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January 13, 2025

Via Email

The Honorable Barry Loudermilk
Committee on House Administration
Subcommittee on Oversight
1309 Longworth House Office Building
Washington, D.C. 20515-6157

Re: Oversight Subcommittee's December 17, 2024 Final Interim Report on the January 6, 2021 Select Committee

Dear Congressman Loudermilk,

This letter responds to your Subcommittee's Final Interim Report (the "Report") that contains unsubstantiated, flawed, and untruthful statements about our client, Cassidy Hutchinson. The Subcommittee Report both omits and deliberately mischaracterizes critical facts concerning her testimony before the Select Committee on the January 6 Attack ("Select Committee"). The Report is a politically motivated attempt to rewrite history using fabricated allegations regarding Ms. Hutchinson and the circumstances that led her to courageously tell the truth to the Select Committee. It is disappointing that a Subcommittee of the United States House of Representatives would write such a fact-challenged charade of a "report" designed to mislead the American public and whitewash the abhorrent behavior that resulted in the attack on the United States Capitol. Even worse, the Report does so at the expense of an individual who fulfilled her obligation to appear before the Select Committee to speak the truth. Indeed, it appears that this Report is a part of a much larger, concerted effort by many in positions of power to use false facts and deception in an attempt to deflect from the tragic events of that day. This attack on Ms. Hutchinson is not only against her but is an attack on all those individuals who came forward to tell the truth about what happened on January 6, 2021.

A response to each of the mischaracterizations and errors in your Report would require many pages. But certain things in particular bear noting here – each of which is based on the facts, as testified to repeatedly and under oath by Ms. Hutchinson.

Ms. Hutchinson’s Decision to Terminate Her Prior Counsel. The Report makes-up out of whole cloth an allegation that Congresswoman Cheney had inappropriate communications with Ms. Hutchinson, and asserts that those communications led to Ms. Hutchinson’s decision to fire her previous counsel, Stefan Passantino, and hire this law firm. Those allegations, which were also made in the Subcommittee’s Press Release on October 15, 2024,¹ are simply wrong and intentionally ignore the actual facts surrounding her decision to terminate her prior counsel. Ms. Hutchinson’s communications with Congresswoman Cheney and other members and staff of the Select Committee were entirely appropriate, as were the communications back to her. We explained this in detail in a letter we sent on Ms. Hutchinson’s behalf to the DC Bar following your Subcommittee’s October Press Release. *See Attachment A.*

The facts of Ms. Hutchinson’s decision to terminate Mr. Passantino as her counsel, as opposed to the fanciful story crafted for your Report, are well-known and contained in Ms. Hutchinson’s under oath testimony. Ms. Hutchinson made the decision to leave her Trump-funded lawyer before reaching out to Congresswoman Cheney. The decision occurred after Ms. Hutchinson had developed a number of concerns and reservations regarding the advice provided by her prior counsel, among them:

- Mr. Passantino did not provide Ms. Hutchinson an engagement letter as required under the applicable legal ethics rules. Indeed, Mr. Passantino released to the *New York Times* a letter from the DC Bar showing that he entered into a “diversion agreement” with the Bar’s disciplinary counsel for failing to provide this letter. Had he provided it to her when she inquired about it at the outset of the representation, as he was ethically obligated to do, such a letter would have advised Ms. Hutchinson of the funding of the representation and would have informed Ms. Hutchinson of her then-counsel’s conflict of interests. Such a disclosure, required under the ethics rules, would have permitted her to make a more informed decision about whether to proceed with his representation.²
- Ms. Hutchinson understood from statements made to her by Mr. Passantino that any testimony she provided to the Select Committee that appeared disloyal to former President Trump and his allies would find its way to the former President’s

¹ Press Release by Committee on House Administration’s Subcommittee on Oversight Chairman Barry Loudermilk, *New Texts Reveal Liz Cheney Communicated with Cassidy Hutchinson About Her Select Committee Testimony-without Hutchinson’s Attorney’s Knowledge-Despite Cheney Knowing it was Unethical* (Oct. 15, 2024), <https://cha.house.gov/press-releases?ID=46BC1893-41CA-4E6B-834C-2B2B2A6BDB70>.

² See Luke Broadwater and Charlie Savage, *Ethics Panels Dismiss Complaints Against Former Lawyer for Jan. 6 Witness*, N.Y. Times (Mar. 19, 2024), <https://www.nytimes.com/2024/03/19/us/politics/stefan-passantino-cassidy-hutchinson-jan-6.html>. We should also note that among the Oversight Subcommittee’s many misstatements include that she somehow attempted to disbar Mr. Passantino for his conduct. In fact, as noted in the D.C. Bar’s letter to Mr. Passantino, Ms. Hutchinson did not file any complaint regarding his conduct or participate in the Bar’s review of his actions. Like so many other statements in the Report, this allegation is simply false.

ears. *See, e.g.*, September 14, 2022 Select Committee Interview of Cassidy Hutchinson, at 66:15-22. Ms. Hutchinson testified that Mr. Passantino informed her that former President Trump read the transcripts and that her statements could be used against her. *Id.* at 82:8-12. Ms. Hutchinson feared giving testimony that appeared unfavorable because she personally had witnessed that “Trump World” could be extraordinarily vicious to those it deemed to be disloyal. *Id.* at 66:15-20 (“And it wasn’t just that I had Stefan sitting next to me; it was almost like I felt like I had Trump looking over my shoulder. Because I knew in some fashion it would get back to him if I said anything that he would find disloyal. And the prospect of that genuinely scared me. You know, I’d seen this world ruin people’s lives or try to ruin people’s careers. I’d seen how vicious they can be.”).

- Ms. Hutchinson testified that Mr. Passantino advised her that “I don’t recall” was a satisfactory answer to questions even if she could recall details. *See, e.g.*, September 14, 2022 Select Committee Interview of Cassidy Hutchinson, at 36:4-22 (“I said, ‘But, if I do recall something but not every little detail, Stefan, can I still say I don’t recall?’ And he had said, ‘Yes.’ And I said, ‘But if I do remember things but not every little detail, and I say I don’t recall, wouldn’t I be perjuring myself?’ . . . Stefan had said something to the effect of, ‘The committee doesn’t know what you can and can’t recall, so we want to be able to use that as much as we can unless you really, really remember something very clearly. And that’s when you give a short, sweet response. You don’t want to get ahead of their questioning. Let them ask the questions. And you’ll know.’ He’s like, ‘We’ll get into a rhythm, and you’ll be fine.’ So I said, ‘Okay.’”); 55:3–56:4 (“I said, ‘No, Stefan. Do you know how many times they just asked me that question? I just lied.’ And he said, ‘They don’t know what you know, Cassidy. They don’t know that you can recall some of these things. So you saying “I don’t recall” is an entirely acceptable response to this.’ He’s like, ‘They’re prodding. They want there to be something. They don’t know that there is something. We’re not going to give them anything because this is not important. You’re doing great. You’re doing fine. You’re doing exactly what you should be doing.’ And I remember, again, . . . I was like, ‘Stefan, I am fl[***]ed.”).
- Following her third interview, the Select Committee indicated that it would seek a further interview of Ms. Hutchinson. Mr. Passantino recommended that Ms. Hutchinson risk a criminal contempt charge rather than respond to another Select Committee subpoena. This advice by Mr. Passantino led Ms. Hutchinson to believe that it was not in her best interests as a 25-year-old to assume the risk of criminal contempt, even though failure to comply in full with the demands of the Select Committee may well have been in the interests of the Trump-affiliated political action committee that was paying her counsel. *See, e.g.*, September 14, 2022 Select Committee Interview of Cassidy Hutchinson, at 107:13–109:4.

Your Report intentionally ignores the testimony that explains clearly why Ms. Hutchinson decided to part ways with her Trump-affiliated counsel and to reach out to the Select Committee.

Ms. Hutchinson’s Outreach to the Select Committee. Ms. Hutchinson made the independent decision to terminate her relationship with Mr. Passantino so that she could provide more fulsome testimony to the Select Committee without the constraint she felt from being represented by Trump-funded counsel. As is well-documented in her testimony (and in her book, *Enough*), Ms. Hutchinson contacted Congresswoman Cheney of her own accord to let her know of this decision. Congresswoman Cheney suggested that she not appear unrepresented in her testimony, but instead have the benefit of independent counsel.

Following her discussions with Congresswoman Cheney and interviewing additional attorneys, Ms. Hutchinson decided to retain this firm, which has proudly represented Ms. Hutchinson on a *pro bono* basis since that time. Upon an initial intake interview, this firm learned that there was additional information Ms. Hutchinson needed to provide to ensure her prior responses were complete. At that point, this firm contacted the Select Committee to arrange a fourth interview so that Ms. Hutchinson could make the required corrections. Note that the required corrections arose, among other things, from the instruction Ms. Hutchinson understood from her prior counsel that “I don’t recall” was a satisfactory answer to questions even if she could recall details. *See, e.g.*, September 14, 2022 Select Committee Interview of Cassidy Hutchinson, at 36:4-22, 37:25–38:3, 42:11-21, 52:2-12, 55:3–56:4.

To be very clear, at no time did Congresswoman Cheney, any Select Committee member, or any investigator of the Select Committee staff ever suggest to Ms. Hutchinson (or to her current counsel) that she should testify in a particular manner, use any particular words, or say anything other than the complete truth according to her recollection. The attempt by your Subcommittee in its Report to allege, without evidence, that Congresswoman Cheney and Ms. Hutchinson somehow colluded to create testimony and a false narrative is itself false, defamatory, and entirely unmoored from the facts.

It is also remarkable that your Report criticizes a witness for contacting a Member of Congress with a concern that testimony the witness provided was incomplete. Beyond the obvious point that Congress should want to ensure that information it receives is accurate and complete, we direct you to your Committee’s own website, which actually encourages the very actions that you now criticize and preposterously call “criminal.” Your Committee’s “Whistleblower Support” web page even notes clearly that a person wishing to discuss a matter can specify whether they are represented by a lawyer but still want to be contacted directly by a member of your Committee.³ In fact, here is a screenshot from that web page:

Do you have a lawyer [or other representative] for this matter, and do you prefer we communicate through them? *

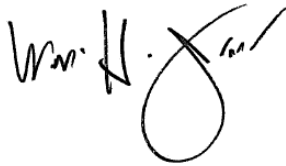
- ☐ Yes, please communicate with me through my lawyer or other representative
- ☒ I have a lawyer or other representative, but please communicate with me directly
- ☐ No, I am not working with a lawyer or other representative

³ *Whistleblower Support*, Committee on House Administration, Chairman Bryan Steil, <https://cha.house.gov/whistleblower-support>.

Ms. Hutchinson made the decision to terminate her Trump-funded counsel because he was providing her with advice that she believed was against her interests and was more aligned with the Trump-affiliated group that paid him. She contacted Congresswoman Cheney and ultimately engaged this law firm. We then made contact with the Select Committee on her behalf and represented her *pro bono* for the remainder of her testimony and interviews.

Ms. Hutchinson Testified Truthfully and Accurately. It is noteworthy that every single one of the so-called “Findings” 1-8 in your Report are fundamentally and egregiously wrong.⁴ Ms. Hutchinson stands by every word of her testimony since changing counsel and retaining this firm in June 2022. This includes every statement that your Subcommittee now attempts without basis to challenge – including Ms. Hutchinson’s recollection of her conversations with Mr. Anthony Ornato, as well as the circumstances surrounding writing the handwritten note. Ms. Hutchinson has not waived, and she will not waive, no matter how many times you and your Subcommittee endeavor to misstate the facts to fit your own political narrative. She is, and always will be, on the right side of history – because she has told the truth.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. H. Jordan", with a large, stylized flourish at the end.

William H. Jordan

Enclosures

⁴ The irony underlying the Oversight Subcommittee’s invocation of the Speech and Debate clause is remarkable. On the one hand, through invoking that clause, the Oversight Subcommittee attempts to shield itself from the consequences of its false statements in its defamatory Report – a Report that has rekindled vicious online threats against Ms. Hutchinson. On the other hand, the Oversight Subcommittee conjures an “exception” to this clause in its made-up claims about Ms. Hutchinson and Congresswoman Cheney.

Attachment 1

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November 22, 2024

Via Email

Mr. Phil Fox
Office of Disciplinary Counsel
District of Columbia Court of Appeals
515 5th Street, NW
Building A, Suite 117
Washington, DC 20001

Re: Oversight Committee's October 15, 2024 Press Release and America First Legal's Bar
Complaint against Congresswoman Elizabeth Cheney

Dear Mr. Fox:

This firm represents Cassidy Hutchinson. We have received the so-called "report" from the Committee on House Administration's Subcommittee on Oversight ("Loudermilk Report") concerning messages between my client and Congresswoman Elizabeth Cheney.¹ We have also reviewed the publicly released bar complaint filed by America First Legal on behalf of Stefan Passantino, Ms. Hutchinson's former counsel, against Congresswoman Cheney ("Complaint"). The purpose of this letter is to inform you that the Loudermilk Report and the Complaint filed with your office both contain factual errors, one of which is corrected below.

The Complaint attempts to use Ms. Hutchinson's messages and communications and the Loudermilk Report's mis-characterization of those messages as the basis for its allegation.² We provide this letter on Ms. Hutchinson's behalf to correct some of the fundamental misstatements in those documents. Ms. Hutchinson provides this information reluctantly. As your office is aware, she declined to participate in the prior DC Bar complaints filed by others against Mr. Passantino, in a desire to move on from her association with him. That investigation resulted in your office entering into a diversion arrangement with Mr. Passantino for failing to provide Ms. Hutchinson

¹ Press Release by Committee on House Administration's Subcommittee on Oversight Chairman Barry Loudermilk, *New Texts Reveal Liz Cheney Communicated with Cassidy Hutchinson About Her Select Committee Testimony-without Hutchinson's Attorney's Knowledge-Despite Cheney Knowing it was Unethical* (Oct. 15, 2024), <https://cha.house.gov/press-releases?ID=46BC1893-41CA-4E6B-834C-2B2B2A6BDB70>.

² D.C. Bar complaint filed by America First Legal on behalf of Stefan Passantino (Oct. 21, 2014), <https://media.aflegal.org/wp-content/uploads/2024/10/22124445/DC-Bar-Complaint-for-Posting.pdf>.

with an engagement letter that advised her of actual or potential conflicts. Since the newly filed Complaint misstates the record, she is now compelled to provide this information.

Ms. Hutchinson has testified multiple times regarding her decision to terminate Mr. Passantino as her counsel before reaching out to Congresswoman Cheney. This decision occurred after Ms. Hutchinson had many reservations regarding the advice provided by Mr. Passantino, culminating in his suggestion to Ms. Hutchinson that she run the risk of criminal contempt rather than respond to the Committee's subpoena.³

The advice and counsel provided by Mr. Passantino during the representation troubled Ms. Hutchinson. In particular, she believed that it was not in her best interests as a 25-year-old to assume the risk of criminal contempt, even though failure to comply in full with the demands of the Select Committee on the January 6 Attack ("January 6th Committee") may well have been in the interests of the Trump-affiliated political action committee that funded her representation. She decided to terminate her relationship with Mr. Passantino and to proceed independently so that she could provide more fulsome testimony to the January 6th Committee without the constraint she felt from being represented by Trump-funded counsel. As is well-documented in her testimony and in her book, *Enough*, she contacted Congresswoman Cheney to let her know of this decision. Congresswoman Cheney suggested that she not appear unrepresented in her testimony, but instead have the benefit of independent counsel. Following her discussions with Congresswoman Cheney and interviewing additional attorneys, Ms. Hutchinson decided to retain this firm, which has proudly represented Ms. Hutchinson on a pro bono basis since that time.

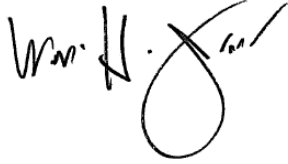
The Loudermilk Report is false in numerous respects, including its suggestion that Ms. Hutchinson and Congresswoman Cheney had any improper communications. Ms. Hutchinson made the independent decision to terminate her then-counsel of her own accord given the conflict of interest she perceived and represent herself because she did not believe Mr. Passantino was representing her interests. Even assuming that the Rules of Professional Conduct somehow applied to Ms. Hutchinson's interactions with a member of Congress in this circumstance, it was Ms. Hutchinson who made the determination to terminate Mr. Passantino, contact independent counsel, and retain this law firm for her representation.

The Loudermilk Report is replete with other politically motivated falsehoods, but at a minimum Ms. Hutchinson wanted specifically to correct this error because it has been seized on by Mr. Passantino and other individuals in this Complaint.

Ms. Hutchinson had every wish to move on from Mr. Passantino's representation and, despite her misgivings with the legal advice she received. Ms. Hutchinson chose not to participate in your office's prior review as a result of this desire. But she cannot now allow the intentional misstatements in the recent Complaint go rebutted, so she reluctantly wades back into this matter of legal ethics to correct the record against these accusations.

³ Please refer to pages 4-110 of her September 14 public transcript and pages 39-55 of her September 15 public transcript for detailed discussions of why she felt the need to change counsel and the pressure that was brought on her to be "loyal" to Mr. Trump in her earlier testimony. *See also* Cassidy Hutchinson, *Enough*, Chs. 21-23 (2023).

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. H. Jordan". The signature is stylized, with a large, loopy "J" at the end.

William H. Jordan