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March 26, 2023

**VIA EMAIL** (fani.willis@fultoncountyga.gov)

District Attorney Fani Willis  
Fulton County District Attorney's Office  
136 Pryor St SW, 3rd Floor  
Atlanta, GA 30303

Re: *Meeting Request and Additional Information Regarding David Shafer*

Dear District Attorney Willis:

As you know, Craig Gillen and I represent David Shafer in connection with your investigation into the 2020 General Election. Mr. Gillen has sent three written requests to your office for a meeting to discuss the factual and legal issues relevant to our client, including the advice that Mr. Shafer received from legal counsel to take the actions that he took in 2020 as a presidential elector nominee or contingent elector. We have not yet received any response to those requests. We still believe that such a meeting is critically important, and we renew our request for a meeting before any decisions are made regarding Mr. Shafer.

In the meantime, we are sharing some pertinent information with you to ensure that you and your office timely receive it. This information supplements and elaborates upon the detailed information previously sent to you and your office by letter in July 2022.

**I. Mr. Shafer at all times relied upon and acted in accordance with advice of legal counsel.**

As you know, Mr. Shafer was a co-plaintiff with then-President Trump in the lawsuit contesting the certification of Georgia's 2020 presidential election, *Trump et al., v. Raffensperger et al.*, Case No. 2020CV343255 (Fulton County Superior Court, Dec. 4, 2020). Then-President Trump and Mr. Shafer were represented in that action by attorneys Ray Smith III of Smith & Liss, LLC and Kurt Hilbert of The Hilbert Law Firm, LLC as counsel of record. They were also represented by additional attorneys who served as legal advisers and consultants, including Alex Kaufman, then a partner at Fox Rothschild LLP and now a partner at Chalmers, Adams, Backer & Kaufman, LLC; Cleta Mitchell, then a partner at Foley & Lardner LLP; and Chris Gardener, who practices with his own firm, Chris Gardener Law, PLC.

In a telephone conference with Mr. Shafer and his lawyers on or about December 8, 2020, Mr. Shafer was given legal advice that the filing of the lawsuit contesting the election had made the election certificates issued to the Democratic elector nominees contingent on the outcome of the legal contest. His lawyers advised him that he and the other Republican presidential elector nominees were, therefore, by operation of law, contingent presidential electors<sup>1</sup> until such time that *Trump et al. v. Raffensperger et al.* was finally adjudicated. They advised Mr. Shafer that he and the other contingent presidential electors should meet at the state capitol building on December 14, 2020 and perform the duties of a presidential elector to preserve potential remedies in the event *Trump et al. v. Raffensperger, et al.* was successful.<sup>2</sup> They also informed Mr. Shafer that there was established legal and historical precedent for contingent presidential electors taking these actions, citing the 1960 presidential election in Hawaii (discussed below).

In follow up to this telephone conference, counsel for Mr. Shafer sent him an email message on December 10, 2020 reiterating and confirming this legal advice. The unredacted version of that email is attached hereto as **Exhibit A**. As you can see, in that email, Mr. Kaufman, Mr. Hilbert, Ms. Mitchell, Mr. Smith, and Mr. Gardener provide their “collective” legal advice that he and the other Republican contingent presidential electors meet on December 14, 2020 as required by federal law and “*act and vote in the exact manner as if Governor Kemp has certified the Presidential Contest in favor of President Trump.*” The email goes on to advise that “[a]s we discussed in the 1960 Hawaii case, the convening of our electors and their casting of ballots in favor of President Trump *in the specifically required form and manner is necessary* in order to

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<sup>1</sup> The Georgia Election Code allows for the issuance of a commission to a person, such as a presidential elector, who appears to have been elected to office “notwithstanding the fact that the election of such person to any such office may be contested in the manner provided by this chapter.” See O.C.G.A. § 21-2-503(a). However, the Code specifically makes such a commission *contingent* upon the outcome of the election contest, providing: “Whenever it shall appear, by *the final judgment of the proper tribunal having jurisdiction of a contested election*, that the person to whom *such commission shall have been issued has not been elected legally to the office for which he or she has been commissioned*, then a commission shall be issued to the person who shall appear to be elected legally to such office.” O.C.G.A. § 21-2-503(a) (emphasis added). Additionally, O.C.G.A. § 21-2-503(c) states that “[u]pon the certification of the results of the election, *a person elected to a federal, state, or county office may be sworn into office notwithstanding that the election of such person may be contested* in the manner provided by this chapter. Upon the *final judgment of the proper tribunal having jurisdiction of a contested election which orders a second election or declares that another person was legally elected to the office, the person sworn into such office shall cease to hold the office and shall cease to exercise the powers, duties, and privileges of the office immediately.*” (emphasis added). Therefore, both the certified Democratic elector nominees and the uncertified Republican elector nominees were “contingent” electors once the election contest was filed, although only the Republican electors identified as such.

preserve our state and party's say in the presidential contest.” (Emphasis added).

Mr. Shafer was subsequently informed that Mr. Smith would attend the meeting on December 14, 2020 as a representative of the legal team to advise the contingent presidential electors and supervise the preparation of legal documents required to be signed by the contingent presidential electors. Mr. Smith attended the meeting and addressed the assembled contingent electors prior to the conduct of any business. He advised them that the casting of presidential electoral ballots and execution of the incidental documents was necessary to preserve potential remedies under the pending election contest and that their actions were legal and constitutional.

We believe that the legal advice Mr. Shafer received was correct and that his reliance upon that advice was justified as the only conceivable way to preserve all potential remedies under the pending election contest in the event that then-President Trump were to prevail. Regardless, every action by Mr. Shafer as a presidential elector nominee or contingent elector in 2020 was specifically undertaken in conformity with and reliance upon the repeated and detailed advice of legal counsel, eliminating any possibility of criminal intent or liability.

## **II. The legal advice given to Mr. Shafer was supported by legal and historical precedent.**

We have extensively discussed the 1960 Hawaii precedent in a previous letter to you and in various court filings in the Special Purpose Grand Jury matter. The precedent is also specifically referenced in the advice of counsel email message attached to this letter as Exhibit A. As you may recall, the precise scenario which occurred in Georgia in 2020 occurred in Hawaii in 1960, except the positions of the political parties were reversed.

In the 1960 Presidential election, then-Vice President Richard Nixon, a Republican, carried Hawaii by less than 1% of the vote (0.06%), and the Republican presidential elector nominees were certified by the Governor of Hawaii as having been elected. Democrats filed a lawsuit contesting the certification of the election, and this contest was still pending as of December 19, 1960, the date that the presidential electors were required by federal law to meet.<sup>3</sup> Both the certified Republican presidential electors and uncertified Democrat presidential electors separately met on December 19, and each cast electoral votes that were transmitted to Congress. When the election lawsuit was finally adjudicated on December 30,

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<sup>3</sup> The Electoral Count Act requires that the presidential electors meet on the first Monday after the second Wednesday in December (which was December 14 in 2020) to cast their votes for President and Vice President of the United States. *See* U.S. CONST. art. II, § 1, cl. 4; U.S. CONST, Amendment 12; 3 U.S.C. §§ 7-8).

then-Senator John Kennedy was declared to have carried the state.<sup>4</sup> Only because the Democratic nominee electors had taken the necessary step of casting their contingent presidential electoral ballots on the federally mandated date of December 19, 1960, the Governor of Hawaii was able to certify their votes for Senator Kennedy as President to Congress on January 4, 1961. Congress then counted the Hawaii electoral votes for Senator Kennedy, disregarding the previously and timely certified votes for Vice President Nixon.<sup>5</sup>

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<sup>4</sup> In so holding, Judge Ronald Jamieson specifically noted that it was important that the uncertified Democrat presidential electors had met on Dec. 19, 1960, as prescribed by the Electoral Count Act, to cast their ballots. Rather than suggest the uncertified Democratic electors had committed crimes, Judge Jamieson hailed them as heroes, describing their meeting as a *critically important step that preserved their ability for their presidential ballots to be counted* after the Democrats prevailed in their election contest and the Governor certified the Democratic contingent presidential electors as having been elected.

<sup>5</sup> In the contested Presidential election of 2000, this same Hawaii precedent and the concept of two elector slates was actively promoted by lawyers for then Vice President Al Gore and others. Justice Stevens cited with approval the 1960 Hawaii precedent of submitting two slates of electoral votes when a contested election was still unresolved at the time electors are required by federal law to perform their duties in his opinion in *Bush v. Gore*. See *Bush v. Gore*, 531 U.S. 98, 127 (2000) (“Indeed, in 1960, Hawaii appointed two slates of electors and Congress chose to count the one appointed on January 4, 1961, well after the Title 3 deadlines. See Josephson & Ross, Repairing the Electoral College, 22 J. Legis. 145, 166, n. 154 (1996).”) (emphasis added).

Democrat Congresswoman Patsy Mink of Hawaii, the first woman of color to serve in the House of Representatives, cited the Hawaii precedent in advocating for the submission of two elector slates from Florida to Congress as follows:

***The [Hawaii] precedent of 40 years ago suggests the means for resolving the electoral dispute in Florida: ...both slates of electors meet on December 18 and send their certificates to Congress; the Governor of Florida send a subsequent certificate of election based on ... the decision of the court; and Congress accepts the slate of electors named by the Governor in his final certification.***

See Statement of Representative Patsy Mink, CONGRESSIONAL RECORD, December 13, 2000 (emphasis added), available at <https://www.govinfo.gov/content/pkg/CRECB-2000-pt18/html/CRECB-2000-pt18-Pg26609-2.htm>.

Even former CNN host Van Jones and Harvard Law School’s Larry Lessing have advocated that, when an election is not finally decided by the date that presidential electors must meet under federal law to cast their votes, both sets of presidential electors meeting and voting for their respective candidates is not only legal, it is the ideal and most democratic solution. See “*WHY PENNSYLVANIA SHOULD TAKE ITS TIME COUNTING VOTES,*” <https://www.cnn.com/2020/11/04/opinions/pennsylvania-take-time-counting-votes-opinion-jones-lessig/index.html> (citing favorably to the 1960 Hawaii precedent, noting that “[t]he key – and this is the critical fact for 2020 as well – is that the Democratic slate had also met on [December 19](#), and had also cast their ballots in the manner specified by the Constitution. *When they voted, no one knew whether their votes would matter. But at least someone recognized that*

As you know, this precise scenario repeated itself in Georgia in 2020, the only difference being that the positions of the political parties were reversed. Former Vice President Joe Biden, a Democrat, carried the state by less than 1% of the vote (0.24%), and the Democratic nominee electors were certified as having been elected. Then-President Trump and the Republicans filed a lawsuit contesting the certification of the election, and this contest was still pending as of December 14, 2020, the date that the presidential electors were required by federal law to meet. Both the certified Democratic electors and uncertified, contingent Republican electors separately met on December 14, and each cast electoral votes that were transmitted to Congress. Just as Judge Ronald Jamieson noted in the Hawaii case, these actions by the uncertified contingent electors were a critically important step to preserve the ability for their presidential ballots to be counted in the event the election contest was successful.

### **III. Original 1960 electoral documents from Hawaii answer criticisms of the 2020 electoral documents from Georgia and rebut attempted distinctions.**

Of particular interest are the actual documents that the uncertified Democratic electors in Hawaii executed in the 1960 presidential electoral contest, images of which are attached here as **Exhibit B**. As you can see, these documents did not themselves contain any qualifying language referencing pending election contests or indicating that they were executed contingently. Instead, the certificate plainly and boldly asserts that the undersigned electors are the “*duly and legally qualified and appointed*” Electors for President and Vice President for the State of Hawaii and that they had been “*certified (as such) by the Executive.*” Additionally, the Hawaii electors stated in those documents that “We hereby certify that the lists of *all the votes of the state of Hawaii* given for President, and of *all the votes given* for Vice President, are contained herein.” (Emphasis added). Although these statements were only contingently accurate at the time they were made (as were the statements made by the 2020 Republican contingent presidential electors in 2020), not even the most law and order Republican suggested that there was anything improper or unlawful about them, let alone criminal. In fact, the ballots accompanying these documents were ultimately *accepted and counted by then Vice President Nixon* and Congress as the official electoral votes of Hawaii in that election.

Two of the three Democratic presidential electors who executed the Hawaii electoral documents, William Heen and Gilbert Metzger, were retired federal judges and noted constitutional scholars. Judge Metzger had been appointed by President Grover Cleveland, and Judge Heen had been appointed by President Woodrow Wilson. Judge Heen himself mailed the Hawaii electoral documents to

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*the only way their votes could matter was if they were cast on the day that Congress had set.* History does not record who had that *genius legal insight.*”) (Emphasis added).

Congress on December 20, 1960, while the election contest was still pending and at a point in time in which the statements made in them were not yet accurate.

The ballots contingently cast by the Republican presidential elector nominees in 2020 are materially identical to the 1960 Hawaii ballots,<sup>6</sup> and the contemporaneous evidence of the intent of the Georgia presidential elector nominees to contingently cast these ballots is as strong or stronger than in the Hawaii precedent. As recorded and reported by the news media,<sup>7</sup> the Republican presidential electors made clear at the time that they met on December 14, 2020 that the elector slate they executed was contingent and would only be used if the then-pending legal challenge to Georgia's election was successful. Mr. Shafer specifically made this same point in tweets he published on December 14, 2020, which refer to the Republican electors as "*the Republican nominees for Presidential Elector*" and discuss the need for them to act contingently to preserve then-President Trump's remedies in pending litigation. Those tweets state as follows:

Because the President's lawsuit contesting the Georgia election is still pending, the Republican nominees for Presidential Elector met today at noon at the State Capitol today and cast their votes for President and Vice President.

Had we not (met) today and cast our votes, the President's pending election contest would have been effectively mooted. Our action today preserves his rights under Georgia law.

Mr. Shafer and the other Republican contingent presidential electors acted with complete transparency. Members of the press attended, observed, recorded and reported on their meeting. In addition to the television news coverage, *see* Footnote 7, WSB-TV's Richard Elliott live tweeted this photograph of the contingent electors taken while the meeting was in progress *see* <https://twitter.com/RElliotWSB/status/1338536054098440196>; Greg Bluestein of *The Atlanta Journal Constitution* ("AJC") re-tweeted Mr. Elliott's photograph and tweeted this photograph of fellow contingent elector Brad Carver casting his vote from inside the room during the meeting, *see* <https://twitter.com/bluestein/status/1338543555317538816>; and Jeff Amy and Ben Gray of the Associated Press ("AP") attended the meeting and took this photograph, which has been republished by multiple other media outlets:

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<sup>6</sup> Mr. Shafer played no role in drafting or preparing the documents signed by the contingent electors on December 14, 2020, including the ballots, cover letters, or other incidental documents. To the best of his knowledge, those documents were all prepared by and/or in consultation with the legal team.

<sup>7</sup> *See, e.g.*, <https://www.fox5atlanta.com/video/880535> (relevant coverage is at 40 seconds and at 1 minute and 40 seconds into the clip).



The news coverage and Mr. Shafer’s tweets (and other contemporaneous evidence) make plain that the Republican electors’ meeting was public and that they cast contingent votes on the advice of counsel to preserve a legal remedy and protect the right of Georgia to have its electoral votes counted in the event that the then-pending election contest was adjudicated in President Trump’s favor. They made their lawful intent in doing so explicit and unmistakable at the time.

**IV. The State Bar of Georgia has reviewed the conduct of the lawyers who served as Republican contingent presidential electors and determined that it neither violated the Code of Professional Conduct nor was intended to mislead.**

Two lawyers who participated as contingent Republican presidential electors, Brad Carver and Daryl Moody, were the unfortunate targets of multiple complaints filed against them with the State Bar of Georgia alleging violations of federal law, state law, and the Code of Professional Conduct. The State Bar of Georgia, through its disciplinary process, reviewed the conduct of the contingent Republican presidential electors and dismissed all complaints.

In dismissing one complaint, the Bar stated: “You allege Mr. Carver conspired with individuals to subvert the electoral process because he forged public records, falsified voting documents, committed mail fraud, and substituted fake electors for authentic ones in an effort to change the election results in Georgia. Please be advised that this office has dismissed your grievance...because *the evidentiary value of the documents enclosed with your complaint [the electoral certificates] fail to support a grievance against Mr. Carver.*” (Emphasis added).

In dismissing another complaint by an 18 to 0 vote of the State Disciplinary Board, the Bar stated: “Mr. Carver relied upon representations ... that it was necessary for the Republican nominees for Presidential Elector to meet and cast votes so that their then-pending election challenge would not be rendered moot. *The Board did not find probable cause to believe that Mr. Carver acted with the intent to mislead.*” (Emphasis added). The representations relied upon by Mr. Carver were the same legal and factual representations made to Mr. Shafer by legal counsel and upon which he himself, a non-lawyer, relied.

Lawyers are subject to the Code of Professional Conduct, and the threshold for an ethical violation is much lower than the standard of proof for criminal conduct. And yet the State Bar specifically reviewed the conduct of the lawyers who served alongside Mr. Shafer as contingent presidential electors and determined that even the low threshold necessary for a violation of the Code of Professional Conduct was not present and that the contingent presidential electors had no intent to mislead.

**V. Any subsequent plans for the use of contingent Republican electoral ballots had not been developed and were unknown as of December 14, 2020 and were never shared with Mr. Shafer.**

Media reports have suggested that certain high level members of then President Trump’s legal team (John Eastman, Rudy Giuliani, et al.) may have developed subsequent plans to, among other things, attempt to persuade Vice President Pence to count these contingent presidential electoral votes as the valid electoral votes even in the absence of any successful judicial ruling in President Trump’s favor. Mr. Shafer was not involved in and had no knowledge of any such plans. According to media reports, these plans were not even conceived until several weeks *after* the Republican electors had cast their contingent electoral votes on December 14, 2020. In fact, at the time the contingent electoral votes were being cast, Mr. Eastman publicly confirmed that the limited and legitimate purpose of the contingent Republican electoral slates was to preserve a remedy for pending judicial contests to the election: “We have historical precedent here, and in each of these states, there is pending litigation challenging the results of the election. *If that litigation proved successful, then the Trump electors, having met and voted, would be able to have those votes certified* and be the ones properly counted in the joint session of Congress on January 6”, available at [https://www.ntd.com/john-eastman-explains-the-historical-precedents-on-dueling-electors\\_540953.html](https://www.ntd.com/john-eastman-explains-the-historical-precedents-on-dueling-electors_540953.html) (December 16, 2020) (emphasis added).

Indeed, as the documents that Mr. Shafer voluntarily provided to your office demonstrate, the only communications received or sent by Mr. Shafer made clear that the ballots were always and only intended to be contingent on the outcome of the pending litigation; no other or different plan or potential use was ever mentioned or disclosed. *See, e.g.*, MEMORANDA FROM ATTORNEY KEN CHESEBRO



(detailing the need to preserve the pending judicial challenges by casting the provisional presidential electoral ballots); DEC. 12 RESPONSE EMAIL FROM DAVID SHAFER TO FELLOW CONTINGENT ELECTOR MARK HENNESSEY'S EMAIL ASKING IF SHAFER INTENDED TO ATTEND THE ELECTORAL COLLEGE MEETING ("Because the election contest that President Trump filed in Georgia has not been decided, the Trump campaign is asking us to preserve his rights by meeting Monday at noon and casting our votes. I am going to go. Crazy times. But in the unlikely event he wins the contest, we will be screwed if we did not meet and vote.")<sup>8</sup>

In short, the actions taken by Mr. Shafer on December 14, 2020 were consistent with and in reliance on legal advice received by him and were for the sole and lawful purpose of preserving legal remedies under then-pending litigation.

**VI. The election contest, *Trump, et al. v. Raffensperger, et al.*, was not timely heard by the state courts of Georgia and never adjudicated on the merits.**

The Georgia Election Code requires lawsuits contesting elections to be heard within 20 days of being filed. The election contest pending at the time of the meeting of the presidential electors, *Trump et al. v Raffensperger, et al.*, was never heard or adjudicated. In fact, in violation of state law, it was not properly assigned to a judge and scheduled for a hearing until January 8, 2021 – weeks after the 20 day statutory deadline and 2 days after Congress counted the electoral votes from the states and certified the result. The timely filed election contest was thereupon mooted by the inexplicable inaction of the state courts of Georgia, never receiving a single hearing, let alone an evidentiary hearing, which would have afforded the parties an opportunity to present their evidence and make their arguments.

**VII. The deliberations of the Special Purpose Grand Jury may have been improperly influenced by erroneous and inflammatory media coverage.**

The Associated Press reported that a grand juror daily brought a newspaper, presumably the AJC,<sup>9</sup> to each meeting of the Special Purpose Grand Jury ("SPGJ") and pointed out coverage related to your investigation. The coverage of the AJC (and most other media outlets) has been consistently and materially wrong, particularly with regard to the Republican presidential elector nominees who have been repeatedly and falsely characterized as having performed their contingent

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<sup>8</sup> These communications are contained within Mr. Shafer's January 6 Committee documents previously provided to your team voluntarily.

<sup>9</sup> Even if the SPGJ jurors consumed news from other or different media outlets than the AJC, the coverage by other such outlets, such as *The New York Times*, *The Washington Post*, CNN.com, Yahoo News, etc. all have suffered from the same repeated and material factual infirmities.

duties “behind closed doors” and acted without a legal basis because by December 14, 2020, the election was supposedly “over.”

The entirety of the meeting of the Republican presidential elector nominees, which began at 12:00 noon as required by law, was open to and attended by members of the press and public. As noted above, live video of the meeting was recorded by and broadcast on local news stations, and members of the news media, including a reporter from the AJC, live tweeted and re-tweeted photographs of the meeting while it was in progress. *See, e.g.*, Section III and Footnote 7 (link to local Fox News coverage). Nonetheless, the AJC and other media outlets have continued to perpetuate the “closed door” hoax. They have also inaccurately but repeatedly disparaged the Republicans as “fake” or “phony” electors and falsely suggested that they were somehow self-selected and acting “without legal basis.” In reality, all of the Republican presidential elector nominees were duly chosen as provided by Georgia law,<sup>10</sup> and they cast their contingent votes on December 14, 2020, as provided by law, on the advice of legal counsel, and in conformity with the 1960 Hawaii precedent.

The AJC and other news media also repeatedly and falsely characterized the election contest filed by then President Trump in Georgia as having been rejected by the courts and as “over.” Of course, in reality, the judicial contest to the election was still pending on December 14 and, in fact, had not been given a single hearing, let alone decided, despite Georgia law requiring otherwise.

The exposure of the SPGJ to (and its potential reliance upon) the wide array of materially inaccurate media coverage about crucial factual and legal points regarding the Republican contingent electors likely adversely affected their assessment of and deliberations about these matters.

Mr. Shafer was duly and legally nominated as a presidential elector by the State Executive Committee of the Georgia Republican Party on March 5, 2020. He qualified on March 6, 2020 and was certified to the Secretary of State on the same date. He became a contingent presidential elector by operation of law when *Trump, et al. v. Raffensperger, et al.* was filed contesting the election. He was a contingent presidential elector at the time that the presidential electors were required by federal law to perform their duties, as were the other Republican and Democratic presidential elector nominees. Mr. Shafer acted at all times in conformity with and in reliance on the advice of legal counsel, which was the correct legal advice to preserve all potential remedies under the then-pending election contest.

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<sup>10</sup> Georgia’s presidential electors are selected pursuant to O.C.G.A. § 21-2-10; vacancies for presidential electors are filled pursuant to O.C.G.A. § 21-2-12.

## VIII. Conclusion

These important points and additional documents are just a few of the factual and legal matters that we need to discuss with you and your office before any decisions regarding Mr. Shafer, who never appeared before or was heard by the Special Purpose Grand Jury, are made. We appreciate your consideration of them, and we reiterate our requests for a meeting with your office.

Best regards,

*/s/ Holly A. Pierson*

Holly A. Pierson

*/s/ Craig Gillen*

Craig Gillen

cc: Nathan Wade (via email)  
Don Wakeford (via email)  
Will Wooten (via email)  
Adam Ney (via email)

# **EXHIBIT A**

----- Forwarded message -----

From: **Kaufman, Alex B.** <[AKaufman@foxrothschild.com](mailto:AKaufman@foxrothschild.com)>

Date: Thu, Dec 10, 2020 at 7:13 PM

Subject: Elector Delegation Reminder

To: [djshafer@gmail.com](mailto:djshafer@gmail.com) <[djshafer@gmail.com](mailto:djshafer@gmail.com)>

Cc: [CMitchell@foley.com](mailto:CMitchell@foley.com) <[CMitchell@foley.com](mailto:CMitchell@foley.com)>, Kurt Hilbert <[khilbert@hilbertlaw.com](mailto:khilbert@hilbertlaw.com)>, Ray S. Smith, III [rsmith@smithliss.com](mailto:rsmith@smithliss.com) , Chris Gardner [chris@chrisgardnerlaw.com](mailto:chris@chrisgardnerlaw.com)

David-

Based upon the developments both in our state case as well as in the Supreme Court, I am reconfirming the importance and our collective advice that our slate of delegates meet on December 14<sup>th</sup> (per the Federal Deadline) and cast their ballots in favor of President Trump and specifically per the Georgia Election Code. It is essential that our delegates act and vote in the exact manner as if Governor Kemp has certified the Presidential Contest in favor of President Trump. I believe that this is still the most conservative course of action to preserve the best chance for Georgia to ultimately support the President's re election. As we discussed in the 1960 Hawaii case, the convening of our electors and their casting of ballots in favor of President Trump in the specifically required form and manner is necessary in order to preserve our state and party's say in the presidential contest. I am available tomorrow if you wish to discuss further. Please let me know if you disagree with this advice or need any other assistance.

All the best and thank you,

Ale

**Alex Kaufman**

Partner

**Fox Rothschild LLP**

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Suite 1500

Atlanta, GA 30309

(404) 870-3769 – direct

(404) 964-5587 - cell

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# **EXHIBIT B**

Democratic  
Electors

copy

STATE OF HAWAII

WE, the undersigned, Electors of President and Vice-President of the United States of America, for the respective terms beginning on the twentieth day of January, in the year of our Lord one thousand nine hundred and sixty-one, being electors duly and legally appointed and qualified by and for the State of Hawaii, as appears by the annexed list of electors, made, certified, and delivered to us by the Executive of the State, having met and convened at the Capitol, in Honolulu, in said State, in pursuance of the Constitution and laws of the United States, and in the manner provided by the laws of the State of Hawaii, on the first Monday after the second Wednesday, being the nineteenth day of December, in the year of our Lord one thousand nine hundred and sixty.

DO HEREBY CERTIFY, That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for such President and then for such Vice-President, by distinct ballots.

AND WE FURTHER CERTIFY, That the following are two distinct lists; one, of the votes for President, and the other, of the votes for Vice-President, so cast as aforesaid:

List of all Persons Voted for as President, with the Number of Votes for Each.

NAME OF PERSON VOTED FOR	NUMBER OF VOTES
JOHN F. KENNEDY OF MASSACHUSETTS	THREE



*copy*

List of all Persons Voted for as Vice-President, with the  
Number of Votes for Each.

NAME OF PERSON VOTED FOR	NUMBER OF VOTES
LYNDON B. JOHNSON OF TEXAS	THREE

IN WITNESS WHEREOF, we have hereunto set our hands.  
Done at the Capitol, in the City of Honolulu, and State of  
Hawaii, on the first Monday after the second Wednesday, being  
the nineteenth day of December, in the year of our Lord one  
thousand nine hundred and sixty.

*/s/* Jammi K. Wilson  
*/s/* William H. Keen  
Herbert E. Metzger } Electors

We hereby certify that the lists of all the votes  
of the State of Hawaii given for President, and of  
all the votes given for Vice President, are  
contained herein.

Jimmie O. Nelson

William Steen

Albert E. Metzger



From:

*From  
USA*

Jennie K. Wilson  
Delbert E. Metzger  
William H. Heen  
Honolulu, Hawaii

WM. H. HEEN  
602 Trustco Bldg.  
Honolulu 13, Hawaii



RETURN RECEIPT REQUESTED

REGISTERED

*9946*

VIA AIR MAIL

The Administrator of General Services  
Of the United States of America  
Washington, 25  
D.C.

VIA AIR MAIL

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