

January 28, 2021

Seana Willing  
Chief Disciplinary Counsel  
1414 Colorado St.  
Austin, TX 78701

Dear Ms. Willing:

We, the undersigned law students and lawyers, write to request the immediate commencement of an ethics investigation against U.S. Senator Ted Cruz. With our letter, we include a petition signed by nearly 11,000 members and students of the legal profession and approximately 1,340 members of the Texas Bar, likewise calling on you to begin disbarment proceedings against Sen. Cruz.

By amplifying baseless claims about the 2020 presidential election and inciting the January 6, 2021 insurrection against the United States government, Sen. Cruz did more than undermine our democracy; he violated core ethical obligations that all members of the bar are required to follow. As this letter and the accompanying petition elaborate, Sen. Cruz's actions fundamentally contravened the responsibilities of lawyers as "public citizen[s]" and violated Texas Rules of Professional Conduct 8.4(a)(3), 8.4(a)(4), 8.4(a)(1), and 8.4(a)(2). Given your critical role in investigating such claims, we submit the following charges for your attention and consideration.

**Disciplinary Rule of Professional Conduct 8.4(a)(3)**

Rule 8.4(a)(3) provides that it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."<sup>1</sup> As the American Bar Association has commented in interpreting the identical Model Rule, "Rule 8.4(c) addresses conduct that may or may not be criminal in nature, and prohibits a very broad range of dishonest, fraudulent, or deceitful conduct, or misrepresentation. This expansive provision reaches *any activity or aspect of the lawyer's personal or professional life*."<sup>2</sup> The comment to Rule 8.4 further notes that "[l]awyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers."<sup>3</sup> In addition, Rule 8.4(a)(3) must be read in light of the preamble's exhortation that lawyers are "public citizens" who should be dedicated to the rule of law and the institutions of our constitutional democracy.<sup>4</sup>

Sen. Cruz plainly and repeatedly violated Rule 8.4(a)(3) through numerous statements casting doubt, both explicitly and through implication, on the free and fair nature of the 2020 presidential election, the integrity and legality of which has been affirmed by virtually all credible experts, authorities, and courts. These statements occurred in a wide variety of contexts—many of which happened beyond the floor of the U.S. Senate—and often amplified unsubstantiated and

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<sup>1</sup> Tex. Disciplinary Rules of Prof'l Conduct r. 8.4(a)(3); *see also* ABA Model Rules of Prof'l Conduct r. 8.4(c).

<sup>2</sup> ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 04-433 (2004) (emphasis added).

<sup>3</sup> Tex. Disciplinary Rules of Prof'l Conduct r. 8.4 cmt. 4; *see also* ABA Model Rules of Prof'l Conduct r. 8.4 cmt. [7].

<sup>4</sup> Tex. Disciplinary Rules of Prof'l Conduct pmbl. [5]; *see also* ABA Model Rules of Prof'l Conduct pmbl [6].

irresponsible voter fraud allegations, implying that they had some credibility or basis in fact. Central to all of these statements is the suggestion that irregularities occurred at such a level to justify the results of the presidential election being overturned, a sweeping assertion without any support or precedent. Sen. Cruz's statements included:

- On January 2, 2021, Sen. Cruz issued a press statement calling on Congress to refuse to certify the 2020 election results unless it formed a commission to investigate unsubstantiated allegations of “voter fraud, violations and lax enforcement of election law, and other voting irregularities.”<sup>5</sup>
- On January 2, Sen. Cruz, campaigning for fellow Republicans in the Georgia runoff, stated: “Are they going to try to steal it? Yes. But I’ll tell you what we’re going to do. We’re going to win by a big-enough margin. Ain’t nobody stealing the state of Georgia.” Sen. Cruz also alluded to false claims of voter fraud by stating: “We’re not Democrats, don’t bring your dead uncle Joe.”<sup>6</sup>
- On January 3, Sen. Cruz spoke on Fox News’ “Sunday Morning Futures with Maria Bartiromo,” stating: “We’ve seen in the last two months unprecedented allegations of voter fraud.”<sup>7</sup>
- On January 3, Sen. Cruz sent a fundraising email announcing that he was “leading the charge” to “reject the electors” from “the states with disputed results.”<sup>8</sup> On January 4, he sent another fundraising email based on the same groundless claims about “disputed states.”<sup>9</sup>
- On January 6, Sen. Cruz appeared on Fox News’ “Hannity.” Prior to the Joint Session of Congress to certify the election results, he stated: “If a member of Congress votes against an objection, what an awful lot of voters are going to hear from that is that you don’t think voter fraud is real. That it’s serious. You don’t think that it occurred in this election. *That’s obviously not right.*”<sup>10</sup>
- At 2:33 PM on January 6, while the Capitol was being breached, an auto-scheduled fundraising message was sent out in Sen. Cruz’s name, reading: “Ted Cruz here. I’m leading the fight to reject electors from key states unless there is an emergency audit of the election results. Will you stand with me?”<sup>11</sup>

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<sup>5</sup> *Joint Statement from Senators Cruz, Johnson, Lankford, Daines, Kennedy, Blackburn, Braun, Senators-Elect Lummis, Marshall, Hagerty, Tuberville*, Office of Sen. Ted Cruz (Jan. 2, 2021), [https://www.cruz.senate.gov/?p=press\\_release&id=5541](https://www.cruz.senate.gov/?p=press_release&id=5541).

<sup>6</sup> Andrew Desiderio & James Arkin, *Trump’s Efforts to Overturn Election, Rescue Senate Majority Collide in Georgia*, Politico (Jan. 5, 2021), <https://www.politico.com/news/2021/01/04/trump-biden-georgia-senate-runoffs-454533>; *The Hill* (@thehill), Twitter (Jan. 3, 2021, 10:31 AM), <https://twitter.com/thehill/status/1345754541560573954>.

<sup>7</sup> David Cohen, *Ted Cruz Urges Critics of Presidential Election Challenge to Calm Down*, Politico (Jan. 3, 2021), <https://www.politico.com/news/2021/01/03/ted-cruz-presidential-election-challenge-calm-down-453842>.

<sup>8</sup> E-mail from Ted Cruz, U.S. Senator (Jan. 3, 2021, 3:01 AM), <https://politicalemails.org/messages/331969>.

<sup>9</sup> E-mail from Ted Cruz, U.S. Senator (Jan. 4, 2021, 10:01 PM), <https://politicalemails.org/messages/332750>.

<sup>10</sup> *Sen. Cruz: We Have an Obligation To Protect the Integrity of the Election*, Office of Sen. Ted Cruz (Jan. 6, 2021), [https://www.cruz.senate.gov/?p=press\\_release&id=5549](https://www.cruz.senate.gov/?p=press_release&id=5549) (emphasis added).

<sup>11</sup> Jeremy Wallace, *Ted Cruz Explains Fundraising Text Sent Out During Siege on U.S. Capitol*, Houston Chronicle (Jan. 7, 2021), <https://www.houstonchronicle.com/politics/texas/article/Ted-Cruz-explains-fundraising-text-sent-during-15854497.php>.

In reality, as made clear by public information readily available to Sen. Cruz, the 2020 presidential election was free and fair. More than sixty lawsuits filed by President Trump and his allies challenging the election have been rejected by the courts.<sup>12</sup> Multiple state recounts failed to find any serious issues.<sup>13</sup> Federal, state, and local election officials have called the 2020 election “the most secure in American history,”<sup>14</sup> while President Trump’s own Attorney General, Bill Barr, affirmed that “to date, we have not seen fraud on a scale that could have effected a different outcome in the election.”<sup>15</sup> Numerous other credible voices have vouched for the integrity of the election.<sup>16</sup>

These dishonest statements misrepresenting the election might raise concerns under Rule 8.4(c) in any setting. But they are particularly worthy of sanction here because of their context and effect. Such misleading statements undermined public confidence in a free and fair election. Sen. Cruz made these statements in a broader attempt to overturn the results of the election in Congress and imperil the democratic process. Coupled with President Trump’s repeated attacks on the integrity of the election and his refusal to concede, his rhetoric foreseeably incited the January 6 insurrection at the Capitol, causing death, injury, and destruction and disrupting the peaceful transfer of power. Such statements, in such a context, implicate an “abuse of public office [that] suggest[s] an inability to fulfill the professional role of lawyers,”<sup>17</sup> and fall far short of Sen. Cruz’s obligations as a “public citizen” in a democracy.<sup>18</sup>

The space for political debate for members of the bar, as for all Americans, should be wide. And elected officials should not be lightly penalized for public statements through the bar disciplinary process. But the egregious nature of this particular conduct, and its corrosive effects on our democratic institutions and the rule of law, warrants sanction—and at bottom, a thorough investigation—under Rule 8.4(a)(3).

#### **Disciplinary Rule of Professional Conduct 8.4(a)(4)**

Under Rule 8.4(a)(4), it is professional misconduct for a lawyer to “engage in conduct constituting obstruction of justice.”<sup>19</sup> Obstruction of justice, as contemplated by the rule, encompasses actions that implicate the judicial process, such as litigation filed and adjudications that took place subsequent to the November 2020 election, and potentially encompasses actions that implicate other governmental proceedings, such as the January 6 certification of the Electoral College vote.<sup>20</sup>

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<sup>12</sup> See William Cummings, Joey Garrison & Jim Sargent, *By the Numbers: President Donald Trump’s Failed Efforts to Overturn the Election*, USA Today (Jan. 6, 2021), <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001>.

<sup>13</sup> See *id.*

<sup>14</sup> See David E. Sanger, Matt Stevens & Nicole Perlroth, *Election Officials Directly Contradict Trump on Voting System Fraud*, N.Y. Times (Nov. 16, 2020), <https://www.nytimes.com/2020/11/12/us/politics/election-officials-contradict-trump.html>.

<sup>15</sup> See Michael Balsamo, *Disputing Trump, Barr Says No Widespread Election Fraud*, A.P. (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

<sup>16</sup> See, e.g., *It’s Official: The Election Was Secure*, Brennan Ctr. for Justice (Dec. 11, 2020), <https://www.brennancenter.org/our-work/research-reports/its-official-election-was-secure>.

<sup>17</sup> See *supra* note 3.

<sup>18</sup> See *supra* note 4.

<sup>19</sup> Tex. Disciplinary Rules of Prof’l Conduct r. 8.4(a)(4).

<sup>20</sup> See, e.g., *Matter of Hill*, 144 N.E.3d 184, 193 (Ind. 2020) (ruling that Indiana Attorney General engaged in conduct prejudicial to the administration of justice by battering several legislative staffers at a social gathering); In

Rule 8.4(a)(4) is a critical part of the Texas Disciplinary Rules of Professional Conduct and is central to the Rules' insistence that lawyers should be "public citizens" that "further the public's understanding of and confidence in the rule of law and the justice system."<sup>21</sup> Moreover, Rule 8.4(a)(4) applies with specific weight against public officials, such as Sen. Cruz, because "[l]awyers holding public office assume legal responsibilities going beyond those of other citizens."<sup>22</sup>

Sen. Cruz's conduct is plainly connected with the state administrative,<sup>23</sup> judicial,<sup>24</sup> and other governmental proceedings<sup>25</sup> that took place after the 2020 election and affirmed the victory of President Biden and Vice President Harris. In making statements prior to the January 6 certification that cast doubt on the 2020 election results by alleging that states failed to follow their own election laws,<sup>26</sup> Sen. Cruz directly and willfully contradicted the rulings of federal and state courts across the country, particularly in Arizona. Cruz made and repeated these statements on television, at political rallies, and in fundraising correspondence.<sup>27</sup> Reasonably interpreted, these statements ignored and directly contradicted the rulings of federal and state courts across the country regarding the presence of voter fraud in the 2020 election.

His statements have elicited outrage and disapproval from his constituents in Texas,<sup>28</sup> former and current elected officials across the country,<sup>29</sup> and members of the Texas Bar.<sup>30</sup> By repeatedly contradicting and disavowing the holdings of courts that ruled on the presence of fraud in the 2020 elections, Sen. Cruz "damaged the public's perception of the [judicial] system," in a manner that

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re McCool, 172 So. 3d 1058, 1075 (La. 2015) (ruling that a Rule 8.4(d) violation took place where the respondent "utiliz[ed] the internet and social media both in an attempt to influence the judges and to expedite achievement of her goals in the case"); Disciplinary Counsel v. Serafinowicz, 160 Conn. App. 92, 100 (Conn. App. Ct. 2015) ("In the present case, the trial court noted that its purpose in imposing sanctions [for engaging in conduct prejudicial to the administration of justice] was not to punish the defendant, but to 'preserve public respect for our judiciary by protecting it from unwarranted and inappropriate attacks.'")

<sup>21</sup> See *supra* note 4.

<sup>22</sup> See *supra* note 3.

<sup>23</sup> See, e.g., Andrew Oxford, *Arizona Secretary of State Certifies Election Results with Biden Winning State's 11 Electoral Votes*, Arizona Republic (Nov. 30, 2020, 4:06 PM MST), <https://www.azcentral.com/story/news/politics/elections/2020/11/30/arizona-secretary-state-certify-election-results-monday/6444577002>.

<sup>24</sup> See, e.g., Donald J. Trump for President, Inc. v. Sec'y of Pennsylvania, 830 Fed. App'x 377, 382 (3d Cir. 2020) ("Nor does the Campaign deserve an injunction to undo Pennsylvania's certification of its votes. The Campaign's claims have no merit."); Kelly v. Commonwealth, 240 A.3d 1255, 1259 (Pa. 2020) (Wecht, J., concurring) ("The absence of fraud allegations from this matter—not to mention actual evidence of fraud—alone is fatal to Petitioners' claims."). See generally Zahvah Levine & Jacob Kovacs-Goodman, *Post-Election Litigation in Battleground States*, Healthy Elections (Dec. 22, 2020), [https://healthyelections.org/sites/default/files/2020-12/Post-Election\\_Litigation\\_Update\\_1.pdf](https://healthyelections.org/sites/default/files/2020-12/Post-Election_Litigation_Update_1.pdf).

<sup>25</sup> Jack Rodgers & Brandi Buchman, *Barr Jumps Trump Ship, Rejecting Voter Fraud Claims*, Courthouse News SERV. (Dec. 1, 2020), available at: <https://www.courthousenews.com/barr-calls-claims-of-2020-voter-fraud-unsubstantiated/>.

<sup>26</sup> See *supra* note 5-11 and accompanying text.

<sup>27</sup> See *id.*

<sup>28</sup> See, e.g., *Group Demands Sen. Ted Cruz's Resignation at Downtown Houston Demonstration*, ABC 13 (Jan. 16, 2021), <https://abc13.com/ted-cruz-resign-protest-traitor-houston/9722090>.

<sup>29</sup> See, e.g., Mitchell Freeman, *Julián and Joaquin Castro Call on Ted Cruz to Resign After He Objected to Joe Biden's Victory Just Before Pro-Trump Rioters Breached Congress*, Texas Tribune (Jan. 6, 2021), <https://www.texastribune.org/2021/01/06/ted-cruz-trump-capitol/>

<sup>30</sup> See Attachment A.

ultimately led to the January 6 insurrection of the Capitol.<sup>31</sup> Sen. Cruz abdicated his responsibilities as a member of the Texas Bar and should be disbarred for his violation of Rule 8.4(a)(4).

### **Disciplinary Rule of Professional Conduct 8.4(a)(1)**

Under Rule 8.4(a)(1), it is professional misconduct for a lawyer to “violate [the] rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such a violation occurred in the course of a client-lawyer relationship.”<sup>32</sup> This rule is a bedrock principle in legal professional ethics. As the Preamble emphasizes, the legal profession is self-governing.<sup>33</sup> This is a privilege that comes with “special responsibilities”: “Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.”<sup>34</sup>

Most obviously, Sen. Cruz has violated or attempted to violate the Rules of Professional Conduct himself—namely Rules 8.4(a)(3), 8.4(a)(4), and potentially 8.4(a)(2), as this letter explains. Notwithstanding his deep experience in both the private and public practice of law,<sup>35</sup> Sen. Cruz acted in open and deliberate defiance of these subsections of Rule 8.4 when he spread false claims of voter fraud,<sup>36</sup> undermining a free and fair election and inciting an attack upon the U.S. Capitol on January 6, 2021.

Sen. Cruz also knowingly induced other lawyers to violate or attempt to violate the Rules of Professional Conduct. Sen. Cruz has repeatedly encouraged lawyers to violate Rules 3.1<sup>37</sup> and 3.3<sup>38</sup>—requiring meritorious contentions and candor to a tribunal respectively—by proliferating false and frivolous claims to federal and state courts regarding the 2020 presidential election.<sup>39</sup> Several of the Trump campaign’s lawyers are now facing potential sanctions by their respective state bars.<sup>40</sup> In one instance, Sen. Cruz even agreed to argue in favor of overturning the results of the election should any of the Trump campaign’s baseless appeals make it to the U.S. Supreme Court.<sup>41</sup> It has been reported that President Trump personally asked that Sen. Cruz do so,<sup>42</sup> meaning

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<sup>31</sup> *In re Winkler*, 834 N.E.2d 85, 89 (Ind. 2005).

<sup>32</sup> Tex. Disciplinary Rules of Prof’l Conduct r. 8.4(a)(1).

<sup>33</sup> ABA Model Rules of Prof’l Conduct, pmbl. [10] & [11].

<sup>34</sup> *Id.* at [12].

<sup>35</sup> Senator Cruz’s career has spanned a clerkship on the U.S. Supreme Court, private practice at a firm now known as Cooper & Kirk, PLLC, and government service as an Associate Deputy Attorney General in the U.S. Department of Justice and the Solicitor General of Texas.

<sup>36</sup> *See supra* notes 5-11 and accompanying text.

<sup>37</sup> Tex. Disciplinary Rules of Prof’l Conduct r. 3.01.

<sup>38</sup> Tex. Disciplinary Rules of Prof’l Conduct r. 3.03.

<sup>39</sup> *See supra* notes 5-11 and accompanying text.

<sup>40</sup> Kim Bellware & John Wagner, *Letter from 1500 Attorneys Says Trump Campaign Lawyers Don’t Have “License to Lie,”* Wash. Post (Dec. 8, 2020, 6:22 PM EST), <https://www.washingtonpost.com/politics/2020/12/08/trump-lawyer-letter/>; Kim Bellware, *Congressman Seeks to Have Rudy Giuliani Disbarred over Attempts to Overturn Election*, Wash. Post (Nov. 24, 2020, 10:34 AM EST), <https://www.washingtonpost.com/politics/2020/11/24/rudy-giuliani-disbar/>.

<sup>41</sup> Betsy Klein, Jim Acosta & Caroline Kelly, *Trump Asked Ted Cruz to Argue Texas Election Lawsuit If It Reaches Supreme Court*, CNN (Dec. 9, 2020, 10:12 PM EST), <https://www.cnn.com/2020/12/09/politics/trump-ted-cruz-supreme-court/index.html>.

<sup>42</sup> *Id.*

that Sen. Cruz's acceptance of the President's request made a direct impact on the Trump campaign's repeated decisions to appeal its cases up to the Supreme Court.

Finally, Sen. Cruz also knowingly induced other lawyers to violate or attempt to violate Rules 8.4(a)(2), 8.4(a)(3), and 8.4(a)(4) through direct participation in the insurrection. Indeed, several lawyers participated in the attack upon the U.S. Capitol.<sup>43</sup> To the extent Sen. Cruz is responsible for having encouraged and incited this attack, these lawyers' participation in the events of January 6, 2021 are traceable to the Senator's efforts to afford legitimacy and public momentum to false claims of voter fraud and to undermine the 2020 presidential election.

### **Rule of Professional Conduct 8.4(a)(2)**

Under Rule 8.4(a)(2), it is professional misconduct for a lawyer to "commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."<sup>44</sup> Comment [2] to Rule 8.4 further elaborates that:

[A] lawyer should be professionally answerable . . . for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.<sup>45</sup>

Sen. Cruz potentially violated Rule 8.4(a)(2) through his actions to incite the January 6th insurrection. The weeks leading up to the congressional certification of the 2020 presidential election results were unprecedented. President Trump refused to concede the election<sup>46</sup> and repeatedly claimed that the presidency had been "stolen" from him.<sup>47</sup> Motivated by claims that the election was fraudulently conducted, violent protesters made genuine threats of violence across the country and at the U.S. Capitol.<sup>48</sup> Rather than stand by our democratic commitments, Sen. Cruz

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<sup>43</sup> Several lawyers participated in the January 6, 2021 attack on the U.S. Capitol. *See, e.g.*, Hannah Gaskill, *Del. Cox Arranged Buses to Violent Trump Rally, Calls Vice President a 'Traitor,'* Md. Matters (Jan. 7, 2021), <https://www.marylandmatters.org/2021/01/07/del-cox-arranged-buses-to-violent-trump-rally-calls-vice-president-a-traitor> (documenting lawyer and Maryland state legislator Daniel Cox's involvement); Roger Sollenberger (@SollenbergerRC), Twitter (Jan. 6, 2021, 7:50 PM), <https://twitter.com/SollenbergerRC/status/1346982504088154113> (documenting the involvement of Paul Davis, who is a lawyer).

<sup>44</sup> Tex. Disciplinary Rules of Prof'l Conduct r. 8.04(a)(2); *see also* ABA Model Rules of Prof'l Conduct r. 8.4(b).

<sup>45</sup> ABA Model Rules of Prof'l Conduct r. 8.4 cmt. [2].

<sup>46</sup> Dan Barry & Sheera Frenkel, *'Be There. Will Be Wild!': Trump All but Circled the Date*, N.Y. Times (Jan. 8, 2021), <https://www.nytimes.com/2021/01/06/us/politics/capitol-mob-trump-supporters.html> ("We will never give up," [Trump] said. "We will never concede. It will never happen. You don't concede when there's theft involved. Our country has had enough. We will not take it anymore.").

<sup>47</sup> *See* Amy Gardner, *How Trump Drove the Lie that the Election Was Stolen, Undermining Voter Trust in the Outcome*, Wash. Post (Dec. 20, 2020, 5:22 PM), [https://www.washingtonpost.com/politics/trump-election-voter-trust/2020/12/20/00282aa6-407a-11eb-8db8-395dedaaa036\\_story.html](https://www.washingtonpost.com/politics/trump-election-voter-trust/2020/12/20/00282aa6-407a-11eb-8db8-395dedaaa036_story.html).

<sup>48</sup> *See, e.g.*, Devlin Barrett & Matt Zapotosky, *FBI Report Warned of 'War' at Capitol, Contradicting Claims There Was No Indication of Looming Violence*, Wash. Post (Jan. 12, 2021, 6:40 PM), [https://www.washingtonpost.com/national-security/capitol-riot-fbi-intelligence/2021/01/12/30d12748-546b-11eb-a817-e5e7f8a406d6\\_story.html](https://www.washingtonpost.com/national-security/capitol-riot-fbi-intelligence/2021/01/12/30d12748-546b-11eb-a817-e5e7f8a406d6_story.html); Carol D. Leonnig, *Capitol Police Intelligence Report Warned Three Days Before Attack that 'Congress Itself' Could Be Targeted*, Wash. Post (Jan. 15, 2021, 7:43 PM), <https://www.washingtonpost.com/politics/capitol-police-intelligence-warning/2021/01/15/c8b50744-5742-11eb->

chose to amplify baseless claims about the election and further stoke the possibility of violence, with full knowledge of the context and implications of his actions.

Sen. Cruz publicly led the charge to oppose Electoral College certification, objecting on the rejected premise that there was unprecedented “voter fraud, violations and lax enforcement of election law, and other voting irregularities.”<sup>49</sup> He repeatedly stated—on national television and other fora—that Democrats were trying to “steal” the election<sup>50</sup> and that voter fraud was “serious” and “occurred in [the 2020] election.”<sup>51</sup> And during the insurrection, he continued to fundraise off of his efforts to object to the results of the presidential election.<sup>52</sup>

In doing so, Sen. Cruz actions potentially constituted criminal acts involving “dishonesty, breach of trust, or serious interference with the administration of justice” under the following provisions:

- **18 U.S.C. § 2101:** Section 2101 criminalizes travel in interstate commerce and the use of any facility of interstate commerce (e.g., telephone, radio, or television) with intent to “incite a riot” or “organize, promote, encourage, participate in, or carry on a riot.”<sup>53</sup>
- **18 U.S.C. § 2383:** Section 2383 imposes criminal penalties and bars on holding any office of the United States for “[w]hoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto.”<sup>54</sup>
- **18 U.S.C. § 2384:** Section 2384 criminalizes seditious conspiracy, including two or more persons who “conspire to . . . oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States.”<sup>55</sup>
- **D.C. Code § 22-1322:** Section 22-1322 imposes criminal penalties on “[w]hoever willfully incites or urges other persons to engage in a riot,” with riot defined as “a public disturbance involving an assemblage of 5 or more persons which by tumultuous and violent conduct or the threat thereof creates grave danger of damage or injury to property or persons.”<sup>56</sup>

If further investigation reveals enough evidence to demonstrate that Sen. Cruz committed the aforementioned criminal acts, he should be immediately disbarred under Rule 8.4(a)(2).

## **Conclusion**

In light of the above, we respectfully ask that your office investigate these allegations of misconduct regarding Sen. Cruz. The Senator’s actions have run squarely against the principles of the Rules of Professional Conduct. Whereas a lawyer “should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials,”<sup>57</sup> Sen.

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a08b-f1381ef3d207\_story.html; Michael Wines, *Here Are the Threats Terrorizing Election Workers*, N.Y. Times (Dec. 3, 2020), <https://www.nytimes.com/2020/12/03/us/election-officials-threats-trump.html>.

<sup>49</sup> See *supra* note 5.

<sup>50</sup> See *supra* note 6.

<sup>51</sup> See *supra* note 10.

<sup>52</sup> See *supra* note 11.

<sup>53</sup> 18 U.S.C. § 2101(a) (2018).

<sup>54</sup> 18 U.S.C. § 2383 (2018).

<sup>55</sup> 18 U.S.C. § 2384 (2018).

<sup>56</sup> D.C. Code § 22-1322 (2020).

<sup>57</sup> ABA Model Rules of Prof’l Conduct, pmbl. [5].

Cruz continued to fan false claims of voter fraud in willful ignorance of court rulings from across the nation. And whereas “a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority,”<sup>58</sup> he has worked to undermine public trust in democratic institutions and the rule of law. Through the actions described above, Sen. Cruz has failed to satisfy his lawyerly role as a “public citizen having special responsibility for the quality of justice.”<sup>59</sup> We ask that you immediately begin an investigation against Sen. Cruz and send a clear message that lawyers must protect—not undermine—American democracy.

Sincerely,

- Alex Boudreau, Law Student Organizer
- Chandini Jha, Law Student Organizer
- Daniel Ki, Law Student Organizer
- Derrick Rice, Law Student Organizer
- Jenny Choi, Law Student Organizer
- Lisa Chen, Law Student Organizer
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- Maria Bradley; Texas; 24082718
- Nicola Fuentes Toubia; Texas; 00792012
- Richard D. Meadow; Texas
- Steven Paletz; Texas
- Suzanne M. Patrick; D.C., Texas; TX: 24056105
- Virginia Adams Marentette; Texas; 24006739
- Catharine Yen; Missouri, Texas; 24079618
- Shelby C. Reed; Texas; 791494
- A. Branton Kotch; Texas; 11693300
- Abigail Spain; Texas; 24033087
- Alicia Amezcua-Rodriguez; Texas; 24049115
- Alison Gallaway; Texas; 07588700
- Alyson Alford-Garcia; Texas; 24103823
- Amanda S. Widdall; Texas
- Amber Kishin Kauffman; Texas; 24048004

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<sup>58</sup> *Id.* at [6].

<sup>59</sup> *Id.* at [1].



- Amy L. Corron Power; Texas; 24045703
- Andrea Chilton Greer; Texas; 24014491
- Angela L Lee; Texas; 24047727
- Anita O'Rourke; Texas; 15310700
- Ann J. Thompson; Texas; 00795680
- Ann M. Kenney; Texas; 24002402
- Ann Moore; Texas; 14320120
- Anna Carruth; Texas; 24121528
- Anna Davidson; Texas
- Annette M. Lamoreaux; Texas; 11852570
- Barbara T. Hale; Texas; 24012762
- Ben Hance; Texas
- Bernard Jones; Texas; 10859710
- Beth M. Johnson; Texas; 24078022
- Blake L. Johnson; Texas; 00796833
- Bobby D. Mims; Texas; 12172200
- Brad Richards; Texas; 16843500
- Bree Buchanan; Texas; 03285670
- Bridget Robinson; Texas; 17086800
- Bryan Domning; Texas; 05966350
- Callie Heller; Texas; 24101897
- Carol J. Bartlett; Texas; 20665550
- Carolyn Mitchell; Texas; 14206400
- Cary Jennings; Texas; 10631800
- Catherine Cockrell; Texas; 24049154
- Cheryl Hindera; Texas; 24007367
- Christopher L. White; Texas; 00788654
- Christy Nisbett; Texas; 13480000
- Cynde L Horne; Texas; 10007400
- Cynthia L. Gustafson; Texas; 24055603
- Cynthia Redwine Martinez; Texas; 24060470
- Dania Turner; Texas; 01621900
- Darla Hill Jones; Texas; 09627550
- David B. Conrad; Texas; 24049042
- David Blakeley; Texas; 24076905
- David M. Davis; Texas; 0547500
- Deborah Brown Nordgren; Texas; 11694570
- Deborah L. Gaunt; Texas; 24047673
- Diana Brown; Texas; 24036786
- Donald J Maison Jr; Texas; 12851200

- Dvorah Cristol; Texas; 24085194
- Edna Yang; Texas; 24037752
- Edwin B Turner; Texas; 20313400
- Elaine D. Balagia; Texas; 24078182
- Elisse V. Woelfel; Texas; 24058183
- Elizabeth Blumberg; Texas; 24113078
- Elizabeth Hanks; Texas
- Enrique Hernandez; Texas; 24057498
- Erin B. Shank; Texas; 01572900
- F. Ty Edmondson; Texas; 00787419
- Gary Rachlin; Texas; 16449500
- Ginger Ann Shockley Weatherspoon; Texas; 24051583
- Gloria Bluestone; Texas; 24053103
- Gordon r Bowman; Texas; 02752050
- Harrison H. Yoss; Texas; 22169030
- Hayley Hollands; Texas; 24101925
- Irene Hallett; Texas
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- Jennifer Rappoport; Texas; 24072761
- Jerel W. Ehlert II; Texas; 24089000
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- Jill S. Pierce; Texas; 00788498
- Jill Stangl, J.D.; Texas; 24029857
- Jimmy Alan Hall; Texas; '08759800
- Joe D Milner; Texas; 14170000
- Joe Jones; Texas; 24076466
- John A. Thomas; Texas; 00791789
- John Broude; Texas; 03085600
- John T. McCafferty; Texas; 13336700
- Jonathan Long; Texas; 24107533 (Law Student Member)
- Joseph M. Ford; Texas; 07240000
- Joshua Cooper; Texas; 24088814
- Kai Hecker; Texas; 24028463
- Karen-Lee Pollak; Texas; 24027072
- Katherine Eberhardt; Texas; 24059706
- Kathleen D Kennedy; Texas; 24032497
- Katie M. Anderson; Texas; 24082630
- Katie Payne; Texas; 24071347
- Keith B. Middleton; Texas; 00797076

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- Leigh Atkinson; Texas; 00796143
- Lena Giangrosso; Texas
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- Lewis A. Lefko; Texas; 12188550
- Linda M. Britton; Texas; 03027620
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- Lori Anne Matthews; Texas; 00793599
- Madeline Thomas; Texas; 24078939
- Marcin L. Zakrocki; Texas; 24063838
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- Margarita Morton, Esq.; Texas; 24088098
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- Marsha Lyn Floyd; Texas; 07185300
- Mary Cook; Texas; 4740600
- Mary L Fry; Texas; 06810000
- Mary S. Lyons; Texas; 24004696
- Mary Scanlon; Texas; 17707330
- Maureen Fay Chavez; Texas; 24050048
- May Suzanne Sim; Texas; 791662
- Melissa Kness Cooney; Texas; 00789234
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- Michael Martinez; Texas
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- Neal R Roach, Jr.; Texas; 16968150
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- Paula Emery; Texas; 00796509
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- Pearl S. Landau; Texas; 24004753
- Penny Linsenmayer; Texas; 20328175
- Professor Meredith J. Duncan; Texas; 00787402
- R. Burk Morris; Texas; 14500150
- Randall K. Packer; Texas; 24044503
- Rebecca Matsumura; Texas; 24098053
- Richard Budd; Texas; 03312200
- Richard Paul Kissinger; Texas; 11539000
- Robert C. Owen; Texas; 15371950
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- Robert E McCool; Texas; 13450700
- Robert G. Haiman; Texas; 00796690
- Robert Stephen Bennett; Texas; 02150500
- Roderick Keith; Texas; 11192100
- Roger Donley; Texas; 00793631
- Ronald Cohen; Texas; 04508998
- Rosemary Coffman; Texas; 04498500
- Roxanna Olvera Hall; Texas; 24037214
- S. Jane Stevens Glass; Texas; 19189500
- Samantha Blons; Texas; 24092144
- Sang M. Shin; Texas; 24083840
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- Shelby L Bobosky, Esq.; Texas; 24025258
- Sidney W. Shapiro; Texas; 00789771
- Stephen C. Carlin; Texas; 03807700

- Steven R. Green; Texas; 24004673
- Susan F. Koch; Texas; 07498600
- Susan G. Clark; Texas; 06052300
- Susan K. Rachlin; Texas; 16449700
- Susan Morris Mellow; Texas; 00791245
- Susan Olivia Rose; Texas; 17254450
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- Suzanne H. Kerr; Texas; 09430850
- T.W. Davidson; Texas; 24026694
- Taylor A. Jones; Texas; 24107823
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- Thomas H. Cook, Jr.; Texas; 00783869
- Timothy S. Bush; Texas; 24054448
- Todd H. Tinker; Texas; 20056150
- Tracy Hale; Texas; 24053673
- Tracy L. Gostyla; Texas; 24012717
- Tracy Sterling; Texas; 24048818
- Travis Lynn Walden; Texas; 20674800
- Uri A. Heller; Texas; 24077592
- Ursula Mann; Texas; 24046343
- Veronica Saniz; Texas; 24047735
- Victoria J Swenson; Texas; 00785075
- W. Poon; Texas; 24068710
- William Biggs; Texas; 24082691
- Yuliya D. Marcer; Texas; 24032027