



**LAWYERS
DEFENDING
AMERICAN
DEMOCRACY**

October 3, 2024

VIA EMAIL

Hamilton P. Fox III
Office of Disciplinary Counsel
515 Fifth Street, N.W.
Building A, Room 117
Washington, DC 20001

Re: Attorney Kurt Olsen, a D.C.-licensed attorney

Dear Mr. Fox:

The States United Democracy Center and Lawyers Defending American Democracy hereby submit new information in support of our July 2024 ethics complaint against D.C. attorney Kurt Olsen. The additional information came to light during the August 2024 criminal trial of former Mesa County Colorado Clerk Tina Peters. The testimony from that trial strongly suggests that Olsen was involved in a criminal scheme to gain improper access to voting equipment and data after the 2020 election and warrants prompt and thorough investigation.¹ The jury in that case ultimately found Peters guilty of seven charges, including three felonies, and the court sentenced her to nine years of incarceration.

I. Background about the criminal scheme

Peters is the former County Clerk and Recorder for Mesa County, Colorado, who began her tenure in 2019 and oversaw the 2020 presidential election in that county. In August of 2021, Colorado Secretary of State Jena Griswold announced that an investigation by her office had determined that Peters had allowed unauthorized personnel to compromise voting equipment² in the county during

¹ The relevant transcripts from the trial are attached as Exhibit 1 (08/08/2024 Transcript) and Exhibit 2 (08/09/2024 Transcript).

² Bente Birkeland, *Investigators: Mesa County Clerk Allowed Unauthorized Person To Compromise Voting Equipment*, CPR News, (Aug. 12, 2021), <https://www.cpr.org/2021/08/12/investigators-mesa-county-clerk-allowed-election-conspiracy-theorist-to-compromise-voting-equipment/>.

an update to the machine software called the “Trusted Build.”³ As a result of the unauthorized access, videos and photos of the software update were posted online, giving the public unfettered access to view critical components of Mesa County’s election system, thereby exposing sensitive data to a wider audience of malicious actors, including some who used it to spread false information about the reliability and accuracy of voting systems.⁴

Subsequently, in May 2022, the Mesa County district attorney indicted Peters on multiple felony and misdemeanor counts. The indictment and supporting affidavit alleged Peters allowed an unauthorized third party – Conan Hayes⁵ – to make two different “digital image[s] of the entire Dominion hard drive” during the Trusted Build process.⁶ It explained how Peters and two of her deputies, Belinda Knisley and Sandra Brown, facilitated the impersonation of a county employee so he could attend the Trusted Build process, and concealed Hayes’ true identity from the Colorado Secretary of State’s Office personnel who were also in attendance.⁷

At trial, Sherronna Bishop, an unindicted coconspirator in the scheme,⁸ testified that Olsen connected Peters and Bishop with Hayes.⁹ Olsen, who later became Bishop’s personal lawyer, was aware, by virtue of his participation in group chats with the other co-conspirators, of the efforts to provide Hayes unauthorized access to Mesa County’s voting system without alerting the Secretary

³ The trusted build process involves an update to the voting system software that follows a specific set of protocols to ensure security of the software and that only the computer code meant to update the system (and no outside element) is introduced during the upgrade. *See Voting Systems Trusted Build Procedures*, State of Colorado, Department of State, <https://www.coloradosos.gov/pubs/elections/VotingSystems/files/trustedBuildProcedures.pdf>; *What is a trusted build and why is it used?*, United States Election Assistance Commission, (Sept. 16, 2021), <https://www.eac.gov/blogs/what-trusted-build-and-why-it-used>.

⁴ Yvonne Wingett and Patrick Marley, *Former Colorado official found guilty for role in election equipment tampering*, Wash. Post, (Aug. 12, 2024), <https://www.washingtonpost.com/politics/2024/08/12/tina-peters-colorado-election-guilty/> (“Within months, data from her office appeared online and was featured at a symposium held by Mike Lindell, the MyPillow CEO who continues to trumpet false claims about elections and seeks to end the use of machines that count ballots.”).

⁵ Dashed Pierson, *Former Pro Surfer Conan Hayes Linked to Donald Trump 2020 Election Tampering*, Surfer, (Aug. 13, 2022), <https://www.surfer.com/news/former-pro-surfer-conan-hayes-donald-trump-election-tampering>.

⁶ *See Affidavit in Support of Arrest Warrant*, District Court, Mesa County, State of Colorado, Case No. 22CR937, at 9.

⁷ *Id.*

⁸ Bente Birkeland, *Tina Peters Trial Day 7 — Defense starts with Sherronna Bishop on the stand*, CPR News, (Aug. 8, 2024), <https://www.cpr.org/2024/08/08/tina-peters-trial-day-7/>.

⁹ *See* Ex. 1 at 183:9-11 (describing Facebook message from Bishop to Peters stating “We have Lindell’s forensic team ready to work with you.”); 184:23-185:2 (confirming Peters met Hayes later on May 23); Ex. 2 at 52:20-22 (Q. Kurt Olsen, the Lindel [sic] attorney introduced you to Conan Hayes, right? A. I believe that’s correct.); and 56:22-23 (Bishop testimony confirming “Kurt Olsen is my lawyer.”); 63:2-4 (Bishop testimony confirming she referred to Mr. Olsen as part of the Lindell team).

of State's office of his true identity. *See* Ex. 1 at 271; Ex. 2.¹⁰ At the time of the Mesa County criminal scheme, Olsen represented Mike Lindell.¹¹ Hayes was Lindell's IT consultant.¹²

On August 12, 2024, a jury convicted Peters of seven charges: four felony counts arising from Hayes' impersonation of a county employee to breach the Trusted Build and the concealment of the same from state officials (namely, attempting to influence a public servant; and conspiring to commit criminal impersonation) and three misdemeanor counts of first degree official misconduct, violation of duty, and failure to comply with requirements of Secretary of State.¹³ On October 3, 2024, the Mesa County District Court entered judgment against Peters sentenced her to nine years of incarceration for her participation in the criminal scheme.

II. The new evidence warrants a thorough investigation.

Given the seriousness of the crimes at issue, Olsen's knowledge of and possible involvement in Hayes' unauthorized access to Trusted Build requires serious investigation. If evidence confirms that Olsen knowingly supported the criminal scheme, discipline would likely be appropriate under, at least, Rules 1.2(e) and 8.4(c) of D.C.'s Rules of Professional Conduct. **Rule 1.2(e)** provides, in pertinent part, "[a] lawyer shall not counsel a client to engage, or assist a client, in conduct that the attorney knows is criminal or fraudulent."¹⁴ **Rule 8.4(c)** provides that "[i]t is professional

¹⁰ *See, in particular*, Ex. 2 at 42:12-18 (Bishop confirming she was introduced to Olsen and Hayes on Signal and that "Conan Hayes was affiliated with Kurt Olsen."); 52:20-222 (Bishop testimony confirming that Olsen, who was also an attorney for Mike Lindell, introduced her to Conan Hayes); 64:19-21 (Bishop reviewing a text chain in which Olsen introduces Hayes to Peters: "Hi Tina. Meet Conan."); 66:17-29 (Bishop reviewing a text chain in which Peters reports to Olsen and Bishop that the secretary of state is "only allowing me two people; otherwise, they walk. Did you see that threat? We've got to figure a way to have your IT guy here[.]"); 67:21-68:1 (Bishop confirming Olsen's IT guy was Conan Hayes); 69:9-13 (Bishop reviewing a text chain in which Peters reports to Olsen, Hayes and Bishop: "okay, we are set to go on ID. Just need name. May not need anything else. Will let you know and connect with your IT tech. Working on county email address now through our IT. HR trusts us, so no background will be performed by us. Maybe SOS, but not likely unless they are paranoid."); 71:4-9 (Bishop reviewing a text chain in which Peters provides a progress report to Olsen, Hayes and Bishop ("ID, background, story for staff all taken care of."); 94:22-95:15 (Bishop testimony regarding a message in which Olsen pushed a request for background check for Hayes offline ("Need to discuss that") and confirming Hayes did not want his identity revealed.).

¹¹ *See* Ex. 2 at 35:10-18, 62:3-63:4. (Bishop confirming that Olsen was Lindell's attorney at the time).

¹² *See* note 9, *supra*.

¹³ Yvonne Wingett Sanchez and Patrick Marley, *Former Colorado official found guilty for role in election equipment tampering*, The Washington Post, (Aug. 12, 2024), <https://www.washingtonpost.com/politics/2024/08/12/tina-peters-colorado-election-guilty/>.

¹⁴ Further, Rule 1.16(a)(1) requires an attorney to withdraw from representation of a client if the representation will "result in violation of the D.C. Rules of Professional Conduct or other law." Olsen may have violated this rule if, as it appears, it became evident that his services would be

misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” For example, if an investigation confirms that Olsen assisted his clients, Mike Lindell and Sherronna Bishop, in conduct he knew was criminal or fraudulent, e.g., by connecting Bishop with Hayes so that Hayes could gain unlawful access to Mesa County’s voting system and/or facilitating the criminal scheme by knowingly helping Bishop and Peters conceal Hayes’ identity, he likely violated Rules 1.2(e) and 8.4(c). *See In re Thompson*, 538 A.2d 247 (D.C. 1987) (violation of 8.4(c) where the attorney knowingly assisted client in presenting false statements to the Immigration and Nationalization Service).

Disciplining attorneys who engage in unethical conduct that undermines faith in election results is crucial to maintaining the integrity of the legal system and preserving public trust in democratic processes. Thus, States United Democracy Center and Lawyers Defending American Democracy respectfully submit that this additional evidence of misconduct provides further support for a swift investigation and the prompt imposition of appropriate professional discipline, to protect the public and the profession.

Very truly yours,

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utilized to materially further the course of criminal conduct (i.e. Olsen connecting Hayes and Peters) such that he was required to withdraw.