

# OFFICE OF DISCIPLINARY COUNSEL

February 2, 2024

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Charles M. Anderson

*Forensic Investigator*  
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\*Admitted only in Maryland.

## CONFIDENTIAL

Stefan C. Passantino, Esquire  
c/o Ross H. Garber, Esquire  
The Garber Group LLC  
1300 I Street, N.W., Suite 400E  
Washington, D.C. 20005

Via email only to [rgarber@thegarbergroup.com](mailto:rgarber@thegarbergroup.com)

Re: Passantino/Disciplinary Counsel  
Disciplinary Docket No. 2022-D219  
DC Bar No.480037

Dear Mr. Passantino:

This letter confirms our agreement concerning the disposition of the above-captioned disciplinary matter. We evaluated this matter in light of an attorney's obligations as set forth in the District of Columbia Rules of Professional Conduct and have determined that you violated **Rule 1.5(b)** (writing setting forth basis or rate of your fee and scope of your representation).

We docketed this matter because of information that came to our attention arising from the investigation conducted by the January 6 Committee relating to your representation of Cassidy Hutchinson. Ms. Hutchinson made some allegations about your conduct to the Committee, but she refused to cooperate in our investigation. Accordingly, except for the Rule 1.5(b) allegation, which you admit, we are not proceeding on her other allegations at this time. We are unable to prove those allegations by clear and convincing evidence, as we must. If new evidence were to be presented relating to these allegations, we remain free to reconsider them.

### Your Cooperation with the Investigation

We wrote you about Ms. Hutchinson's allegations and subpoenaed your client file. You responded to all our inquiries and complied with our subpoena. From the outset you conceded that you had not provided Ms. Hutchinson a written document setting forth the scope of the representation or the basis or

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rate of your legal fees. You did not, however, charge any fees to Ms. Hutchinson because her fees were paid by a third party with her knowledge and consent.

You have also voluntarily taken two relevant CLE courses: (1) Ethics and Client Communication on April 20, 2023, and (2) Legal Ethics: Reasonableness of Fees on May 4, 2023.

#### The Factual and Legal Bases of Your Violation of Rule 1.5(b)

Rule 1.5(b) requires that, when a lawyer has not regularly represented a 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.” Your normal practice is to provide a client with such a writing in the form of an engagement letter. You consciously did not do so with respect to Ms. Hutchinson. You were contacted by a third party, the Save America PAC, to represent Ms. Hutchinson, a former White House employee, who had been subpoenaed to an interview by the January 6 Committee. With Ms. Hutchinson’s knowledge and consent, the PAC agreed to pay her legal fees. You were concerned that if this information was set forth in writing, the Committee might subpoena it, and use it in some way to Ms. Hutchinson’s detriment. For that reason, you explained to her that you were not going to provide an engagement letter.

Rule 1.5(b) is mandatory. There is no provision that exempts a lawyer from these written disclosures, even with client consent. The Committee made no effort to subpoena or otherwise learn who was paying Ms. Hutchinson’s legal fees. The absence of a written engagement letter, however, would not have prevented the Committee from learning who was paying. The Committee could simply have asked her when she testified under oath.

#### The Diversion and Probationary Term

In offering you this diversion, Disciplinary Counsel considered that you acknowledged your failure to provide the required writing and that there is no evidence that your client was prejudiced since she was never charged a fee. You cooperated fully with the investigation. You have practiced for 32 years and have no disciplinary history.

This letter sets forth our proposed disposition of this matter pursuant to Rule XI, § 8.1 of the Rules Governing the District of Columbia Bar and remains open for your acceptance no later than the close of business October 29, 2023. Upon execution, this letter will constitute our mutual agreement of diversion subject to the following terms and conditions:

1. This office concludes that your conduct, as determined on the basis of our investigation, does not fall within the categories described in D.C. Bar Rule XI, § 8.1(b), (3), or (4).

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2. You advise that you have not been the subject of a disciplinary proceeding in this or any other jurisdiction wherein (a) discipline was imposed or (b) diversion or its substantial equivalent was offered and accepted.

3. Diversion under this agreement shall last six months or until you have satisfied the continuing legal education condition, whichever comes first.

4. Until the end of the diversion period, you shall not be the subject of a disciplinary complaint that, after investigation, results in a finding of misconduct by this office or other disciplinary authority. If such a complaint should occur before the period of diversion ends, then Disciplinary Counsel may, in its discretion, terminate the diversion agreement and take action on the underlying misconduct, as authorized by Rule XI, § 8(b).

5. Within six months of the date this diversion is approved, you shall complete a continuing legal education course, relating to professional responsibility or ethics, approved in advance by Disciplinary Counsel.

6. This agreement is subject to approval by a member of the District of Columbia Board on Professional Responsibility, pursuant to D.C. Bar Rule XI, § 8.1(c).

7. All conditions of this agreement must be satisfied by the conclusion of the six-month period of diversion. If and when Disciplinary Counsel determines that you have successfully completed the undertaking agreed hereto, then our investigation will be closed subject to the terms set forth in the second paragraph of this letter, the period of diversion will end, and you will have no record of misconduct or discipline resulting therefrom. If Disciplinary Counsel finds that you have not successfully completed the undertaking within the prescribed six-month period, then we shall take such other action as authorized and prescribed under Rule XI, § 8(b).

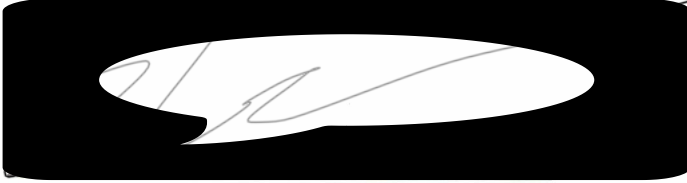
Under Rule XI, §§ 8.1(e) and 17(a), the proceeding and the Diversion Agreement are confidential unless and until you expressly waive such confidentiality.

AGREED:

  
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Stefan C. Passantino  
Respondent

s/ Hamilton P. Fox, III  
\_\_\_\_\_  
Hamilton P. Fox, III  
Disciplinary Counsel

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c/o Ross H. Garber, Esquire  
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A black rectangular redaction box covers a signature. The signature is written in white ink on a white oval background within the redacted area.

Ross H. Garber  
Counsel for Respondent

APPROVED:

*Bernadette C. Sargeant*

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Board on Professional Responsibility  
Dated: February 2, 2024