
**LAWYERS
DEFENDING
AMERICAN
DEMOCRACY**

March 6, 2023

Hamilton P. Fox, III
Office of Disciplinary Counsel
Board of Professional Responsibility
District of Columbia Court of Appeals
515 5th Street NW
Building A, Suite 117
Washington, DC 20001

Dear Mr. Fox:

The undersigned attorneys file this ethics complaint against Mr. Stefan C. Passantino, a member of the Bar of the District of Columbia and former member of President Donald J. Trump's Office of White House Counsel. In that capacity, Mr. Passantino was charged with overseeing compliance and ethics, policing conflicts of interest, and approving and enforcing ethics requirements. In August 2018, Mr. Passantino left the White House and joined the law firm of Michael, Best & Friedrich LLP and worked from the firm's office in Washington, D.C. While there, he represented Ms. Cassidy Hutchinson, an aide to White House Chief of Staff Mark Meadows, in connection with her testimony before and interactions with the House of Representatives Select Committee to Investigate the January 6 Attack on the United States Capitol ("the Committee").

We file this complaint because the testimony Ms. Hutchinson provided to the Committee, and other publicly available information, reveal numerous serious ethical breaches by Mr. Passantino. Among them, Mr. Passantino represented conflicting interests where informed consent was not requested, and no reasonable attorney could consider that the conflicting interests could be reconciled; where his advice to Ms. Hutchinson suborned perjury and placed her in jeopardy of criminal sanctions to protect other clients represented by his firm; and where his conduct also likely violated other federal criminal statutes by encouraging her to give false testimony to Congress. These breaches violated both his duties to Ms. Hutchinson and his obligations to the administration of justice. Set forth below are the facts as we understand them and an analysis of the violations of the District of Columbia Rules of Professional Conduct (the Rules) that we believe those facts reveal.

I. THE CONDUCT OF STEFAN PASSANTINO

Well established is the expectation that, when a person engages a lawyer to represent his or her interests, the lawyer's subsequent advice will not be affected by differing interests others may have in the same matter. That well-established expectation is the result of decades, if not centuries, of activity by lawyers who zealously pursued the interests of their clients in a manner that was unaffected by competing interests of others. Sometimes they did so at great personal cost. But, in the end, they produced a rule regarding fidelity to client interests that now lies at the heart of the lawyer-client relationship. That fidelity also is at the center of ethical rules regarding client relationships and at the core of the public's understanding of what clients should expect when they hire an attorney.

But that was not what Ms. Hutchinson discovered when she engaged, or thought she had engaged, Stefan Passantino to represent her in connection with testimony before the January 6 Committee. Instead, at every turn, Ms. Hutchinson received advice that was contrary to her best interests. In a prominent example, as they emerged from a Committee hearing, Mr. Passantino told her that she should ignore her concern that she had committed perjury moments earlier when she told the Committee under oath that she did not recall an incident she did in fact recall. Beyond that, Mr. Passantino repeatedly suggested that financial gain in the form of employment security might follow if Ms. Hutchinson cooperated with ongoing efforts to conceal some of the activities that occurred within the White House in advance of and during the assault on the United States Capitol.

Ms. Hutchinson came to the White House in 2019, shortly after she graduated from college. While in college, she had been an intern for Sen. Ted Cruz and Representative Steve Scalise. Then, she served as an intern in the White House Office of Legislative Affairs.¹ When Mark Meadows became President Trump's Chief of Staff, he appointed her to be a Special Assistant to the President and Coordinator for Legislative affairs, with an office next to his and very near the Oval Office.² As a result, she frequently interacted with other White House staffers and, on occasion, with President Trump himself.

In November 2021, Ms. Hutchinson received a subpoena from the Committee calling for her testimony at a later date.³ For a variety of reasons, she had anticipated that subpoena and had begun inquiries to see if she could find an attorney to represent her in preparation for and during her anticipated testimony. From various sources, she obtained recommendations and compiled a list of lawyers with whom she wanted to talk about representation. She used two key criteria in compiling that list. The first was her ability to afford the attorney fees – she was only 24 or 25

¹ [Washington Post, June 28, 2022.](#)

² Id.

³ [Transcript of the interview of Cassidy Hutchinson by the Select Committee to Investigate the January 6 Attack on the U.S. Capitol](#) (hereinafter "Transcript") at 6.

years old at the time,⁴ and anticipated having to make incremental payments. The second criterion was independence from what she viewed as “Trump World.”⁵

Although she talked to several attorneys about the possibility of representation, she was unable to reach a financial arrangement she could afford. As the date for her production of documents and testimony grew closer, she became increasingly concerned about her inability to find a lawyer who was both independent and affordable.⁶ She let various White House officials know of her concern and they offered to help her find someone who met those criteria.

On the afternoon of February 7, the day before she was required to produce documents for the Committee, Ms. Hutchinson received a call from Mr. Passantino, who announced that he was her attorney. Although she had heard of him, she had not talked to him at any point and he was not on her list of the attorneys to whom she might talk about representation. She told him that document production was required by the following day and that she would like to meet promptly to sign an “engagement letter.” In response, Mr. Passantino said “no, no, no. We’re not doing that. Don’t worry. We have you taken care of.”⁷

Though she was troubled about his rejection of an engagement letter – she thought that signing such a letter was an essential ingredient of hiring an attorney – she agreed to go forward without one but asked about the source of funds for his fees. She told Mr. Passantino that she wanted to thank the funders and “figure . . . out” what was behind the last-minute approach to her representation.⁸ In response, Mr. Passantino said “if you want to know at the end, we’ll let you know, but we’re not telling people where funding is coming from right now. Don’t worry, we’re taking care of you. Like, you’re never going to get a bill for this . . . if that’s what you’re worried about.”⁹ She responded that that was indeed what she was worried about, but agreed to move forward. Move forward they did, but not until Ms. Hutchinson was approaching her third Committee interview, months later, did Mr. Passantino tell her that “Trump World” was and had been paying her legal fees.¹⁰

As the date for her testimony grew closer, Ms. Hutchinson reached out to Mr. Passantino, asking if she could meet with him to prepare for her upcoming appearance. He responded that they “could meet if [she wanted].” Continuing, he said that “[w]e don’t have to if you don’t want to. Like, but if you just want to talk through some things – like, I don’t know exactly . . . what you would want to work through, but I’m happy to meet with you in person for a couple of hours if that makes you feel better before going into the interview.”¹¹ She said that it would make her

⁴ The Washington Post reported that she was 25 when she first testified before the Committee in June 2022. See “Who is Cassidy Hutchinson,” June 28, 2022, available at <https://www.washingtonpost.com/national-security/2022/06/28/jan6-meadows-trump-cassidy-hutchinson/>.

⁵ Transcript at 7.

⁶ Transcript at 11, 14.

⁷ Transcript at 21.

⁸ Id.

⁹ Transcript at 22.

¹⁰ Transcript at 87.

¹¹ Transcript at 28.

feel better and so they met. No preparation of any substance occurred at the meeting, even though she told him that other attorneys with whom she had talked had said that part of their role, were she to hire them, would be to prepare her for her upcoming testimony.¹²

What did occur at the meeting was Mr. Passantino's strong suggestion that she should **not** prepare for her testimony. For example, she asked whether they could quickly run off a copy of the calendar she had maintained on her White House computer to keep track of appointments and other White House events. In response, Mr. Passantino said: "Well, what do you need a calendar for?"¹³ When Ms. Hutchinson responded that she wanted to "make sure that I'm getting the dates right with these things"¹⁴ he said:

No, no, no. Look, we want to get you in and get you out. We're going to downplay your role. You were a secretary. You had an administrative role. Everyone's on the same page about this. It's extremely unfair that . . . the committee is putting you in this position in the first place. You have nothing to do with any of this. . . . We're completely happy to be taking care of you now. We had no idea that you weren't being taken care of last year. So we're really happy that you reached back out to us. But the less you remember, the better. I don't think that you should be filling in any calendars or anything.¹⁵

As Mr. Passantino later revealed to Ms. Hutchinson, the reason for remembering little or nothing was unrelated to advancing or protecting her interests in her upcoming interactions with the Committee. Instead, he explained, "[w]e just want to focus on protecting the President. We all know you're loyal. Let's just get you in and out, and this day will be easy, I promise. Like, you really have nothing to worry about."¹⁶ Protection of the President was not the only thing on his mind, though, for he also told her that "we really want to protect Eric Hershman," then one of the President's senior advisors and a former client of Mr. Passantino's.¹⁷

Later in the meeting, Mr. Passantino asked Ms. Hutchinson whether there was anything she thought that the Committee might ask her about. She responded that she had had "a lot of exposure to Members of Congress"¹⁸ and had attended meetings where she had "overheard things." To that, Mr. Passantino responded by saying "[w]ell, if you had just overheard conversations that happened, you don't need to testify to that."¹⁹ She responded by saying "if I overheard it from a Member, do I have to?" To which he said "it's circumstantial. We can talk about it."²⁰

¹² Transcript at 30.

¹³ Transcript at 30.

¹⁴ Id.

¹⁵ Transcript at 30-31.

¹⁶ Transcript at 50.

¹⁷ Transcript at 44.

¹⁸ Transcript at 34.

¹⁹ Id.

²⁰ Transcript at 34.

Then, Ms. Hutchinson volunteered about the "incident that happened in the Beast," as the Presidential limousine was known to those in the White House. She told him that she had had "this conversation with Tony Ornato [a member of the Secret Service] . . . and [President Trump] tried to wrap his hands around [the limousine driver's] neck and strangle him because he wouldn't take him to the Capitol."²¹

Mr. Passantino's response to that was "no, no, no, no, no . . . We don't want to go there. We don't want to talk about that."²² Ms. Hutchinson persisted, asking what she should do if the Committee asked about the incident. "They have no way of knowing that,"²³ Mr. Passantino said, prompting Ms. Hutchinson to ask "Okay well, what's the line that I draw here? Like, do I not ever say anything that I overheard, because I overheard a lot of things?"²⁴

"Look, the goal with you is to get you in and out,"²⁵ Mr. Passantino responded.

Keep your answers short, sweet, and simple, seven words or less. The less the committee thinks you know, the better, the quicker it's going to go. It's going to be painless. And then you're going to be taken care of. You're going to be done. It's going to be off of your hands.²⁶

Their discussion then continued in a slightly different direction. As Ms. Hutchinson put it, Mr. Passantino moved on to what she described as the "I don't recalls." Mr. Passantino told her, Ms. Hutchinson said, that "[i]f you don't 100% recall something, even if you don't recall a date or somebody who may or may not have been in the room, that's an entirely fine answer, and we want you to use that response as much as you deem necessary."²⁷ Seeking clarification, Ms. Hutchinson said "[b]ut if I do recall something but not every little detail, Stefan, can I still say I don't recall?" "Yes,"²⁸ said Mr. Passantino.

Not satisfied, Ms. Hutchinson pushed on. "But if I do remember things but not every little detail, and I say I don't recall, wouldn't I be perjuring myself," she asked.²⁹ Mr. Passantino, her attorney, the one from whom she was seeking advice about how to conduct herself in order to comply with the law and avoid conduct that could produce severe repercussions, evaded a straight answer. Instead, he said:

The committee doesn't know what you can and can't recall, so we want to be able to use that as much as we can unless you really, really remember something very clearly. And that's when you give a short, sweet response. You don't want to get ahead of their questioning. Let them ask the questions. And you'll know.³⁰

²¹ Id.

²² Id.

²³ Id.

²⁴ Transcript at 35.

²⁵ Id.

²⁶ Transcript at 35.

²⁷ Transcript at 36.

²⁸ Id.

²⁹ Id.

³⁰ Id.

Mr. Passantino's "[a]nd you'll know" was prophetic. At some point during her non-public interview with the January 6 committee, questioning turned to the incident involving "the Beast." Knowing that questions on that subject troubled Mr. Passantino, and believing she had just evaded providing a truthful response, she began writing him notes about taking a break. Finally, when he asked the committee for a break, the two of them stepped outside the Committee room where, in her words, she "looked at Stefan, and I said, 'Stefan, I am fucked.' And he was like, 'Don't freak out. You're fine.' I said, 'No, Stefan, I am fucked. I just lied.' And he said, 'You didn't lie.'"³¹ In response to her insistence that she had lied, Mr. Passantino told her:

They don't know what you know, Cassidy. They don't know that you can recall some of these things. So you saying "I don't recall" is an entirely acceptable response to this. . . . "They're prodding. They want there to be something. They don't know that there is something. We are not going to give them anything because this is not important. You're doing great. You're doing fine. You're doing exactly what you should be doing."³²

Protection of the President, not protection of his client, nor truthfulness or cooperation with the Committee's inquiry, was a recurring theme in Mr. Passantino's relationship with Ms. Hutchinson. While he was representing her, his law firm was also representing other Trump officials, including her former boss, Mark Meadows. Before Ms. Hutchinson's second interview with the Committee, Mr. Passantino told her that he needed to tell his partners that the interview was about to occur. After he did, Ben Williamson, a former senior White House communications advisor, telephoned her to say that "Mark [Meadows] wants me to let you know that he knows you're loyal and he knows you'll do the right thing tomorrow and that you're going to protect him and the [President]. You know, he knows that we are all on the same team and we are all a family."³³

From the outset, the "family" theme had been a recurring component of Ms. Hutchinson's relationship with Mr. Passantino. Mr. Passantino knew from the outset that she did not have a job and was actively seeking one. On the morning of her first appearance before the Committee, as they were having breakfast together, Mr. Passantino brought up, for the first time, the issue of her ongoing job search. "I want to talk to you about potential job opportunities," he said. "Let's do it at the end of today, though. Today's going to be a good day. I want to end it on a good note for you."³⁴

Later, days before her second interview with the Committee, Mr. Passantino texted her that he "had a few good job leads." When she telephoned him to learn more, he told her that "[w]e're gonna get you a really good job in "Trump World." You don't need to apply other places. We're gonna get you taken care of. We want to keep you in the family."³⁵ That was the

³¹ Transcript at 55.

³² Id.

³³ Transcript at 70.

³⁴ Transcript at 51.

³⁵ Transcript at 60.

beginning of a series of conversations in which he told her of job openings or of discussions he was having with potential employers. Most of his conversations with her on the subject of jobs were intertwined with references to her upcoming testimony before the Committee.³⁶

The last of those conversations occurred just before she was to testify before the Committee for the third time. Ms. Hutchinson remained concerned about the testimony she had given during her second Committee interview, so she contacted a friend, Alyssa Farah, with whom she had served in the White House but who had left for another position. She told Ms. Farah that she thought that she should go back to the Committee “and like elaborate on a few things.”³⁷ She asked Ms. Farah if she “could back channel to the Committee and say that there are a few things that I want to talk about.”³⁸ Explaining, she told Ms. Farah that if she went back she “could be a little more transparent and potentially then be done with it.”³⁹ She was seeking Ms. Farah’s help, she later told the Committee, “for my conscience.”⁴⁰

Ms. Farah’s outreach worked, and a little while later Mr. Passantino called to tell her that she had received a subpoena from the Committee for her third appearance. He talked with her about fighting the subpoena but she told him that she wanted to comply. It was in the course of that conversation that she first learned that “Trump World” had been paying her legal fees.⁴¹ Although she told Mr. Passantino that she wanted to comply with the subpoena, he began urging her to refuse or at least to let the Committee know that she was an unwilling witness.⁴²

Ms. Hutchinson declined to do either and arrangements for her testimony moved forward. Shortly before her appearance, Mr. Passantino contacted her to say that she should call two of his contacts about possible jobs with Red Curve Solutions, a Massachusetts political management firm that, among other things, had served as the Treasurer to President Trump’s 2016 Presidential campaign.⁴³ That was the first time in many weeks that Mr. Passantino had said anything to her about jobs.⁴⁴ She called the contacts, and they told her that they were “on her team,” knew that she was on their team, and “were going to get you a really good job.”⁴⁵ On the morning of her testimony, Mr. Passantino raised the subject of jobs again shortly before they reached the Committee offices. “I’ll connect you with my friend . . . tomorrow morning,” he said. “Let’s just see how today goes, first.”⁴⁶

It appears that, from Mr. Passantino’s perspective, “today” did not go well. Shortly thereafter, Ms. Hutchinson replaced him as her counsel so she could correct her testimony without interference from her own lawyer. Needless to say, she never again heard from Mr.

³⁶ Transcript at 62, 63, 72, 91, 92, 95, 105.

³⁷ Transcript at 85.

³⁸ Id.

³⁹ Transcript at 86.

⁴⁰ Id.

⁴¹ Transcript at 87.

⁴² Transcript at 90.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Transcript at 93.

⁴⁶ Transcript at 95.

Passantino, from any of his contacts or from any member of “the family” on the subject of her testimony or her employment.⁴⁷

II. ETHICAL VIOLATIONS WE ALLEGE MR. PASSANTINO COMMITTED

A. Introduction

The duty of loyalty is the most fundamental of all fiduciary duties the legal profession owes to its clients. “From the beginning of our profession, lawyers have owed an unwavering duty of loyalty to their clients, a duty that is recognized in the common law of every jurisdiction of the United States and codified in every American code of legal ethics ever promulgated. The ethics rules are designed to advance and protect the interests of the profession in the faithful adherence to this basic standard of professional responsibility owed to each client.” Fox, *The Gang of Thirty-Three: Taking the Wrecking Ball to Client Loyalty*, Yale L.J. Vol. 121, Forum (March 27, 2012).

Mr. Passantino violated this most essential test of the lawyer-client relationship from the inception of the relationship with Ms. Hutchinson, as he failed to provide her with “candid” and “independent advice.”⁴⁸ As the representation progressed, he breached a host of more specific ethical standards (indeed, more than a dozen separate DC Rules) designed to protect Ms. Hutchinson, the integrity of the profession, and the administration of justice. For present purposes, we assume that a thorough investigation by the Office of Disciplinary Counsel will confirm the truth of her most relevant interview statements to the Committee. Indeed, in the Executive Summary of its proceedings and findings, the Committee relied on and quoted those statements on numerous occasions.⁴⁹

B. Conflicts of Interest Between Cassidy Hutchinson and “Trump World”

Mr. Passantino had a conflict between Ms. Hutchinson’s interests and the interests of what she and Mr. Passantino both referred to as “Trump World.” The extent of these other client interests became apparent to Ms. Hutchinson through various statements by Mr. Passantino as the client relationship proceeded. At the outset, he advised her that he could not disclose to her the source of his funding until a later time. He later revealed that she needed to protect and remain loyal to Donald Trump, Mark Meadows and Eric Herschmann, and, as explained below, that he was obliged to inform his partners and others about the details of her testimony even though she objected.

It is apparent that Mr. Passantino felt a powerful allegiance to others in the same matter in which he had agreed to represent Ms. Hutchinson. Yet, he failed to disclose or explain those conflicts to her or to comply with the other requirements of the DC rules regarding the

⁴⁷ Id.

⁴⁸ DC Rule 2.1 provides, in pertinent part, that “[i]n representing a client, a lawyer shall exercise independent professional judgment and render candid advice.”

⁴⁹ Introductory Material to the Final Report of the Select Committee to Investigate the January 6 Attack on the United States Capitol.

representation of multiple interests. The first step for Mr. Passantino, before proposing the engagement with Ms. Hutchinson, was to assess the extent to which the multiple interests – hers and those of “Trump World” – created a conflict under DC Rule 1.7(b). The test was whether his “professional judgment on behalf of the client will be or reasonably may be adversely affected by the lawyer’s responsibilities to or interests in a third party or the lawyer’s own financial, business, property, or personal interests.” Rule 1.7(b)(4).

Assuming the facts described by Ms. Hutchinson are confirmed, no reasonable attorney in Mr. Passantino’s situation could have concluded that the conflicting client interests could be reconciled. Here, from all that occurred, it is apparent that Mr. Passantino believed that the Trump interests could be served most effectively only by limiting the extent of any testimony by Ms. Hutchinson disclosing material facts concerning the events of January 6. Ms. Hutchinson’s interests, on the other hand, could be served faithfully only by testimony that fulfilled her legal obligations, and that minimized her exposure to charges of perjury or contempt of Congress. The divergence of interests between Ms. Hutchinson and “Trump World” is so vast that there is no practical means by which he could faithfully fulfill his duty of loyalty to each of them. Even assuming, however, that Mr. Passantino assessed the conflict and somehow concluded that it could be waived by informed consent at that early stage under DC Rule 1.7(c)⁵⁰ – a dubious proposition – Mr. Passantino failed each subsequent step in the client intake process dictated by the Rules.⁵¹

Ms. Hutchinson testified that Mr. Passantino did not disclose or otherwise explain the conflict to her when he first proposed to represent her (and indeed avoided doing so), in violation of the conflict Rules. Her sworn testimony is highly likely to be corroborated by the absence of a written engagement letter as required by Rule 1.5(b),⁵² which he told her was unnecessary, and by the absence of informed written consent on third party payment of fees as required by Rule 1.8(e)⁵³. While Mr. Passantino appears prepared to assert that disclosures were made,⁵⁴ it appears

⁵⁰ Rule 1.7(c) provides that “A lawyer may represent a client with respect to a matter in the circumstances described in paragraph (b) above if (1) Each potentially affected client provides informed consent to such representation after full disclosure of the existence and nature of the possible conflict and the possible adverse consequences of such representation; and (2) The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client.”

⁵¹ Even if the conflict could be waived at that early stage, Mr. Passantino had a continuing obligation to determine whether the conflict became disabling at any subsequent stage of the relationship. He failed that test as well.

⁵² Rule 1.5(b) provides that “When the lawyer has not regularly represented the client, the basis or rate of the fee, the scope of the lawyer’s representation, and the expenses for which the client will be responsible shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.”

⁵³ Rule 1.8(e) provides, in pertinent part, that “A lawyer shall not accept compensation for representing a client from one other than the client unless: (1) The client gives informed consent after consultation; [and] (2) There is no interference with the lawyer’s independence of professional judgment or with the client-lawyer relationship”

⁵⁴ Mr. Passantino reportedly has stated: “I represented Ms. Hutchinson honorably, ethically, and fully consistent with her sole interests as she communicated them to me. I believed Ms. Hutchinson was being

highly unlikely that he can provide any evidence beyond the bare assertion that he somehow did disclose and obtain informed oral consent from Ms. Hutchinson sufficient to satisfy Rule 1.7(b)(2).

If, as appears to be the case, Mr. Passantino failed to create the objective record of compliance with his obligations that the Rules envision, a heavy burden should shift to him to demonstrate compliance in substance – a burden that it seems obvious he cannot meet.⁵⁵ The basic requirements of the Rules governing conflicts of interest are intended to be charitably or flexibly applied in a manner that favors *the client's* right to unconflicted representation. *See In re Klayman*, 991 F.3d 1289, 1294 (D.C. Cir. 2021) (absent informed consent from his existing client, Mr. Klayman may not “represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of” the existing client).

At this point, there is no suggestion other than Mr. Passantino’s own say-so that he informed Ms. Hutchinson of the myriad competing interests he was simultaneously representing and obtained Ms. Hutchinson’s consent to do so.⁵⁶ On the contrary, the available information strongly supports the conclusion that, in fact, Mr. Passantino gave precedence to his service to “Trump World” over his duty of loyalty to Ms. Hutchinson’s interests.

C. Disregard of Client’s Decisions and Breach of Confidentiality

Indeed, Mr. Passantino’s cavalier disregard of his obligation to advance the interests of Ms. Hutchinson was sometimes breathtaking. For example, Maggie Haberman, a New York Times reporter, called Mr. Passantino on his cell phone to ask whether Ms. Hutchinson had just finished her third appearance before the Committee. Ms. Hutchinson, standing next to Mr. Passantino as he answered the call, told him that she did not want him to give Ms. Haberman any information about her appearance. Completely ignoring her clear instructions, he told Ms. Haberman all about it.⁵⁷

truthful and cooperative with the Committee throughout the several interview sessions in which I represented her.” <https://www.cnn.com/2022/12/20/politics/trump-ethics-lawyer-Mr. Passantino-cassidy-Ms. Hutchinson-misleading-testimony-jan-6/index.html>

⁵⁵ The conflicts also require an assessment of the imputation principles of DC Rule 1.10 for Mr. Passantino and his partners at Michael, Best and Friedrich. This will require ODC to inquire into their compliance with Rules 1.7 and 1.8 in connection with the client relationships between other partners of Mr. Passantino’s firm and “Trump World.”

⁵⁶ A thorough investigation by ODC should determine whether the conflicts system at Michael, Best & Friedrich includes Ms. Hutchinson as a client at all. The reported facts support an inference that Mr. Passantino understood that a formal engagement letter approved by the firm likely would require extensive disclosures, including the identity of other clients, the source of funding, and the nature of the conflicts presented by the representation of multiple clients in this matter.

⁵⁷ Transcript at 98-99.

A short time later, when Mr. Passantino told her that he was going to call two of his law-firm partners who were representing Mark Meadows and tell them about the testimony she had given, she specifically, repeatedly and forcefully told him that she did not want him to do that. Despite those repeated and forceful instructions, he told her that he was going to do so and he did.⁵⁸

In making those disclosures over her objections, and without her written consent, Mr. Passantino violated the specific prohibition on disclosure of confidential information in Rule 1.6(a)(1),⁵⁹ as well as the general requirement of Rule 1.2(a)⁶⁰ that a lawyer must abide by his client's wishes. The unauthorized disclosures by Mr. Passantino ran contrary to foundational features of the attorney-client relationship reflected in the Rules. Indeed, the disclosures led Ms. Hutchinson to conclude that she could not be fully honest with Mr. Passantino – itself a damning reflection on a client relationship infected with ethical impropriety.⁶¹

D. Mr. Passantino's Efforts to Procure Ms. Hutchinson's False Testimony to Congress

As noted, the only legitimate objective of the client relationship between Mr. Passantino and Ms. Hutchinson was protecting her interests in responding to inquiries from the Committee. Instead, Mr. Passantino strove to shape Ms. Hutchinson's testimony to protect "Trump World" from any compromising content that might emerge from that testimony. In the process, Mr. Passantino seriously compromised Ms. Hutchinson's interests and placed her in legal jeopardy, thus violating the prohibitions against "intentionally (i) [f]ail[ing] to seek the lawful objectives of a client" (Rule 1.3(b)(1)) and (ii) "prejudic[ing] or damag[ing] a client during the course of the professional relationship" (Rule 1.3(b)(2)).

In meetings with Ms. Hutchinson in advance of her testimony, Mr. Passantino repeatedly assured her that it was permissible to respond "I do not recall" to any question seeking information on conversations or situations to which she was only an observer, or as to which she lacked a complete memory. This advice was flatly incorrect. It is bedrock law that, where an examiner asks a competent question seeking information about relevant facts and circumstances within the knowledge of the witness, including conversations that she witnessed, her obligation

⁵⁸ Transcript at 99-100.

⁵⁹ DC Rule 1.6 (a) provides, in pertinent part, that "a lawyer shall not knowingly:(1) reveal a confidence or secret of the lawyer's client; (2) use a confidence or secret of the lawyer's client to the disadvantage of the client; [or] (3) use a confidence or secret of the lawyer's client for the advantage of the lawyer or of a third person."

⁶⁰ DC Rule 1.2(a) provides, in pertinent part, that "A lawyer shall abide by a client's decisions concerning the objectives of representation . . . and shall consult with the client as to the means by which they are to be pursued."

⁶¹ Of course, the fact that Mr. Passantino believed that communications with his partners about the representation of Ms. Hutchinson was necessary or appropriate by itself corroborates the existence of a conflict, and Rule 1.7 is clear that this circumstance alone required its own disclosure and informed consent by Ms. Hutchinson.

is to testify truthfully to the best of her memory. Mr. Passantino – indeed any competent attorney – understands this basic obligation.

While the boundaries on lawyer “coaching” may be uncertain in some circumstances, they are not uncertain here, for it is crystal clear that “[a]n attorney must respect the important ethical distinction between discussing testimony and seeking improperly to influence it.” *Geders v. United States*, 425 U.S. 80, 90 n.3 (1976). Thus, when Mr. Passantino counseled Ms. Hutchinson to “respond in a way that avoid[ed] providing information, as, for example, by denying memory of the events under inquiry,” he led her into “testimonial obduracy” that was plainly improper. *In re Weiss*, 703 F.2d 653, 662 (2d Cir. 1983).⁶² That Mr. Passantino also advised Ms. Hutchinson that she should testify truthfully highlights that he knew it, too. Nevertheless, in an attempt to end run this elemental standard, he sought to stretch her understanding of the boundaries of the truth. The outcome was false testimony to the Committee that she did not recall events that she plainly remembered in detail – testimony that she immediately told Mr. Passantino she regretted.

This effort by Mr. Passantino to shape Ms. Hutchinson’s testimony violated at least three related provisions of Rule 3.3 that require “candor to a tribunal” – an obligation made applicable in Rule 3.9 to representation of clients before Congress.⁶³

First, because Mr. Passantino knowingly counseled or assisted Ms. Hutchinson in presenting false testimony to the Committee, he violated DC Rule 3.4(b), which provides that “a lawyer shall not knowingly . . . counsel or assist a witness to testify falsely.” In her initial interviews with the Committee, Ms. Hutchinson followed his advice, and testified repeatedly that she had no recollection of matters as to which she actually had detailed knowledge – and Mr. Passantino knew it. Likewise, Mr. Passantino was responsible for offering false testimony through her in violation of DC Rule 3.3 (a)(4), prohibiting a lawyer from “knowingly . . . offer[ing] evidence that the lawyer knows to be false”

Second, Ms. Hutchinson’s false testimony put her at risk of charges of perjury and contempt of Congress under 18 U.S.C. §§ 1001 and 1621 – legal jeopardy which Mr. Passantino should be presumed to have understood. This triggered a violation by Mr. Passantino of DC Rule 3.3(a)(2), which provides that “[a] lawyer shall not knowingly . . . counsel or assist a client to engage in fraudulent or criminal conduct.” *See also* Rule 1.2(e)(containing the same prohibition, without an express knowledge element).

Third, when Ms. Hutchinson expressly advised Mr. Passantino that she had testified falsely (“I lied . . . I lied, I lied, I lied”), he assured her that her testimony was perfectly acceptable – again violating these very same ethical principles and prohibitions. Instead of questioning her to determine whether she was legally correct, he simply denied that she had done

⁶² *See generally*, D.C. Bar Op. No. 79 (Dec. 18, 1979), reprinted in District of Columbia Bar, Code of Professional Responsibility and Opinions of the District of Columbia Bar Legal Ethics Committee 138, 139 (1991), stating: “[A] lawyer may not prepare, or assist in preparing, testimony that he or she knows, or ought to know, is false or misleading.”

⁶³ Rule 3.9 provides that “A lawyer representing a client before a legislative . . . body in a nonadjudicative proceeding shall . . . conform to the provisions of Rules 3.3, 3.4(a) through (c), and 3.5.”

so. What's more, he failed to advise her to correct the testimony, and thus violated his obligations of candor to the tribunal under Rule 3.3(d), which states: "A lawyer who receives information clearly establishing that a fraud has been perpetrated upon the tribunal shall promptly take reasonable remedial measures, including disclosure to the tribunal . . ." While Rule 3.3(d) leaves some room for judgment on the timing of any remediation, there is no question here that Mr. Passantino, by attempting to shut the door on remediation by assuring her that "you're doing the right thing," failed to meet his obligation.

Instead, Ms. Hutchinson, after searching her own conscience, undertook to signal to the Committee, confidentially through an intermediary, that she wished to correct and expand upon her testimony. When the Committee requested further testimony in response to her confidential signal, Mr. Passantino once again attempted to interfere in truthful testimony. In an obvious effort to limit the damage to "Trump World's" interests, he counseled her that she should resist a subpoena for further testimony and risk prosecution for contempt of Congress. This path, of course, would have placed her in further legal jeopardy. Ms. Hutchinson recognized that this advice served the interests of others, not her own, so she declined to challenge the subpoena and went forward with her testimony. She also hired new counsel so she could testify without interference from her own lawyer.

E. Misconduct Involving Dishonesty, Serious Interference with the Administration of Justice, and Potential Criminal Conduct.

Mr. Passantino's Rule violations discussed above constituted professional misconduct under Rule 8.4(a).⁶⁴ But Mr. Passantino's misconduct also falls squarely within the general provisions of D.C. Rules 8.4(b), (c) and (d).⁶⁵ Mr. Passantino sought to convince Ms. Hutchinson that she was a minor player who possessed scant information of interest to the Committee, to assure her that she would be "taken care of" as a "loyal" supporter, and that little preparation was necessary to breeze through the interviews with the Committee. Through this manipulative and deceitful counsel, Mr. Passantino initially achieved the objective of the engagement for "Trump World", and consequently Congress was hindered in its efforts to establish the facts relating to the siege of the Capitol on January 6.

1. Rule 8.4(d)

Mr. Passantino's failure to properly advise Ms. Hutchinson violated Rule 8.4(d), which prohibits misconduct that seriously interferes in the administration of justice. Rule 8.4(d) is interpreted broadly to "uphold the integrity and competence of the legal profession." *See In re Hopkins*, 677 A.2d 55, 59 (DC 1996). This rule "encompass[es] derelictions of attorney conduct

⁶⁴ Rule 8.4(a) provides: "It is professional misconduct for a lawyer to . . . violate or attempt to violate the Rules of Professional Conduct . . ."

⁶⁵ DC Rule 8.4 provides, in pertinent part, that "[i]t is professional misconduct for a lawyer to . . . (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; [or] (d) engage in conduct that seriously interferes with the administration of justice."

considered reprehensible to the practice of law.” *In re Alexander*, 496 A.2d 244, 255 (D.C. 1985). There are strong reasons to apply the rule here since Congress was acting, through the Committee, in a quasi-judicial capacity – investigating facts, assessing credibility, and making judgments in the course of pursuing legitimate legislative objectives.⁶⁶ One of those objectives was to determine whether to make recommendations to the Department of Justice regarding criminal prosecution (as indeed the Committee did), and the Department also has independently sought information from the Committee to inform the Department’s prosecutorial decisionmaking. Thus, interference with the Committee’s work also interferes with the federal criminal process.

Ms. Hutchinson’s initial, false testimony interfered with the progress of the Committee’s investigation. Had the testimony not been corrected through her courageous and extraordinary efforts, it likely would have seriously undermined the search for truth about some of the most consequential events in our Nation’s history. The Committee was endeavoring to develop an accurate record of the effort to interfere with the peaceful transfer of Presidential power following the 2020 election. As even a cursory reading of the Committee’s report reveals, Ms. Hutchinson became a pivotal witness whose testimony enabled the Committee to unravel many of the details of what occurred. *See* January 6 Committee Report, Executive Summary⁶⁷ (containing 185 citations to the testimony of Ms. Hutchinson in that portion of the report alone).

In assessing the seriousness of Mr. Passantino’s interference with the administration of justice, it is important to consider the full nature of his effort to preclude the Committee’s discovery of what had occurred. Mr. Passantino was the point person for an elaborate, sinister, and probably unlawful, effort to influence Ms. Hutchinson with offers of employment, each of which evaporated as soon as another appearance before the Committee was complete. It was an effort to exploit a client that Mr. Passantino and his collaborators apparently viewed – wrongly, as it turns out – as young, naïve, economically vulnerable, and an easy target of manipulation. In effect, this elaborate scheme was part of the “cover up” effort that wrongdoers use when their misconduct is under investigation. The attempt to influence Ms. Hutchinson’s was just one step toward the ultimate goal.

2. Rule 8.4(c)

Mr. Passantino’s manipulative and deceitful misconduct likewise violated Rule 8.4(c), which “encompasses fraudulent, deceitful, or misrepresentative behavior.” In addition to these characterizations of misconduct, however, the Rule generally encompasses “a lack of probity . . . integrity . . . fairness and straightforwardness.” *Matter of Shorter*, 570 A.2d 760, 768 (D.C. 1990). Statements that are “technically true,” but fail to state the whole truth, qualify as “conduct . . . of a dishonest character.” *Id.*

⁶⁶ The reach of Rule 8.4(d) is broad, for there are no precise boundaries to the concept of “the administration of justice” as that term is used in the Rule. As the D.C. Circuit has observed, “we have found quasi-judicial proceedings where a proceeding has “all of the trappings of an adjudicatory tribunal.” . . . [T]here is no fixed standard for quasi-judicial, nor is there a telltale sign for one . . .” *Park v. Brahmhatt*, 234 A.3d 1212, 1217 (D.C. 2020)(footnotes omitted). *See also In re Hutchinson*, 534 A.2d 919 (D.C. 1987) (*en banc*).

⁶⁷ *See* n.49, *supra*.

3. Rule 8.4(b)

Rule 8.4(b) declares it professional misconduct for a lawyer to “commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects.” Disbarment under Rule 8.4(b) is especially appropriate where the conduct could be charged as a crime involving moral turpitude *per se* – offenses that require mandatory disbarment upon conviction under D.C. Code § 11-2503(a). A lawyer need not actually be convicted of a crime of moral turpitude in order to be sanctioned on the basis of the underlying conduct. See *In re Slattery*, 767 A.2d 203, 207 (D.C. 2001).

Mr. Passantino appears to have violated at least four federal criminal prohibitions, each of which the court has held to involve moral turpitude *per se*:

1. *Subornation of perjury* - 8.U.S.C § 1622. It is painfully apparent that the overarching goal of Mr. Passantino’s misconduct was to get Ms. Hutchinson to lie before a committee of Congress, under oath, so as to minimize the collateral consequences of that testimony for “Trump World.” In that respect it is strikingly similar to the misconduct involved in *In re Corizzi*, 803 A.2d 438 (D.C. 2002), in which the respondent instructed his clients to lie under oath at their depositions. “If convicted for this instruction,” the court noted, “the conviction would surely be for a perjury-related offense involving moral turpitude, such as subornation of perjury” 803 A.2d at 442.
2. *Obstruction of justice* - 18 U.S.C. §§ 1505 & 1512(c)(2). “[I]t is well settled that obstruction of justice is inherently a crime of moral turpitude.” *In re Savafian*, 29 A.3d 470, 471 (D.C. 2011); see also *In re Donziger*, 278 A.3d 695 (D.C. 2022) (*per curiam*); *In re Libby*, 945 A.3d 1169 (D.C. 2008). Mr. Passantino did not just try to get Ms. Hutchinson to make false statements and misleading omissions; he also tried to get her to resist a third subpoena or to state that she would be an unwilling witness, and discouraged her from preparing for her testimony by reviewing her calendar or other documents. The statute applies to attempts to obstruct justice, *Arthur Anderson LLP v. Uniites States*, 544 U.S. 696 (2005), and Mr. Passantino’s pattern of conduct has all of the earmarks of an “endeavor[] to influence, obstruct, or impede . . . the due and proper exercise of the [Committee’s] power of inquiry,” and hence constitutes obstruction of justice under 18 U.S.C. §§ 1505 and 1512(c)(2).
3. *Witness tampering* - 18 U.S.C. § 1512(b). Mr. Passantino’s efforts to manipulate Ms. Hutchinson’s testimony before the Committee amounted to “attempting to induce an individual to withhold evidence,” *In re Manafort*, 207 A.3d 593, 594 (D.C. 2019), and thus constituted violations of that criminal prohibition which explicitly applies to proceedings before Congress. See 18 U.S.C. § 1515(a)(1)(B) (defining “official proceeding”). Multiple disbarment decisions of the court have held that the various forms of witness tampering enumerated in 18 U.S.C. § 1512(b) involve moral turpitude. *Id.*; see also *In re Donziger*, *supra*. Mr. Passantino regularly dangled the prospect of remunerative employment before Ms. Hutchinson in the runup to her

appearances before the Committee, prospects that then evaporated after each appearance.

4. *Bribery of public officials and witnesses* - 18 U.S.C. § 201. Mr. Passantino's offers of future employment may also have violated 18 U.S.C § 201(b)(3) and (c)(2), which prohibit holding out the prospect of employment "for or because of" or "to influence" testimony before Congressional committees. Bribery is an offense that the Court has viewed with particular seriousness. *See In re Tucker*, 766 A.2d 510, 512 (D.C. 2000); *In re Donziger, supra*; *In re Bankston*, 749 A.2d 739, 740 (D.C. 2020).

It is not accidental that many of the cases cited above are familiar names involved in high-profile national political scandals: Paul Manafort (Trump Special Counsel investigation), Scooter Libby (outing of Valerie Plame Wilson), and David Safavian (Jack Abramoff scandal). *See also In re Abrams*, 689 A.2d 6 (D.C. 1997) (Iran-Contra). Stefan Passantino's conduct involves an even more grave matter of national importance, an attempt to undo a Presidential election by force, and the ongoing effort of "Trump World" to suppress and distort the truth behind that insurrection.

III. Disbarment Is the Appropriate Sanction for Mr. Passantino's Conduct

The D.C. Code authorizes the D.C. Court of Appeals to disbar a lawyer "for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial to the administration of justice." D.C. Code § 11-2505. In determining the appropriate sanction, the court considers the nature of the violation, prior disciplinary sanctions, mitigating and aggravating circumstances, protection of the public, courts and the legal profession, and, to the extent it can be determined, the moral fitness of the attorney. *See In re Corizzi*, 803 A.2d at 441-442.

The facts that have been outlined in this document reveal an array of violations of the District of Columbia Rules of Professional Responsibility that is breath-taking in its range. We recognize that disbarment is an extreme sanction, that it is not the typical remedy for simple conflict of interest violations, and that it is often applied only after other sanctions have not deterred misconduct. On the other hand, the court has not shrunk from disbarring lawyers where warranted by the gravity and extent of the misconduct, the risks to the public from that misconduct, and related aggravating circumstances. As noted earlier, disbarment is mandatory for conduct that could be charged as a crime involving moral turpitude *per se* – four of which crimes potentially occurred here. Disbarment is also especially common in cases that involve violations of Rules 8.4(b), (c) or (d) along with multiple other rules. As noted earlier, those violations took place on a very public stage and in the context of efforts to discover the cause and origin of an unprecedented assault on the Nation's Government. Under those circumstances, disbarment is, we submit, the appropriate sanction.

A. Mr. Passantino Violated Multiple Disciplinary Rules

Example abound of disbarments for conduct of the type in which Mr. Passantino engaged. Many of these precedents have turned on the centrality of honesty to law practice, and

the gravity of dishonesty. For example, in a case involving violations of ten different Rules, the court recently held that the lawyer’s “dishonesty is an independent reason why he cannot remain a member of the D.C. Bar. . . . To allow him to remain a member of our bar in light of his demonstrated indifference to truth-telling would demean bar membership.” *In re O’Neill*, 276 A.3d 492, 496 (D.C. 2022). *See also re Mazingo-Mayonne*, 276 A.3d 19, 21 (D.C. 2022) (“honesty is basic to the practice of law”); *In re Abrams*, 689 A.2d at 7 (“No moral character qualification for Bar membership is more important than truthfulness and candor.”) Mr. Passantino’s representation of Ms. Hutchinson included numerous false statements to her and multiple efforts to get her to testify falsely – all on a topic of unparalleled importance to our democracy. These precedents support disbarment in his case as well.

More generally, the court regularly disbars lawyers for a combination of violations that include conduct that seriously interferes with the administration of justice along with many of the same constellation of Rules as are implicated in Mr. Passantino’s case. For example, in *In re Barber*, 128 A.3d 637 (D.C. 2015), a lawyer was disbarred for violating a total of sixteen different ethical rules arising from three different matters, generally involving false statements and groundless litigation. Mr. Passantino’s case rivals Barber’s. Indeed, the range and diversity of ethics rules violated by Mr. Passantino’s representation of Ms. Hutchinson⁶⁸ would make it an excellent law school ethics exam question – except that, on the basis of Ms. Hutchinson’s sworn testimony to the Committee, the violations are so open and shut. Another comparable example is *In re Merritt-Bagwell*, 122 A.3d 874 (D.C. 2015), in which a lawyer was disbarred (stayed for three years) for violating seven Rules in the course of acting as guardian for the estate of a minor. The rules included Rules 1.3(b), 8.4(c) and 8.4(d), all involved here as well. *In re Schneider*, 951 A.2d 798 (D.C. 2008), disbarred a lawyer for violations of eight Rules, including 1.3, 1.7(a)(2), 8.4(b), 8.4(c) and 8.4(d). The same result is appropriate here.

As a final example, in *In re Tucker*, the Court disbarred a lawyer for paying a Bureau of Traffic Adjudication (BTA) clerk bribes in amounts of about \$70-80 on six to eight occasions to “fix” parking tickets. *See* 766 A.2d at 511 n.1. *See also In re Sims*, 844 A.2d 353 (D.C. 2004) (same). If the moral opprobrium evinced by these cases can attach to something as pedestrian as fixing parking tickets, surely Mr. Passantino’s efforts to conceal an attempt to “fix” the peaceful transfer of Presidential power is about as offensive to morality as anything a lawyer can do.

B. Other Aggravating Circumstances

As noted earlier, aggravating circumstances are among the factors that sanction decisions must consider. *See In re Corizzi*, 803 A.2d at 442-443. Two significant aggravating circumstances are present in Mr. Passantino’s case.

The first is the considerable imbalance of power between Mr. Passantino and his client. During that time, though obviously intelligent and of strong fiber and moral character, Ms. Hutchinson was 24 or 25 years old, not quite three years out of college, unemployed, and facing a public grilling by a committee of Congress. She was gravely concerned about exposing herself to criminal liability for perjury. Mr. Passantino was more than twice her age, a law firm partner

⁶⁸ This complaint has identified violations of fifteen Rules: 1.2(a), 1.3(b)(1), 1.3(b)(2), 1.6(a)(1), 1.5(b), 1.7(b)(4), 1.8(e), 2.1, 3.3(a)(2), 3.3(a)(4), 3.3(d), 3.4(b), 8.4(b), 8.4(c), and 8.4(d).

and former Deputy Counsel to the President who had called her out of the blue to inform her that he was her lawyer. Most important, while he would not tell her who was paying his bills, it quickly became clear that he was an emissary of the former President of the United States and the amorphous universe of powerful and wealthy individuals and entities surrounding him.

Mr. Passantino exploited this power imbalance throughout their relationship, telling Ms. Hutchinson what “we” were and were not going to do, and what she should do if she wanted to continue to be “taken care of.” To her significant credit, she managed to break out of this abusive relationship and secure new counsel. But that does not diminish the impropriety of Mr. Passantino’s behavior. The Office of Disciplinary Counsel would perform a service to the Bar if it identified this conduct as an aggravating circumstance in determining the appropriate sanction.

The second aggravating circumstance is that Mr. Passantino was “the top ethics attorney in the Trump White House,”⁶⁹ and was “in charge of ensuring that White House officials complied with government ethics rules.”⁷⁰ This is more than just an irony. Mr. Passantino’s ethical derelictions took place on a national stage at a time when the country was struggling to understand the cause and origin of an unprecedented assault on the peaceful transfer of power that has occurred for more than two centuries. Had they succeeded, the cover-ups in which Mr. Passantino sought to have Ms. Hutchinson participate would have severely interfered with the search for that understanding, the search for truth and the formation of remedial measures to prevent a recurrence. For these reasons, it is difficult to imagine a more profoundly aggravating factor.

IV. Conclusion

Ms. Hutchinson’s initial, false testimony interfered with the progress of the Committee’s investigation. Had she not corrected that testimony through her courageous and extraordinary efforts, it likely would have seriously undermined the search for truth about some of the most consequential events in our Nation’s history. The Committee was endeavoring to develop an accurate record of the effort to interfere with the peaceful transfer of Presidential power following the 2020 election. As even a cursory reading of the Committee’s report reveals, Ms. Hutchinson became a pivotal witness whose testimony enabled the Committee to unravel many of the details of what occurred. *See* January 6 Committee Report, Executive Summary (185 citations to the testimony of Ms. Hutchinson in that portion of the report alone).

It is a testament to Ms. Hutchinson’s character that she overcame Mr. Passantino’s pervasive misconduct and testified truthfully, becoming perhaps *the* key witness before the Committee. Her service to the interests of American democracy and the rule of law cannot be overstated. At the same time, Mr. Passantino’s efforts to obstruct and interfere with her

⁶⁹ *See* “Exclusive: Trump’s former White House ethics lawyer told Cassidy Hutchinson to give misleading testimony to January 6 committee, sources say,” CNN Politics, Dec. 21, 2022, available at <https://www.cnn.com/2022/12/20/politics/trump-ethics-lawyer-passantino-cassidy-hutchinson-misleading-testimony-jan-6/index.html>.

⁷⁰ “When the jokes write themselves: Trump’s ‘ethics czar’ steps down,” MSNBC (Aug. 30, 2018), available at <https://www.msnbc.com/rachel-maddow-show/when-the-jokes-write-themselves-trumps-ethics-czar-steps-down-msna1139211>.

contribution to the legislative and historical record cannot be rationalized, dismissed, or ignored if our professional code of ethics is to serve its critical purposes. The Office of Disciplinary Counsel should promptly initiate an investigation of Mr. Passantino's conduct and, if the facts described above are confirmed, seek his disbarment.

Respectfully submitted,

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