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Re: Request for Review into Actions Against California Law Firms

Dear Attorney General Bonta and District Attorneys Hochman, Jenkins, Wagstaffe, and Rosen,

We write in response to the extraordinary and unprecedented attacks launched by President Donald J. Trump and senior officials within his administration, along with his personal associates, against many national law firms, including Allen Overy Shearman Sterling LLP (A&O Shearman); Kirkland & Ellis LLP (Kirkland); Latham & Watkins LLP (Latham); Milbank LLP (Milbank); Paul, Weiss, Rifkind, Wharton & Garrison (Paul Weiss), Simpson Thacher & Bartlett (Simpson Thacher), Skadden, Arps, Slate, Meagher & Flom LLP (Skadden); and Willkie Farr & Gallagher LLP (Willkie), all of which have offices in California. As set forth more fully below, the Administration's conduct constitutes a clear

violation of California criminal law that warrants the opening of a criminal investigation.

Since taking office, Trump has issued a series of executive orders that unlawfully threaten and subject certain law firms and their clients with punishing measures that include ending the firm's government contracts, revoking firm attorneys' security clearance, barring them from entering government buildings, and demanding that government contractors disclose business with these firms and subjecting their contracts to review. The executive orders have caused these law firms significant economic harm, costing them business, clients, and employees. To procure a rescission or to evade a threatened executive order, nine law firms have capitulated to Trump's demand for free legal services. Via this scheme, Trump has extracted the promise of nearly \$1 billion in legal services for his chosen causes, cases, and allies.

The extortion of free legal assistance from large law firms is a brazen abuse of power that attacks attorney independence and undermines the adversarial system that is at the heart of our country's rule of law. The scheme warrants prompt investigation by your offices to determine whether Trump, senior officials in his administration, and other key allies have committed (or attempted to commit) extortion, in violation of California law.

Background

On March 6, 2025, Donald J. Trump issued Executive Order 14230, "Addressing Risks from Perkins Coie." In that order, he condemned the law firm for taking on cases with which he disagrees and for no other stated reason, terminated the firm's government contracts, revoked firm attorneys' security clearances, and barred firm employees from entering government buildings. The Executive Order also unlawfully attacked the firm's clients by requiring all government contractors to disclose business with the firm and subjecting their contracts to agency review. The threat was clear: if a company or person is a client of Perkins Coie, they will become disfavored by the Trump administration and lose their government contracts. Perkins Coie attorneys were immediately prohibited from attending an agency meeting on behalf of their clients; became subject to an EEOC investigation; and were fired by a number of clients who were also government contractors. *See Perkins Coie LLP v. U.S. Dep't of Justice*, No. CV 25-716 (BAH), 2025 WL 1276857, at *1 (D.D.C. May 2, 2025) [hereinafter *Perkins Coie*].

Perkins Coie promptly sued and won early and decisive victories to block the Executive Order from going into effect. *See id.*; *Perkins Coie LLP v. U.S. Dep't of Justice*, Order No. CV 25-716 (BAH) (Mar. 12, 2025) [hereinafter *Perkins Coie TRO Order*]. In her May 2, 2025 ruling granting a permanent injunction to block the

executive order, Judge Howell of the District Court of the District of Columbia, issued a sharp rebuke of Trump’s administration:

The importance of independent lawyers to ensuring the American judicial system's fair and impartial administration of justice has been recognized in this country since its founding era. . . . The instant case presents an unprecedented attack on these foundational principles. . . . Using the powers of the federal government to target lawyers for their representation of clients and avowed progressive employment policies in an overt attempt to suppress and punish certain viewpoints . . . is contrary to the Constitution.

Perkins Coie, 2025 WL 1276857, at *1.

Despite the court’s determination that these orders are illegal and unconstitutional, Trump issued a series of four nearly identical orders against four different law firms. *See* E.O. 14237 (Addressing Risks from Paul Weiss); E.O. 14246 (Addressing Risks from Jenner & Block); E.O. 14250 (Addressing Risks from WilmerHale); E.O. 14263 (Addressing Risks from Susman Godfrey). And he has threatened to issue more orders. *See Perkins Coie*, at *61, 63. Trump is targeting firms with which he has personal grievances, that have advocated for points of view with which he disagrees, represented clients that he perceives as adversaries, hired attorneys who have carried out investigations and prosecutions that Trump dislikes, or hired a diverse pool of employees.

The orders had immediate, damaging consequences for the law firms. Paul Weiss was the first firm to capitulate to Trump’s illegal and self-serving demands. The firm promised \$40 million in free legal representation to causes and clients chosen by Trump in exchange for Trump reversing the executive order. *See* E.O. 14244 (Addressing Remedial Action by Paul Weiss). The firm’s chair wrote in a memo to the firm’s employees that “[t]he executive order could easily have destroyed our firm. It brought the full weight of the government down on our firm, our people, and our clients,” and that even fighting the case in court would not resolve the fact that “clients perceived our firm as being persona non grata with the Administration.”¹

¹ Lauren Irwin, *Paul Weiss Chair: Trump Order ‘Could Easily Have Destroyed Our Firm,’* THE HILL (Mar. 24, 2025), <https://thehill.com/homenews/5211222-paul-weiss-chair-trump-order>; *see also*, Letter from Brad Karp, Paul, Weiss Chairman to Rep. Dave Min (CA-47) et al. (May 8, 2025), available at <https://abovethelaw.com/2025/05/trumps-biglaw-bootlickers-letters-to-congress/2> (“Because so many of the matters we handle on behalf of our clients, across practice areas, require productive interaction and engagement with the federal government—and because many of our clients also value a productive relationship with the federal government and have significant commercial relationships with the federal government—we immediately understood that the effects of the executive order would destroy the firm, even if we ultimately prevailed in court.”).

In other words, even a win in court would not make these firms whole after being subject to the unconstitutional and extortionate assault to which Trump subjected them. The only way to protect the business was to provide Trump with millions of dollars of legal services.

On March 17, 2025, under Trump's orders to look at law firm's diversity, equity, and inclusion (DEI) policies, the Equal Employment Opportunity Commission (EEOC) announced investigations of twenty law firms.² These investigations were far reaching; the EEOC demanded personal information about each firm's employees and job applicants, along with detailed information about each firm's clients.³ To preempt potentially punishing executive orders, onerous investigation processes, and the revelation of employee information to a hostile administration, eight firms agreed to give free legal services to cases or issues selected by Trump. *See Perkins Coie*, at *61, 63 (noting that the "Trump White House has publicly touted . . . that those deal-making firms have been spared, or had revoked, an Executive Order targeting them"). These firms include A&O Shearman; Kirkland; Latham; Skadden; Willkie; Milbank; Simpson Thacher; and Cadwalader, Wickersham & Taft LLP (Cadwalader). In total, the firms are giving Trump nearly \$1 billion in legal services to evade the unconstitutional punitive measures that other firms still face.⁴ All of the firms except Cadwalader have offices in California, and many have multiple offices in the state. As a result, these firms' California offices will likely be expected to provide at least some of the resources that the firms as a whole are now obligated to provide to Trump in order to avoid being subject to punitive, unconstitutional executive orders and investigations.

Since entering into these agreements, the law firms have been subject to demands for free legal representation from a number of Trump's allies and conservative, partisan organizations. Trump has made it clear that the firms will be expected to do his bidding, including by defending police officers who are accused of

² Press Release, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, *EEOC Acting Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI-Related Employment Practices* (Mar. 17, 2025), <https://www.eeoc.gov/newsroom/eeoc-acting-chair-andrea-lucas-sends-letters-20-law-firms-requesting-information-about-dei>.

³ Letter from William E. White and William J.F. Roll III, Co-US General Counsels of A&O Shearman, to Rep. Yassamin Ansari (AZ-03) et al. (May 8, 2025), available at <https://abovethelaw.com/2025/05/trumps-biglaw-bootlickers-letters-to-congress/2> ("The EEOC inquiry posited that prevailing historical law firm DEI practices may have violated federal anti-discrimination laws and sought extensive information related to those practices. The EEOC's demands also included detailed personal information regarding the Firm's employees and applicants for attorney roles at the Firm, as well as extensive information related to the Firm's clients.").

⁴ *See* Jeffrey Toobin, *Trump's Next Move After the Law Firms Surrender*, N.Y. TIMES (May 19, 2025), <https://www.nytimes.com/2025/05/19/opinion/trump-law-firms.html>; Rebecca Beitsch, *Law firms divided over response to Trump orders*, THE HILL (Mar. 25, 2025), <https://thehill.com/regulation/court-battles/5211686-trump-administration-targets-law-firms>; Daniel Barnes, *Major law firm strikes preemptive deal with White House*, POLITICO (Mar. 28, 2025), <https://www.politico.com/news/2025/03/28/skadden-arps-trump-law-deal-028324>.

abusing civilians.⁵ Firms are now also avoiding pro bono issues, clients, or advocacy positions they might have otherwise taken, for fear of further retribution from Trump.⁶ To avoid punishing sanctions, the firms have had to compromise their autonomy—their ability to choose clients, causes, and cases that they believe warrant the firm’s pro bono representation.

Trump has flaunted the success of his extortion scheme, acknowledging in a public speech that the executive order and investigation threats were baseless:

Have you noticed that lots of law firms have been signing up with Trump? \$100 million, another \$100 million for damages that they’ve done, but they give you \$100 million and then they announce that, “But we have done nothing wrong.” **And I agree they’ve done nothing wrong.** But what the hell, they give me a lot of money considering they’ve done nothing wrong and we’ll use some of those people, some of those great firms.⁷

It is now up to state and local officials to hold Trump and his collaborators accountable for their bold disregard for the law.

Basis for Criminal Investigation

Extortion

California defines extortion as follows in Pen. Code, § 518(a):

Extortion is the obtaining of property or other consideration from another, with his or her consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

Extortion is a felony punishable by a term of imprisonment for two, three, or four years. Pen. Code, §§ 520, 1170(h).

Pen. Code, § 518(b) defines “consideration” as “anything of value.” “Property” is defined to include both real and personal property, with “personal property” including “money, goods, chattels, things in action, and evidences of debt.” Pen.

⁵ See Jessical Silver-Greenberg et al., *Trump Allies Look to Benefit from Pro Bono Promises By Elite Law Firms*, N.Y. TIMES (May 25, 2025), <https://www.nytimes.com/2025/05/25/business/trump-law-firms-pro-bono.html>.

⁶ *Id.*; Matthew Goldstein and Jessica Silver-Greenberg, *Some Giant Law Firms Shy Away From Pro Bono Immigration Cases*, N.Y. TIMES (May 6, 2025), <https://www.nytimes.com/2025/05/06/business/trump-law-firms-pro-bono-immigration.html>.

⁷ [Emphasis added.] Associated Press, *LIVE: Trump signs executive orders aimed at boosting coal*, YOUTUBE (Apr. 8, 2025), <https://www.youtube.com/watch?v=k66iBAeQwEk> (at 31:40).

Code, § 7(a)(10, 12). Courts have stated that the definition of personal property “does not create an exclusive list of personal property limited to those specifically named.” *People v. Kozlowski* (2002) 96 Cal.App.4th 853, 865 [117 Cal.Rptr.2d 504, 515]; *see also*, *People v. Leyvas* (1946) 73 Cal.App.2d 863, 865 [167 P.2d 770, 771].

Trump’s demand on each law firm for millions of dollars in “pro bono” legal work for his chosen causes is undoubtedly something “of value.” Trump also demanded that the firms disavow any “illegal” DEI hiring considerations and agree to accept clients without regard to political beliefs. These internal policies are of value to each firm, as is the right of law firms to select their employees and clients. Trump also threatened to revoke security clearances and permissions to engage with his agencies, which are valuable privileges law firms expend considerable resources obtaining and maintaining. Therefore, Trump has demanded property from the law firms.

In his demand for such property as consideration, Trump leveraged the power he held to cause lasting economic and reputational damage to the law firms. He threatened to sign executive orders that would make their legal practice impracticable and launch unfounded investigations into their business, employees, and clients. Though Trump has the authority to sign executive orders and officials within his administration may have the authority to carry out investigations, to do so baselessly and with the explicit goal of extracting deals from law firms constitutes a wrongful use of fear. “Extortion... criminalizes the making of threats that, in and of themselves, may not be illegal.” *Flatley v. Mauro* (2006) 39 Cal.4th 299, 326 [46 Cal.Rptr.3d 606, 627, 139 P.3d 2, 19–20]; *see also*, *Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian* (1990) 218 Cal.App.3d 1058, 1079 [267 Cal.Rptr. 457, 467], *reh'g denied and opinion modified* (Apr. 13, 1990) (“[I]n many blackmail cases the threat is to do something in itself perfectly legal, but that threat nevertheless becomes illegal when coupled with a demand for money.”).

Per Pen. Code, § 519, in the context of extortion, fear can be induced by a threat to do any of the following:

1. To do an unlawful injury to the person or property of the individual threatened or of a third person.
- ...
3. To expose, or to impute to him, her, or them a deformity, disgrace, or crime.
4. To expose a secret affecting him, her, or them. ...

“In order to establish extortion, ‘the wrongful use of force or fear must be the operating or controlling cause compelling the victim's consent to surrender the thing to the extortionist.’” *People v. Bollaert* (2016) 248 Cal.App.4th 699, 725 [203 Cal.Rptr.3d 814, 836], quoting *Chan v. Lund* (2010) 188 Cal.App.4th 1159, 1171

[116 Cal.Rptr.3d 122, 131], *as modified on denial of reh'g (Oct. 28, 2010)*, quoting *People v. Goodman* (1958) 159 Cal.App.2d 54, 61 [323 P.2d 536, 541].

It is clear that Trump's threats induced precisely this fear in the law firms. As Brad Karp, chair of Paul Weiss, stated in an email to the entire firm:

[O]ur firm faced an existential crisis. The executive order could easily have destroyed our firm. It brought the full weight of the government down on our firm, our people, and our clients. In particular, it threatened our clients with the loss of their government contracts, and the loss of access to the government, if they continued to use the firm as their lawyers. And in an obvious effort to target all of you as well as the firm, it raised the specter that the government would not hire our employees.⁸

Even if the law firms now contend to save face that they "consented" to the deals, "requisite 'consent' [for extortion] is not true consent but rather the coerced compliance with a demand induced by the perpetrator's threat." *People v. Mendoza* (2022) 74 Cal.App.5th 843, 851 [289 Cal.Rptr.3d 857, 866; *see also*, *People v. Goldstein* (1948) 84 Cal.App.2d 581, 586 [191 P.2d 102, 106] (quoting *People v. Peck* (1919) 43 Cal.App. 638, 645 [185 P. 881, 883]) ("The victim of an extortioner might openly consent to the taking of his money 'and yet protest in his own heart' against its being taken.").

Criminal Conspiracy

Pursuant to Section 182(a) of California's Penal Code, the crime of conspiracy occurs where:

... two or more persons conspire:

- (1) To commit any crime.
- (2) Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.
- (3) Falsely to move or maintain any suit, action, or proceeding.
- ...
- (5) To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws. ...

⁸ David Lat, *Brad Karp's Email To Paul Weiss About Its Deal With The Trump Administration*, ORIGINAL JURISDICTION (Mar. 23, 2025), <https://davidlat.substack.com/p/brad-karp-firmwide-email-to-paul-weiss-about-the-trump-administration-deal>.

When individuals “conspire to commit any other felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of that felony.” *Id.*

In implementing his extortion scheme against law firms, Trump coordinated with senior administration officials, including Andrea R. Lucas, Acting Chair of the EEOC, who sent the letters to twenty law firms initiating EEOC investigations under false pretenses. It also appears that Trump may have orchestrated these extortionist schemes against law firms with the assistance of his personal lawyer, Boris Epshteyn.⁹ Further investigation is required to determine the extent of the conspiracy and the numerous actors likely involved across the Trump Administration and Trump’s personal associates.

These facts provide a basis for investigating whether Trump¹⁰ and senior Trump officials and associates committed theft and/or intimidation, conspired to commit extortion and/or attempted to commit extortion under California law.

Immunity Does Not Preclude Prosecution

The immunity available to federal officials under the Supremacy Clause of the U.S. Constitution is not available in all circumstances and does not preclude criminal investigation and prosecution here.

The Supremacy Clause “is designed to ensure that states do not ‘retard, impede, burden, or in any manner control’ the execution of federal law.” *New York v. Tanella*, 374 F.3d 141, 147 (2d Cir. 2004) (quoting *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 436 (1819)). It does not, however, wholly shield federal officers from appropriate state criminal proceedings. The Supreme Court set out the appropriate standard for assessing the availability of Supremacy Clause immunity in *Cunningham v. Neagle*: a state may not exercise criminal jurisdiction over a federal agent provided that “he was authorized to [act] by the law of the United States,” and that “in doing that act, he did no more than what was necessary and proper for him to do.” 135 U.S. 1, 75 (1890); *see also Tanella*, 374 F.3d at 147; *Kentucky v. Long*, 837 F.2d 727, 744 (6th Cir. 1988) (“Under *Neagle*, a state court has no jurisdiction if (1) the federal agent was performing an act which he was authorized to do by the law of the United States and (2) in performing that authorized act, the federal agent did no more than what was necessary and proper for him to do.”). To satisfy the second prong, two conditions must be satisfied: (1) the federal officer

⁹ Josh Dawsey and C. Ryan Barber, *Trump’s \$1 Billion Law Firm Deals Are the Work of His Personal Lawyer*, WALL ST. J. (Apr. 14, 2025), <https://www.wsj.com/us-news/law/trumps-1-billion-law-firm-deals-are-the-work-of-his-personal-lawyer-77bd7b8c>.

¹⁰ While the U.S. Supreme Court in *Trump v. United States*, 603 U.S. 593 (2024), held that presidents are entitled to at least presumptive immunity for official acts, extortion and conspiracy to commit extortion cannot be defined as official acts.

must “subjectively [believe] that the actions were authorized”; and (2) that belief must be “objectively reasonable under the circumstances.” *Battle v. State*, 252 Md. App. 280, 258 A.3d 1009, 1021 (2021) (citing *Long*, 837 F.2d at 744).

Supremacy Clause immunity therefore does not protect federal officers who act outside the law or beyond what is subjectively and objectively necessary and proper. When they do either, they may be held criminally liable in state court for violating state laws. *See, e.g., Battle*, 252 Md. App. at 280 (rejecting Supremacy Clause immunity for a DHS officer who was prosecuted for assaulting a civilian outside the scope of his duties and beyond what was necessary and proper).

If a criminal investigation finds even one of the following—that federal officials lacked legal authority, did not believe their actions were authorized, or could not have reasonably believed so—then state prosecution may proceed. Here, neither Trump nor any other official involved in executing the executive orders had legal authority to do so; nor did they have an objectively reasonable belief that the actions were authorized. Indeed, Trump continued to sign executive orders targeting law firms and to threaten law firms *after* a court enjoined his initial attack on Perkins Coie. *Compare Perkins Coie* TRO Order (filed March 12, 2025) and E.O. 14237 (Addressing Risks from Paul Weiss) (signed Mar. 14, 2025). Neither Trump nor any other official involved in the scheme can mistake theft and intimidation for a lawful enterprise.

These likely violations of California state criminal laws warrant investigation and, if appropriate, prosecution. The fact that this conduct involves the President of the United States and senior officials in his administration provides no shield to appropriate investigation and prosecution for criminal acts that do not satisfy the *Neagle* test.

It is true that Trump’s scheme may well violate federal criminal statutes, including the Hobbs Act. *See* 18 U.S.C. § 1951(a) (criminalizing extortion, defined as “the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right”). But the fact that an offense also violates federal law does not release state law enforcement from its obligations to investigate and prosecute acts that violate state criminal laws. That is particularly true here, where the Department of Justice, the Federal Bureau of Investigation, and other federal law enforcement agencies have been corruptly co-opted by Trump and directly implicated in these schemes. Federal agencies are obligated to investigate federal offenses impartially, but have thus far abdicated their responsibilities in a manner that harms the safety of our people and the stability of our democratic institutions. If local and state authorities also abdicate their civil and criminal enforcement responsibilities, their citizens will be left at the mercy of the criminal whims of federal officials, including Trump and his allies.

As the state of New York demonstrated in its prosecution of Trump for falsifying business records to cover up his hush money payments to an adult film star during his 2016 campaign, *see New York v. Trump*, Verdict Sheet, Indictment No. 71543-23 (Sup. Ct. N.Y. Part 59, May 29, 2024), states have the authority and responsibility to investigate criminal abuses of power and to protect their residents and their laws, regardless of the defendants' wealth, power, prestige, or status as federal officials.

Conclusion

Attorneys and law firms across the country have been broadly targeted by Trump in order to undermine their independence as employers and advocates, undermine national efforts to hold the current Administration responsible for its many abuses of power, and unlawfully obtain nearly \$1 billion in free legal services. Many targeted firms have had to cede their autonomy to Trump and his allies in order to avoid the significant harms that Trump has inflicted on several law firms and threatens to inflict on more. The consequences are devastating not just for the victim law firms but also for "the American judicial system's fair and impartial administration of justice." *Perkins Coie LLP*, 2025 WL 1276857, at *1. An immediate and thorough criminal investigation is needed to determine whether criminal charges should be brought against Trump and his associates. We ask your offices to promptly undertake this review.

Sincerely,

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