

## SEN. PETE V. DOMENICI

Pete V. Domenici (R-NM) is a sixth-term senator from New Mexico. His ethics issues stem from his contacting the U.S. Attorney in Albuquerque, New Mexico to inquire about an ongoing corruption probe of Democrats.

### Contacting U.S. Attorney

Former New Mexico U.S. Attorney David Iglesias has claimed that Sen. Domenici contacted him before the November 2006 elections to pressure him about an ongoing corruption probe into state Democrats.<sup>1</sup> Mr. Iglesias previously stated that in mid-October, he was pressured about the pace of the investigation by two New Mexico lawmakers.<sup>2</sup> Initially, when asked about Mr. Iglesias's allegations, Sen. Domenici stated, "I have no idea what he's talking about."<sup>3</sup> Apparently, Rep. Heather Wilson (R-NM) first called Mr. Iglesias and Sen. Domenici called a week later.<sup>4</sup> Sen. Domenici later admitted that he called Mr. Iglesias, stating "I asked Mr. Iglesias if he could tell me what was going on in that investigation and give me an idea of what time frame we were looking at."<sup>5</sup>

### Senate Rule XLIII

Senate Rules provide that at the request of a petitioner, a member of the Senate or Senate employee may communicate with an executive or independent government official or agency to request information, urge prompt consideration, arrange an interview, express a judgment, or call for reconsideration of an administrative response which the member believes is not reasonably supported by law or public policy.<sup>6</sup> The decision to provide such assistance may not, however, be made "on the basis of contributions or services, or promises of contributions or services, to the Member's political campaigns or to other organizations in which the Member has a political, personal or financial interest."<sup>7</sup>

Interpreting this provision, the Senate Ethics Manual states:

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<sup>1</sup> Dan Eggen, Domenici Says He Contacted Prosecutor, *The Washington Post*, March 5, 2007 (Exhibit 1).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Eggen, *The Washington Post*, Mar. 5, 2007.

<sup>6</sup> Senate Code of Official Conduct, Rule XLIII.

<sup>7</sup> Id.

The general advice of the Ethics Committee concerning pending court actions is that Senate offices should refrain from intervening in such legal actions . . . until the matter has reached a resolution in the courts. The principle behind such advice is that the judicial system is the appropriate forum for the resolution of legal disputes and, therefore, the system should be allowed to function without interference from outside sources.<sup>8</sup>

The manual also states:

[T]he Committee has ruled that communications with an agency with respect to a matter which may be the subject of litigation in court is, nevertheless, generally permitted, where the communication is with the agency (or its attorneys, e.g. the Department of Justice) and not directed at the court, where the agency is not engaged in an on-going enforcement, investigative, or other quasi-judicial proceeding with respect to the matter, and where the communication is based on public policy considerations and is otherwise consistent with Rule 43.<sup>9</sup>

Here, by pressuring Mr. Iglesias to act quickly on a pending corruption investigation, Sen. Domenici attempted to intervene in a pending legal action before the matter reached a resolution in the courts. Moreover, the communication with Mr. Iglesias appears to have been based on political considerations, *i.e.*, Sen. Domenici made the telephone call in October 2006 in an apparent attempt to influence Mr. Iglesias to take action that might have adversely affected Democrats in the November elections. These actions clearly violate Senate Rule 43.

### *Improper Conduct*

When first confronted with the charges that he improperly contacted the U.S. attorney about a pending criminal investigation, Sen. Domenici denied the allegations.<sup>10</sup> The Senate Ethics Manual provides that “[c]ertain conduct has been deemed by the Senate in prior cases to be unethical and improper even though such conduct may not necessarily have violated any written law, or Senate rule or regulation.” Such conduct has been characterized as “improper conduct which may reflect upon the Senate.”<sup>11</sup> This rule is intended to protect the integrity and reputation of the Senate as a whole.<sup>12</sup> The Ethics Manual explains that “improper conduct” is

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<sup>8</sup> Senate Ethics Manual, p. 178.

<sup>9</sup> Id. at 179.

<sup>10</sup> Eggen, *The Washington Post*, Mar. 5, 2007

<sup>11</sup> *Improper Conduct Reflecting Upon the Senate and General Principles of Public Service*, Senate Ethics Manual, Appendix E, p. 432.

<sup>12</sup> Id.

given meaning by considering “generally accepted standards of conduct, the letter and spirit of laws and Rules. . .”<sup>13</sup>

When Sen. Domenici stated, in response to Mr. Iglesias’s allegations, “I have no idea what he’s talking about,” he was obviously not telling the truth. This represents improper conduct that reflects upon the Senate.

The Senate Select Committee on Ethics is investigating Sen. Domenici’s conduct.<sup>14</sup>

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<sup>13</sup> Id. at 433; *see also* fn. 10 citing a 1964 investigation into the activities of Bobby Baker, then Secretary to the Majority of the Senate, the Committee on Rules and Administration, which stated, “It is possible for anyone to follow the ‘letter of the law’ and avoid being indicted for a criminal act, but in the case of employees of the Senate, they are expected, and rightly so, to follow not only the ‘letter’ but also the ‘spirit’ of the law.” S. Rep. No. 1175, 88<sup>th</sup> Cong., 2d Sess. 5 (1964).

<sup>14</sup> Michael Coleman, Domenici’s Role Got Downplayed: Deputy AG Speaks Out On U.S. Attorney Firings, *Albuquerque Journal*, June 22, 2007 (Exhibit 2).