



Republican

National

Committee

October 3, 2016

RE: ATTORNEY COMPLAINT AGAINST CHERYL MILLS

VIA U.S. CERTIFIED MAIL

Office of Disciplinary Counsel
Board on Professional Responsibility
District of Columbia Court of Appeals
515 5th Street NW
Building A, Suite 117
Washington, DC 20001

Dear Board on Professional Responsibility:

This is an official attorney complaint. The details of this complaint can be described as follows:

Former U.S. Secretary of State Hillary Clinton was under recent investigation by the Federal Bureau of Investigations (F.B.I.) for conduct in connection with her handling of classified information while Secretary of State.¹

The central question of the federal investigation was whether Secretary Clinton's actions, or her staffs' actions, rose to the level of criminal mishandling of classified information.²

Ms. Mills – an attorney admitted to the D.C. Bar on October 30, 1991 – has been serving as Secretary Clinton's attorney in connection to the email investigation. In this capacity, Ms. Mills was present during Secretary Clinton's interview by F.B.I. agents in July 2016.³

The District of Columbia's Rules of Professional Conduct strictly prohibit a lawyer from accepting employment in connection with a matter the lawyer "participated personally and substantially as a public officer or employee."⁴ This is an "absolute disqualification" that "carries forward a policy of avoiding both actual impropriety and the appearance of impropriety."⁵

¹ A recent *Associated Press* report details the depth of the investigation. Michael Biesecker, "GOP lawmaker: FBI Gave Immunity To Top Clinton Aide," *The Associated Press*, 9/23/16, available online at <http://bigstory.ap.org/article/5eb9830643084dfa9fcbdd8b18b08e0/gop-lawmaker-fbi-gave-immunity-clinton-aides-testimony>.

² See Amy Chozick, "F.B.I. Interviews Hillary Clinton Over Private Email Server," *The New York Times*, 7/2/16, available online at <http://www.nytimes.com/2016/07/03/us/politics/hillary-clinton-fbi-emails.html>.

³ Hillary R. Clinton Part 2 of 3," Federal Bureau Of Investigations, Released 9/2/16, Available online at <https://vault.fbi.gov/hillary-r.-clinton/hillary-r.-clinton-part-02-of-03/view>

⁴ See D.C. Rules of Prof'l Conduct R. 1.11(a).

⁵ See *id.*, cmt. [5].

During the time Secretary Clinton allegedly mishandled classified information, Ms. Mills was serving as Secretary Clinton's chief of staff and counselor at the State Department.⁶ Bryan Pagliano, a former State Department employee and Clinton campaign staffer, told federal investigators that, in 2009 or 2010, he approached Ms. Mills relaying State Department concerns that Secretary Clinton's private email server might pose a federal records retention issue.⁷

F.B.I. Director James Comey confirmed during congressional testimony that Ms. Mills was a subject of the investigation.⁸ Indeed, Ms. Mills was granted partial immunity for cooperation with federal agents in the investigation.⁹ According to news reports, during the course of Ms. Mills's interview with the F.B.I., she was asked questions concerning the processes and procedures used to produce Secretary Clinton's emails to the State Department, to which Ms. Mills asserted the attorney-client privilege.¹⁰

The F.B.I.'s grant of immunity to Ms. Mills highlights the apparent conflict of interest in her representation of Secretary Clinton. Director Comey testified that the F.B.I. granted immunity to Ms. Mills because her current role as Secretary Clinton's attorney could have posed potential legal issues for the F.B.I. in its attempt to subpoena Ms. Mills's laptop.¹¹ Even though the records the F.B.I. sought were not from a time period during which Ms. Mills was serving as Secretary Clinton's personal attorney, Ms. Mills apparently used her current role as Secretary Clinton's attorney to shield herself from prosecution in the event any classified information was discovered on her laptop. According to Director Comey, classified material was indeed discovered on Ms. Mills's laptop.¹²

I respectfully request that your office review this matter and take any and all necessary disciplinary measures against Ms. Mills.

Sincerely,



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⁶ See "Veteran Clinton Aide Cheryl Mills Cites Email Server Talks In Testimony," *The Associated Press*, 6/1/16, available online at <http://www.cbsnews.com/news/veteran-clinton-aide-cheryl-mills-cites-email-server-talks-in-testimony/>

⁷ Bryan Pagliano, F.B.I. Interview, Released 9/23/16 available online at <https://vault.fbi.gov/hillary-r.-clinton/hillary-r.-clinton-part-03-of-03/view>

⁸ Director James Comey, Testimony, House Judiciary Committee, 9/28/16.

⁹ Michael Biesecker, "GOP lawmaker: FBI Gave Immunity To Top Clinton Aide," *The Associated Press*, 9/23/16, available online at <http://bigstory.ap.org/article/5eb9830643084dfa9fcbdd8b18b08e0/gop-lawmaker-fbi-gave-immunity-clinton-aides-testimony>

¹⁰ A *Washington Post* article gave details into Ms. Mills' interview with federal agents. Matt Zapotosky, "Clinton Aide Cheryl Mills Leaves FBI Interview Briefly After Being Asked About Emails," *The Washington Post*, 5/10/16, available online at https://www.washingtonpost.com/world/national-security/clinton-aide-leaves-interview-once-the-fbi-broaches-an-off-limits-topic/2016/05/10/cce5e0e8-161c-11e6-aa55-670cabef46e0_story.html.

¹¹ Director James Comey, Testimony, House Judiciary Committee, 9/28/16.

¹² *Id.*