2024PR00054

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:	
KENNETH JOHN CHESEBRO,	Commission No. 2024PR00054
Attorney-Respondent,	
No. 6301545	

NOTICE OF FILING

TO: Richard Gleason, Esq.
Counsel for the Administrator
Attorney Registration & Disciplinary Commission
130 East Randolph, Suite 1500
Chicago, IL 60601
rgleason@iardc.org
ARDCeSercie@iardc.org

PLEASE TAKE NOTICE that on September 27, 2024, I will e-file the Respondent's Answer to Complaint by causing the original copy to be e-filed with the Clerk of the Attorney Registration and Disciplinary Commission.

Respectfully submitted,

/s/ Samuel J. Manella

Samuel J Manella
Attorney for Attorney-Respondent

SAMUEL J. MANELLA, # 06190368
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FILED
9/27/2024 12:00 PM
ARDC Clerk

PROOF OF SERVICE

I, SAMUEL J. MANELLA, on oath state that I served a copy of the Notice of Filing and ANSWER TO COMPLAINT on the individual at the address shown on the foregoing Notice of Filing, sent via e-mail at rgleason@iardc.org, and ARDCeService@iardc.org, on September 27, 2024, at or before 4:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Samuel J. Manella

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ANSWER TO COMPLAINT

NOW COMES, Attorney-Respondent, KENNETH JOHN CHESEBRO, by and through his attorney, SAMUEL J. MANELLA, and hereby files his Answer to Complaint, and states and alleges as follows.

Respondent was licensed to practice law in Texas in 1987; in Massachusetts and California in 2005; in New Jersey in 2006; in New York in 2007; in Florida in 2009; and in Illinois in 2010. Respondent maintained a residence in Massachusetts until May 2022. In June 2023, rather than renewing his license for another year, Respondent voluntarily retired it, in good standing. Respondent is a member of the following federal court bars: the U.S. Supreme Court, the U.S. Court of Appeals for the First, Third, Sixth, Seventh, Eighth, Ninth, Tenth, and D.C. Circuits; the U.S. District Courts for the Northern and Central Districts of California; the U.S. District

Courts for the Northern, Middle and Southern Districts of Florida; and the U.S. District Court for the Eastern District of Texas.

Respondent has never been sanctioned by any court, nor by any of the bars of which he has been a member, during his more than 35 years of legal practice. However, in the aftermath of his October 2023 guilty plea in connection with the Georgia criminal proceeding referenced in the Complaint, Respondent's license to practice was administratively suspended in California and New Jersey. Further, Massachusetts entered a purported interim suspension of the license that he had voluntarily retired, in good standing. Further, a court proceeding has been instituted by the New York bar authorities to determine the effect, if any, of Respondent's Georgia plea.

Respondent currently has an active license, in good standing, in both New York and Texas. None of the legal work referenced in the Complaint was done in Illinois. Respondent has never relied on his Illinois law license to practice law (his only appearance in an Illinois court predated his admission to the Illinois bar). Since joining the Illinois bar, Respondent has never resided in, nor had an office in, Illinois. His Illinois license has been on inactive status for several years, and he plans to keep his Illinois license on inactive status for the foreseeable future.

FACTUAL BACKGROUND

A. Introduction

1. Between November 2, 2020 and January 6, 2021, Respondent chose not to accept that incumbent President Donald J. Trump ("Trump") had lost the 2020 election to Joseph R. Biden ("Biden"), and joined in a scheme to unlawfully change the outcome of the election in Trump's favor. Respondent's participation in that scheme, first as a lawyer engaged by the Wisconsin Republican Party in recount efforts in that State and later as a lawyer working directly for the Trump Campaign, was wide-ranging and lasted over a period of two months. Through his participation in the scheme, Respondent attempted to unlawfully subvert the Electoral College process in seven different States where Trump lost the 2020 presidential election so that Trump could remain in power. The State of Georgia subsequently charged Respondent with multiple felony counts of fraud pertaining to his participation in the scheme, and Respondent pled guilty to one of those counts, admitting to felony offense of Conspiracy to Commit Filing False Documents.

ANSWER:

Respondent denies the allegations contained in the first sentence of Paragraph 1 of the Complaint.

Respondent denies the allegations contained in the second sentence of Paragraph 1 of the Complaint, including the allegation that he was ever "engaged by the Wisconsin Republican Party" on any matter. Further answering, Respondent admits that between November 10, 2020, and

February 22, 2021, he worked as a volunteer lawyer for the Trump Campaign, with a limited scope of responsibility, and with his work supervised by Campaign attorneys, in particular, Justin R. Clark, James R. Troupis, and Boris Epshteyn, who delegated various tasks to Respondent.

Respondent denies the allegations contained in the third sentence of Paragraph 1 of the Complaint.

In answer to the allegations contained in the fourth sentence of Paragraph 1 of the Complaint, Respondent denies that he was charged "with multiple felony counts of fraud," and denies that he pled guilty to any criminal offense. Further answering, Respondent admits that the State of Georgia charged Respondent, among others, with seven felony conspiracy counts (none of which alleged that Respondent had personally committed fraud). Further answering, Count 15 of the Georgia indictment was the only count to which Respondent pleaded. Prior to entering his plea, Respondent argued that the Georgia statute underlying Count 15 was unconstitutional, as a violation of the Supremacy Clause of the U.S. Constitution. That objection was eventually echoed and expanded upon by co-defendants, and the Georgia court ultimately held, on September 12, 2024, that the Georgia statute underlying Count 15 violates the Supremacy Clause.

B. The Electoral College

2. The Electoral College process consists of the selection of the electors, the meeting of the electors where they vote for President and Vice President, and the counting of electoral votes by Congress. The Electoral College consists of 538 electors. A majority of 270 electoral votes is required to elect the President. Each State has the same number of electors as it does Members in its Congressional delegation: one for each Member of the House of Representatives plus two Senators. The District of Columbia is allotted three electors and treated like a State for the purposes of the Electoral College.

ANSWER:

Respondent denies the allegations contained in the first sentence of Paragraph 2 of the Complaint. Further answering, Respondent states that under the U.S. Constitution, each State appoints electors in the manner that its legislature directs and the District of Columbia appoints electors in the manner Congress directs; that electors must meet in their respective jurisdictions on the date(s) set by Congress to cast and transmit their votes to the President of the Senate; and that under the only constitutionally permissible interpretation of the Twelfth Amendment, the President of the Senate is the sole official with authority to count the votes (subject to review by the U.S. Supreme Court).

Respondent admits the allegations contained in the second sentence of Paragraph 2 of the Complaint.

Respondent denies the allegations contained in the third sentence of Paragraph 2 of the Complaint. Further answering, Respondent states that the Twelfth Amendment to the U.S. Constitution provides that electoral votes totaling "a majority of the whole number of electors appointed" is sufficient to elect the President, which in some circumstances might be less than 270 electoral votes.

Respondent admits the allegations contained in the fourth and fifth sentences of Paragraph 2 of the Complaint.

3. Each candidate running for President in a State has his or her own group of electors, known as a slate. In a general election, when citizens vote for a presidential candidate, they are actually voting for the candidate's preferred electors. All states except Nebraska and Maine have a winner-take-all system that awards all electors to the Presidential candidate who wins the State's popular vote.

ANSWER:

Respondent admits the allegations of Paragraph 3 of the Complaint.

4. After the general election, each State Governor (or Mayor, in the case of the District of Columbia) prepares a Certificate of Ascertainment listing the names of all the individuals on the slates for each candidate. The Certificate of Ascertainment also lists the number of votes each individual received and shows which individuals were appointed as that State's electors. The State Governor (or Mayor, in the case of the District of Columbia) sends the Certificate of Ascertainment to the National Archive.

The winning Presidential candidate's slate of electors are appointed as the State's electors.

ANSWER:

This paragraph is ambiguous as to whether it purports to describe a general legal framework or, instead, summarizes matters of historical fact. Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations and therefore he neither admits nor denies them, but instead demands strict proof thereof.

5. The meeting of the electors takes place on the first Tuesday after the second Wednesday in December following the general election. The electors meet in their respective States, where they cast their votes for President and Vice President on separate ballots. The electors' votes are recorded on a Certificate of Vote, which is prepared at the meeting by the electors. That Certificate of Vote is then sent to Congress, where the votes are counted.

ANSWER:

Respondent admits the allegations contained in the first and second sentence of Paragraph 5 of the Complaint.

Respondent admits the allegation contained in the third sentence of Paragraph 5 of the Complaint, except to note that the Twelfth Amendment, which specifies the procedural requirements regarding electoral votes, does not use the term "Certificate of Vote," but instead requires electors "to make

distinct lists of all persons voted for," which the electors must then "sign and certify, and transmit sealed to . . . the President of the Senate . . . ."

Respondent denies the allegation contained in the fourth sentence of Paragraph 5 of the Complaint. Further answering, Respondent states that the Twelfth Amendment, which specifies the procedural requirements regarding electoral votes, does not state that the electoral votes are sent to Congress; rather, it states that they must be sent, "sealed to . . . the President of the Senate," who is the only person who can open them.

6. Each State's electoral votes are counted in a joint session of Congress on the 6th of January in the year following the meeting of the electors. Members of the House and Senate meet in the House Chamber to conduct the official count of electoral votes. The Vice President of the United States, acting in their capacity as President of the Senate, presides over the count in a strictly ministerial manner and announces the results of the vote. The President of the Senate then declares which persons, if any, have been elected President and Vice President of the United States.

ANSWER:

Respondent denies the allegation contained in the first sentence of Paragraph 6 of the Complaint. Further answering, Respondent states that although January 6 is the usual date for counting electoral votes, pursuant to 15 U.S.C. § 15(a), this date is not constitutionally mandated, and thus can be and has been changed by Congress (for example, because January 6, 2013, fell on a Sunday, the date for counting the electoral votes was changed to

January 4, 2013, when President Obama signed H.J. Res. 122 on December 28, 2012).

Respondent denies the allegation contained in the second sentence of Paragraph 6 of the Complaint. Further answering, Respondent states that the Twelfth Amendment, which specifies the procedural requirements for counting electoral votes, merely requires "the presence of the Senate and House of Representatives" while the President of the Senate opens the votes, and they are then counted, and it nowhere indicates that any Member of Congress, or either House of Congress, has any involvement in the actual counting.

Respondent denies the allegation contained in the third sentence of Paragraph 6 of the Complaint. Further answering, Respondent states that under the only constitutionally permissible interpretation of the Twelfth Amendment, the President of the Senate is the sole official with authority to count the votes (subject to review by the U.S. Supreme Court).

Respondent admits the allegation contained in the fourth sentence of Paragraph 6 of the Complaint.

7. Between November 3, 2020 and January 6, 2021, Respondent schemed with others to unlawfully subvert the Electoral College process so that false electoral votes of purported Trump elector nominees would be counted by Congress instead of the rightful electoral votes of Biden electors in the States of Wisconsin, Pennsylvania, Georgia, Arizona, Nevada, New Mexico, and Michigan. Respondent's goal in doing so

was to unlawfully maintain Trump as President of the United States, even though Trump lost the presidential election. To further that scheme, Respondent advocated legal theories in which he argued that the counting of electoral votes in the joint session of Congress on January 6, 2021 could be delayed to prevent Biden being declared President, when he knew those theories were contrary to the Electoral Count Act. In addition, he drafted and circulated false Electoral College documents intending that they be cast in Wisconsin, Pennsylvania, Georgia, Arizona, Nevada, New Mexico, and Michigan, which were all States that Trump had lost. Moreover, on behalf of the Trump campaign, Respondent coordinated efforts in those states to convene Trump delegates, cast false electoral votes, and submit those false electoral votes to the President of the United States Senate and other officials in the various state capitols in those battleground states, contrary to the Electoral Count Act.

ANSWER:

Respondent denies the allegation contained in the first sentence of Paragraph 7 of the Complaint.

Respondent denies the allegation contained in the second sentence of Paragraph 7 of the Complaint. Further answering, Respondent states that nothing involving the Electoral College process in any state could have resulted in President Trump continuing as President past noon on January 20, 2021, when his term in office was constitutionally mandated to end, unless by that date proceedings in Congress had resulted in a determination, which had withstood U.S. Supreme Court review, that

Trump had been reelected for another term. In the event that the election had remained unresolved on January 20, the opposing party would have taken power, given that pursuant to statute the Speaker of the House (Democrat Nancy Pelosi), upon resignation, would have become Acting President, and would have continued serving in that capacity until proceedings in Congress and, if necessary, the U.S. Supreme Court, had resulted in a definitive conclusion to the presidential election.

Respondent denies the allegation contained in the third sentence of Paragraph 7 of the Complaint. Further answering, Respondent admits that when asked, by attorneys for the Trump Campaign who were supervising his work, to supply his opinion on various strategic options available to the Campaign, premised on arguments advanced by various legal scholars that certain provisions of the Electoral Count Act of 1887 were unconstitutional and therefore not controlling, Respondent provided them with his opinion on these strategic options.

Respondent denies the allegation contained in the fourth sentence of Paragraph 7 of the Complaint. Further answering, Respondent states that the assertedly false language contained in the certificate of electoral votes transmitted from Arizona, Georgia, Michigan, Nevada, and Wisconsin was not drafted by Respondent, but instead originated in drafts provided to Respondent by Trump Campaign operatives. Respondent did draft language that was included in the certificate of electoral votes transmitted

from Pennsylvania and New Mexico, which no one has alleged was false. Respondent suggested to the Trump Campaign three times, in writing, that this language drafted by him for inclusion in the Pennsylvania and New Mexico certificates should also be included in the certificates in the other five states.

Respondent denies the allegation contained in the fifth sentence of Paragraph 7 of the Complaint. Further answering, Respondent states that the submission of alternate electoral votes was not "contrary to the Electoral Count Act" in effect in 2020; rather, alternate electoral votes, which had been considered twice before in electoral counts (for the elections of 1876 and 1960) were expressly authorized by 3 U.S.C. § 15, which required the President of the Senate to open "all the certificates and papers *purporting* to be certificates of the electoral votes," and prescribed various rules applicable "[i]f more than one return or paper *purporting* to be a return from a State shall have been received by the President of the Senate" (emphasis added).

C. Respondent's Advocacy for Initiating Baseless Litigation to Delay and Prevent Congress from Declaring Biden President-Elect

8. Between November 18, 2020 and January 6, 2021, Respondent advocated first to the Trump Campaign on behalf of the Wisconsin Republican Party and then on behalf of the Trump Campaign itself that Trump electoral nominees should meet and cast electoral votes in seven States even though Trump had lost the 2020 presidential election in those States. Respondent also advocated on behalf of the

Trump Campaign that the counting of electoral votes in the joint session of Congress on January 6, 2021 should be delayed by the Vice President and various Members of Congress in order to keep Trump in office, even though Trump lost the 2020 presidential election. The actions Respondent advocated for violated the Electoral Count Act.

ANSWER:

Respondent denies the allegations contained in Paragraph 8 of the Complaint. In further answer, Respondent states that there was no possibility that any legal strategy could have maintained Trump as President past noon on January 20, 2021, unless he had been declared reelected in a legally valid manner that withstood U.S. Supreme Court review (see answer to second sentence of Paragraph 7 of the Complaint); that nothing about the options identified by Respondent, at the request of Trump Campaign lawyers supervising his work, for the deployment of alternate electors violated the Electoral Count Act, which explicitly required consideration of alternate electoral slates (see answer to fifth sentence of Paragraph 7 of the Complaint); and that all options identified by Respondent for officials in Congress taking action inconsistent with the Electoral Count Act focused on constitutionally invalid parts of the Act.

9. On November 18, 2020, Respondent wrote a memorandum to James R. Troupis, an attorney associated with the Wisconsin Republican Party ("Troupis"). In that memorandum, Respondent advocated for the position that purported Trump

presidential elector nominees in Wisconsin should meet and cast electoral votes for Trump on December 14, 2020, despite the fact that on November 30, 2020, the Governor of Wisconsin certified that Bident [sic] won the November 3, 2020 Presidential election in Wisconsin by receiving 1,630,866 votes to Trump's 1,610,184.

ANSWER:

In answer to Paragraph 9 of the Complaint, Respondent admits that he wrote the referenced memorandum, requested by Troupis, but denies the characterization of that memorandum, which speaks for itself. Respondent lacks knowledge or information sufficient to address whether or not Troupis was somehow "associated with the Wisconsin Republican Party" and therefore can neither admit nor deny that allegation, as his understanding is that Troupis was retained by the Trump Campaign to represent it in matters relating to the presidential election in Wisconsin. Respondent does not currently have knowledge sufficient to form a belief regarding the truth of the allegation regarding the referenced action of the Governor of Wisconsin and therefore can neither admit nor deny that allegation, but instead demands strict proof thereof. To the extent that the allegations of Paragraph 9 imply that Respondent should have been aware of the Governor's purported actions on November 30 when Respondent wrote the November 18 memorandum, the allegations are denied.

10. By December 7, 2020, Respondent knew that the Governors in Pennsylvania, Wisconsin, Georgia, Michigan, Nevada, Arizona, and New Mexico had

all certified that Biden had won the presidential elections in those states. On December 9, 2020, Respondent wrote a memorandum to Troupis titled "Statutory Requirements for December 14, 2020 Electoral Votes." In the memorandum, Respondent provided detailed, state-specific instructions for how purported Trump presidential elector nominees in Georgia, Arizona, Michigan, Nevada, Pennsylvania, and Wisconsin would meet and cast electoral votes for Trump on December 14, 2020—the date when the official certified electors were to meet to cast their electoral votes for the candidate who had won the popular vote in each of those states—even though the Governor in each of those States had certified that Trump lost the November 3, 2020 presidential election in those States.

ANSWER:

Respondent denies all allegations contained in Paragraph 10 of the Complaint with one exception: he admits that he sent a memorandum requested by Troupis, on December 9, 2020, entitled "Statutory Requirements for December 14, 2020 Electoral Votes," but he denies the characterization of that memorandum, which speaks for itself.

11. Respondent knew that his position violated federal law. On December 13, 2020, Respondent sent an email to Rudolph Giuliani ("Giuliani"), a lawyer working on behalf of the Trump Campaign, with the subject "PRIVILEGED AND CONFIDENTIAL – Brief notes on 'President of the Senate' strategy." In the email, Respondent outlined multiple strategies for disrupting and delaying the joint session of Congress on January 6, 2021, the day prescribed by law for counting the votes cast

by the duly elected and qualified electors from Georgia and the other states. Those strategies included that the Vice President claim a conflict of interest and recuse himself from his role in opening the electoral ballots on January 6, 2021, that a Republican Senator then take the Vice President's place as President Pro Tem and refuse to count the electoral votes from Arizona or any other state that had submitted Republican electoral slates from States Trump had lost, and that Arizona be required to "run its election again" or have electors appointed by the Republican-majority state legislature before the counting of the electoral ballots would resume. Respondent stated in the email that the strategies he outlined were "preferable to allowing the Electoral Count Act to operate by its terms."

ANSWER:

Respondent denies all allegations contained in Paragraph 11 of the Complaint with one exception: he admits that on December 13, 2020, he sent an e-mail to Rudolph Guiliani, mistakenly believing that Guiliani had requested it (in fact, a lawyer working with Guiliani, Boris Epshteyn, had requested it), entitled "Brief notes on 'President of the Senate' strategy," but he denies the characterization of that e-mail, which speaks for itself.

12. On December 23, 2020, John Eastman ("Eastman"), another lawyer working on behalf of the Trump Campaign, sent an email to Respondent and another individual with the subject "FW: Draft 2, with edits." In the email, Eastman attached a memorandum titled "PRIVILEGED AND CONFIDENTIAL – Dec 23 memo on Jan 6 scenario.docx" and stated:

> As for hearings, I think both are unnecessary. The fact that we have multiple slates of electors demonstrates the uncertainty of either. That should be enough. And I agree with [Respondent] that Judiciary Committee hearings on the constitutionality of the Electoral Count Act could invite counter views that we do not believe should constrain [then-Vice President Michael] Pence or [President Pro Tem of the Senate Charles] Grassley in the exercise of power they have under the 12th Amendment. Better for them just to act boldly and be challenged, since the challenge would likely lead to the Court denying review on nonjusticiable political question grounds.

ANSWER:

In answer to Paragraph 12 of the Complaint, Respondent admits that on December 23, 2020, he received an e-mail from Eastman containing the passage quoted, but does not have knowledge sufficient to form a belief regarding the truth of the allegation that Eastman was "working on behalf of the Trump Campaign" itself, as opposed to having some other connection with one or more people with an interest in the result of the presidential election, and thus he neither admits nor denies it, but instead demands strict proof thereof.

13. On December 24, 2020 at 9:53 AM CST, Respondent sent an email to Eastman and others in which he stated that the "odds of action" by the U.S. Supreme Court "before Jan. 6 will become more favorable if the justices start to fear that there will be 'wild' chaos on Jan. 6 unless they rule by then, either way." In an email he sent to the same individuals that same day at 7:41 AM CST, Respondent advocated that the Trump Campaign file an election challenge directly with the U.S. Supreme Court because it could feed "the impression that the courts lacked the courage to fairly and timely consider these complaints, and justifying a political argument on Jan. 6

that none of the electoral votes from the states with regard to which the judicial process has failed and should be counted." Respondent knew that the legal arguments he advocated be advanced before the U.S. Supreme Court were frivolous, conceding in his 7:41 AM email that the Trump campaign only had a "1% chance" of winning the suit, but argued that the "relevant analysis" was political, not legal.

ANSWER:

Respondent denies all allegations contained in Paragraph 13 of the Complaint with one exception: he admits that he sent two e-mails on December 24, 2020, at the times stated, containing the words that the Complaint has quoted (out of context), but he denies the characterization of the e-mails, which speak for themselves.

14. Respondent continued to advocate for illegal action and/or frivolous Supreme Court litigation throughout the end of December, 2020 and beginning of January, 2021. For example, On January 1, 2021, Respondent sent an email to Eastman and Boris Epshtyn, another lawyer working with the Trump Campaign, with the subject line "Filibuster talking points." In the email, Respondent again advocated for disrupting and delaying the joint session of Congress on January 6, 2021, in contravention of the Electoral Count Act, and stated that the delay in Congress would "pressure the Supreme Court and state legislatures to act…." Respondent further stated that:

> [a]nother way to create delay and pressure for further action would be for the VP [then-Vice President Pence] to allow the objection and debate process to generally go forward within the framework of the Electoral Count Act, but for Senators objecting to particular states to engage in

> filibusters to prevent a final vote on the states unless and until there was further action by the Supreme Court or state legislatures.

Respondent recognized the fact that a Senate filibuster on January 6, 2021 would not be possible unless the customary Congressional concurrent resolution adopting the Electoral Count Act counting procedures were defeated. Addressing this fact, Respondent stated:

> Fortunately, there is a solution. A Senator, for example [Missouri Senator Joshua] Hawley, could on January 3 object to Concurrent Resolution. Once recognized, he could give a lengthy speech, perhaps lasting hours, explaining why the Senate should not limit debate to 2 hours on particular states, given the large amount of serious illegalities in the vote in various states. This would provide a forum for exposing some of the flaws in the election to public attention. In other words, the Senator would filibuster the Concurrent Resolution in order to prevent it from being adopted, so as to permit later filibusters regarding individual states.

In the email, Respondent reiterated and amplified upon the same strategy he outlined in his December 13, 2020 email to Giuliani, described in paragraph 11, above. In the email, Respondent stated his strategies were "preferable to allowing the Electoral Count Act to operate by its terms."

ANSWER:

Respondent denies all allegations contained in Paragraph 14 of the Complaint with one exception: he admits that he sent the referenced e-mail containing the words that the Complaint has quoted (out of context) on January 1, 2021, but he denies the characterization of the e-mail, which speaks for itself. In further answer, Respondent states that there was no possibility that any legal strategy could have maintained Trump as

President past noon on January 20, 2021, unless he had been declared reelected in a legally valid manner that withstood U.S. Supreme Court review (see answer to second sentence of Paragraph 7 of the Complaint).

15. On January 4, 2021, Respondent sent an email to Eastman with the subject "Fwd: Draft 2, with edits" and included within the body of the email another email that Respondent had previously sent to Giuliani with the subject "PRIVILEGED AND CONFIDENTIAL – Brief notes on 'President of the Senate' strategy," described in paragraph 11, above. In the email, Respondent reiterated and expanded upon the strategies outlined in his original email to Giuliani, and again stated that the outcome of any of those strategies were "preferable to allowing the Electoral Count Act to operate by its terms."

ANSWER:

In answer to the first sentence of Paragraph 15 of the Complaint, Respondent admits that in response to an e-mail that Eastman had sent on January 2, 2021, asking if Respondent had written a memo analyzing "the competing scholarship" regarding the meaning of the Twelfth Amendment as it bears on the January 6, 2021, counting of electoral votes, on January 4, 2021, Respondent sent Eastman a copy of the e-mail he had sent Guiliani on December 13, 2020.

Respondent denies the allegations contained in the second sentence of Paragraph 15 of the Complaint, which misrepresents Respondent's January 4, 2021, e-mail, by asserting that it somehow "reiterated and

expanded upon the strategies outlined in" the December 13, 2020, e-mail. To the contrary, in his January 4, 2021, e-mail, Respondent summarized the limited relevance of the December 13, 2020, e-mail.

16. In each of the legal theories and strategies Respondent communicated to individuals in the Trump Campaign, described in paragraphs seven through 15, above, Respondent advocated to the Trump Campaign and to Trump's personal lawyers that members of the Congress of the United States and various State legislators should take actions that exceeded their constitutional and statutory powers in order to prevent Biden being declared the winner of the 2020 presidential election. When Respondent advocated for these legal theories and strategies, he knew that they called for Members of the Congress and State legislators to assert powers they were not provided in either the Constitution of the United States or State constitutions.

ANSWER:

Respondent denies the allegations contained in Paragraph 16 of the Complaint. In further answer, Respondent states that the Complaint utterly ignores that the central point of the "President of the Senate" strategy sketched by Respondent in two documents—a memorandum dated December 6, 2020, and an e-mail dated December 13, 2021—was to identify the procedural steps that were necessary to set up a test case in the U.S. Supreme Court, which was the only viable means of guaranteeing that the electoral votes in question would be counted in compliance with the U.S.

Constitution, as authoritatively construed by the Court. In particular, only Supreme Court review could either confirm or put to rest the arguments that have been advanced by leading legal scholars, both liberal and conservative, that the Electoral Count Act of 1887 was constitutionally invalid in several key respects.

D. Drafting False Electoral Ballots and Coordinating False Votes

17. Respondent's role in the scheme was not limited to his advocacy in support of unlawful legal theories. He also executed those strategies by personally drafting fraudulent electoral ballots, organizing illegal meetings of purported Trump elector nominees, and arranging for those illegitimate slates of Trump elector nominees to be presented to Congress on January 6, 2021, as described below. In addition, Respondent attempted to keep those illegal meetings secret until the purported Trump elector nominees had cast their illegitimate ballots, as described below.

ANSWER:

Respondent denies the allegation contained in in Paragraph 17 of the Complaint. Further answering, Respondent states that the allegations in this paragraph are contradicted by documents which have long been on file with the Administrator. In April 2024, Respondent voluntarily supplied the Administrator with his entire file of documents related to his work for the Trump Campaign in 2020, including all e-mails, texts, and memoranda (the same complete file that Respondent had supplied to several state attorneys general investigating the use of alternate electors in their states), proving

that in his work: (1) he limited, in writing, his representation to exclude both the ultimate determination of whether electors in any state besides Wisconsin should vote, and the vetting in final form of electoral certificates to ensure their accuracy and validity; (2) the language in the certificates criticized in the Complaint ("duly elected and qualified") was not drafted by Respondent, but rather had been included in draft certificates sent to Respondent by the Campaign, as to which Respondent had no responsibility for vetting; (3) notwithstanding his circumscribed role, at the request of the Trump Campaign, Respondent later drafted alternative language that the Campaign's electors used in two states (Pennsylvania and New Mexico), which he suggested in writing, three times, should be used in *all* states; (4) Respondent drafted language that was included in a legal filing in the Wisconsin Supreme Court on December 11, 2020, explaining that the reason alternate electors would be deployed in Wisconsin was to ensure the electoral votes would be accurately counted on January 6 if the Trump Campaign won its litigation by then; and (5) Respondent drafted press releases for use in all other states in which electors might be deployed, containing the same information.

18. On December 10, 2020, Respondent sent an email to Georgia Republican Party Chairman David Shafer ("Shafer") and another individual in which Respondent stated to Shafer that the Trump Campaign had asked Respondent to help coordinate with logistics of the purported electors in certain of the States and to assist them in

casting their votes on December 14, 2020 for Trump. Respondent sent the email even though he knew that on December 7, 2020, the Governor of Georgia had already certified that Biden won the November 3, 2020 presidential election in Georgia by receiving 2,474,507 votes to Trump's 2,461,837.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 18 of the Complaint, regarding him sending the referenced e-mail (at 5:55 p.m.), but notes that the Complaint's characterization of the e-mail is incomplete, in particular in failing to mention that the e-mail also included the text of the press release Respondent had drafted for use in Wisconsin, explaining the legitimacy of alternate electors voting in a state in which the result of pending litigation is "still in doubt," as had been done by the Kennedy Campaign in Hawaii in 1960, and as prominent Democrat lawyers had advised the Biden Campaign to do in 2020 if it fell behind in the Pennsylvania vote count.

Respondent denies the allegations contained in sentence two of Paragraph 18 of the Complaint.

19. On December 10, 2020, Respondent sent an email with attached documents to Shafer and others. The documents attached to the email were purported elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Georgia for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent drafted the documents

and sent them to Shafer even though he knew that Governor's [sic] Governor had already certified that Trump lost the November 3, 2020 presidential election in Georgia.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 19 of the Complaint, regarding him sending the referenced e-mail and attachments (at 11:44 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 19 of the Complaint. In further answer, this paragraph of the Complaint ignores the e-mail attached to Respondent's memorandum of November 18, 2020, which explained that the purpose of deploying alternate electors in a state was "so that any state judicial proceedings which extend past" the December 14 deadline for *casting* electoral votes could continue until January 6, the only hard deadline for *counting* electoral votes (in Congress). The memorandum went on to explain that deploying alternate electors violated no provision of federal law; that it had been successfully used by the Kennedy Campaign in 1960 to ensure that Hawaii's electoral votes were correctly counted based on its litigation win shortly before January 6; and that the Gore Campaign had erred in 2000 in failing to preserve the ability to litigate through January 6 if necessary.

20. On December 10, 2020, Respondent sent an email with attached documents to Arizona Republican Party Executive Director Greg Safsten ("Safsten") and others.

The documents attached to the email were purported elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Arizona for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent drafted the fraudulent elector ballots and sent them to Safsten even though he knew that on November 30, 2020, the Governor of Arizona had already certified that Biden won the November 3, 2020 presidential election in the State of Arizona by receiving 1,672,143 votes to Trump's 1,661,686.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 20 of the Complaint, regarding him sending the referenced e-mail and attachments (at 2:34 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 20 of the Complaint. In further answer, this paragraph of the Complaint ignores the fact that an earlier e-mail to Safsten and the others (sent at 12:59 p.m., which was forwarded with the 2:34 p.m. e-mail) attached Respondent's memorandum of November 18, 2020 (summarized in answer to Paragraph 19 of the Complaint).

21. On December 10, 2020, Respondent sent an email to Republican Party of Wisconsin Chairman Brian Schimming ("Schimming") with language he proposed be incorporated in documents to be used by purported Trump presidential elector nominees in Wisconsin for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent sent the email even though he knew that on

November 30, 2020, the Governor of Wisconsin had already certified that Biden won the November 3, 2020 presidential election in Wisconsin by receiving 1,630,866 votes to Trump's 1,610,184.

ANSWER:

Respondent denies all allegations contained in Paragraph 21 of the Complaint, with one exception: he admits that the sent the referenced e-mail and attachments to Schimming (at 2:16 p.m.), the content of which speaks for itself. In further answer, Respondent states that this paragraph of the Complaint ignores that later that day, at 4:55 p.m., Respondent sent Schimming his redraft of a press release, explaining the legitimacy of alternate electors voting in a state in which the result of pending litigation is "still in doubt," as had been done by the Kennedy Campaign in Hawaii in 1960, and as prominent Democrat lawyers had advised the Biden Campaign to do in 2020 if it fell behind in the Pennsylvania vote count. Further, contrary to the suggestion that it was somehow improper for alternate electoral votes to be cast in Wisconsin, the Complaint ignores that in an extensive analysis released on February 9, 2022, the Wisconsin Department of Justice concluded that there was no reasonable basis for believing that the Trump Campaign's deployment of alternate electors violated Wisconsin election law.

22. On December 10, 2020, Respondent sent an email to Nevada Republican Party Vice Chairman Jim DeGraffenreid ("Graffenreid"). In that email, Respondent

stated to DeGraffenreid that Rudolph Giuliani and other individuals associated with the Trump Campaign had asked Respondent "to reach out to you and the other Nevada electors to run point on the plan to have all Trump-Pence electors in all six contested States meet and transmit their votes to Congress on December 14." Respondent sent the email even though he know [sic] that on December 2, 2020, the Governor of Nevada had already certified that Biden won the November 3, 2020 presidential election in the State of Nevada by receiving 703,486 votes to Trump's 669,890.

ANSWER:

In response to the first and second sentences of Paragraph 22 of the Complaint, Respondent admits that he sent the referenced e-mail (at 6:27 p.m.), the content of which speaks for itself. In further answer, Respondent states that the Complaint's characterization of the e-mail is incomplete, in that the e-mail also included the text of the press release he had drafted for use in Wisconsin, explaining the legitimacy of alternate electors voting in a state in which the result of pending litigation is "still in doubt," as had been done by the Kennedy Campaign in Hawaii in 1960, and as prominent Democrat lawyers had advised the Biden Campaign to do in 2020 if it fell behind in the Pennsylvania vote count.

Respondent denies the allegation contained in the third sentence of Paragraph 22 of the Complaint.

23. On December 10, 2020, Respondent sent an email with attached documents to Graffenreid. The documents attached to the email were purported elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Nevada for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent drafted the fraudulent elector ballots and sent them to Graffenreid even though Nevada's Governor had already certified that Trump lost the November 3, 2020 presidential election in Nevada.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 23 of the Complaint, regarding him sending the referenced e-mail and attachments (at 11:18 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 23 of the Complaint. In further answer, this paragraph of the Complaint ignores the fact that the e-mail attached Respondent's memorandum of November 18, 2020 (summarized in answer to Paragraph 19 of the Complaint).

24. On December 10, 2020, Respondent sent an email with attached documents to Republican Party of Pennsylvania General Counsel Thomas V. King III ("King"). The documents attached to the email were purported elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Pennsylvania for the purpose of casting fraudulent electoral votes for

Trump on December 14, 2020. Respondent drafted the fraudulent elector ballots and sent them to King even though he knew that on November 24, 2020, the Governor of Pennsylvania had already certified that Biden won the presidential election in the Commonwealth of Pennsylvania by receiving 3,458,229 votes to Trump's 3,377,674.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 24 of the Complaint, regarding him sending the referenced e-mail and attachments (at 10:03 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 24 of the Complaint. In further answer, this paragraph of the Complaint ignores the fact that the e-mail attached Respondent's memorandum of November 18, 2020 (summarized in answer to Paragraph 19 of the Complaint).

25. On December 11, 2020, Respondent sent an email with attached documents to Michael Roman ("Roman") and other individuals associated with the Trump Campaign. The documents attached to the email were purported elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Arizona for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent drafted the fraudulent documents and sent them to Roman even though he knew that Arizona's Governor had already certified that Trump lost the November 3, 2020 presidential election in Arizona.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 25 of the Complaint, regarding him sending the referenced e-mail and attachments (at 6:50 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 25 of the Complaint. In further answer, this paragraph of the Complaint ignores the fact that the e-mail attached Respondent's memorandum of November 18, 2020 (summarized in answer to Paragraph 19 of the Complaint). Further, the Complaint omits to mention that in the e-mail, Respondent noted that he had spoken to the lead attorney for the Trump Campaign in Arizona, "who today filed an excellent cert. petition in the U.S. Supreme Court arguing that the AZ courts denied due process by denying a meaningful hearing in their rush to meet the Dec. 8 "safe harbor," which argues (I agree) is legally irrelevant, and also part of an unconstitutional statute."

26. On December 11, 2020, Respondent sent an email with attached documents to Roman and others. The documents attached to the email were fraudulent elector ballots that Respondent drafted, and which he intended to be used by purported Trump presidential elector nominees in Georgia for the purpose of casting fraudulent votes for Trump on December 14, 2020. Respondent drafted the fraudulent documents and sent the email even though he knew that Georgia's Governor had already certified that Trump lost the November 3, 2020 presidential election in Georgia.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 26 of the Complaint, regarding him sending the referenced e-mail and attachments (at 5:29 p.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 26 of the Complaint. In further answer, this paragraph of the Complaint ignores the fact that the e-mail attached Respondent's memorandum of November 18, 2020 (summarized in answer to Paragraph 19 of the Complaint).

27. While executing the scheme, Respondent and other individuals associated with the Trump Campaign endeavored to keep their actions in drafting and circulating the false electoral ballots and convening meetings of the purported Trump elector nominees secret. For example, on December 12, 2020, Respondent met with Schimming and discussed the December 14, 2020 meeting of purported Trump presidential elector nominees in Wisconsin. Giuliani joined the meeting by telephone and stated that the media should not be notified of the December 14, 2020 meeting of purported Trump presidential elector nominees in Wisconsin. On December 13, 2020, Respondent sent an email to Roman and another individual stating that Giuliani "wants to keep this quiet until after all of the voting is done," in reference to the December 14, 2020 meeting of purported Trump presidential elector nominees in Fulton County, Georgia.

ANSWER:

Respondent denies the allegation in the first sentence of Paragraph 27 of the Complaint regarding his own actions and intent. Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegation regarding any other person and thus he neither admits nor denies it, but instead demands strict proof thereof.

Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations in the second and third sentences of Paragraph 27 of the Complaint and thus, he neither admits nor denies it, but instead demands strict proof thereof.

In answer to the fourth sentence of Paragraph 27 of the Complaint, Respondent admits that in the referenced e-mail, sent on December 13 at 11:20 a.m., Respondent stated that "the Mayor wants to keep this quiet until after all voting is done." Other documents made available to the Administrator in April 2024 reveal that Respondent consistently worked to encourage the Trump Campaign to be as transparent as possible about both its plan to deploy alternate electors and its reasons for doing so.

On December 11, the Trump Campaign filed a brief in the Wisconsin Supreme Court containing a footnote drafted by Respondent, explaining its plan to deploy alternate electors on December 14, a plan as to which neither the Wisconsin Elections Commission nor the Biden Campaign objected.

Respondent's suggestion that a press release should issue in each state prior to the alternate electors voting, explaining the rationale for the Campaign's use of alternate electors, was vetoed on December 12 by Mayor Guiliani, as Respondent reported in an e-mail sent at 6:37 p.m., in order to "minimize the chance of Electors being harassed." The plausibility of this concern was illustrated by the fact that protesters had disrupted the orderly casting of electoral votes for Trump at the Wisconsin Capitol Building in December, 2016.

The next day, when Boris Epshteyn asked Respondent "[w]hat's the reasoning to do a press release," in an e-mail sent at 10:46 a.m., Respondent summarized the history of his various suggestions that press releases be issued, including his final suggestion that press releases issue after the voting was complete, as follows:

> **Idea of a press release originated from Troupis in Wi — he did a draft last wed only for Wi, which he had planned to release once the trial court ruled against us.**
>
> **Idea was to alert Wisconsin Supreme Court that it did not have to rush the case.**
>
> **In case other states wanted to do it, I adapted the language for each state and included it on the packets.**
>
> **On sat, RG decided there should be no advance notice (the PA electors were nervous about publicity) and I passed that on to Josh and the regional staffers.**
>
> **So yesterday I offered this latest draft as a replacement, unilaterally — there has been no higher level decision to do anything. Simply trying to avoid anyone using the old draft, which has outdated wording (uses future tense).**
>
> **Probably RG and comms will want to consider just one statement going out on this, nationally. Like a tweeted statement by Ellis, and follow up on-camera explanation by RG,**

and or follow up tweet by the President? Much wiser heads on that sort of thing than me!

28. On December 13, 2020, Respondent sent an email with attached documents to Roman. The documents attached to the email were fraudulent electoral ballots which Respondent drafted and which he intended to be used by purported Trump presidential elector nominees in New Mexico for the purpose of casting fraudulent electoral votes for Trump on December 14, 2020. Respondent drafted the fraudulent documents and sent the email even though he knew that on November 24, 2020, the Governor of New Mexico had already certified that Bident won the November 3, 2020 presidential election in the State of New Mexico by receiving 501,614 votes to Trump's 401,894.

ANSWER:

Respondent admits the allegation contained in the first sentence of Paragraph 28 of the Complaint, regarding him sending the referenced e-mail and attachments (at 12:28 a.m.), the content of which speaks for itself.

Respondent denies the allegations contained in the second and third sentences of Paragraph 28 of the Complaint. In further answer, this paragraph of the Complaint ignores that far from containing any statement that could conceivably be criticized as "fraudulent," the draft certificate attached to the e-mail contained language, newly drafted by Respondent, making explicit on the face of the document what had been stated earlier by Respondent in the December 11 legal filing in the Wisconsin Supreme

Court, and draft press releases: that the alternate electors would be signing the certificate "on the understanding that it might later be determined that we are the duly elected and qualified Electors for President and Vice President . . . ."

The e-mail specifically referenced this newly drafted language, which Respondent had earlier suggested for use in Pennsylvania, and the e-mail also suggested that this newly drafted language be used in all states in which alternate electors ended up voting: "I added the new qualifying language at the start of the Certificate. Might be good to have it added in all states."

29. On December 14, 2020, using instructions provided by Respondent, the purported Trump electors gathered and participated in signing ceremonies in drafted and circulated false Electoral College documents intending that they be cast in Wisconsin, Pennsylvania, Georgia, Arizona, Nevada, New Mexico, and Michigan. The certificates they signed used language that falsely declared themselves to be "the duly authorized and qualified Electors" from their State. These declarations were false because none of the signatories had been granted that official status by their State government in the form of a Certificate of Ascertainment. The false electors from each of the seven States then transmitted the false documents to Washington D.C. with the intention that their fraudulent electoral votes by counted for Trump, even though Trump lost the 2020 presidential election in each of their States. Respondent knew that the false Electoral documents would be circulated among the false electors in the

seven States and executed by them, knew that the documents falsely declared the purported Trump electors, knew that the false documents would be transmitted to Washington D.C., and intended that the fraudulent electoral votes be counted for Trump during the Joint Session of Congress on January 6, 2021.

ANSWER:

Respondent denies the allegation in the first sentence of Paragraph 29 of the Complaint, regarding his own actions and intent, in particular, that he issued any "instructions" to anyone during his volunteer work for the Trump Campaign in 2020-21 (as he possessed no authority to instruct anyone connected to the Campaign, and his role concerning alternate electoral voting was limited in advance, in writing, to providing preliminary logistical assistance), or that he had any intent, or even knowledge, that any allegedly "false" documents would be signed. Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations in the first sentence of Paragraph 29 of the Complaint regarding any other person and thus he neither admits nor denies them, but instead demands strict proof thereof.

Respondent denies the allegations in the second and third sentences of Paragraph 29 of the Complaint.

Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations contained in the fourth sentence of

Paragraph 29 of the Complaint he neither admits nor denies them, but instead demands strict proof thereof.

Respondent denies the allegations contained in the fifth sentence of Paragraph 29 of the Complaint. Further answering, Respondent states that this sentence of the Complaint completely ignores the documentary evidence demonstrating that Respondent had no intent or knowledge that any allegedly fraudulent activity of any kind would occur.

30. Respondent took the actions alleged in paragraphs seven through 29, above, from his office in Massachusetts, where he was also admitted to practice law.

ANSWER:

Respondent admits that he researched and drafted the majority of the writings referenced in paragraphs seven through 29 where he lived, in Massachusetts (when not traveling), and he did none of the work in Illinois. As to the other allegations regarding Respondent's actions in paragraphs 7 through 29, Respondent restates his denials as set forth in his answers to those paragraphs.

D. The Violence of January 6, 2021

31. Respondent's advocacy for and coordination of lawless activity in the days and weeks leading up to January 6, 2021 had practical consequences. On January 5th and 6th of 2021, Trump made various public statements falsely asserting that then-Vice President Pence had the power to decline to count the electoral votes during the January 6, 2021 joint session of Congress. In making those statements, Trump in

large part was repeating the arguments Respondent made to Giuliani in his December 13, 2020 “President of the Senate” email, described in paragraph 11, above.

ANSWER:

Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations contained in Paragraph 31 of the Complaint and thus, he neither admits nor denies them, but instead demands strict proof thereof.

32. During the joint session of Congress on January 6, 2021, several United States Senators, including Ted Cruz and Joshua Hawley, objected to the counting of electoral votes, claiming that fraud had tainted the election results in certain states. In doing so, Cruz, Hawley, and other objecting Senators were in large part repeating the arguments and otherwise acting in conformity with the recommendations Respondent made in his January 1, 2021 email to Epshteyn and Eastman, described in paragraph 15, above.

ANSWER:

Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations contained in Paragraph 32 of the Complaint and thus, he neither admits nor denies them, but instead demands strict proof thereof.

33. Just as Respondent planned, the counting of the electoral votes in the joint session of Congress was in fact delayed as a result of the objections raised by Members of the House of Representatives and their supporting Senators, including but not

limited to Cruz and Hawley, described in paragraph 31, above. During the delay, an armed mob stormed the United States Capitol, and participants in that mob threatened to kill the Speaker of the House, the Vice President, and other members of Congress. Four people died during the mob assault on the Capitol, and over 150 police officers were physically injured.

ANSWER:

Respondent denies the allegations contained in the first sentence of Paragraph 33 of the Complaint.

Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations contained in Paragraph 33 of the Complaint and thus he neither admits nor denies them, but instead demands strict proof thereof.

34. Once the Capitol Police restored order later in the evening of January 6, 2021, the joint session of Congress was reconvened and Biden was confirmed the winner of the 2020 presidential election, and Trump the loser.

ANSWER:

In answer to Paragraph 34 of the Complaint, Respondent does not have knowledge sufficient to form a belief regarding the truth of the allegations regarding what person, entity, or entities restored order and thus, he neither admits nor denies them, but instead demands strict proof thereof. As to the remainder of the paragraph, Respondent admits that the record of the official proceedings in Congress on January 6-7, 2021, of course

reflects that Biden was credited with 306 electoral votes and Trump with 232 electoral votes, and therefore Biden was declared the winner of the 2020 presidential election.

F. Respondent is Indicted in Fulton County,
Georgia and Pleads Guilty to Conspiracy

35. On or about August 13, 2023, a grand jury in Fulton County, Georgia returned a 41-count criminal indictment against Respondent and 18 other co-defendants, including Trump. The matter was *captioned State of Georgia v. Kenneth Chesebro, et al.* docket number 23SC188947, and assigned to the Hon. Scott McAfee.

ANSWER:

Respondent admits the allegations contained in Paragraph 35 of the Complaint, with two exceptions: the indictment was actually filed on August 14, 2023, and the indictment was actually captioned *State of Georgia v. Donald John Trump, et al.*

36. Count One of the indictment charged Respondent, Trump, Giuliani, Eastman, and other co-defendants with violation of the Georgia Rackateer [sic] Influenced and Corrupt Organizations Act, Title 16, Section 14-4(c) of the Georgia Code, a felony offense. Count One alleged that Respondent and his codefendants, between November 4, 2020 and September 15, 2022, while associated as an enterprise, unlawfully conspired, and endeavored to conduct and participate in, directly or indirectly, such enterprise through a pattern of racketeering activity.

ANSWER:

Respondent admits the allegation contained in Paragraph 36 of the Complaint, that the indictment (which speaks for itself) included this Count One.

37. Count Nine of the indictment charged Respondent, Trump, Giuliani, Eastman, and other co-defendants with the crime of Conspiracy to Commit Impersonating a Public Officer, in violation of sections Title 16 Sections 4-8 and 16-10-23 of the Georgia Code, a felony offense. Count Nine alleged that between December 6, 2020 and December 14, 2020, Respondent and his co-defendants unlawfully conspired to cause certain people to hold themselves out as the duly elected and qualified presidential electors from the State of Georgia, public officers, with intent to mislead the President of the United States Senate, the Archivist of the United States, the Georgia Secretary of State, and the Chief Judge of the United States District Court for the Northern District of Georgia into believing that they actually were such officers.

ANSWER:

Respondent admits the allegation contained in Paragraph 37 of the Complaint, that the indictment (which speaks for itself) included this Count Nine.

38. Count Nine of the indictment further alleged that other co-conspirators falsely held themselves out as said public officers by placing the document titled

"CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA" in the United States Mail in Fulton County, Georgia, addressed to the President of the United States Senate, the Archivist of the United States, the Georgia Secretary of State, and the Chief Judge of the United States District Court for the Northern District of Georgia. The indictment further alleged that these acts were overt acts to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 38 of the Complaint, that the indictment (which speaks for itself) included this Count Nine.

39. Count 11 of the indictment charged Respondent, Trump, Giuliani, Eastman, and other co-defendants with the crime of Conspiracy to Commit Forgery in the First Degree, in violation of Title 16 Sections 4-8 and 16-9-1(b) of the Georgia Code, a felony offense. Count 11 alleged that Respondent and his co-defendants unlawfully conspired, with the intent to defraud, to knowingly make a document titled "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA," a writing other than a check, in such manner that the writing as made purported to have been made with authority of the duly elected and qualified presidential electors from the State of Georgia, who did not give such authority, and to utter and deliver that document to the Archivist of the United States.

ANSWER:

Respondent admits the allegation contained in Paragraph 39 of the Complaint, that the indictment (which speaks for itself) included this Count 11.

40. Count 11 further alleged that other co-conspirators uttered and delivered the document titled "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA" to the Archivist of the United States. Count 11 further alleged that these acts were overt acts to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 40 the Complaint, that the indictment (which speaks for itself) included this Count 11.

41. Count 13 of the indictment charged Respondent, Trump, Giuliani, Eastman, and others with the crime of Conspiracy to Commit False Statements and Writings, in violation of Title 16 Sections 4-8 and 16-10-20 of the Georgia Code, a felony offense. Count 13 alleged that between December 6, 2020 and December 14, 2020, Respondent and his co-defendants unlawfully conspired to knowingly make and use a false document titled "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA," with knowledge that the document contained the false statement, "WE, THE UNDERSIGNED, being duly elected and qualified Electors for President and Vice President of the United States of America from the

State of Georgia, do hereby certify the following," that document being within the jurisdiction of the Office of the Georgia Secretary of State and the Office of the Governor of Georgia, departments and agencies of state government.

ANSWER:

Respondent admits the allegation contained in Paragraph 41 of the Complaint, that the indictment (which speaks for itself) included this Count 13.

42. Count 13 further alleged that other co-conspirators made and used the document titled "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA" in Fulton County, Georgia, which were overt acts to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 42 of the Complaint, that the indictment (which speaks for itself) included this Count 13.

43. Count 15 of the indictment alleged that Respondent, Trump, Giuliani, Eastman, and others committed the crime of Conspiracy to Commit Filing False Documents, in violation of Title 16 Sections 4-8 and 10-20.1(b)(1) of the Georgia Code, a felony offense. Count 15 alleged that between December 6, 2014 and December 14, 2020, Respondent and his co-defendants unlawfully conspired to knowingly file, enter, and record a document titled, "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA" in a court of the United States, having reason to know

that the document contained the materially false statement, "WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Georgia, do hereby certify the following."

ANSWER:

Respondent admits the allegation contained in Paragraph 43 of the Complaint, that the indictment (which speaks for itself) included this Count 15.

44. Count 15 further alleged that other co-conspirators placed the document titled "CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM GEORGIA" in the United States Mail addressed to the Chief Judge in the United States District Court in the Northern District of Georgia. Count 15 further alleged that this act was an overt act to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 43 of the Complaint, that the indictment (which speaks for itself) included this Count 15.

45. Count 17 of the indictment alleged that Respondent, Trump, Giuliani, Eastman, and others committed the crime of Conspiracy to Commit Forgery in the First Degree, in violation of Title 16, Sections 16-4-8 and 16-9-1(b) of the Georgia Code, a felony offense. Count 17 alleged that between December 6, 2020 and December 14, 2020, Respondent and his co-conspirators unlawfully conspired, with

the intent to defraud, to knowingly make a document titled "RE: Notice of Filling of Electoral College Vote Vacancy," a writing other than a check, in such a manner that the writing as made purports to have been made by the authority if the duly elected and qualified presidential electors from the State of Georgia, who did not give such authority, and to deliver that document to the Archivist of the United States and the Office of the Governor of Georgia.

ANSWER:

Respondent admits the allegation contained in Paragraph 45 of the Complaint, that the indictment (which speaks for itself) included this Count 17.

46. Count 17 further alleged that other co-conspirators uttered and delivered the document titled "RE: Notice of Filling of Electoral College Vote Vacancy" to the Archivist of the United States and the Office of the Governor of Georgia in Fulton County, Georgia, which were overt acts to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 46 of the Complaint, that the indictment (which speaks for itself) included this Count 17.

47. Count 19 of the indictment alleged that Respondent, Trump, Giuliani, Eastman and other co-defendants committed the crime of Conspiracy to Commit False Statements and Writings in violation of Title 16, Sections 16-4-8 and 16-10-20 of the Georgia Code, a felony offense. Count 19 alleged that between December 6,

2020 and December 14, 2020, Respondent and his co-conspirators unlawfully conspired to knowingly and willfully use a false document titled "RE: Notice of Filling of Electoral College Vacancy," with knowledge that the document contained the false statements that David James Shafer was Chairman of the 2020 Georgia Electoral College Meeting and Shawn Micah Tresher Still was Secretary of the 2020 Georgia Electoral College Meeting, that document being within the jurisdiction of the Office of the Georgia Secretary of State and the Office of the Governor of Georgia, departments and agencies of state government.

ANSWER:

Respondent admits the allegation contained in Paragraph 47 of the Complaint, that the indictment (which speaks for itself) included this Count 19.

48. Count 19 further alleged that other co-conspirators made and used the document titled "RE: Notice of Filling of Electoral College Vacancy," which were overt acts to effect the object of the conspiracy.

ANSWER:

Respondent admits the allegation contained in Paragraph 48 of the Complaint, that the indictment (which speaks for itself) included this Count 19.

49. On August 31, 2023, Respondent, through counsel, waived formal arraignment on the charges and pled not guilty to all counts alleged against him in the indictment. On October 20, 2023, Respondent appeared before Judge McAfee and

entered a plea of guilty on Count 15 of the indictment, which charged that he had committed the felony offense of Conspiracy to Commit Filing False Documents in violation of Title 16, Section 16-4-8 of the Georgia Code. In exchange for Respondent's plea of guilty to Count 15 of the indictment, the State of Georgia dismissed the remaining six counts against him. Judge McAfee sentenced Respondent to five years of probation as a first-time felony offender pursuant to Title 42, Section 8-60 of the Georgia Code. Special conditions of Respondent's probation included that he perform 100 hours of community service, pay a fine of $5,000 to the Georgia Secretary of State, testify truthfully at all hearings or trials involving his codefendants, have no communication with co-defendants, witnesses, or media until all cases are closed, and write an apology letter to the State of Georgia. In accord with Title 42, Section 8-60 of the Georgia Code, Judge McAfee ordered that, upon fulfilment of his sentence or upon release of Respondent by the court prior to the termination of the sentence, Respondent will stand discharged of the offense without court adjudication of his guilt and shall be completely exonerated of guilt of the offense.

ANSWER:

Respondent admits the allegations contained in Paragraph 49 of the Complaint, but in further answer states that the allegations do not completely and accurately summarize the circumstances of Respondent's guilty plea, in two respects.

First, nowhere in the indictment did it allege that Respondent personally did anything to create a false document, or that he had any

personal knowledge, much less any intent, that a document containing a materially false statement would be mailed. Accordingly, as part of the plea, both the prosecution and the judge stipulated that Respondent was not pleading guilty to any offense involving "moral turpitude," that is (as defined under Georgia law), any offense involving an "element of deceit and dishonesty."

Second, because the statute underlying Count 15 has now been held unconstitutional as applied to the casting of alternate electoral votes by the Trump Campaign in Georgia in 2020 (an argument made by Respondent prior to his plea), the final result of the Georgia criminal proceeding regarding Respondent is that he did not plead guilty to any criminal offense, of any kind, not even a misdemeanor.

G. Conclusions of Misconduct

50. Rule 8.5 of the Illinois Rules of Professional Conduct (2010) provides that Respondent is subject to the disciplinary authority of the Illinois Supreme Court, applying the Massachusetts Rules of Professional Conduct. By reason of the conduct described above, Respondent has engaged in the following misconduct:

a. Counseling or assisting a client to engage in conduct that the lawyer knows to be fraudulent, by conduct including procuring fraudulent Trump electoral ballots in seven different States following the 2020 U.S. Presidential elections in those States and by conspiring to violate the Electoral Count Act, in violation of Rule 1.2(d) of the Massachusetts Rules of Professional Conduct (2015);

b. Committing a criminal act that reflects adversely on the

lawyer's honesty, trustworthiness, or fitness to practice in other respects, by conduct including conspiring to file a false certification of the electoral votes of the 2020 U.S. Presidential election in Georgia in violation of Title 16 Sections 4-8 and 10-20.1(b)(1) of the Georgia Code, in violation of Rule 8.4(b) of the Massachusetts Rules of Professional Conduct (2015);

c. Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including drafting and circulating for signature false electoral certificates in seven States in December of 2020, in violation of Rule 8.4(c) of the Illinois [sic] Rules of Professional Conduct (2015); and

d. Engaging in conduct prejudicial to the administration of justice, by conduct including conspiring to delay the counting of the electoral votes in the Joint Session of Congress on January 6, 2021, in violation of Rule 8.4(d) of the Massachusetts Rules of Professional Conduct (2015)

ANSWER:

Respondent denies the allegations in Paragraph 50 of the Complaint.

AFFIRMATIVE DEFENSE

The Complaint seeks to penalize Respondent for his constitutionally protected speech (in particular, his legal opinions on matters of constitutional law bearing on core political speech and on the right to petition the government through litigation), in violation of U.S. Const., amends. I, XIV; Ill. Const. 1970, art. I, § 4; and art. 16 of the Massachusetts Declaration of Rights, as amended by art. 77 of the Amendments to the Constitution.

WHEREFORE, Respondent requests that the Complaint be dismissed, as well as any other relief that may be deemed just.

Respectfully submitted,

_(s)___*Samuel J. Manella*______________

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