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New York State Commission on Judicial Conduct
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Members of the Commission:

I am writing to alert you to the conflict of interest involving Acting Supreme Court Justice Juan Merchan. Judge Merchan currently presides over the criminal case against President Donald J. Trump brought by Manhattan District Attorney Alvin Bragg. If convicted, President Trump faces a maximum of 136 years' imprisonment. Moreover, he is the presumptive nominee of the Republican Party for this November's presidential election. As such, not only are President Trump's interests at stake, the interests of all Americans are at stake.

The conflict issue pertains to Judge Merchan's daughter. Judge Merchan's daughter is president of Authentic Campaigns, a group that represents Democrat politicians and political action committees (PACs). When President Trump was indicted in April 2023, U.S. Representative Adam Schiff of California, one of Ms. Merchan's clients who is running for the United States Senate, sent out a fundraising email requesting \$10 donations that stated:

It is a somber moment, and unprecedented for a former president to be indicted, but his alleged offenses are unprecedented. Trump will respond as he always does—playing the victim and blaming others for having the temerity to investigate him in the first place.¹

The Senate Majority PAC, a client of Judge Merchan's daughter's Authentic Campaigns that leads the efforts to elect Democrats to the Senate, fired off a similar fundraising email after the indictment. It stated, in part:

BREAKING NEWS: Donald Trump indicted by Manhattan grand jury This is an important moment for our democracy, but our work isn't over. We must continue

¹ Jon Levine and Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised \$93M off the case*, New York Post, March 30, 2024, available at <https://nypost.com/2024/03/30/us-news/dem-clients-of-daughter-of-judge-in-trump-trial-raised-90m-off-case/> (last visited May 21, 2024).

protecting our Senate majority from GOP extremists. Please, rush in \$10 (becomes \$60) to help defend the Senate.²

Since the indictment, Congressman Schiff has raised approximately \$20 million, and the Senate Majority PAC has raised approximately \$73.6 million. In other words, the clients of Judge Merchan's daughter have raked in nearly \$100 million and have used President Trump's indictment—a case over which her father presides—as fundraising fodder. It is common sense that, if these groups make no money, they cannot afford to pay for services provided by individuals such as Ms. Merchan. The more money raised, the more it can be spent on services.

Section 100.3(E)(1)(d)(iii) of the Rules of Judicial Conduct for the New York State Unified Court System dictates that Judge Merchan should not preside over President Trump's case. Under this section, a judge is disqualified from a case when the judge knows that a person known by the judge to be within the sixth degree of relationship to him "has an interest that could be substantially affected by the proceeding."

If President Trump is acquitted, such a verdict would benefit him politically and be detrimental to Democrats, including clients of Judge Merchan's daughter, in their efforts to defeat him in the courts rather than at the ballot box. If, on the other hand, he is convicted, such a verdict would provide a fundraising windfall for Democrat clients of Judge Merchan's daughter. Congressman Schiff's fundraising email highlighted the unprecedented nature of the indictment. That is nothing compared to the unprecedented nature of a conviction.

Even U.S. District Judge Shira Scheindlin, a retired federal judge in New York City appointed by President Clinton, raised concerns about Judge Merchan's refusal to recuse in Scheindlin's April 5, 2024 CNN appearance:

The main focus of this motion, as opposed to the previous one, a year ago, which the judge denied, is on the daughter's line of work.

As you already said, the daughter does work with many, many high-profile Democratic candidates. She works on their social media. They put out a post. They get contributions. She, as an owner, gets a percentage of those contributions.

So, there is a statute, in New York, which says a judge must disqualify himself, if a person known by the judge, be within the sixth degree of relationship, and a daughter is the first degree, has an interest that could be substantially affected by the outcome of the proceeding.

So, the question here is, is this daughter likely to profit, to benefit, from the outcome of this proceeding? And you have to understand, it's not actual conduct that's worrisome. It's the appearance, the appearance to a reasonable person, that this judge cannot be fair and impartial, given that relationship.

So ordinarily, I would think that a benefit, financially, would be to a spouse, because they share the income. This is an independent adult daughter. They don't share

² Thomas Catenacci, *Trump, Democrats immediately begin fundraising off indictment: 'Our work isn't over'*, Fox News, March 30, 2023, available at <https://www.foxnews.com/politics/trump-democrats-immediately-begin-fundraising-off-indictment-our-work-isnt-over> (last visited May 21, 2024).


income. But according to this -- according to this statute, according to this statute, the judge must recuse if she would substantially benefit from the outcome. So that's one thing that concerns me.³

This is part of a troubling pattern of judicial misconduct by Judge Merchan. Indeed, just last Friday, we learned your office privately cautioned him in July over his illegal political donations to Biden and other Democrats in 2020.⁴ This private caution has not deterred Judge Merchan's judicial misconduct, as evidenced by this current complaint. Judge Merchan appears driven by Democrat partisanship and financial gain for his daughter. This caution, as reported by the New York Times, "can be considered in any future cases reviewed by the state's Commission on Judicial Conduct."⁵

It is imperative that New Yorkers and all Americans have confidence that justice is being dispensed fairly in New York. This is especially true in politically sensitive cases where bias is most likely to rear its ugly head. Here, we are in the middle of a presidential election campaign. The circumstances are unprecedented: President Trump, a former president and the likely nominee of a major party for the presidency, is on trial. These proceedings are under a microscope. Judge Merchan's clear conflict of interest, based upon his adult daughter's financial state in this unprecedented criminal trial, has badly damaged the court's appearance of impartiality.

Given Judge Merchan's daughter's clientele—and the vast sums of money that these individuals have raised and will continue to raise off of President Trump's charges—Judge Merchan's daughter stands to benefit the more legally imperiled President Trump is. She is well within the sixth degree of relation to Judge Merchan; indeed, as his daughter, she falls within the first degree. A straightforward application of Section 100.3(e)(1)(D)(iii) requires recusal. As Judge Merchan has declined to do so, I request that you investigate his conduct and impose whatever discipline is required.

Sincerely,



Elise M. Stefanik

³ Transcript of broadcast of *The Source with Kaitlan Collins*, CNN, April 5, 2024, <https://transcripts.cnn.com/show/skc/date/2024-04-05/segment/01> (last visited May 21, 2024).

⁴ Karen Freifeld, *Complaint dismissed against Trump hush-money judge who donated to Biden*, Reuters, May 17, 2024, available at <https://www.reuters.com/world/us/complaint-dismissed-against-trump-hush-money-judge-who-donated-biden-2024-05-17/> (last visited May 21, 2024).

⁵ William K. Rashbaum, Jonah E. Bromwich and Ben Protess, *Ethics Panel Cautions Judge in Trump Trial Over Political Donations*, New York Times, May 17, 2024, available at <https://www.nytimes.com/2024/05/17/nyregion/trump-trial-judge-merchan-donations.html> (last visited May 21, 2024).