

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE PRESIDING DISCIPLINARY JUDGE 1300 Broadway, Suite 250 Denver, Colorado 80203</p>	<p><b>FILED</b></p> <p>February 13, 2023</p> <p><b>Presiding Disciplinary Judge Colorado Supreme Court</b></p>
<p>Complainant: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: JENNA LYNN ELLIS, # 44026</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case Number:</p>
<p>Jessica Yates, # 38003 Regulation Counsel Jacob M. Vos, #41562 Assistant Regulation Counsel Attorneys for Complainant 1300 Broadway, Suite 500 Denver, Colorado 80203 Telephone: (303) 457-5800 j.yates@csc.state.co.us j.vos@csc.state.co.us</p> <p>Michael William Melito, # 36059 Respondent's Counsel 138 West 5th Ave. Denver, CO 80204 Telephone: (303)866-5244 melito@melitolaw.com</p>	
<p><b>STIPULATION TO DISCIPLINE PURSUANT TO C.R.C.P. 242.19</b></p>	

On this 10th day of February, 2023, Jessica Yates, Regulation Counsel and attorney for the complainant, Jenna Lynn Ellis, the Respondent who is represented by attorney Michael William Melito in these proceedings, enter into the following Stipulation to Discipline pursuant to C.R.C.P. 242.19 ("Stipulation") and submit the same to the Presiding Disciplinary Judge for his consideration.

**RECOMMENDATION: public censure.**

1. The respondent has taken and subscribed to the oath of admission, was admitted to the bar of this Court on October 24, 2011, and is registered as an attorney upon the official

records of this Court, registration no. 44026. Respondent is subject to the jurisdiction of this Court and the Presiding Disciplinary Judge in these proceedings.

2. Respondent enters into this Stipulation freely and voluntarily. No promises have been made concerning future consideration, punishment, or lenience in the above-referenced matter. It is Respondent's personal decision, and Respondent affirms there has been no coercion or other intimidating acts by any person or agency concerning this matter.

3. This matter has not become public under the operation of C.R.C.P. 242.41 as amended. However, Respondent specifically acknowledges that, if the Presiding Disciplinary Judge should decide to accept this Stipulation, and impose the agreed-to discipline contained herein, then this Stipulation and the discipline imposed will be matters of public record. *See* C.R.C.P. 242.41(a)(2).

4. Respondent is familiar with the rules of the Colorado Supreme Court regarding the procedure for discipline of attorneys and with the rights provided by those rules. Respondent acknowledges the right to a full and complete evidentiary hearing on the above-referenced complaint. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by Complainant. At any such formal hearing, Complainant would have the burden of proof and would be required to prove the charges contained in the complaint with clear and convincing evidence. Nonetheless, having full knowledge of the right to such a formal hearing, Respondent waives that right.

5. Respondent and Complainant specifically waive the right to a hearing pursuant to C.R.C.P. 242.30.

6. Respondent and Complainant stipulate to the following facts and conclusions:

- a. Respondent was a member of President Trump's legal team that team that made efforts to challenge President Biden's victory in the 2020 Presidential Election.
- b. She was a senior legal advisor to President Trump from February 2019 to January 15, 2021.
- c. While she was part of the legal team along with attorneys like Rudolph Giuliani, unlike Mr. Giuliani, she was not counsel of record for any of the lawsuits challenging the election results.
- d. Respondent made a variety of public statements while she was counsel to the Trump campaign and personal counsel to President Trump. Her Twitter handle – @JennaEllisEsq. – advertised her status as an attorney. Generally when she spoke in public between November 2020 and January 2021 she was identified as a member of President Trump's legal team.
- e. Respondent made the following misrepresentations while serving as counsel for the Trump campaign and personal counsel to President Trump:

- November 13, 2020: Respondent claimed that “Hillary Clinton still has not conceded the 2016 election.”
- November 20, 2020: Respondent appeared on *Mornings with Maria* on Fox Business and stated: “We have affidavits from witnesses, we have voter intimidation, we have the ballots that were manipulated, we have all kinds of statistics that show that this was a coordinated effort in all of these states to transfer votes either from Trump to Biden, to manipulate the ballots, to count them in secret...”
- November 20, 2020: Respondent appeared on *Spicer & Co.* and stated: “with all those states [Nevada, Michigan, Pennsylvania, Wisconsin, Georgia] combined we know that the election was stolen from President Trump and we can prove that.”
- November 21, 2020: Respondent stated on Twitter under her handle @JennaEllisEsq.: “... SECOND, we will present testimonial and other evidence IN COURT to show how this election was STOLEN!”
- November 23, 2020: Respondent appeared on *The Ari Melber Show* on MSNBC and stated: “The election was stolen and Trump won by a landslide.”
- November 30, 2020: Respondent appeared on *Mornings with Maria* on Fox Business and stated: “President Trump is right that there was widespread fraud in this election, we have at least six states that were corrupted, if not more, through their voting systems. . . . We know that President Trump won in a landslide.” She also stated that “The outcome of this election is actually fraudulent it’s wrong, and we understand that when we subtract all the illegal ballots, you can see that President Trump actually won in a landslide.”
- December 3, 2020: Respondent appeared on *Mornings with Maria* on Fox Business and stated: “The outcome of this election is actually fraudulent it’s wrong, and we understand that when we subtract all the illegal ballots, you can see that President Trump actually won in a landslide.”
- December 5, 2020: Respondent appeared on *Justice with Judge Jeanine* on Fox News and stated “We have over 500,000 votes [in Arizona] that were cast illegally...”
- December 15, 2020: Respondent appeared on *Greg Kelly Reports* on Newsmax and stated “The proper and true victor, which is Donald Trump...”
- December 22, 2020, Respondent stated on Twitter, through her handle @JennaEllisEsq, “I spent an hour with @DanCaplis for an in-depth discussion about President @realDonaldTrump’s fight for election integrity, the overwhelming evidence proving this was stolen, and why fact-finding and truth—not politics—matters!”

- f. Through Respondent's conduct described above, Respondent has engaged in conduct constituting grounds for the imposition of discipline pursuant to C.R.C.P. 242.9. Respondent has also violated Colo. RPC 8.4(c) (dishonesty).

7. Pursuant to C.R.C.P. 242.19(b)(4), Respondent agrees to pay costs in the amount of \$224.00 (a copy of the statement of costs is attached as Exhibit 1) incurred in conjunction with this matter within thirty-five (35) days after acceptance of the Stipulation by the Presiding Disciplinary Judge, made payable to Colorado Supreme Court Attorney Regulation Offices. Respondent agrees that statutory interest shall accrue from thirty-five (35) days after the Presiding Disciplinary Judge accepts this Stipulation. Should Respondent fail to make payment of the aforementioned costs and interest within thirty-five (35) days, Respondent specifically agrees to be responsible for all additional costs and expenses, such as reasonable attorney fees and costs of collection incurred by Complainant in collecting the above stated amount. Complainant may amend the amount of the judgment for the additional costs and expenses by providing a motion and bill of costs to the Presiding Disciplinary Judge, which identifies this paragraph of the Stipulation and Respondent's default on the payment.

8. This Stipulation represents a settlement and compromise of the specific claims and defenses pled by the parties, and it shall have no meaning or effect in any other lawyer regulation case involving another respondent attorney.

9. This Stipulation is premised and conditioned upon acceptance of the same by the Presiding Disciplinary Judge. If for any reason the Stipulation is not accepted without changes or modification, then the admissions, confessions, and Stipulations made by Respondent will be of no effect. Either party will have the opportunity to accept or reject any modification. If either party rejects the modification, then the parties shall be entitled to a full evidentiary hearing; and no confession, Stipulation, or other statement made by Respondent in conjunction with this offer to accept discipline of a public censure may be subsequently used. If the Stipulation is rejected, then the matter will be heard and considered pursuant to C.R.C.P. 242.30.

10. The Office of Attorney Regulation Counsel has notified or will notify shortly after the parties sign this agreement, the complaining witnesses in the matters of the proposed disposition.

11. The parties stipulate that no restitution is owed as part of this resolution.

#### **PRIOR DISCIPLINE**

12. None.

#### **ANALYSIS OF DISCIPLINE**

13. Pursuant to American Bar Association *Standards for Imposing Lawyer Sanctions* 1991 and Supp. 1992 ("ABA Standards"), §3.0, the Court should consider the following factors generally:

- a. The duty violated: the duty of candor.
- b. The lawyer's mental state: at least reckless.
- c. The actual or potential injury caused by the lawyer's misconduct: Respondent's misconduct caused actual harm by undermining the American public's confidence in the presidential election.

- d. The existence of aggravating or mitigating factors:

ABA *Standards* § 9.22 aggravating factors include:

- (b) selfish motive; and
- (c) a pattern of misconduct.

ABA *Standards* § 9.32 mitigating factors include:

- (a) absence of a prior disciplinary record.

14. Pursuant to ABA *Standard* § 5.13, "reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law." See *In re Egbune*, 971 P.2d 1065, 1069 (Colo. 1999) quoting *People v. Small*, 962 P.2d 258, 260 (Colo.1998) ("With one important exception [involving knowing misappropriation of property], we have considered a reckless state of mind, constituting scienter, as equivalent to 'knowing' for disciplinary purposes.").

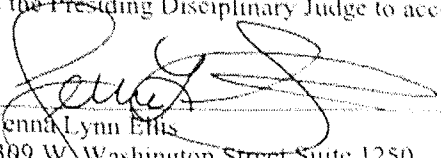
15. The parties could not locate published attorney discipline cases based on similar facts. Many cases involving attorneys sanctioned for public statements involve criticism of judges, like *In re Green*, 11 P.3d 1078, 1084-85 (Colo. 2000). See, e.g., *In re Disciplinary Action Against MacDonald*, No. A20-0473, 2021 WL 2672614 (Minn. June 30, 2021) (radio statement about a judge, along with other misconduct, warranted suspension); *State ex rel. Couns. for Discipline of Nebraska Supreme Ct. v. Gast*, 296 Neb. 687, 707-09, 896 N.W.2d 583, 597-98 (2017) (suspension for dishonest public statements and attempts to influence a judge); *In re Disciplinary Proc. Against Riordan*, 2012 WI 125, ¶ 38, 345 Wis. 2d 42, 57-58, 824 N.W.2d 441, 449 (public censure for false statements against a judge in guardianship proceedings). Overall, Respondent's statements were not made to a tribunal, and a public censure counters the public nature of the statements themselves.

16. Considering all of the factors described above, as applied to this case, a public censure is an appropriate sanction.

### **RECOMMENDATION FOR AND CONSENT TO DISCIPLINE**

Based on the foregoing, the parties hereto recommend that a public censure be imposed upon Respondent. Respondent consents to the imposition of discipline of a public censure. The parties request that the Presiding Disciplinary Judge order that the effective date of such discipline be immediate.

Jenna Lynn Ellis, Respondent, Michael William Melito, attorney for Respondent, and Jessica Yates, attorney for the Complainant, acknowledge by signing this document that they have read and reviewed the above and request the Presiding Disciplinary Judge to accept the Stipulation as set forth above.

  
Jenna Lynn Ellis  
389 W. Washington Street Suite 1250  
Chicago, IL 60606  
Telephone: (303) 800-3252  
Respondent


STATE OF COLORADO )  
                                  )ss:  
COUNTY OF Miami D.

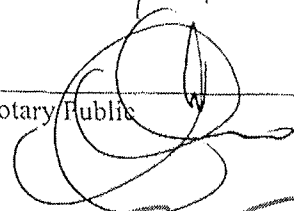

Subscribed and sworn to before me this 10<sup>th</sup> day of February, 2023, by  
Jenna Lynn Ellis, the Respondent.

Witness my hand and official seal.

My commission expires:

07/04/24

  
Cresta R. Armada  
Notary Public  
State of Florida  
My Commission Expires 07/04/2024  
Commission No. HH 14777

Notary Public  
  


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Attorney for the Respondent

**Statement of Costs**

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**Jenna Rives**  
**21-2285, 22-777, 22-1443**

<b>2/1/2023</b>	<b>Administrative Fee</b>	<b>\$</b>	<b><u>224.00</u></b>
	<b>AMOUNT DUE</b>	<b>\$</b>	<b>224.00</b>