

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

In the Matter of:

KENNETH JOHN CHESEBRO,

Respondent,

No.6301545.

Commission No. 2024PR00054

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Richard Gleason, pursuant to Supreme Court Rules 753(b) and 761(b), complains of Respondent, Kenneth John Chesebro, who was licensed to practice law in Illinois on June 7, 2010, and alleges that Respondent has engaged in the following conduct, which subjects him to discipline pursuant to Supreme Court Rule 770:

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

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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.

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.

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.

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.

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.

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.

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.

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.

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 Biden won the November 3, 2020 Presidential election in Wisconsin by receiving 1,630,866 votes to Trump's 1,610,184.

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.

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.”

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.

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.

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.”

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.”

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.

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.

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.

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 Governor had already certified that Trump lost the November 3, 2020 presidential election in Georgia.

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.

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.

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 knew 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.

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.

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.

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.

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.

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.

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.

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 be 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.

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.

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.

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.

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.

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.

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.

36. Count One of the indictment charged Respondent, Trump, Giuliani, Eastman, and other co-defendants with violation of the Georgia Racketeer 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.

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.

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.

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.

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.

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.

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.

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.”

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.

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 of 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.

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.

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.

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.

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.

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 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).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Richard Gleason
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