

No. 01-55487
No. CV 97-01479-WDK

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

ALLAN J. FAVISH,
Plaintiff-Appellant,

v.

OFFICE OF INDEPENDENT COUNSEL,
Defendant-Appellee, and

SHEILA FOSTER ANTHONY; LISA FOSTER MOODY,
Defendants-in-Intervention-Appellees,

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
HONORABLE WILLIAM D. KELLER, PRESIDING**

EXCERPTS OF RECORD
Volume 1 (1-274)

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104TH CONGRESS }
2d Session

SENATE

{ REPORT
104-280

**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

F I N A L R E P O R T

OF THE

**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS



JUNE 17, 1996.—Ordered to be printed
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WASHINGTON : 1996

25-225

EXHIBIT 1

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The WSJ editors lie without consequence
I was not meant for the job or the spotlight of public life
in Washington. Here ruining people is considered sport.⁷⁹⁷

Although the note was not signed, the FBI determined that it was written in Mr. Foster's hand.^{798 24}

Mr. Nussbaum then went to White House Chief of Staff Mack McLarty's office to tell him about the note, but realized that Mr. McLarty was not there; he was in Chicago with the President. "So I saw Burton, who was a logical person to talk to in any event because he was the one who had been dealing with me, and I said look, Steve Neuwirth found something, and you should see it and let's go up and see it. And we walked up, and he went over to read it."⁷⁹⁹ According to Mr. B: "Mr. Nussbaum came into the chief of staff's reception area asking for Mr. McLarty. We informed him that he was out of town. Mr. Nussbaum asked me to accompany him to his office, and I did that."⁸⁰⁰ Mr. Burton went to Mr. Nussbaum's office and read the note in front of Mr. Nussbaum and Mr. Neuwirth.⁸⁰¹

Deborah Gorham and Linda Tripp were at their desks in the secretarial area of the White House Counsel's suite, right outside Mr. Nussbaum's office, on the afternoon of July 26. Ms. Gorham testified that Mr. Neuwirth came out of Mr. Foster's office with Mr. Foster's briefcase and went into Mr. Nussbaum's office. After Mr. Nussbaum returned with Mr. Burton, according to Ms. Gorham, others came into Mr. Nussbaum's office. "And then I believe Mr. Burton, Bill Burton might have appeared next going into Mr. Nussbaum's office, and then other people, I think, came in straggling, but I don't recall who they were."⁸⁰²

Ms. Tripp recalled that she later saw Clifford Sloan in Mr. Nussbaum's office. "It was later in the evening; I was in the reception area. The door to Bernie's office was closed. At one point in time Cliff Sloan came out of Bernie's office and asked me if it was possible to remove one of the typewriters to bring back into Bernie's office."⁸⁰³ Ms. Tripp asked him why he wanted a typewriter when there were five computers in the suite, and Mr. Sloan replied that he needed a typewriter.⁸⁰⁴ There were two typewriters in the office, but Ms. Tripp explained to Mr. Sloan that "the way they were configured and plugged in under all the massive furniture with the taping to the carpet and the commingling of all the myriad cable underneath, that it would be a very difficult endeavor, and then I offered to get him a typewriter—excuse me, from elsewhere."⁸⁰⁵ Mr. Sloan then said that he didn't want her to do that, and walked back into Mr. Nussbaum's office. Mr. Nussbaum did not recall wanting a typewriter in his office, although he remembered wanting to transcribe the note.⁸⁰⁶ Mr. Sloan testified that he was sure that Ms. Tripp was mistaken, since he did not know of the note until the next day, July 27.⁸⁰⁷

²⁴ It has been reported, however, that a panel of experts—including a forensics authority from Oxford University—concluded that the note was not in Mr. Foster's hand. See, e.g., Christopher Ruddy, "Experts Say Foster 'Suicide' Note Forged," Pittsburgh Tribune-Review, Oct. 25, 1995. Because the White House and the Foster family's attorney did not provide the Special Committee with obtain original samples of Mr. Foster's handwriting, the Special Committee was not able to conduct an investigation into this matter.

EXHIBIT 1

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALLAN J. FAVISH,)	Case No. 97-1479 WDK (Ex)
)	
Plaintiff,)	DECLARATION OF HUGH H. SPRUNT IN
)	SUPPORT OF PLAINTIFF'S MOTION FOR
vs.)	SUMMARY ADJUDICATION OF ISSUES
)	
OFFICE OF INDEPENDENT COUNSEL,)	
)	
Defendant)	

I, Hugh H. Sprunt, of Farmers Branch, Texas, declare as follows:

I have an MBA and JD degrees from Stanford University and BS and MS degrees in earth and planetary science from the Massachusetts Institute of Technology. I am a Certified Public Accountant certified as a Personal Financial Specialist by the American Institute of CPAs.

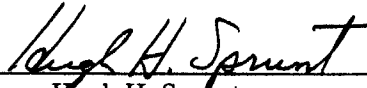
While examining copies of Senate "Whitewater" documents at the National Archives in Washington, DC, on Saturday, July 19, 1997, Patrick Knowlton and I found a copy of a document entitled "Report of Investigation by Medical Examiner" that was created and executed by a Medical Examiner assigned to the Virginia Office of the Chief Medical Examiner, Northern Virginia District, in connection with the death of Deputy White House Counsel Vincent Foster (Haut Report).

The Haut Report was found in an Archives file box among the set of several dozen boxes containing the records transferred by the Senate "Whitewater" Committee to the Archives and, with very few exceptions, published by the Senate in January 1995 as S. Hrg. 103-889, Volumes I and II.

The Haut Report was *not* published in the Senate Hearings Volumes, even though it was among the documents gathered by the Senate "Whitewater" Committee during the course of its investigation into the death of Vincent Foster and transferred to the Archives.

I photocopied the Haut Report (two 8-1/2" by 11" photocopied sheets) while at the Archives and a true and correct copy of this document, as I found it at the Archives (reproduced, as required by the Archives, on 8-1/2" by 14" paper and with the addition of the mandatory wording at the top of the photocopy: REPRODUCED AT THE NATIONAL ARCHIVES), is attached to this declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on February 6, 1998.



Hugh H. Sprunt