September 21, 2022

Indiana Supreme Court
Disciplinary Commission
251 N. Illinois Street, Suite 1650
Indianapolis, IN 46204

Via Electronic Mail: [redacted]

Dear Disciplinary Commission:

The 65 Project is a bipartisan, nonprofit effort to protect democracy from abuse of the legal system by holding accountable lawyers who engage in fraudulent and malicious attempts to subvert American democracy.

We write to request that the Disciplinary Commission review the actions taken by former Attorney General Curtis Hill, a member of the Indiana State Bar, relating to a concerted effort to overturn the legitimate 2020 presidential election results. Although many attorneys participated in this scheme, Mr. Hill played an important role – lending the legal profession's credibility to the destructive cause and using public office to amplify false assertions and frivolous claims that lacked any basis in law or fact. Specifically, Mr. Hill joined with other attorneys general and submitted a brief in support of the State of Texas's Bill of Complaint in *Texas v. Pennsylvania* before the United States Supreme Court. The importance of so many attorneys general providing their support for the bogus effort cannot be overstated. In the words of Fox commentator Sean Hannity at the time:

> Let's be clear. No state's attorney general, you've got to understand politics here, would ever put their name or reputation on the line over a case that lacks merit on the law or [is] without a strong constitutional basis. Definitely not 17 attorneys general. That is what happened. Eighteen total when you include Texas, no matter what political alliances they have or don't have.[1]

Mr. Hannity was wrong. And just like Mr. Hannity's commentary, the filings Ms. Rutledge joined were political propaganda masquerading as analysis.

[1] Yael Halon, *Hannity: Texas is leading the charge to restore election integrity with latest lawsuit,* Fox News, (Dec. 9, 2020), https://www.foxnews.com/media/hannity-texas-election-integrity

Warranting further scrutiny is Mr. Hill's leadership in an organization that encouraged "patriots" to join with them to "march to the Capitol building and call on Congress to stop the steal" on January 6, 2021, and to "fight to protect the integrity of our elections." In fact, evidence suggests that Mr. Hill's official staff participated in "War Games" strategy sessions held by these outside political groups, likely doing so while on government time.

A full investigation by your office will demonstrate the egregious nature of Mr. Hill's actions, especially when considered in light of his purposes and the direct and possible consequences of his behavior.

Further, because Mr. Hill has already had his license suspended once, your office should seek a longer suspension in this matter.

BACKGROUND

Donald Trump lost the 2020 presidential election.[2] Anticipating his loss, Mr. Trump and his allies began questioning the election's legitimacy months before even one voter had cast a ballot.[3] In fact, this fit a pattern of Mr. Trump, declaring fraud or a rigged election any time he lost or anticipated a loss.

Joe Biden received over 81 million votes in November 2020, defeating Mr. Trump by over seven million votes and over four percentage points.[4] Mr. Trump's head of the U.S. Cybersecurity and Infrastructure Security Agency, Christopher Krebs, announced that the "November 3rd election was the most secure in American history. . . . There is no evidence that any voting system deleted or lost votes or changed votes or was in any way compromised." Mr. Trump fired him. William Barr, Mr. Trump's own Attorney General, declared that the Department of Justice has "not seen fraud on a scale that could have effected a different outcome in the election." Attorney General Barr announced his resignation less than two weeks later, but not before again confirming that the 2020 elections had been free and fair.[5]

Many of Mr. Trump's own senior advisors agreed with Attorney General Barr and Mr. Krebs.[6] Indeed, Deputy (and later Acting) Attorney General Jeffrey Rosen and Associate (and later

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[2] *See* United States National Archives, Electoral College Results – 2020, available at https://www.archives.gov/electoral-college/2020.
[3] Kevin Liptak, *A List of the Times Trump Has Said He Won't Accept the Election Results or Leave Office if He Loses*, CNN (Sept. 24, 2020), https://www.cnn.com/2020/09/24/politics/trump-election-warnings-leaving-office/index.html.
[4] *See* Federal Election Commission, *Official 2020 Presidential General Election Results*, available at https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf.
[5] M. Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), https://perma.cc/4U8N-SMB5.
[6] *See* Deposition of Jason Miller (Feb. 3, 2022), available at https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted

Acting) Deputy Attorney General Richard Donoghue regularly refuted the false information and allegations that Mr. Trump and his allies asserted about a fraudulent election.[7] Mr. Rosen has testified that on December 15, 2020, at a meeting that included Mark Meadows, White House Chief of Staff, that he and others told Mr. Trump that the information he was receiving from his political allies was not correct.[8] And Mr. Donoghue has testified to the Select Committee to Investigate the January 6th Attack on the United States Capitol (Select Committee) that on December 27, 2020, he told Mr. Trump "in very clear terms" that after "dozens of investigations, hundreds of interviews" looking at "Georgia, Pennsylvania, Michigan, and Nevada," the Department of Justice – Mr. Trump's own Department of Justice – had concluded that "the major allegations are not supported by the evidence developed."[9]

Despite clear proof that no fraud occurred, and that no one stole the election from him, Mr. Trump and his lawyers sought to overturn the legitimate results by filing 65 baseless lawsuits across the country.[10] None succeeded, and, in fact, courts have imposed sanctions on the lawyers who participated in these suits and referred them for sanctions to their respective state bars.[11]

But as the Select Committee has revealed, lawyers participated in the effort to overturn the presidential election from public office, as well. Indeed, these lawyers played an even more malevolent role because they used their special roles as public officeholders to propagate lies and misinformation that imperil American democracy.

CONDUCT GIVING RISE TO REQUIRED DISCIPLINE

One significant undertaking to disrupt the election's outcome centered on a lawsuit filed by the State of Texas. On December 7, 2020, Texas Attorney General Ken Paxton initiated a lawsuit with the United States Supreme Court against Pennsylvania, Georgia, Michigan, and Wisconsin. Texas sought for the Court to enjoin Pennsylvania and the other three defendant states from using the 2020 election results to appoint electors and to instead have the state legislatures choose electors or to have no electors at all.[12] Texas based the request to disenfranchise over 20

%29.pdf; Interview of Jeffrey Rosen (Aug. 7, 2021), United States Senate Committee on the Judiciary, 117th Cong. 30, available at https://www.judiciary.senate.gov/rosen-transcript-final.

[7] *See* Interview of Jeffrey Rosen *see also* Interview of Richard Donoghue (Oct. 1, 2021), available at https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted%29.pdf

[8] Interview of Jeffrey Rosen.

[9] Interview with Richard Donoghue.

[10] W. Cummings, J. Garrison & J. Sergent, *By the numbers: President Donald Trump's failed efforts to overturn the election*, USA Today (Jan. 6, 2021), available at https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/.

[11] *See, e.g.*, *King v. Whitmer*, No. 20-13134 (U.S. Dist. Ct. E. Dist. Mich. Aug. 25, 2021), available at https://www.michigan.gov/documents/ag/172_opinion__order_King_733786_7.pdf.

[12] Bill of Complaint (Comp.), p. 4

million voters on factual and legal assertions that lacked any foundation and that state and lower federal courts had already uniformly rejected.[13] Texas asserted that it – or any state – had the right to pursue these claims before the Supreme Court under its original jurisdiction, even though lower courts had already determined that substantially similar claims lacked merit.[14]

Mr. Trump enthusiastically endorsed the effort and called it "the big one."[15] In fact, through his attorney, John Eastman, Mr. Trump filed a motion seeking to intervene that adopted the entirety of the Texas filing.[16] Texas's Complaint, though, failed to address any of the factual or legal hurdles – including many settled principles of law – that stood in the way of the requested relief. Indeed, Texas's own solicitor general at that time refused to allow his name to be added to the matter, likely because of its frivolous nature.[17] United States Senator John Cornyn, also a Texas Republican – and former Texas Supreme Court justice – said at the time, "I frankly struggle to understand the legal theory" behind the lawsuit.[18] Republican Senator Ben Sasse called it a "PR stunt rather than a lawsuit."[19] Conservative commentators and legal scholars lambasted the filing.[20]

The Texas filing alleged that the State had standing to sue the four defendant States because of Texas's interest "in who is elected as *Vice President* and thus … can [break Senate ties]"[21] and its interest as *parens patriae* to protect the interest of its electors being able to vote in the Electoral College.[22] Texas cited no caselaw to support these assertions that one State has standing to challenge how another State administers its elections. And no such precedent exists.

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[13] Emma Platoff, *In new lawsuit, Texas contests election results in Georgia, Wisconsin, Michigan, Pennsylvania*, The Texas Tribune (Dec. 8, 2020), https://www.texastribune.org/2020/12/08/texas-ken-paxton-election-georgia/

[14]Comp., p. 8

[15] Nomaan Merchant & Alanna Durkin Richer, *Supreme Court Rejects Texas Lawsuit — Backed by Trump and Most House GOP Members — To Overturn Election Results*, Chicago Tribune (Dec. 12, 2020), https://www.chicagotribune.com/election-2020/ct-republicans-texas-supreme-court-election-lawsuit-20201211-gnoqqkepqbfwxiuoc3b5oqnjvy-story.html.

[16] Motion of Donald J. Trump, President of the United States, to Intervene in his Personal Capacity as Candidate for Re-Election, p. 4

[17] *See* Jim Rutenberg et. al., *77 Days: Trump's Campaign to Subvert the Election*, N.Y. Times (Jan. 31, 2021), https://www.nytimes.com/2021/01/31/us/trump-election-lie.html.

[18] *Cornyn Questions 'Legal Theory' of Texas' Suit to Overturn Other States' Election Results*, CBS Austin (Dec. 10, 2020), https://cbsaustin.com/news/local/cornyn-questions-legal-theory-of-texas-suit-to-overturn-other-states-election-results.

[19] Mairead McArdle, *Sasse Predicts Supreme Court Will Toss 'PR Stunt' Texas Election Lawsuit*, Nat'l. Rev. (Dec. 10, 2020), https://www.nationalreview.com/news/sasse-predicts-supreme-court-will-toss-pr-stunt-texas-election-lawsuit/.

[20] Emma Platoff, *U.S. Supreme Court Throws Out Texas Lawsuit Contesting 2020 Election Results in Four Battleground States*, Texas Tribune (Dec. 11, 2020), https://www.texastribune.org/2020/12/11/texas-lawsuit-supreme-court-election-results.

[21] Brief in Support of Motion to File Bill of Complaint (Brief), p. 13 (emphasis in original).

[22] *Id*., pp. 14 -15

Further, the contention was at odds with the constitutional and statutory approach for presidential elections. First, the Constitution's Electors Clause expressly grants to each State the unilateral right to determine the rules under which it will select its own presidential electors.[23] Second, principles of federalism require that every State has the constitutional authority to make and execute the laws for the people within the State without interference by other States. Finally, Texas proposed creating a system of chaos throughout the entire electoral process. As one constitutional expert noted, "This is truly ridiculous…. If the 50 sister States could sue each other to overturn each other's election results, there'd be a mind-blowing cascade of … intra-family Electoral College mega-suits. Endless!"[24]

As the Attorney General of Indiana, Mr. Hill knew better. And yet, Mr. Hill signed onto the effort.

Additionally, Texas's briefing contained numerous false allegations that Mr. Hill's briefs adopted. For example, the Bill of Complaint asserted that: "[t]he probability of former Vice President Biden's winning the popular vote in [each of] the four Defendant States – Georgia, Michigan, Pennsylvania, and Wisconsin -- … given President Trump's early lead in those States as of 3 a.m. on November 4, 2020, is less than one in a quadrillion, or 1 in 1,000,000,000,000,000."[25] However, this statement misrepresented the actual finding made in the unsworn declaration by the expert. Instead, the expert simply stated that it was a "one in quadrillion" chance that Mr. Biden would have prevailed in all four states if the votes counted after 3 a.m. had been "randomly drawn from the same population" as the votes counted before 3 a.m.[26] Hardly the same thing. In fact, the expert himself admitted there were reasons to believe that "Democratic strongholds were yet to be tabulated" by 3 a.m. and that if "the yet-to-be counted ballots were likely absentee mail-in ballots []" or if the post-3 a.m. votes were "from Democratic Strongholds … [e]ither could cause the later ballots to be non-randomly different from the nearly 95% of ballots counted by 3 a.m. EST [.]"[27] Put simply, Texas misrepresented its expert's conclusions – a fact easily established by reviewing the relevant filings.

Moreover, Texas sought a preliminary injunction to prevent the Defendant States' electors from voting in the Electoral College and to enable state legislatures to replace them with electors for the losing presidential candidate, Mr. Trump. Texas contended that "[t]he issues presented here are neither fact-bound nor complex" and that "[t]his case presents a pure and straightforward question of law that requires neither finding additional facts nor briefing beyond the threshold

[23] Const. Art. II, Sect. 1, Cl. 2
[24] Darragh Roche, *Legal Experts Call Texas Election Lawsuit 'Publicity Stunt' Supreme Court Will Never Hear*, Newsweek (Dec. 9, 2020), https://www.newsweek.com/supreme-court-texas-election-lawsuit-1553409
[25] Comp., p. 6
[26] Declaration of Charles J. Cicchetti (Cicchetti Decl.), Dec. 6, 2020, p. 5a
[27] Cicchetti Decl., p. 5a; accord, p. 4a

issues presented here."[28] In fact, Texas stated that the matter was a "prime candidate for summary disposition."[29]

Here, too, Texas's assertions lacked candor. The State Defendants disputed many of Texas's allegations of material fact. For example, Michigan disagreed with Texas's claim that "large numbers of unaccounted for ballots showed up at the TCF Center, and that Republican challengers were wrongly denied access or had challenges improperly rejected[.]"[30] Georgia challenged Texas's assertions regarding the State's rejection rate for absentee ballots.[31]

Even more problematic, Texas made various claims that Defendants violated their own State laws in administering their elections. The Defendant States, of course, vigorously disputed that. But, in addition, Texas failed to acknowledge or inform the Court that Mr. Trump and his allies had filed dozens of lawsuits making the same claims, and they had already been universally rejected by state and federal courts.[32]

These were not just minor deficiencies of the Texas complaint. They rendered the entire undertaking frivolous and an attempt to hijack our nation's highest court for political propaganda. And despite the fact that this was obvious – whether reviewing only the four corners of the filing or the full context – Mr. Hill lent the State of Indiana's name to the effort.

The amicus brief that Mr. Hill signed asserted that Texas "raise[d] serious concerns relating to election integrity and public confidence in elections."[33] The filing reiterates Texas's false allegations regarding excluding bipartisan observers from ballot-opening and -counting processes and excluding poll watchers from absentee ballot counting. The amicus brief reasserts Texas's allegations about *state* law violations, without acknowledging that State supreme courts (the final arbiters in what state law means) rejected such claims already. And the amicus brief doubles down on Texas's attempt to undermine the legitimacy of the election. Indeed, the word fraud or its variant appears 89 times in the 22-page filing.

As noted earlier, the Supreme Court tersely rejected the effort.

Mr. Hill's efforts did not end there.

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[28] Brief, pp. 34-35

[29] Id., p. 34 This last statement was true, as the Court demonstrated, but not in the way Texas meant.

[30] State of Michigan's Brief in Opposition to Motions for Leave to File Bill of Complaint and for Injunctive Relief (Michigan Brief), p. 16

[31] Georgia's Opposition to Texas's Motion for Leave to File Bill of Complaint and Its Motion for Preliminary Relief (Georgia's Opposition), p. 23

[32] See Opposition to Motion for Leave to File Bill of Complaint and Motion for Preliminary Injunction, Temporary Restraining Order, or Stay [Pennsylvania] (Pennsylvania's Opposition) pp. 3-5; Georgia's Opposition, pp. 6-7; and Michigan Brief, pp. 5-7. 10-12.

[33] Brief of Missouri and 16 Other States as Amici Curiae in Support of Plaintiff's Motion for Leave to File Bill of Complaint, p. 22.

Mr. Hill plays an important role in the Republican Attorneys General Association (RAGA), which took its current form as a 527 organization in 2014. That same year, RAGA formed the Rule of Law Defense Fund (RLDF) as the 501(c)(4) fundraising arm. Mr. Hill served as a director of RLDF. It has been reported and verified through open records requests that in the leadup to the presidential election, RAGA and RLDF held dozens of strategy sessions – called "war games" – with the staff of Attorneys General.[34]

RAGA and RLDF were both separately listed as organizers on the website of the March to Save America, the rally held on the Ellipse in Washington, D.C. on January 6, 2021.[35] The day before the rally, RLDF financed and sent out robocalls that promoted the March and called on "patriots" "join them" to "fight to protect the integrity of our elections."[36] Note the choice of words – not "rally," not "demonstrate" or "support." Instead, RLDF called on "patriots" to "fight."

It is well-documented what happened at the January 6 event. Heeding the call to "fight," at the end of the rally, rioters made their way to the Capitol, breached security, vandalized the building, assaulted police officers, and sought to hunt down members of Congress and Vice President Pence. Nine people died as a result of the insurrection, including four police officers who committed suicide within seven months of responding to the attack.[37] The insurrectionists injured over 138 police officers.[38] To date, 910 people have been charged in connection with the January 6 insurrection, with at least 390 of those defendants pleading guilty, and courts have imposed sentences reaching over 60 months.[39]

A SUBSTANTIAL BASIS EXISTS FOR THE DISCIPLINARY COMMISSION TO INVESTIGATE MR. HILL'S CONDUCT AND TO IMPOSE APPROPRIATE DISCIPLINE

The Disciplinary Commission should investigate Mr. Hill's actions on the following basis:

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[34] Paul Wagman, *News Analysis: Top Missouri politicians fuel political ambitions, campaign chests with election myths*, Gateway Journalism Review (May 5, 2022), https://gatewayjr.org/news-analysis-top-missouri-politicians-fuel-political-ambitions-campaign-chests-with-election-myths/.

[35] Wagman, *News Analysis*.

[36] Rebecca Rivas, Eric Hill denies involvement in call for Trump supporters to march on U.S. Capitol, Missouri Independent (Jan. 9, 2021), https://missouriindependent.com/2021/01/09/eric-schmitt-denies-involvement-in-call-for-trump-supporters-to-march-on-u-s-capitol/.

[37] Jan Wolfe, *Four Officers Who Responded to U.S. Capitol Attack Have Died by Suicide*, Reuters (Aug. 2, 2021), available at https://www.reuters.com/world/us/officer-who-responded-us-capitol-attack-is-third-die-by-suicide-2021-08-02/.

[38] Michael S. Schmidt & Luke Broadwater, *Officers' Injuries, Including Concussions, Show Scope of Violence at Capitol Riot*, N.Y. Times (Feb. 12, 2021), available at https://www.nytimes.com/2021/02/11/us/politics/capitol-riot-police-officer-injuries.html.

[39] Madison Hall et. al., *At Least 910 People Have Been Charged in the Capitol Insurrection so far. This Searchable Table Shows Them All*, Insider (Sept. 12, 2022), https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1.

1. Mr. Hill Violated Rule 3.1 By Asserting an Issue He Should Have Reasonably Known To Be Frivolous

Rule 3.1 provides, in part, as follows: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous."

Comment 2 states that: "A filing or assertion is frivolous ... if the lawyer is unable either to make a good faith argument that the action taken is consistent with existing law or that it may be supported by a good faith argument for an extension, modification or reversal of existing law."

The amicus brief that Mr. Hill signed and submitted to the United States Supreme Court reasserted allegations made by Texas that lacked any basis in law or fact. Indeed, the Texas filing cited no authority for allowing the State to have standing to sue Georgia, Michigan, Pennsylvania, and Wisconsin. The amicus brief provided none, either. Additionally, the Texas Complaint made false claims of fact and misrepresented Texas's own expert's findings. Specifically, the filings:

- Claimed that the State of Texas had standing to sue the four defendant states, but failed to provide a single precedent for the argument.[40]
- Repeated allegations regarding voter fraud, unsecured ballots, and state officials destroying ballot materials that had already been rejected by every state and federal court that had heard similar concocted claims.[41]
- Misrepresented its own expert's conclusion by claiming that "[t]he probability of former Vice President Biden's winning the popular vote in [each of] the four Defendant States – Georgia, Michigan, Pennsylvania, and Wisconsin -- …given President Trump's early lead in those States as of 3 a.m. on November 4, 2020, is less than one in a quadrillion, or 1 in 1,000,000,000,000,000."[42] In actuality, the expert's opinion focused on the likelihood of Mr. Biden overcoming Mr. Trump's early lead if the votes counted *after* 3:00 a.m. had been "randomly drawn from the same population" as the votes counter *before* 3:00 a.m.[43]
- Relied on unfounded factual assumptions that the votes tabulated after 3:00 a.m. would come from the same randomly drawn population as those counted before 3:00 a.m. and that the 2020 and 2016 electorates were identical.[44]

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[40] *See* Opposition to Motion for Leave to File Bill of Complaint and Motion for Preliminary Injunction, Temporary Restraining Order, or Stay [Pennsylvania] ("Pennsylvania's Opposition") pp. 3-5; Georgia's Opposition, pp. 6-7; and Michigan Brief, pp. 5-7, 10-12.
[41] *See id.*
[42] Motion for Leave to File Bill of Complaint and Motion for Preliminary Injunction, Temporary Restraining Order, or Stay.
[43] Eric Litke, *Fact Check: Statistical Analysis Supporting Pro-Trump Supreme Court Case is 'Ludicrous,'* USA Today (Dec. 10, 2020), https://www.usatoday.com/story/news/factcheck/2020/12/10/fact-check-ludicrous-statistical-analysis-supporting-pro-trump-case/3877743001/.
[44] *Id.*

- Requested extraordinary relief without providing any precedent to support the request.[45]
- Used only an incomplete and misleading quotation from 3 U.S.C. § 2 to suggest that a state legislature could appoint replacement electors "for any reason."[46]

Notably, the Texas State Bar Commission on Lawyer Discipline is pressing forward with an action against Mr. Paxton for bringing that matter. The Commission's initial filing states:

> Respondent's pleadings requesting this extraordinary relief misrepresented to the United States Supreme Court that an "outcome-determinative" number of votes in each Defendant States supported Respondent's pleadings and injunction requests. Respondent made representations in his pleadings that: 1) an outcome determinative number of votes were tied to unregistered voters; 2) votes were switched by a glitch with Dominion voting machines; 3) state actors "unconstitutionally revised their state's election statutes;" and 4)"illegal votes" had been cast that affected the outcome of the election.
>
> Respondent's representations were dishonest. His allegations were not supported by any charge, indictment, judicial finding, and/or credible or admissible evidence, and failed to disclose to the Court that some of his representations and allegations had already been adjudicated and/or dismissed in a court of law.
>
> In addition, Respondent misrepresented that the State of Texas had "uncovered substantial evidence… that raises serious doubts as to the integrity of the election process in Defendant States," and had standing to bring these claims before the United States Supreme Court.[47]

Mr. Hill's amicus brief was equally dishonest. His conduct therefore warrants investigation and discipline.

2. Mr. Hill Used Tactics to Burden Other Persons

Rule 4.4(a) provides that, "In representing a client, an attorney shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person."

[45] *See* Pennsylvania's Opposition.
[46] *See id.*
[47] *Comm'n for Lawyer Discipline v. Paxton,* Cause No. 471-02574-2022 (Dist. Ct. Collin Cty., Tex.) Original Disciplinary Pet. at 4.

Mr. Hill supported an effort that would invalidate the votes of tens of millions of citizens. The Third Circuit Court of Appeals addressed the notion of throwing out the valid votes of millions of Pennsylvanians by stating:

> Granting relief would harm millions of Pennsylvania voters too. The Campaign would have us set aside 1.5 million ballots without even alleging fraud. As the deadline to certify votes has already passed, granting relief would disenfranchise those voters or sidestep the expressed will of the people. Tossing out those ballots could disrupt every down-ballot race as well. There is no allegation of fraud (let alone proof) to justify harming those millions of voters as well as other candidates.[48]

Mr. Hill's effort went further than the plaintiffs in Pennsylvania, who sought to decertify or invalidate the election in one state. Here, Mr. Hill sought to prevent the counting of four states' votes – to disenfranchise tens of millions of voters because Mr. Hill did not like how the elections in those states turned out. Further, the effort Mr. Hill supported would have led to a constitutional crisis. In short, Mr. Hill sought to harm tens of millions of legal voters without any basis, and the effort burdened nothing less than American democracy itself.

3. Mr. Hill Violated Rule 8.4 By Assisting Others to Violate Rules of Professional Conduct

Rule 8.4 provides that, "It is professional misconduct for a lawyer to … violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another."

Mr. Hill assisted Mr. Paxton, Mr. Eastman, and others with violating their own states' rules of professional conduct. As discussed above, the Texas State Bar Commission on Lawyer Discipline is proceeding against Mr. Paxton for his filings in *Texas v. Pennsylvania*. Similarly, Mr. Eastman is currently subject to an investigation by the State Bar of California's Chief Trial Counsel after receiving numerous complaints regarding Mr. Eastman's conduct to overturn the 2020 election, including his representation of Mr. Trump before the United States Supreme Court.

Therefore, as Mr. Hill aided Mr. Paxton's and Mr. Eastman's efforts that violated rules of professional conduct, Mr. Hill, too, violated Rule 8.4(a).

4. Mr. Hill Violated Rule 8.4(c) by Engaging in Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation

As discussed above, the filing that Mr. Hill signed and joined contained numerous falsehoods that demonstrate a willingness to deceive the public and our nation's highest court.

[48] *Donald J. Trump for President, Inc.*, 830 F. App'x at 390.

As a Comment to Rule 8.4 underscores, "Lawyers holding public office assume legal responsibilities going beyond those of other citizens." Rule 8.4 provides that it constitutes professional misconduct for a lawyer to "[e]ngage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

> False statements intended to foment a loss of confidence in our elections and resulting loss of confidence in government generally damage the proper functioning of free society. When those false statements are made by an attorney, it also erodes the public's confidence in the integrity of attorneys admitted to our bar and damages the profession's role as a crucial source of reliable information.[49]

Mr. Hill violated these standards by communicating demonstrably false and misleading statements to the public and in court filings in an effort to keep Mr. Trump in power.

Additionally, an organization to which Mr. Hill held a critical leadership position at relevant times also sent out robocalls encouraging people to attend the January 6th rally and "fight" Congress's certifying Mr. Biden's victory. These communications falsely suggested a stolen election. Mr. Hill's associations with RAGA and RLDF are too strong to simply allow Mr. Hill to claim that RAGA acted independently and without Mr. Hill's knowledge. Certainly, a sufficient basis exists to further investigate the matter.

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The United States Supreme Court has long recognized in upholding disciplinary actions that "speech by an attorney is subject to greater regulation than speech by others."[50] As officers of the court an attorney is "an intimate and trusted and essential part of the machinery of justice" and a "crucial source of information and opinion."[51] Although attorneys, of course, maintain First Amendment rights, the actions in question here cross far beyond protected speech. Indeed, disciplinary boards and courts considering the conduct of other lawyers involved in the effort to overturn the 2020 election have rejected assertions that the attorneys enjoyed First Amendment protections for their conduct.

Mr. Hill chose to offer his professional license and public trust to Mr. Trump's arsenal during the latter's assault on our democracy. He cannot be shielded from the consequences of that decision simply because he holds high public office.

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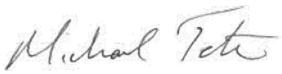
[49] *In the Matter of Rudolph W. Giuliani*, Supreme Court of the State of New York Appellate Division, First Judicial Dept., May 3, 2021, available at https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf.

[50] *Ohralik v. Ohio State Bar Assn*., 436 U.S. 447, 465 (1978).

[51] *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).

For the reasons set forth above, we respectfully request that the Disciplinary Commission investigate Mr. Hill's conduct and impose appropriate discipline.

Sincerely,



Michael Teter
Managing Director, The 65 Project
[redacted]