

May 7, 2025

Office of Disciplinary Counsel
District of Columbia Court of Appeals
515 5th Street NW
Building A, Suite 117
Washington, D.C. 20001

CC: Office of Chief Disciplinary Counsel, Supreme Court of Missouri
Office of Professional Responsibility, U.S. Department of Justice
All Members of the U.S. Senate
Chief Judge James E. Boasberg of the U.S. District Court for the District of Columbia
U.S. Department of Justice Inspector General Michael E. Horowitz

Submitted electronically

Re: Edward R. Martin, Jr., Interim U.S. Attorney for the District of Columbia

Dear Disciplinary Counsel:

The undersigned civil society organizations write to raise serious concerns about Edward R. Martin, Jr., the interim U.S. Attorney for the District of Columbia and President Donald Trump's nominee to hold the position permanently. Given news reporting that puts his past and current actions in a troubling new light, we ask you to investigate his conduct for compliance with the rules of professional conduct for attorneys enforced by your office and to initiate appropriate disciplinary proceedings, up to and including disbarment. We also urge you to proceed as swiftly as possible due to the serious ongoing threat that Martin's behavior poses to the American public and to the rule of law.

Martin is a member of the D.C. Bar (No. 481866) who appears to have been admitted on June 9, 2003.¹ His D.C. Bar membership subjects him to the jurisdiction of your office² without any statute of limitations blocking disciplinary proceedings for violations of the Rules of Professional

¹ See, e.g., Edward R. Martin, Jr., D.C. Bar No. 481886, Appearance of Counsel, *U.S. v. Padilla*, No. 1:21-cr-00214 (JDB) (D.C.C. Nov. 10, 2021),

<https://storage.courtlistener.com/recap/gov.uscourts.dcd.228873/gov.uscourts.dcd.228873.47.0.pdf>; D.C. Bar Member Directory Profile for Mr. Edward Robert Martin, Jr., available at

<https://my.dcbars.org/directorymemberships?id=0014z00001kZ4BCAA0> (accessed on April 28, 2025). He has also practiced law in Missouri; the Missouri Bar Official Directory of Lawyers includes a profile for "Edward Robert Martin" with Bar No. 50282, available at https://mobar.org/site/content/For-the-Public/Lawyer_Directory_Detail.aspx?ID=933b599e-8540-4f95-947a-bd86a1a87865 (accessed on April 28, 2025).

² DC RPC 8.5(a) ("A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs."); DC RPC 8.5(b)(2)(II) (stating that with regard to conduct other than in connection with a matter pending before a tribunal, "If the lawyer is licensed to practice in this and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.").

Conduct for the D.C. Bar (“DC RPC”).³ News reports on Martin’s career in the years leading up to and throughout his tenure as an interim U.S. Attorney suggest that he has repeatedly engaged in conduct that may have violated those Rules, in addition to reflecting adversely on his character and fitness to be a licensed attorney, an officer of the court, and now a federal prosecutor. These are all roles that require a proven commitment to the integrity of our legal system and the fair, honest, and impartial administration of justice, i.e., the processes by which the government enforces our laws and ensures that the legal system functions fairly and efficiently.

In contrast, a pattern of serious ethical lapses and other professional misconduct in violation of the Rules would be disqualifying. As the D.C. Bar itself notes, dishonesty and serious interference with the administration of justice are among the characteristics that show a lawyer is unfit to practice law; a pattern of repeated offenses can indicate indifference to legal obligation as well.⁴

Our complaint focuses on two broad categories of allegations against Martin that suggest the disqualifying latter: one, Martin’s repeated abuse of his powers as a government prosecutor to threaten the constitutionally-protected political speech of dissenters and political opponents, and two, his pattern of interference in the administration of justice, which also magnifies the risks and harms of his abuses of prosecutorial power. These incidents are discussed below, along with relevant rules of professional conduct.

I. Rules Of Professional Conduct

Martin’s conduct implicates numerous rules of professional conduct for attorneys and government prosecutors, particularly the following. Individual rules are discussed in later parts of our letter, with the corresponding Missouri rules cited where appropriate.

Duty of Candor and Honesty

- **DC RPC 3.3.** This Rule prohibits a lawyer from knowingly making a false statement of fact or law to a tribunal. As Comment 2 states, “[t]here may be circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation.” Also, Comment 3 states that “legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal.”
- **DC RPC 4.1(a).** This Rule prohibits a lawyer from knowingly making a false statement of material fact or law to a third person.
- **DC RPC 8.4(c).** This Rule prohibits a lawyer from engaging in “conduct involving dishonesty, fraud, deceit, or misrepresentation.”

³ Rules Governing the District of Columbia Bar, Rule XI(1)(c) (“No statute of limitations. Disciplinary proceedings against an attorney shall not be subject to any period of limitation.”).

⁴ Comment 1 to DC RPC 8.4.

Administration of Justice and Fairness of the Legal System

- **DC RPC 8.4(a).** This Rule states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another. The corresponding rule in Missouri is MO RPC 4-8.4(a).
- **DC RPC 8.4(d).** This Rule prohibits a lawyer from engaging in conduct that seriously interferes with the administration of justice. The corresponding rule in Missouri is MO RPC 4-8.4(d), which prohibits conduct that is prejudicial to the administration of justice.

Comment 2 to DC RPC 8.4(d) notes that this prohibition covers acts such as “failure to obey court orders” while Comment 3 states that “offensive, abusive, or harassing conduct that seriously interferes with the administration of justice” may include words or actions that “manifest bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.”

- **DC RPC 3.4.** This Rule states that a lawyer shall not “[o]bstruct another party’s access to evidence or alter, destroy, or conceal evidence, or counsel or assist another person to do so, if the lawyer reasonably should know that the evidence is or may be the subject of discovery or subpoena in any pending or imminent proceeding.” The corresponding rule in Missouri is MO RPC 4-3.4.
- **DC RPC 3.5(a) and 3.5(b).** This Rule prohibits a lawyer from seeking to influence a judge or other officials by means prohibited by law and from communicating ex parte (in the absence of other parties) with such a person during the proceeding unless authorized to do so by law or court order. The corresponding provisions in Missouri are MO RPC 4-3.5(a) and 4-3.5(b).
- **DC RPC 3.5(d).** This Rule prohibits a lawyer from engaging in conduct intended to disrupt any proceeding of a tribunal, including a deposition. The corresponding rule in Missouri is MO RPC 4-3.5(d).

Professional Competence and Integrity, Including a Prosecutor’s Special Duties

- **DC RPC 1.1.** This Rule requires a lawyer to provide competent representation, which “requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” Comment 5 adds: “Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods, procedures, and technology meeting the standards of competent practitioners.”
- **DC RPC 3.1 and 3.8(b).** Rule 3.1 prohibits a lawyer from pursuing frivolous legal claims, while Rule 3.8(b) prohibits a prosecutor from filing in court or maintaining a criminal charge that the prosecutor knows is not supported by probable cause. Comment 1 to Rule 3.1 states that a lawyer has a “duty not to abuse legal procedure.”

- **DC RPC 3.8(a).** This Rule states that “in exercising discretion to investigate or to prosecute,” a prosecutor shall not “improperly favor or invidiously discriminate against any person.” As Comment 1 notes, “[a] prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence.”
- **DC RPC 3.7.** This Rule prohibits an attorney’s involvement as an attorney where they are “likely to be a necessary witness” in a trial. As Comment 1 explains, “[c]ombining the roles of advocate and witness can prejudice the opposing party and can involve a conflict of interest between the lawyer and client.”
- **DPC RPC 3.8(g).** This Rule protects the integrity of the grand jury by prohibiting a prosecutor from, among other things, abusing the processes of the grand jury or failing to bring to the attention of the grand jury material facts tending substantially to negate the existence of probable cause.
- **DC RPC 3.8(f) and 1.6.** Rule 3.8(f) prohibits a prosecutor from making extrajudicial statements out of court proceedings “which serve to heighten condemnation of the accused.” Also, Rule 1.6 requires that a lawyer not “reveal a confidence or secret of the lawyer’s client.”
- **DC RPC 3.8(d), 3.8(e), and 3.8(h).** These provisions compel a prosecutor to disclose evidence or information helpful to the defendant; they also prohibit a prosecutor from unreasonably delaying the disclosure of, or avoiding the pursuit of, evidence or information because doing so could aid the defense or damage the prosecution’s case.
- **DC RPC 5.1 and 8.4(a).** Rule 5.1 requires supervising lawyers to ensure that subordinate lawyers comply with the Rules of Professional Conduct, while Rule 8.4(a) prohibits an attorney from knowingly assisting or inducing another to violate the Rules and from violating the Rules through the acts of another. These Rules apply to Martin as a supervising lawyer in the Department of Justice who manages other prosecutors in the Office of the U.S. Attorney for the District of Columbia.

II. Martin’s Persecution Of Political Speech Protected By The First Amendment

Martin set the stage for his tenure as an interim U.S. Attorney by declaring that he and other federal prosecutors are “President Trumps’ [sic] lawyers” while endorsing the Trump White House’s unconstitutional actions against the press⁵ — even though all U.S. Attorneys serve the United States and pledge their loyalty to the U.S. Constitution rather than any particular president. Consistent with his fundamentally mistaken understanding of his public position and his poor grasp of constitutional law basics, Martin has repeatedly abused the powers of the Office of the U.S. Attorney for the District of Columbia since his temporary appointment on January 20, 2025 to intimidate, silence, and retaliate against his and President Trump’s perceived political enemies.

⁵ Joseph Gedeon, *Outcry as DC US attorney claims he and colleagues are ‘President Trump’s lawyers’*, The Guardian (Feb. 24, 2025), <https://www.theguardian.com/us-news/2025/feb/24/us-attorney-trump-lawyers>.

Specifically, in numerous instances Martin took active steps to investigate and prosecute those critics and dissenters based on an incorrect knowledge of the law and baseless accusations, thereby punishing expression and activity that he disfavors but which are nonetheless unquestionably protected by the First Amendment. Martin has even threatened to use his prosecutorial powers to target political opponents even if they are not alleged to have violated any criminal statutes at all.

In doing so, Martin may have violated numerous rules of professional conduct in D.C., including: RPC 1.1 (requiring competence); RPC 3.1 and 3.8(b) (barring frivolous legal claims or criminal charges); RPC 3.8(a) (barring improper favor or invidious discrimination in exercising prosecutorial discretion to investigate or prosecute); RPC 3.7 (barring attorneys from acting as both attorney and witness); RPC 3.8(g) (barring abuses of the grand jury); and RPC 3.8(f) (barring prosecutors from certain extrajudicial statements). To the extent that he leveraged a misleading understanding or recitation of the law to advance those actions, Martin may have also violated RPC 3.3 (barring false statements of fact or law); RPC 4.1(a) (barring false statement of material fact or law to a third person); and RPC 8.4(c) (barring conduct involving dishonesty, fraud, deceit, or misrepresentation).

A. Prosecutorial Threats On Behalf Of Elon Musk Against The Government's Critics

On February 3, 2025, Martin tweeted a letter to Elon Musk — the world's richest man running the Department of Government Efficiency (DOGE) — asking him to use the Office of the U.S. Attorney for the District of Columbia. to protect DOGE staff and their work and directing him to refer “any questionable conduct or details that [Musk] find[s] or notice[s]” to Martin's office.⁶ In that letter, Martin asserts that “actions in any way that impact [DOGE's] work may break numerous laws,” and that he commits to the pursuit of “all legal action against anyone who impedes [Musk's] work or threatens [Musk's] people.” The letter also threatens Americans' protest rights, stating that Martin's office will “protect DOGE and other workers no matter what,” referring to past protests in Washington, D.C. as riots. Martin's letter, and the potential abuses of prosecutorial powers it telegraphed, alarmed civil liberties advocates nationwide.⁷

That Martin appears to be soliciting Musk for legal cues is especially concerning in light of Musk's own mistaken views of the law. Shortly before Martin's letter on February 3, Musk had alleged on X, the social media platform he owns, that making a post which merely names engineers working for DOGE is “a crime”⁸ — despite himself having publicly posted on X the

⁶ Ed Martin (@EagleEdMartin), X (Feb. 3, 2025), <https://x.com/EagleEdMartin/status/1886456136032817488>.

⁷ Demand Progress Education Fund, *Groups Demand U.S. Attorney for D.C. Respect First Amendment* (Feb. 5, 2025), <https://demandprogresseducationfund.org/groups-demand-u-s-attorney-for-d-c-respect-first-amendment>. The ACLU noted in another letter to Martin that his letter's superfluous references to “Antifa and BLM rioters,” further indicated an intent by Martin to use his office as a pulpit to threaten those with viewpoints Musk and the Trump administration disfavor. *See* https://www.acludc.org/sites/default/files/20250204_acludc_ltr_to_martin65.pdf.

⁸ Elon Musk (@ElonMusk), X (Feb. 3, 2025), <https://x.com/elonmusk/status/1886318915707375664>.

names of government employees with whom he disagrees⁹ and having used his massive public platform to insult government officials.¹⁰ The post in question followed an article in WIRED in which journalists named the DOGE employees at issue¹¹ — aged between 19-25 years old — in a report questioning whether they had the experience and qualifications necessary to wield the extraordinary power being vested in them by Musk and the Trump Administration.

Although Musk is not a lawyer, Martin is an attorney who holds an immensely powerful legal position in the U.S. government. As any lawyer in that position should know, it is not a crime to harshly criticize government employees and officials, even if transparency and criticism “impede” their work.¹² Moreover, while certain true threats are unprotected and may be criminally punished, they are limited to “‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence.’”¹³ Hyperbolic speech, even using threatening language, is entitled to full First Amendment protection.¹⁴ As the First Amendment organization FIRE explains, “Criticizing the government is not a crime. It’s free speech. And the First Amendment fiercely protects it. In fact, the First Amendment protects a lot of sharp-edged political rhetoric.”¹⁵

Furthermore, it is not a crime for anyone to publicly identify individuals openly conducting government work that is of the utmost public concern. The Supreme Court has repeatedly held that the First Amendment protects the right to publish newsworthy information that the publisher lawfully obtains, including names far more sensitive than those of government personnel.¹⁶

The First Amendment protects Americans’ right to peaceably assemble as well, especially to protest government actions,¹⁷ and severely constrains the government’s ability to limit protests in public forums, such as the public streets of Washington, D.C.¹⁸ The government also cannot ban or restrict future protests based on unlawful conduct alleged to have occurred at past protests.¹⁹

⁹ Hadas Gold and Rene Marsh, *Elon Musk publicized the names of government employees he wants to cut. It’s terrifying federal workers*, CNN (Nov. 27, 2024), <https://www.cnn.com/2024/11/27/business/elon-musk-government-employees-targets/index.html>.

¹⁰ See, e.g., Elon Musk (@ElonMusk), X, https://x.com/search?q=from%3Aelonmusk%20Biden%20until%3A2025-01-20&src=typed_query&f=live.

¹¹ Vittoria Elliott, *The Young, Inexperienced Engineers Aiding Elon Musk’s Government Takeover*, WIRED (Feb. 2, 2025), <https://www.wired.com/story/elon-musk-government-young-engineers/>.

¹² See *New York Times v. Sullivan*, 376 U.S. 254, 270 (1964) (explaining America’s “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”).

¹³ *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (quoting *Virginia v. Black*, 538 U.S. 343, 359 (2003)).

¹⁴ *Id.*

¹⁵ Foundation for Individual Rights and Expression (FIRE), *US Attorney Ed Martin’s bully tactics have no place in America* (Feb. 21, 2025), <https://www.thefire.org/news/us-attorney-ed-martins-bully-tactics-have-no-place-america>.

¹⁶ See, e.g., *Bartnicki v. Vopper*, 532 U.S. 514 (2001); *Florida Star v. B.J.F.*, 491 U.S. 524 (1989).

¹⁷ *United States v. Grace*, 461 U.S. 171, 176 (1983).

¹⁸ *Id.* at 177.

¹⁹ *Collins v. Jordan*, 110 F.3d 1363, 1372 (9th Cir. 1996). If a protest becomes violent, the constitutional response is “to arrest those who actually engage in such conduct.” *Collins*, 110 F.3d at 1372. In rare instances, the government may disperse a protest that has become overwhelmingly violent. However, both the law and the Department of Justice’s own guidelines specify that journalists may not be subject to blanket dispersal orders at protests. See *Index Newspapers LLC v. U.S. Marshall’s Serv.*, 977 F.3d 817 (9th Cir. 2020); U.S. Dep’t of Justice Civil Rights Division and U.S. Attorney’s Office of the District of Minnesota Civil Division, *Investigation of the City of Minneapolis and the Minneapolis Police Department* (June 16, 2023), <https://www.foxnews.com/politics/how-wednesdays-capitol->

These are all constitutional law fundamentals that should be familiar to all prosecutors, not just the U.S. Attorney for the nation's capital.

B. Prosecutorial Threats Against Democratic Lawmakers

Amid civil liberties advocates' condemnations of his efforts to violate people's First Amendment rights, Martin doubled down and extended his prosecution threats to elected lawmakers who have criticized or otherwise opposed President Trump and his allies, including Musk.

On February 20, 2025, Martin initiated a criminal investigation into two members of Congress for their public statements as part of what he dubbed "Operation Whirlwind," claiming that those ordinary remarks somehow violated the law.²⁰ Specifically, Martin targeted Senate Democratic Leader Chuck Schumer for his remarks at a rally outside the Supreme Court in 2020: "I want to tell you, Gorsuch, I want to tell you Kavanaugh, you have released the whirlwind and you will pay the price. You won't know what hit you if you go forward with these awful decisions." Martin also targeted Rep. Robert Garcia, a California Democrat, for his comments regarding DOGE that "what the American public want is for us to bring actual weapons to this bar fight. This is an actual fight for democracy."²¹

However, as FIRE explained: "It's not a close call: Neither statement meets the definition of a true threat. Each is core political speech, fully protected by the First Amendment."²² Martin's claims to the contrary are all the more dubious in light of the Constitution's Speech or Debate Clause, which immunizes Members of Congress against civil and criminal liability for their actions taken in connection with their legislative duties.²³

Martin eventually dropped the criminal probe of Schumer's five-year-old statement,²⁴ after sending three separate letters to the senator and on the eve of the statute of limitations running out on the criminal charges he sought to pursue. Indeed, his plan to convene a grand jury to indict Schumer was reportedly thwarted by other U.S. Department of Justice officials²⁵; it is unclear if Martin's campaign to prosecute Garcia over Garcia's clearly metaphorical and hyperbolic comments is still ongoing.

riot-come-to-fruit; Police Executive Research Forum, Office of Community Oriented Policing Services, *Police-Media Interactions during Mass Demonstrations: Practical, Actionable Recommendations* (2024), <https://www.rcfp.org/wp-content/uploads/2024/10/Police-Media-Interactions-During-Mass-Demonstrations.pdf>.

²⁰ JT Morris and Will Creeley, Foundation for Individual Rights and Expression (FIRE), *US Attorney Ed Martin's bully tactics have no place in America* (Feb. 21, 2025), <https://www.thefire.org/news/us-attorney-ed-martins-bully-tactics-have-no-place-america>.

²¹ Spencer S. Hsu, *D.C. U.S. attorney probing Democrats over alleged threats, documents show*, Wash. Post (Feb. 20, 2025), <https://www.washingtonpost.com/dc-md-va/2025/02/19/trump-justice-operation-whirlwind-democrats/>.

²² JT Morris and Will Creeley, , Foundation for Individual Rights and Expression (FIRE), *US Attorney Ed Martin's bully tactics have no place in America* (Feb. 21, 2025), <https://www.thefire.org/news/us-attorney-ed-martins-bully-tactics-have-no-place-america>.

²³ U.S. Const. art. I, § 6, cl. 1 (Speech or Debate Clause).

²⁴ Spencer S. Hsu, *D.C. prosecutor drops bid to investigate Schumer for purported threat*, Wash. Post (Mar. 4, 2025), <https://www.washingtonpost.com/dc-md-va/2025/03/04/martin-schumer-trump-investigate-democrats>.

²⁵ Glenn Thrush, *U.S. Attorney Rebuffed by Justice Dept. in Push to Escalate Inquiry Into Schumer*, N.Y. Times, (Mar. 3, 2025), <https://www.nytimes.com/2025/03/03/us/politics/us-attorney-justice-dept-schumer-inquiry.html>.

C. Investigations Without Any Legal Authority Or Probable Cause

A U.S. Attorney has no authority whatsoever to prosecute people who have not committed any crimes for behaving “simply unethically” or for merely expressing constitutionally-protected views he dislikes. However, that lack of authority and probable cause has not hindered Martin from continually using his public office to openly intimidate people and institutions he disfavors. Any questions or demands that come on a U.S. Attorney’s official letterhead carry the implicit threat of criminal prosecution or a civil investigation, both of which can be legally, financially, and socially ruinous — and it is precisely this fear that Martin is exploiting to inquire into and chill people’s constitutionally-protected expression, particularly their core political speech.

1. *People Who “Even Acted Simply Unethically”*

As part of his pattern of targeting critics of President Trump, his allies, and DOGE in particular, on February 7, 2025, Martin tweeted yet another letter to billionaire Musk stating that if the Office of the U.S. Attorney were to discover anyone who “even acted simply unethically” — as opposed to having engaged in unlawful conduct that actually violates the law — “we will investigate them and we will chase them to the end of the Earth.”²⁶ In this letter, Martin also thanks Musk for making criminal referrals to his office and states that he “will begin an inquiry,” indicating his intent to move beyond threatening criminal investigations at Musk’s behest to actually initiating them.

2. *The Associated Press*

When Martin stated that he and other federal prosecutors are “President Trumps’ [sic] lawyers,” he was endorsing the Trump White House’s blatant violation of the Associated Press’s (AP) First Amendment rights.²⁷ Specifically, in a post using the official account of the U.S. Attorney for the District of Columbia and on the social media platform owned by Elon Musk, Martin wrote the following: “As President Trumps’ lawyers, we are proud to fight to protect his leadership as our President and we are vigilant in standing against entities like the AP that refuse to put America first.”²⁸ A federal judge later affirmed that this reprisal against the AP — for which Martin was advocating — was a “constitutionally unacceptable” violation of the First Amendment.²⁹

Aside from his fundamentally mistaken and alarming view of his public position as President Trump’s political fixer and personal lawyer, this statement represents another instance of Martin threatening to use the enormous powers of the Office of the U.S. Attorney to punish those who have not done anything illegal — including and especially press organizations covering the Trump Administration’s activities on behalf of the American public.

²⁶ Ed Martin (@EagleEdMartin), X (Feb. 7, 2025), <https://x.com/EagleEdMartin/status/1887901087983689761>.

²⁷ Aaron Terr, Foundation for Individual Rights and Expression (FIRE), *White House barring AP from press events violates the First Amendment* (Feb. 14, 2025), <https://www.thefire.org/news/white-house-barring-ap-press-events-violates-first-amendment>.

²⁸ U.S. Attorney DC (@USAO_DC), X (Feb. 24, 2025), https://x.com/USAO_DC/status/1894119675786621225.

²⁹ See, e.g., Tom Joscelyn, Norm Eisen, and Susan Corke, State Democracy Defenders Action (Apr. 30, 2025), *Autocracy vs. Democracy in America: The First 100 Days*, <https://statedemocracydefenders.org/wp-content/uploads/2025/05/Autocracyvdemocracy100Days.pdf>.

3. *Pro Bono Legal Advice To Special Counsel Jack Smith*

In response to news reports that the law firm Covington & Burling had provided pro bono legal advice to former Special Counsel Jack Smith, who led the Justice Department’s criminal investigations into Trump, Martin tweeted “Save your receipts, Smith and Covington. We’ll be in touch soon. #NoOnesAboveTheLaw.”³⁰

As one former prosecutor reacted to Martin’s post, “What’s even the potential crime here? Smith lawyered up — wisely, given the obvious retribution headed his way — and a law firm represented him pro bono. Somebody call the cops! And if Martin had a clue, he’d know that it’s generally not a great idea to broadcast a new criminal investigation publicly.”³¹

Another former prosecutor further noted that Martin’s threat potentially violates any number of ethics rules: “For instance, D.C. Bar Rule of Professional Conduct 3.8 broadly bars a prosecutor from making ‘extrajudicial comments which serve to heighten condemnation of the accused,’ while Justice Manual Rule 1-7.400 generally prohibits the disclosure of an ongoing investigation. And the American Bar Association’s standards direct prosecutors to threaten neither people who seek legal counsel in connection with an investigation nor those who provide such counsel.”³²

4. *Georgetown University Law Center*

Amid intense public backlash to his prior actions, Martin later wrote to the dean of Georgetown University Law Center to state that he had opened an “inquiry” and to demand answers whether the school had eliminated all “D.E.I.” from its curriculum.³³ Martin’s letter did not cite which, if any, laws the Catholic school had supposedly violated; it also did not define what he meant by D.E.I., which is shorthand for “diversity, equity, and inclusion” but is also a politically loaded term in today’s political era that represents different meanings for different people — thereby creating, at a minimum, a vagueness problem that a competent federal prosecutor would want to avoid. Martin also demanded that “If D.E.I. is found in your courses or teaching in any way, will you move swiftly to remove it?” and threatened punishment against the school by the Office of the U.S. Attorney, particularly in the form of an official policy of exclusion against its students and alumni.

However, the First Amendment guarantees a university’s freedom to determine its own curriculum; the Trump Administration’s own Department of Education recently conceded that the government cannot dictate what universities and their faculty teach and how to teach it.³⁴ As

³⁰ Elie Honig, *America’s Most Dangerous (and Ridiculous) Prosecutor*, N.Y. Magazine (Feb. 27, 2025), <https://nymag.com/intelligencer/article/ed-martin-trumps-dangerous-and-ridiculous-pet-prosecutor.html>.

³¹ *Id.*

³² Brendan Ballou, *U.S. Attorney Ed Martin May Have Already Messed Up Trump’s Retribution Tour*, Slate (Feb. 20, 2025), <https://slate.com/news-and-politics/2025/02/ed-martin-musk-trump-revenge-prosecutions-fail.html>.

³³ Spencer S. Hsu and Dan Rosenzweig-Ziff, *D.C. U.S. attorney tells Georgetown he won’t hire from any school with ‘DEI’*, Wash. Post (Mar. 5, 2025) <https://www.washingtonpost.com/dc-md-va/2025/03/05/dc-us-attorney-ed-martin-georgetown-law-dei/>.

³⁴ Foundation for Individual Rights and Expression (FIRE), *So to Speak Podcast Transcript: Columbia University, Mahmoud Khalil, DEI, law firms, and more* (Mar. 27, 2025), <https://www.thefire.org/research-learn/so-speak-podcast-transcript-columbia-university-mahmoud-khalil-dei-law-firms-and>.

one conservative lawyer thus summarized Martin’s missive, “I’ve rarely read a more unconstitutional letter.”³⁵

5. *Scientific Journals*

Still undeterred by denouncements of his actions from civil liberties and free speech advocates,³⁶ legal ethics scholars,³⁷ current and former government officials,³⁸ and commentators across the ideological spectrum,³⁹ Martin subsequently contacted at least three scientific and medical publications to accuse them of being “partisans in various scientific debates” and stating that “you have certain responsibilities” without offering any specific legal obligations or factual allegations.⁴⁰ Incredibly, as part of the same speech-chilling criminal investigative steps Martin was taking, he demanded information from the journals about their handling of “competing viewpoints.” But as one First Amendment expert explained, “When a United States Attorney wields the power of his office to target medical journals because of their content and editorial processes, he isn’t doing his job, let alone upholding his constitutional oath. He’s abusing his authority to try to chill protected speech.”⁴¹

III. Martin’s Disregard For The Rule Of Law And The Administration of Justice

Martin’s abuses of his prosecutorial powers to threaten the First Amendment rights of ideologically or politically disfavored opponents should be considered in light of his extensive track record of hostility towards the administration of justice — including any false statements or misleading omissions that Martin may have made in furtherance of those actions.

Both types of potential ethics violations are independently worth the Disciplinary Counsel’s scrutiny, but when combined together, they risk severely worsening the damage inflicted on his individual targets and the rule of law itself. We ask you to consider the following allegations against Martin in particular.

³⁵ David French, *The MAGA Culture War Comes for Georgetown Law*, N.Y. Times (Mar. 9, 2025), <https://www.nytimes.com/2025/03/09/opinion/trump-martin-free-speech.html>.

³⁶ See, e.g., JT Morris and Will Creeley, Foundation for Individual Rights and Expression (FIRE), *US Attorney Ed Martin’s bully tactics have no place in America* (Feb. 21, 2025), <https://www.thefire.org/news/us-attorney-ed-martins-bully-tactics-have-no-place-america>.

³⁷ See, e.g., Brad Heath, Sarah N. Lynch, and Andrew Goudsward, *Top Trump prosecutor in DC dropped federal case against Capitol rioter he represented*, Reuters (Feb. 5, 2025), <https://www.reuters.com/world/us/top-trump-prosecutor-dc-who-was-present-capitol-riot-dropped-us-case-against-2025-02-05/> (quoting Prof. Stephen Gillers stating “I find it alarming that a lawyer who represented a client in private practice and who is now a public official would be using the powers of the new office for the benefit of his former private client”).

³⁸ See, e.g., Ashley Oliver, *Ed Martin’s unusual activity jeopardizes nomination to lead DC office*, Wash. Examiner (Feb. 25, 2025), <https://www.washingtonexaminer.com/news/justice/3329027/ed-martin-unusual-activity-jeopardizes-nomination-lead-d-c-office/>.

³⁹ See, e.g., Joe Lancaster, *Trump Is Weaponizing the DOJ Just Like He Accused Democrats of Doing*, Reason (Mar. 7, 2025), <https://reason.com/2025/03/07/trump-is-weaponizing-the-doj-just-like-he-accused-democrats-of-doing/>; Dan Friedman and Amanda Moore, *Ed Martin Is Trampling the Rule of Law. And He Won’t Shut Up About It.*, Mother Jones (Mar. 24, 2025), <https://www.motherjones.com/politics/2025/03/ed-martin-washington-dc-us-attorney-january-6-trump/>.

⁴⁰ Kristina Fiore, *Medical Journals Get Letters From DOJ*, Medpage Today (Apr. 19, 2025), <https://www.medpagetoday.com/special-reports/exclusives/115180>.

⁴¹ *Id.*

A. Martin's Dishonesty And Lack Of Candor

When presidential nominees are vetted by the U.S. Senate, such as during confirmation hearings and via written questionnaires, they have a legal and professional obligation to respond truthfully. Federal law also specifically prohibits making false statements to Congress (18 U.S.C. 1001) and lying under oath (18 U.S.C. 1621 and 18 U.S.C. 1623). And as any lawyer who has ever passed the Character and Fitness process for obtaining a law license knows, attorneys have a fundamental duty of candor and honesty in their professional conduct. However, Martin may have crossed those lines on numerous occasions.

Through the following actions and statements, Martin may have violated various rules of professional conduct in D.C., including: RPC 3.3 (barring false statements of fact or law); RPC 4.1(a) (barring false statement of material fact or law to a third person); and RPC 8.4(c) (barring conduct involving dishonesty, fraud, deceit, or misrepresentation).

1. *False Claims About His Connections To Alleged Nazi Sympathizer Timothy Hale-Cusanelli*

Martin is facing public uproar over his ties to Timothy Hale-Cusanelli, an alleged Nazi sympathizer who was convicted of storming the U.S. Capitol on January 6, 2021 and whom Martin celebrated with an award last August.⁴² As part of Hale-Cusanelli's criminal prosecution for his role in the January 6th attack, federal prosecutors described him as a "white supremacist and Nazi sympathizer" who told his coworkers that "Hitler should have finished the job" and "babies born with any deformities or disabilities should be shot in the forehead."⁴³

Closer examination of Martin's honesty about his connections to Hale-Cusanelli is warranted. As his embattled nomination faces scrutiny by the U.S. Senate,⁴⁴ Martin is now claiming that he did not know of Hale-Cusanelli's antisemitism "at the time,"⁴⁵ that he could recall only one interview with Hale-Cusanelli,⁴⁶ and that he is "not close" with him.⁴⁷

⁴² Tom Jackman and Spencer S. Hsu, *Under Senate oath, Trump nominee claims ignorance of Nazi sympathizer's views*, Wash. Post (Apr. 29, 2025), <https://www.washingtonpost.com/dc-md-va/2025/04/29/ed-martin-antisemitism-hitler-nazi-senate-nomination/>.

⁴³ Tom Dreisbach, *Trump's Bedminster club hosted an alleged Nazi sympathizer who stormed the Capitol*, NPR (Sept. 12, 2024), <https://www.npr.org/2024/09/12/nx-s1-5107435/trump-capitol-riot-antisemitic-bedminster>.

⁴⁴ Evan Perez and Annie Grayer, *Trump's top DC prosecutor nominee facing some GOP headwinds*, CNN (May 1, 2025), <https://www.cnn.com/2025/05/01/politics/ed-martin-gop-headwinds-nomination-us-attorney-dc>.

⁴⁵ Andrew Kaczynski, Em Steck, and Annie Grayer, *'A great friend': Audio undercuts Trump US attorney nominee's disavowal of alleged Nazi sympathizer*, CNN (Apr. 28, 2025), <https://www.cnn.com/2025/04/28/politics/kfile-ed-martin-disavows-alleged-nazi-sympathizer-he-previously-praised/index.html>.

⁴⁶ Ryan J. Reilly and Frank Thorp V, *Trump pick for key prosecutor post dodges Senate questions on Jan. 6, criticism of GOP members*, NBC News (Apr. 29, 2025), <https://www.nbcnews.com/politics/justice-department/trump-pick-key-prosecutor-post-dodges-senate-questions-jan-6-criticism-rcna203496>.

⁴⁷ *Id.*

However, Martin’s claims are contradicted by videos and podcasts,⁴⁸ including instances where Martin called Hale-Cusanelli “extraordinary” and repeatedly referred to him as “a great friend” who is “an amazing guy.”⁴⁹ Martin had hosted Hale-Cusanelli at least five times on his podcasts in 2024, after Hale-Cusanelli’s Nazi sympathies had been widely reported by news media and documented in court records — including one January 2024 interview where Martin and Hale-Cusanelli openly discussed the media coverage of the latter as “the reincarnation of the Führer” and where Martin dismissed the portrayal as “character assassination.”⁵⁰ In a July 2024 podcast episode, Martin also referred to Hale-Cusanelli’s infamous Hitler-style mustache photo and argued that the photo was being used to smear him as antisemitic⁵¹ — a photo which Martin now claims under oath he had not seen before.⁵²

The timeline of Martin’s email correspondence with the news media organization NPR further contradicts his latest attempts to feign ignorance about Hale-Cusanelli. In September 2024, NPR specifically emailed Martin about the “litany of antisemitic and racist comments previously made by Hale-Cusanelli”; Martin replied to insult NPR but did not object to Hale-Cusanelli’s comments.⁵³ In subsequent months, Martin continued to praise Hale-Cusanelli as a “friend,” “amazing guy,” and “great man.”⁵⁴ Martin and Hale-Cusanelli attended an event together as recently as March 24, 2025. Mere weeks later, Martin told the U.S. Senate while under oath that he had not been aware of Hale-Cusanelli’s past statements and that they are “not close.”⁵⁵ Martin’s self-serving turnabout is simply not credible in light of the evidence.

2. *Misleading Omissions To U.S. Senate Judiciary Committee*

As part of the U.S. Senate confirmation process, including vetting by the Senate Judiciary Committee, Martin is required to submit disclosure forms and truthfully answer written questionnaires under oath. However, Martin failed to initially disclose hundreds of media appearances to the Committee, including many on far-right media outlets and Russian-state media.⁵⁶

⁴⁸ Spencer S. Hsu and Tom Jackman, *Video casts doubt on Ed Martin’s apology for praising Nazi sympathizer*, Wash. Post (Apr. 25, 2025), <https://www.washingtonpost.com/dc-md-va/2025/04/25/trump-martin-antisemitism-apology-hale-cusanelli/>.

⁴⁹ Andrew Kaczynski, Em Steck, and Annie Grayer, *‘A great friend’: Audio undercuts Trump US attorney nominee’s disavowal of alleged Nazi sympathizer*, CNN (Apr. 28, 2025), <https://www.cnn.com/2025/04/28/politics/kfile-ed-martin-disavows-alleged-nazi-sympathizer-he-previously-praised/index.html>.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Tom Jackman and Spencer S. Hsu, *Under Senate oath, Trump nominee claims ignorance of Nazi sympathizer’s views*, Wash. Post (Apr. 29, 2025), <https://www.washingtonpost.com/dc-md-va/2025/04/29/ed-martin-antisemitism-hitler-nazi-senate-nomination/>.

⁵³ Tom Dreisbach, *Trump nominee gives misleading testimony about ties to alleged ‘Nazi sympathizer’*, NPR (May 1, 2025), <https://www.npr.org/2025/05/01/nx-s1-5380933/ed-martin-trump-hale-cusanelli-antisemitic>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Em Steck, Annie Grayer, and Andrew Kaczynski, *Trump’s pick to be DC’s top prosecutor failed to report nearly 200 appearances on far-right media outlets to Senate*, CNN (Apr. 17, 2025), <https://www.cnn.com/2025/04/17/politics/ed-martin-failed-to-report-media-appearances-senate/index.html>.

Martin's omissions to the Committee are highly unusual. According to news reporting, "Martin has omitted far more from his nomination materials than other recent U.S. attorney nominees, two people familiar with the process said Monday, one of them estimating omissions of about 350 events, interviews and media appearances."⁵⁷ By comparison, only about three of roughly 80 such nominees from 2021 through 2024 left out published writings and public statements in supplemental committee disclosures, and none missed more than four items, one of the people said."

Although Martin has submitted multiple supplementals and amendments since his initial disclosures, those updates contained glaring omissions as well.⁵⁸ And many omissions appear not to be mere minor lapses in memory; for example, Martin had initially claimed to the Committee that he made *no* media appearances in 2023, but CNN found that he made at least *124* separate appearances across podcasts, radio shows, and television that year.⁵⁹ Similar revelations about Martin's lack of candor to the Committee continued to be identified by news reporters.⁶⁰

3. False Claims About The 2020 Presidential Election

Martin's views and actions with regard to the 2020 presidential election are well-known and widely covered:

- He was a key leader in the "Stop the Steal" movement, which was founded on the false conspiracy theory that Trump won the 2020 presidential election⁶¹;
- He allegedly helped organize and fundraise for the "Stop the Steal" rally on January 6, 2021⁶² that preceded the attack on the U.S. Capitol in a violent bid to stop Congress from certifying President Biden's election victory;
- He allegedly promoted elaborate false claims about voting machines built by Dominion Voting Systems (i.e., the same company that sued Fox News over its false elections claims and won a nearly \$800 million settlement⁶³), stating on November 20, 2020 that

⁵⁷ Spencer S. Hsu and Aaron Schaffer, *Trump's D.C. U.S. attorney pick appeared on Russian state media over 150 times*, Wash. Post (Apr. 16, 2025), <https://www.washingtonpost.com/dc-md-va/2025/04/16/ed-martin-rt-sputnik-usattorney/>.

⁵⁸ Em Steck, Annie Grayer, and Andrew Kaczynski, *Trump's pick to be DC's top prosecutor failed to report nearly 200 appearances on far-right media outlets to Senate*, CNN (Apr. 17, 2025), <https://www.cnn.com/2025/04/17/politics/ed-martin-failed-to-report-media-appearances-senate/index.html>.

⁵⁹ *Id.*

⁶⁰ Ryan J. Reilly and Frank Thorp V, *Trump pick for key prosecutor post dodges Senate questions on Jan. 6, criticism of GOP members*, NBC News (Apr. 29, 2025), <https://www.nbcnews.com/politics/justice-department/trump-pick-key-prosecutor-post-dodges-senate-questions-jan-6-criticism-rcna203496>.

⁶¹ Ryan J. Reilly, *Trump nominates 'Stop the Steal' organizer who advocated for Jan. 6 defendants to be D.C.'s top prosecutor*, NBC News (Feb. 17, 2025), <https://www.nbcnews.com/politics/justice-department/trump-nominates-stop-steal-organizer-advocated-jan-6-defendants-dcs-to-rcna192451>.

⁶² Alison Durkee, *Who Is Ed Martin? Trump Nominates Jan. 6 Defense Attorney As Top DC Prosecutor*, Forbes (Feb. 17, 2025), <https://www.forbes.com/sites/alisondurkee/2025/02/17/who-is-ed-martin-trump-nominates-jan-6-defense-attorney-as-top-dc-prosecutor/>.

⁶³ David Bauder, Randall Chase, and Geoff Mulvihill, *Fox, Dominion reach \$787M settlement over election claims*, Associated Press (Apr. 18, 2023), <https://apnews.com/article/fox-news-dominion-lawsuit-trial-trump-2020-0ac71f75acfacc52ea80b3e747fb0afe>.

“the hackers have figured out that this thing is really rigged and you can use the algorithms, you can use back doors, you can use things to move the whole election”⁶⁴;

- He was not only on the Capitol grounds during the January 6 attack, NBC News reported the following: “Capitol video surveillance footage published by House Republicans shows him arriving on the grounds at around 2:20 p.m. By that time, Trump’s backers had already broken through police lines and stormed the building itself in an attempt to block Congress from certifying President Joe Biden’s victory.”⁶⁵ When asked under oath about the events at the Capitol by the U.S. Senate Judiciary Committee, Martin refused to state unequivocally there was violence that day⁶⁶;
- He claimed that two officers who defended the U.S. Capitol on January 6 — former D.C. police officer Michael Fanone and former Capitol Police officer Harry Dunn — “appear to have lied” about being “mistreated” and accused them of possible perjury.⁶⁷ Fanone, whom Martin disparaged as a “fake cop,” was beaten in the attack and suffered a heart attack and a concussion during the riot. When asked about these statements by the U.S. Senate Judiciary Committee under oath, Martin claimed in written responses that he did not remember ever denigrating a police officer who was injured defending the Capitol on January 6⁶⁸;
- He claimed that the January 6 attack was “an op” orchestrated by, among others, law enforcement agencies to “damage Trump and Trumpism,”⁶⁹ although he recently refused to answer under oath when asked by the U.S. Senate Judiciary Committee whether he had ever stated or suggested the January 6 attack was “deliberately planned, premeditated, or organized by the FBI”⁷⁰;

⁶⁴ Eileen Sullivan, Alan Feuer, and Alexandra Berzon, *Advocate of Jan. 6 Rioters Now Runs Office That Investigated Them*, N.Y. Times (May 1, 2025), <https://www.nytimes.com/2025/02/08/us/ed-martin-us-attorneys-office-trump.html>.

⁶⁵ Sahil Kapur and Ryan J. Reilly, *RNC hires a prominent 'Stop the Steal' advocate to help craft its 2024 platform*, NBC News (June 7, 2024), <https://www.nbcnews.com/politics/2024-election/rnc-hires-prominent-stop-steal-advocate-help-craft-2024-platform-rcna155298>.

⁶⁶ Evan Perez and Annie Grayer, *Trump’s top DC prosecutor nominee facing some GOP headwinds*, CNN (May 1, 2025), <https://www.cnn.com/2025/05/01/politics/ed-martin-gop-headwinds-nomination-us-attorney-dc>.

⁶⁷ Annie Grayer, Andrew Kaczynski, and Em Steck, *Trump’s top DC prosecutor nominee claims not to recall numerous past controversial statements under oath*, CNN (Apr. 30, 2025), <https://www.cnn.com/2025/04/29/politics/kfile-ed-martin-senate-judiciary-committee-controversial-comments>.

⁶⁸ *Id.*

⁶⁹ Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

⁷⁰ Ryan J. Reilly and Frank Thorp V, *Trump pick for key prosecutor post dodges Senate questions on Jan. 6, criticism of GOP members*, NBC News (Apr. 29, 2025), <https://www.nbcnews.com/politics/justice-department/trump-pick-key-prosecutor-post-dodges-senate-questions-jan-6-criticism-rcna203496>.

- He defended at least three January 6 defendants according to court filings,⁷¹ although his written submission under oath to the U.S. Senate stated that he served as a defense lawyer on two January 6 cases⁷²;
- He served as a board member of Patriot Freedom Project — possibly even after his appointment as an interim U.S. Attorney began,⁷³ which if true may violate other ethics rules on conflicts of interests — an organization which advocates and fundraises for January 6 defendants⁷⁴ and whose founder Cynthia Hughes is the self-described “adoptive aunt”⁷⁵ of alleged Nazi sympathizer Timothy Hale-Cusanelli⁷⁶; and
- As interim U.S. Attorney for the District of Columbia, he not only dismissed dozens of pending January 6 cases as he had been instructed by President Trump and the Acting Attorney General,⁷⁷ he subjected prosecutors to demotions, firings, or retaliatory investigations for working on cases against January 6 rioters who assaulted police officers that day.⁷⁸

Taking stock of Martin’s record on these matters, nearly 100 former prosecutors and employees of the Office of the U.S. Attorney for D.C. recently warned that “his refusals to acknowledge the legitimacy of the 2020 presidential election and the illegality in the conduct of 1600 individuals who overran the police and the Capitol on January 6, 2021, causing physical harm to dozens and potentially irreparable damage to the institution of democratic governance are in and of themselves disqualifying.”⁷⁹

⁷¹ Ted Oberg, *100 former assistant US attorneys oppose Ed Martin's nomination as DC's top prosecutor*, NBC Washington (Apr. 1, 2025), <https://www.nbcwashington.com/news/local/100-former-assistant-us-attorneys-oppose-ed-martins-nomination-as-dcs-top-prosecutor/3881078/>.

⁷² Scott MacFarlane and Daniel Klaidman, *Trump nominee to be D.C.'s top prosecutor touts legal work for Jan. 6 rioters in Senate questionnaire*, CBS News (Apr. 3, 2025), <https://www.cbsnews.com/news/ed-martin-january-6-rioters-attorney-senate-questionnaire/>.

⁷³ According to N.Y. Times reporting, Martin “was listed as a board member on the organization’s website well after he assumed his post as U.S. attorney and was put in charge of the Jan. 6 prosecutions.” Eileen Sullivan, Alan Feuer, and Alexandra Berzon, *Advocate of Jan. 6 Rioters Now Runs Office That Investigated Them*, N.Y. Times (Feb. 8, 2025), <https://www.nytimes.com/2025/02/08/us/ed-martin-us-attorneys-office-trump.html>. This information is corroborated by January 2025 versions of the Patriot Freedom Project’s “About Us” webpage, which lists Martin as a Board member and which are archived at the Wayback Machine at https://web.archive.org/web/20250000000000*/https://patriotfreedomproject.com/about-us/.

⁷⁴ Ryan J. Reilly, *Ed Martin, advocate for Jan. 6 defendants, named D.C.'s interim U.S. attorney, overseeing Capitol riot cases*, NBC News (Jan. 20, 2025), <https://www.nbcnews.com/politics/justice-department/ed-martin-advocate-jan-6-defendants-interim-chief-us-attorney-dc-rcna188446>.

⁷⁵ Tom Dreisbach, *Trump nominee gives misleading testimony about ties to alleged 'Nazi sympathizer'*, NPR (May 1, 2025), <https://www.npr.org/2025/05/01/nx-s1-5380933/ed-martin-trump-hale-cusanelli-antisemitic>.

⁷⁶ Our letter discusses Martin’s lack of candor about his connections to Hale-Cusanelli in earlier paragraphs.

⁷⁷ Elie Honig, *America's Most Dangerous (and Ridiculous) Prosecutor*, N.Y. Magazine (Feb. 27, 2025), <https://nymag.com/intelligencer/article/ed-martin-trumps-dangerous-and-ridiculous-pet-prosecutor.html>.

⁷⁸ Dan Friedman, *Now January 6 Apologist Ed Martin Says He Wants to “Defend the Police”*, Mother Jones (Mar. 8, 2025), <https://www.motherjones.com/politics/2025/03/january-6-ed-martin-trump-insurrection-capitol/>.

⁷⁹ Scott MacFarlane, *Former federal prosecutors for D.C. sign memo opposing Ed Martin as D.C. U.S. attorney*, CBS News (Apr. 28, 2025), <https://www.cbsnews.com/news/former-federal-prosecutors-d-c-sign-memo-opposing-ed-martin-as-d-c-u-s-attorney>. The letter itself is available online at <https://www.washingtonpost.com/documents/2ffee413-488d-49cc-9eac-93676f80aa19.pdf>.

With respect to the Disciplinary Counsel's ambit, Martin's persistent dishonesty regarding the 2020 presidential election is especially noteworthy given that other prominent lawyers who also peddled false and baseless claims about the election on behalf of President Trump are facing state bar disciplinary proceedings as a result.⁸⁰ These disgraced lawyers include Rudy Giuliani, for whom the D.C. Bar's disciplinary board recommended disbarment due to his "utter disregard for facts" in challenging the 2020 election results, and Jeffrey Clark, who was found by a three-member Disciplinary Panel of the D.C. Bar as having violated several ethics rules for engaging in dishonest conduct and who now faces possible disbarment as well.⁸¹

B. Interference In Legal Proceedings And Violation Of Court Orders

Martin's professional conduct throughout his career, including his early years away from the national spotlight, suggests a consistent pattern of engaging in actions that disregard, undermine, or damage the legal system. Through these activities, Martin may have violated numerous rules of professional conduct in D.C. ("DC RPC") and Missouri ("MO RPC"), including: DC RPC 8.4(a) and MO RPC 4-8.4(a) (barring violation of the rules through others); DC RPC 8.4(d) (barring interference with the administration of justice, including failure to obey court orders) and MO RPC 4-8.4(d) (barring conduct prejudicial to the administration of justice); DC RPC 3.4 and MO RPC 4-3.4 (barring destruction of evidence or obstructing another party's access); DC RPC 3.5 and MO RPC 4-3.5 (barring improper attempts to influence a judge and ex parte communications); and DC RPC 3.5(d) and MO RPC 4-3.5(d) (barring disruptions to a tribunal proceedings).

1. Contempt Of Court In Eagle Forum Lawsuit

A new investigative report by ProPublica⁸² has resurfaced troubling aspects of Martin's behavior earlier in his career, when he was the subject of a lawsuit filed by a majority of the board of the Eagle Forum. Martin had been selected by the group's founder to run it, only to be fired a year later. His behavior during those legal proceedings prompted the plaintiffs to file several motions asking the court to hold Martin in civil and criminal contempt, with one motion filed as recently as February 2020.⁸³

One criminal contempt motion addressing Martin's conduct aimed at the presiding judge in particular states the following⁸⁴:

⁸⁰ Peter A Joy and Kevin C McMunigal, American Bar Association, *Ethics Penalties for Trump's "Stop the Steal" Lawyers* (Apr. 14, 2025), https://www.americanbar.org/groups/criminal_justice/resources/magazine/2025-spring/ethics-penalties-trumps-stop-steal-lawyers/.

⁸¹ *Id.*

⁸² Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

⁸³ *Anne Schlafly Cori, et al. v. Edward R. Martin, Jr., et al.*, No. 16-MR-111 (Ill. Cir. Ct., Madison Cnty. Sept. 21, 2020) (order on contempt motions), available at <https://www.documentcloud.org/documents/25900528-september-21-contempt-order-martin-and-john-schlafly/#document/p10/a2632074>.

⁸⁴ *Anne Schlafly Cori, et al. v. Edward R. Martin, Jr., et al.*, No. 2016MR000111 (Ill. Cir. Ct., Madison Cnty. Sept. 21, 2020) (plaintiffs' motion for order to show cause why defendant Edward R. Martin, Jr. should not be held in criminal contempt of court), available at <https://www.documentcloud.org/documents/25896990-cori-v-martin-contempt-motion/>.

“Specifically, after an Order from this Court on October 20, 2016 (the ‘October 20 TRO’), Martin drafted attacks against this Court and directed his surrogate, Priscilla Gray, to assail Judge Barberis publicly on social media in an effort to disparage this Court and improperly influence its rulings. This conduct goes well beyond merely expressing disappointment in a ruling by this Court. Martin’s conduct amounted to ex parte communications with this Court which sought to improperly influence ruling on a pending motion.”

The ProPublica article quotes several legal ethics experts⁸⁵ stating that Martin’s conduct in the Eagle Forum case was “a clear violation of ethical norms and professional rules” — rules whose existence Martin himself had acknowledged.⁸⁶ Scott Cummings, a professor of legal ethics at UCLA School of Law, said that Martin appeared to be “deliberately interfering with a judicial proceeding with the intent to undermine the integrity of the outcome.”⁸⁷ Kathleen Clark, a legal ethics expert and law professor at Washington University in St. Louis, further noted that lawyers are prohibited by Missouri’s rules of professional conduct from trying to contact a judge outside of court in a case they are involved in and barred from using a proxy to do something they are barred from doing themselves.⁸⁸

Ultimately, the ProPublica reporting indicates that another judge found Martin in civil contempt, citing his ‘willful disregard’ of a court order.⁸⁹ The lead plaintiff had also filed an ethics complaint against Martin with the Missouri Office of Chief Disciplinary Counsel, but that complaint stalled: “She said she was told her complaint would have to wait until her lawsuit concluded. The office said it could neither confirm nor deny it had received a complaint.”

2. Possible Destruction Of Evidence In “Memogate” Scandal

Martin played a direct role in a political scandal in Missouri, dubbed “Memogate,” that began to unfold in 2007 while he was the chief of staff to Missouri Governor Matt Blunt.⁹⁰ Martin was allegedly using that government position to undermine political opponents. When reporters requested relevant emails from Blunt’s staff, the governor’s office denied they existed, which prompted a lawsuit from media organizations to preserve and recover the messages; Gov. Blunt’s office eventually disclosed over 22 boxes of internal emails.

⁸⁵ Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

⁸⁶ *Id.* (“Because of the possibility that he could be charged with criminal contempt of court, Martin declined to comment, on the advice of his own lawyer, though he acknowledged that lawyers are barred from communicating with judges outside of court or engaging in conduct meant to disrupt proceedings.”).

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.* The ProPublica reporting indicates that a new judge, David Dugan, took over when the original presiding judge in the case, Judge Barberis, was elected to a higher court.

⁹⁰ Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

In that scandal, an attorney for the governor, Scott Eckersley, alleged in a deposition that Martin tried to block the release of government emails and encouraged employees to delete emails.⁹¹ (Eckersley was fired after warning that doing so might violate state law; his subsequent lawsuit against Missouri for wrongful termination and defamation settled in his favor for \$500,000.) A journalist who covered the scandal for the St. Louis Post-Dispatch also stated that she believed Martin tried to get her fired over that reporting.

3. Alleged Violation Of Settlement In Jeanne Bergfeld's Wrongful Termination Lawsuit

Martin was implicated in yet another wrongful termination lawsuit when in 2006, Jeanne Bergfeld alleged that Martin and his colleagues fired her from the St. Louis Board of Election Commissioners for being “not Republican enough.”⁹² According to the news reporting, Bergfeld settled the lawsuit, which required Martin not to publicly discuss the case — a provision to which Martin agreed but nonetheless allegedly violated by disparaging her to a local newspaper.⁹³ Martin then allegedly denied that he had done so, but the newspaper’s audio recording proved that he had made those comments. Martin faced another lawsuit as a result; that subsequent lawsuit ended with him paying Bergfeld \$15,000 and some of her legal costs when the judge disciplined him for his “obstinacy” in that proceeding.⁹⁴

4. U.S. House Select Committee To Investigate The January 6th Attack On The U.S. Capitol

The U.S. House Select Committee To Investigate The January 6th Attack On The U.S. Capitol identified Martin as a key player in planning the “Stop the Steal” rally on January 6, 2021,⁹⁵ which preceded the attack on the Capitol that violently attempted to overturn the election results and which pushed the thoroughly debunked false notion that Trump rather than Joe Biden had won the 2020 presidential election. Martin was also on the Capitol grounds during the January 6 attack.⁹⁶ As part of its historic probe into the January 6 attack, the Select Committee issued a subpoena to Martin in 2022 to produce documents and to testify at a deposition.

⁹¹ *Id.*

⁹² Nicholas Phillips, *Tea Party Crasher: Hard-charging Ed Martin wants to win your vote — and Russ Carnahan's congressional seat*, Riverfront Times (Oct. 20, 2010), <https://www.riverfronttimes.com/news/tea-party-crasher-hard-charging-ed-martin-wants-to-win-your-vote-and-russ-carnahan's-congressional-seat-2491785>.

⁹³ Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

⁹⁴ *Id.*

⁹⁵ Press Statement, *Select Committee Subpoenas Individuals Involved in Planning January 5th and January 6th Rallies Preceding Violent Attack on the U.S. Capitol*, U.S. House Select Committee To Investigate The January 6th Attack On The U.S. Capitol (Dec. 10, 2021), <https://january6th-benniethompson.house.gov/news/press-releases/select-committee-subpoenas-individuals-involved-planning-january-5th-and-january>.

⁹⁶ Sahil Kapur and Ryan J. Reilly, *RNC hires a prominent 'Stop the Steal' advocate to help craft its 2024 platform*, NBC News (June 7, 2024), <https://www.nbcnews.com/politics/2024-election/rnc-hires-prominent-stop-steal-advocate-help-craft-2024-platform-rcna155298>.

Martin ignored the subpoenas, failing to produce any documents or to appear at the deposition.⁹⁷ As the interim U.S. Attorney for the District of Columbia, he now leads the public office that prosecutes obstruction of congressional investigations and congressional subpoenas.⁹⁸

C. Improper Actions As Interim U.S. Attorney

In his brief tenure as the chief prosecutor in the nation's capital, Martin has abused the vast powers of his public position to engage in an extensive range of disqualifying behaviors. Not only does the following list foreshadow the abuses of power likely to come should he be confirmed to serve as the permanent U.S. Attorney, his actions and statements may have also violated the rules of professional conduct for lawyers and prosecutors in D.C.

The rules of professional conduct in D.C. that Martin may have violated include: RPC 1.1 (requiring competence); RPC 3.1 and 3.8(b) (barring frivolous legal claims or criminal charges); RPC 3.8(a) (barring improper favor or invidious discrimination in exercising prosecutorial discretion to investigate or prosecute); RPC 3.7 (barring attorneys from acting as both attorney and witness); RPC 3.8(g) (barring abuses of the grand jury); RPC 3.8(f) (barring prosecutors from certain extrajudicial statements); RPC 1.6 (barring disclosure of a client's secret); RPC 3.8(d), 3.8(e), and 3.8(h) (requiring disclosure of exculpatory evidence to the defense); RPC 5.1 (requiring supervisors to ensure subordinates' compliance with the rules); and RPC 8.4(a) (barring violation of the rules through others). If Martin made material false statements of fact or law in furtherance of his other prosecutorial activities, Martin may have also violated RPC 3.3 (barring false statements of fact or law); RPC 4.1(a) (barring false statement of material fact or law to a third person); and RPC 8.4(c) (barring conduct involving dishonesty, fraud, deceit, or misrepresentation).

Additionally, U.S. Attorneys are bound by the U.S. Department of Justice's own rules and regulations, including policies outlined in the Department's Justice Manual regarding prosecutorial charging decisions. In particular, the Justice Manual prohibits federal prosecutors from making a decision regarding an investigation or prosecution, or from selecting the timing of investigative steps or criminal charges, for the purpose of giving an advantage or disadvantage to any candidate or political party.⁹⁹ Attorney General Pam Bondi's Memorandum for all Justice Department employees issued on February 5, 2025 also expressly cites the Justice Manual's requirement for prosecutors to consider whether there is probable cause to believe that a federal crime has been committed.¹⁰⁰ Indeed, as the Attorney General's Memorandum elaborates:

⁹⁷ Deposition Transcript, U.S. Select Committee To Investigate The January 6th Attack On The U.S. Capitol (Feb. 23, 2022), <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000050104/pdf/GPO-J6-TRANSCRIPT-CTRL0000050104.pdf>.

⁹⁸ James Pearce, *Ed Martin Has Some Explaining to Do*, Lawfare (Apr. 1, 2025), <https://www.lawfaremedia.org/article/ed-martin-has-some-explaining-to-do>.

⁹⁹ U.S. Dep't of Justice, Justice Manual, 9-27.000, <https://www.justice.gov/jm/jm-9-27000-principles-federal-prosecution>. Rule 1-7.400 of the Justice Manual also generally prohibits DOJ personnel from making public disclosures about ongoing investigations; see <https://www.justice.gov/jm/jm-1-7000-media-relations#1-7.400> ("DOJ generally will not confirm the existence of or otherwise comment about ongoing investigations.").

¹⁰⁰ U.S. Attorney General Pam Bondi, U.S. Dep't of Justice, *Memorandum For All Department Employees re: General Policy Regarding Charging, Plea Negotiations, and Sentencing* (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388541/dl>.

Critically, in determining whether to commence or recommend prosecution or take other action against a person, a prosecutor “may not be influenced”—in any respect—by the person’s “political association, activities, or beliefs.” *Id.* § 9-27.260(1). There is no place in the decision-making process for animosity or careerism, i.e., the “possible effect of the decision on the attorney’s own professional or personal circumstances.” *Id.* § 9-27.260(2)-(3).

Martin’s conduct may have violated a number of these departmental provisions as well, on top of the rules of professional conduct — a serious possibility that warrants separate investigation.

1. Improper Orders

As an interim U.S. Attorney, Martin quickly established a track record of firing, demoting, investigating, or otherwise retaliating against subordinate prosecutors who sought the impartial administration of justice by pursuing good faith prosecutions involving President Trump’s allies or advisers¹⁰¹ — including prosecutors who were top leaders overseeing or leading public corruption, fraud, major violent crimes, and complex conspiracy cases. Against that backdrop of fear and political retribution, in at least one instance — which came to public light due to a protest resignation — Martin allegedly ordered a prosecutor in his office to take improper legal action against Trump’s adversaries and forced her to resign when she refused.

Specifically, Martin ousted Denise Cheung from her position as a career prosecutor and the chief of the criminal division after she declined his demand to freeze the assets of a Biden Administration environmental grant initiative.¹⁰² According to her resignation letter, she refused to follow Martin’s orders because she believed that the criminal investigation sought by Martin and another Department of Justice official was unfounded and that there was insufficient evidence of a crime for the asset freeze.¹⁰³ Martin overruled that judgment and later personally submitted a seizure warrant application that was, unusually, signed only by him and no other prosecutors in his office; a U.S. magistrate judge rejected it after finding that the application failed to establish a reasonable belief that a crime occurred.¹⁰⁴

Similarly, Martin was reportedly the sole authorizing official on a grand jury subpoena to one of the targeted environmental groups.¹⁰⁵ As one former federal prosecutor explained, that detail signified either that “the matter was of ‘such extraordinary sensitivity’ that the office’s leader took exclusive control over it, or no other supervisor or line prosecutor was willing to sign off on

¹⁰¹ Spencer S. Hsu, *Seven top D.C. prosecutors demoted in purge by Trump U.S. attorney*, Wash. Post (Feb. 28, 2025), <https://www.washingtonpost.com/dc-md-va/2025/02/28/7-dc-prosecutors-demoted-trump/>.

¹⁰² Spencer S. Hsu et al., *High-ranking D.C. federal prosecutor resigns over order to freeze EPA funds*, Wash. Post (Feb. 18, 2025), <https://www.washingtonpost.com/investigations/2025/02/18/federal-prosecutor-dc-resigns/>.

¹⁰³ Spencer S. Hsu, Maxine Joselow, and Nicolás Rivero, *FBI takes up EPA probe amid pushback from judge, prosecutors*, Wash. Post (Feb. 27, 2025), <https://www.washingtonpost.com/dc-md-va/2025/02/27/trump-fbi-epa-grant-investigation/>.

¹⁰⁴ *Id.*

¹⁰⁵ Jeremy Kohler and Andy Kroll, *The Untold Story of How Ed Martin Ghostwrote Online Attacks Against a Judge — and Still Became a Top Trump Prosecutor*, ProPublica (Apr. 24, 2025), <https://www.propublica.org/article/ed-martin-trump-interim-dc-us-attorney-secret-judge-attacks>.

the subpoena ‘out of concern that it wasn’t legally or ethically appropriate.’”¹⁰⁶ When the legal dispute eventually reached a courtroom, the federal judge asked for any “evidence of malfeasance” to justify Martin’s investigation; the Department of Justice lawyer’s response was that he had none.¹⁰⁷

2. *Improper Withholding Of Evidence*

Martin is reportedly considering rewriting rules for the Office of the U.S. Attorney for D.C. to withhold police misconduct information from defense attorneys and judges before police officers testify.¹⁰⁸ This decision involves what prosecutors refer to as the Lewis List, which identifies police officers with potential integrity issues who testify in court; under a 1979 ruling by the D.C. Court of Appeals in *Archie V. Lewis v. United States*, prosecutors must disclose information about the known bias of a witness called to testify, even if that information undermines the prosecutor’s case. When prosecutors withhold such information from the defense, they risk the judge throwing out the case and professional discipline against themselves, including disbarment.

Reacting to Martin’s decision, a prosecutor in his office told the Washington Post that “no one is going to risk losing their bar license for not handing over evidence about a witness, which the [D.C.] Court of Appeals has instructed us to do in this jurisdiction for decades”¹⁰⁹ while a legal scholar flagged that “what Ed Martin is setting up is not only a violation of disclosure rules and law, but he is all but begging for cases to be dismissed or reversed once that information is later disclosed.”¹¹⁰ The news reporting also quotes a “D.C.-based judge, speaking on the condition of anonymity” commenting that “Martin ‘is obviously not familiar with how judges in the District of Columbia work. But he is about to find out. We follow case law.’” Furthermore, because Martin is the top supervisor in the Office of the U.S. Attorney for D.C., one prosecutor warned that “every prosecutor within the office is going to be facing ethical dilemmas and whether to quit — every day.”¹¹¹

3. *Improper Handling Of Investigations*

As discussed elsewhere in this letter, Martin has repeatedly threatened baseless criminal investigations and prosecutions against political adversaries — and he has frequently done so through his social media account or through letters sent on official U.S. Attorney’s letterhead that demand answers to various questions but which provide virtually no factual or legal specifics. His letters to Senator Schumer, Rep. Garcia, scientific journals, and Georgetown University Law Center, as well as his social media postings regarding former Special Counsel Jack Smith and his prosecution threats on behalf of Elon Musk, are among the illustrative examples.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Keith L. Alexander and Spencer S. Hsu, *U.S. attorney in D.C. considers withholding police misconduct information*, Wash. Post (Mar. 25, 2025), <https://www.washingtonpost.com/dc-md-va/2025/03/25/martin-trump-prosecutors-misconduct-violations/>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

Martin's approach may violate various ethics rules and procedural protocols that federal prosecutors must follow; his conduct also undermines the federal government's own cases and risks the dismissal of any subsequent convictions. As former U.S. Attorney Barbara McQuade explains¹¹²:

As a former U.S. attorney, I find these letters highly unusual and extremely inappropriate. Typically, federal investigations are conducted by law enforcement agents under the supervision of prosecutors, who then make charging decisions. Prosecutors are trained to refrain from conducting direct fact-finding to avoid becoming witnesses in the cases they may later prosecute. If information is sought for a criminal case, agents may conduct a voluntary interview with a subject or serve them with a subpoena to compel them to appear before a grand jury. A letter from the U.S. attorney is not on the usual menu of investigative techniques.

In addition, Department of Justice policy prohibits prosecutors from confirming or denying the existence of a criminal investigation because public disclosure may compromise the case or harm the subject's reputation. Thus, posting the Musk letters on social media would breach that protocol.

Martin is thus sabotaging the government's own prosecution cases, as former prosecutor Brendan Ballou notes¹¹³:

Among other things, a future defendant—be it a government employee, Schumer, or Smith—will argue that Martin's public statements needlessly taint a potential jury pool. This is why prosecutors rarely discuss ongoing investigations, typically limiting their public statements of cases to information contained in court filings: To do otherwise risks having any subsequent conviction dismissed. To the extent that Martin wants to prosecute any of Trump's political foes, he has made his own job harder.

IV. Conclusion

U.S. Attorneys must be held to the highest ethical and legal standards of the profession, especially given the enormous coercive powers they wield over people's lives and liberties. Quoting *Berger v. United States*, 295 U.S. 78, 88 (1935), the Office of the U.S. Attorney for the District of Columbia itself explains its importance as the principal prosecutor for all criminal offenses in that jurisdiction and as the principal litigator for the United States in the nation's capital¹¹⁴:

¹¹² Barbara McQuade, *Comment: U.S. attorney's 'Operation Whirlwind' about retribution*, HeraldNet (Feb. 26, 2025), <https://www.heraldnet.com/opinion/comment-u-s-attorneys-operation-whirlwind-about-retribution/>.

¹¹³ Brendan Ballou, *U.S. Attorney Ed Martin May Have Already Messed Up Trump's Retribution Tour*, Slate (Feb. 20, 2025), <https://slate.com/news-and-politics/2025/02/ed-martin-musk-trump-revenge-prosecutions-fail.html>.

¹¹⁴ Office of the U.S. Attorney for the District of Columbia, U.S. Dep't of Justice, *About Us* (accessed Feb. 11, 2025), <https://www.justice.gov/usao-dc/about-us>.

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Martin's history of behavior in violation of these principles warrants the Disciplinary Counsel's attention. In light of the allegations presented in this letter, along with applicable laws and rules for licensed attorneys and federal prosecutors, we respectfully ask you to investigate Martin's conduct as expeditiously as possible and initiate the appropriate disciplinary proceedings, up to and including disbarment. It is paramount for the integrity of the U.S. Attorney's office and the legal profession as a whole that Martin be held accountable. Thank you for your consideration.

Sincerely,

Demand Progress
Freedom of the Press Foundation