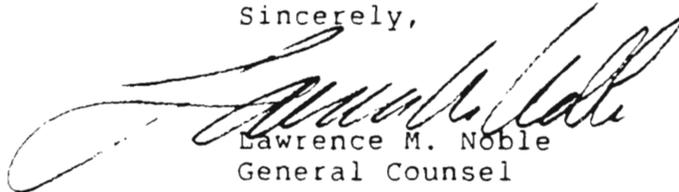
Dear Mr. Finkelstein:

This is to advise you that on November 14, 1990, the Federal Election Commission found that there is no probable cause to believe you violated 2 U.S.C. §§ 432, 433 or 434. Accordingly, the file in this matter has been closed.

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. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3021

DATE FILMED 12/26/90 CAMERA NO. 2

CAMERAMAN AS

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