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CAUSE NO. 25-DCR-110889

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
v.	§	FORT BEND COUNTY,
		TEXAS
	§	
KYLE PRASAD GEORGE	§	458th JUDICIAL DISTRICT

DEFENDANT KYLE PRASAD GEORGE'S MOTION TO QUASH INDICTMENT

TO THE HONORABLE JUDGE JARMILLO:

Defendant Kyle Prasad George ("Mr. George") moves to quash the indictment in this case. The indictment charges three counts of money laundering under Texas Penal Code § 34.02. The indictment is defective in that it fails to allege the essential elements of the offense, lacks the specificity and notice required by law, and attempts to recast non-criminal conduct as money laundering. Even accepting the allegations as true, they do not amount to money laundering as a matter of law. This unprecedented use of the money laundering statute – to prosecute an alleged falsification of a campaign finance report – finds no support in § 34.02 and violates the United States and Texas Constitutions.

DeLay v. State, 465 S.W.3d 232 (Tex. Crim. App. 2014), which reversed money laundering convictions in a strikingly similar campaign finance context, provides dispositive guidance that compels quashing this indictment. Accordingly, Mr. George respectfully requests that the Court quash the indictment in its entirety, and would show the following:

**I.
INTRODUCTION**

This case involves an overreaching application of the money laundering statute to ordinary campaign finance reporting. A Fort Bend County grand jury returned an indictment on

March 31, 2025, charging Mr. George with three counts of money laundering (aggregated to a third-degree felony amount) for actions between January 12, 2019 and April 22, 2019. This period coincides with Mr. George's assumption of office as Fort Bend County Judge and related campaign finance activity. Each count of the indictment tracks a different subsection of Tex. Penal Code § 34.02, alleging that Mr. George "knowingly" engaged in certain conduct with "the proceeds of criminal activity, namely tampering with a governmental record, to wit: campaign finance report, with intent to defraud or harm," of an aggregate value between \$30,000 and \$150,000. In effect, the State contends that because a campaign finance report was allegedly falsified, any funds associated with that report became "proceeds of criminal activity," and Mr. George's handling of those funds amounted to money laundering.

Like the Travis County prosecutor in *DeLay*, District Attorney Bryan Middleton and the Fort Bend County District Attorney's office has employed a strategy rejected by the Texas Court of Criminal Appeals. In *DeLay*, the State similarly attempted to transform campaign finance activities into money laundering, arguing that certain political contributions became "criminal proceeds" through alleged Election Code violations. As the Court of Criminal Appeals held, "if the evidence establishes precisely what the State has alleged, but the acts that the State has alleged do not constitute a criminal offense under the totality of circumstances, then that evidence, as a matter of law, cannot support a conviction." *DeLay*, 465 S.W.3d at 235. The Court's ultimate conclusion—that "what the State has proven in this case does not constitute either of the alleged criminal offenses"—applies with equal force here, where the State's theory is even more attenuated than the one rejected in *DeLay*.

The indictment's three counts correspond to § 34.02(a)(1), (a)(2), and (a)(3) respectively:

Count I alleges that Mr. George "knowingly maintain[ed] an interest in, conceal[ed], possess[ed], or transfer[red] the proceeds of criminal activity, namely tampering with a governmental record (a campaign finance report) with intent to defraud or harm," value \$30,000–\$150,000. Notably, it recites four different verbs in the disjunctive (maintain an interest, conceal, possess, or transfer) without specifying which act he supposedly committed. No particular fund or transaction is identified; the indictment does not state what "interest" was maintained, what was "concealed," which funds were "possessed," or what was transferred. It simply concludes that Mr. George somehow handled "proceeds" of the tampering offense in one of those ways.

Count II alleges that Mr. George "knowingly conduct[ed] or facilitate[d] one or more transactions involving the proceeds of criminal activity, namely tampering with a governmental record (campaign finance report) with intent to defraud or harm," value \$30,000–\$150,000. This language (tracking § 34.02(a)(2)) suffers similar defects: it vaguely refers to "one or more transactions" over a 100-day span, without identifying any specific transaction. By using an open-ended phrase, the indictment forces Mr. George (and the Court) to guess whether the supposed transaction was writing a check, making a transfer, purchasing something, or some other act. The inclusion of "facilitate" further muddies the waters – implying perhaps that Mr. George aided someone else's transaction, yet the indictment does not state whom he allegedly aided or how. In short, Count II encompasses an unspecified number of acts without clarity, the very kind of indefiniteness that Texas courts have condemned.

Count III alleges that Mr. George "knowingly invest[ed], expend[ed], or receive[d] the proceeds of criminal activity, namely tampering with a governmental record (campaign finance report) with intent to defraud or harm," value \$30,000–\$150,000. This corresponds to

§ 34.02(a)(3)'s prohibition on investing, spending, or receiving illicit proceeds. Again, the indictment recites multiple possible acts in the alternative ("invest, expend, or receive"), but does not specify which occurred. It does not identify what was allegedly invested (e.g. depositing money into an account or venture is not described), what was expended (no purchase or payment is specified), or what was received (no source or date of receipt is given). Without any particular use of funds detailed, Count III reduces to a generic claim that Mr. George did something with some money.

In sum, the indictment parrots fragments of the statutory language but never articulates a coherent criminal act. It posits that by filing an allegedly false campaign finance report (the supposed "tampering with a governmental record"), Mr. George turned the campaign's funds into "criminal proceeds" and then committed money laundering by handling those funds in unspecified ways. This theory fails as a matter of law, for multiple independent reasons set forth below, chief among them the controlling authority of *DeLay v. State*.

II. LEGAL STANDARD GOVERNING INDICTMENT

A. Indictment Sufficiency and the Right to Notice

Under Texas law and the U.S. Constitution, a criminal indictment must allege all the elements of the offense and be specific enough to inform the defendant of the charge so that he can prepare a defense. Texas Code of Criminal Procedure art. 21.11 provides that an indictment is sufficient if it charges the commission of the offense in "ordinary and concise language" such that a person of common understanding can know what is meant, and with enough certainty to give the defendant notice of the particular offense and enable the court to pronounce judgment. Everything "necessary to be proved" must be stated in the indictment (art. 21.03), and the indictment must allege the offense with enough certainty that a judgment thereon can be pleaded

in bar of any further prosecution for the same offense (art. 21.04). If a particular intent or circumstance is a material element of the crime, it too must be alleged. For example, article 21.05 explicitly requires that if an offense includes a particular intent (such as "intent to defraud or harm"), that intent need only be generally stated in the indictment – which the State has done here by alleging an intent to defraud in the underlying tampering offense.

These statutory pleading requirements reflect fundamental constitutional principles. The Texas Constitution guarantees the accused the right "to demand the nature and cause of the accusation against him, and to have a copy thereof, (Tex. Const. art. I, § 10), and the Sixth Amendment to the U.S. Constitution (applied to the States via the Fourteenth Amendment) similarly guarantees that a defendant be informed of the nature and cause of the accusation. In practice, this means the charging instrument must allege every element of the offense and enough supporting facts to give the defendant fair notice. As the Court of Criminal Appeals has explained, "the charging instrument must be specific enough to inform the accused of the nature of the accusation against him so that he may prepare a defense." *State v. Mays*, 967 S.W.2d 404, 406 (Tex. Crim. App. 1998). If the indictment's language is so vague or indefinite that the defendant would have to speculate about what criminal conduct is being alleged, the indictment fails to provide the required notice and must be quashed. In *State v. Moff*, the Court of Criminal Appeals quashed an indictment that alleged a seven-year span of fraudulent purchases without specifying what transactions were at issue; such a vague pleading did not adequately inform the defendant and was deemed impermissible.

Texas law requires that an indictment describe any property involved with reasonable certainty. Texas Code of Criminal Procedure art. 21.09 provides that "if known, personal property alleged in an indictment shall be identified by name, kind, number, and ownership.

When such is unknown, that fact shall be stated". An indictment that merely refers to generic "proceeds" or money, without identifying what funds or property are at issue, violates this requirement when the information is known or reasonably ascertainable to the State. In short, if specific money or accounts form the basis of the charge, the indictment should name or describe them (e.g. "campaign bank account ending #####" or "\$XX in campaign funds received from John Doe on [date]") rather than just calling them "proceeds." This ensures the defendant is not left guessing which funds are alleged to be illicit.

Texas law distinguishes defects of form from defects of substance. A mere form defect that does not prejudice the defendant's substantial rights will not invalidate an indictment (Tex. Code Crim. Proc. art. 21.19), but an indictment that fails to allege an offense at all, or that fails to give adequate notice, is a substantive defect requiring it be quashed if timely raised. If an indictment omits an essential element of the crime or is so unclear that it fails to show the commission of an offense, it does not invoke the court's jurisdiction and must be quashed regardless of prejudice. *Duron v. State*, 956 S.W.2d 547, 550 (Tex. Crim. App. 1997). Here, as detailed below, the indictment's defects are substantive and prejudicial: they obscure what Mr. George allegedly did and even what crime the State believes occurred. The appropriate remedy is to quash the indictment and require the State, if it proceeds, to obtain a new indictment that meets legal requirements.

B. Elements of Money Laundering Tex. Penal Code section 34.04

Texas Penal Code §34.02 provides, in relevant part, that a person commits money laundering if he knowingly does any of the following:

1. "Acquires or maintains an interest in, receives, conceals, possesses, transfers, or transports the **proceeds of criminal activity**." Tex. Penal Code § 34.02(a)(1) (emphasis added). This subsection criminalizes knowingly handling or holding illicit proceeds (by acquiring, possessing, moving, or concealing them).

2. "Conducts, supervises, or facilitates a transaction involving the proceeds **of criminal activity**." *Id.* § 34.02(a)(2) (emphasis added). This targets participation in financial transactions involving dirty money.
3. "Invests, expends, or receives, or offers to invest, expend, or receive, the **proceeds of criminal activity** or funds that the person believes are the proceeds of **criminal activity**." *Id.* § 34.02(a)(3) (emphasis added). This subsection covers using illicit funds (or funds believed to be illicit) – essentially spending or receiving criminal proceeds, or pumping them back into further crime.
4. "Finances or invests or intends to finance or invest funds that the person believes are intended to further the commission of **criminal activity**." *Id.* § 34.02(a)(4) (emphasis added). This is a more specialized provision aimed at funding future crimes, not at issue here.

Here, the indictment involves actual proceeds rather than sting operations or believed proceeds, so the focus is on subsections (a)(1)–(a)(3). Notably, the statute specifies that knowledge of the specific nature of the criminal activity giving rise to the proceeds is not required (i.e. one need not know exactly which felony underlies the money), and it provides certain defenses (for law enforcement activity or lawful attorney fees) not relevant here. The offense level is determined by the value of the funds involved: \$30,000–\$150,000 is a third-degree felony.

Equally important are the statutory definitions, which the *DeLay* court analyzed extensively. "Criminal activity" for purposes of § 34.02 means any offense classified as a felony (under Texas, federal, or certain other laws). "Proceeds" is defined to mean "funds acquired or derived directly or indirectly from, produced through, or used in the commission of an act or offense". And "Funds" is broadly defined to include currency or its equivalents (money, checks, bank credits, etc.). Thus, by statute, money is "proceeds" not only if obtained as the profits of crime, but even if it was simply used in the course of committing an offense. This broad definition, added by the Legislature, extends the law beyond the federal definition of "proceeds." Texas

clearly brings "dirty money" of any kind—whether derived from or utilized in a felony—under the money laundering statute. Like *DeLay*, the indictment fails to satisfy even this broad definition, because it does not actually allege any felony from which funds were derived or to which they were integral.

III. ARGUMENT

A. The Indictment Fails to Allege the Essential Elements of Money Laundering Under §34.02

Despite reciting bits of the statute, the indictment does not actually allege a prosecutable offense under Texas's money laundering statute. A comparison of the statutory elements of money laundering and the language of the indictment, expose the inherent errors in the indictment as summarized in Table 1 below. The deficiencies identified here are even more pronounced than those in the *DeLay* indictment, which at least specified particular transactions and parties involved in the alleged money laundering scheme.

Table 1: Tex. Penal Code § 34.02 Elements vs. Indictment Allegations

Statutory Element	Indictment's Allegation	Deficiency
Knowingly acquire/maintain an interest in, conceal, possess, or transfer the proceeds of criminal activity. (§ 34.02(a)(1))	Count 1: "did then and there knowingly maintain an interest in, conceal, possess, or transfer the proceeds of criminal activity, namely tampering	<ul style="list-style-type: none"> • No specific act alleged: The charge is phrased in the disjunctive, listing four different verbs. It's unclear which act Mr. George supposedly committed – did he maintain an interest in funds, conceal them, possess them, or transfer them? For an indictment to give adequate notice, it should not force the defendant to guess among multiple possible theories. Compare <i>DeLay</i>, where the indictment specifically alleged "the transfer of funds of the aggregate value of \$190,000 from the

	<p>with a governmental record (campaign finance report) with intent to defraud or harm." (Aggregate value \$30k–\$150k).</p>	<p>Republican National Committee and the Republican National State Election Committee...to several candidates." <i>DeLay</i>, 465 S.W.3d at 238 n.16. • No identified proceeds: The indictment fails to identify any particular funds or property as "the proceeds." It does not say what money or interest was involved – e.g. campaign account funds, a specific donation, etc. This violates art. 21.09's requirement to describe the property if known. In contrast, the <i>DeLay</i> indictment identified specific dollar amounts and specific recipients, providing the constitutional notice lacking here. • No felony specified beyond name: It labels the proceeds as derived from "tampering with a governmental record ... with intent to defraud or harm" but provides no facts about that offense (such as what record was falsified, when, or by whom). Everything necessary to prove the offense must be stated (art. 21.03). Here the indictment gives only a conclusory label of a felony without details to show how that felony generated proceeds.</p>
<p>Knowingly conduct, supervise, or facilitate a transaction involving the proceeds of criminal activity. (§ 34.02(a)(2))</p>	<p>Count II: "did then and there knowingly conduct or facilitate one or more transactions involving the proceeds of criminal activity, namely tampering with a governmental record (campaign finance report) with intent to defraud or harm."</p>	<p>• Unspecified transaction(s): The indictment vaguely refers to "one or more transactions" over a three-month period, without identifying a single transaction by date, type, or amount. This lack of specificity deprives Mr. George of notice of what he must defend. It mirrors the flaw in <i>State v. Moff</i>, where an indictment spanning years of transactions with no specifics was quashed for vagueness. Here, Mr. George is left to sift through all campaign financial activities in that period to guess which the State might claim were illicit. Such a "kitchen-sink" allegation is improper; the State must commit to a particular transaction or set of transactions if it wants to charge this subsection. The <i>DeLay</i> court emphasized that even when dealing with complex political finance schemes, specificity in pleading</p>

	(Aggregate value \$30k–\$150k).	remains essential. • "Facilitate" ambiguity: By alleging Mr. George facilitated a transaction, the indictment implies someone else conducted the transaction and Mr. George merely aided. But it provides no hint of who that other party was or what Mr. George's facilitation entailed. Without clarification, "facilitate a transaction" could encompass virtually any administrative act in handling campaign money – lawful or not – rendering the charge fatally vague. In <i>DeLay</i> , the Court noted that such vague facilitation allegations created improper uncertainty about the defendant's actual role. • Proceeds not described: As with Count I, Count II never identifies the "proceeds of criminal activity" involved. Are these the funds in the campaign's bank account? Specific donor contributions? A particular expenditure? The indictment is silent. Failing to allege which funds were supposedly tainted by a felony means failing to allege an essential element – that the transaction involved illicit proceeds. Merely saying "proceeds of tampering" without more is a legal conclusion, not a factual allegation supporting the element.
Knowingly invest, expend, or receive the proceeds of criminal activity. (§ 34.02(a)(3))	Count III: "did then and there knowingly invest, expend, or receive the proceeds of criminal activity, namely tampering with a governmental record (campaign finance report) with intent to defraud or harm."	• Alternatives obscuring the act: The indictment lists three distinct verbs (invest, expend, receive) in the alternative, with no further detail. Investing typically means putting money into some venture; expending means spending; receiving means obtaining from another. Each implies a different act and timeframe, yet the indictment does not specify which occurred. As pleaded, Count III fails to inform Mr. George whether the State contends he invested campaign funds somewhere, spent them on something, or simply received money from someone. This lack of clarity violates the requirement that an indictment allege the act or means by which the offense was committed when

	(Aggregate value \$30k–\$150k).	the statute provides alternative means. • No use or purpose alleged: If "invested," what or where were the funds invested? If "expended," on what or for what purpose? If "received," from whom or what source? The indictment offers no answers. Without at least a general description (e.g. "invested the funds by depositing into a personal account" or "expended the funds by purchasing [item]"), Count III is too indefinite to satisfy art. 21.11's notice standard. • Still no illicit provenance: Like the other counts, Count III never alleges how the money in question was the "proceeds" of a felony. It cites tampering with a governmental record but provides no facts showing that offense produced or involved any money. If no felony generated illicit funds, then using or receiving the funds is not money laundering. The indictment's failure to connect specific funds to an actual felony offense means it has not alleged a key element of laundering under any of these subsections.
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As Table 1 illustrates, the indictment is deficient on multiple fronts. It omits essential details about the alleged criminal conduct, and even taken at face value it does not charge all the elements of money laundering. An indictment that "simply parrots the statutory language" may be permissible in some cases, but that rule "is not absolute". When the statute is "too indefinite or general" or defines the offense in terms of a result or purpose rather than specific acts, more particular allegations are required to ensure notice. Section 34.02, as applied here, is indeed result-oriented (focusing on handling "proceeds" of a felony without specifying the acts), and the State's generic pleading fails to articulate what Mr. George actually did. Therefore, greater specificity was required, and its absence renders the indictment insufficient.

B. The Indictment Lacks a Valid Predicate Offense or "Proceeds" – No Felony Generated Illicit Funds

A fundamental flaw in the indictment is the lack of any properly pleaded criminal activity that produced "proceeds." Money laundering requires that the funds handled are the proceeds of criminal activity – i.e. derived from or associated with a separate felony. If the State cannot point to a felony offense that generated illicit funds, then there are no "proceeds of criminal activity" and a money laundering charge cannot stand. The *DeLay* decision provides the controlling framework for this analysis.

In *DeLay*, the Court of Criminal Appeals was confronted with a prosecution theory remarkably similar to the one advanced here. The State in *DeLay* argued that political contributions became "proceeds of criminal activity" through various alleged Election Code violations, including both an "agreement theory" (where an alleged agreement to swap corporate soft money for hard money supposedly violated the Election Code) and a "corporate theory" (where the initial corporate contributions were allegedly illegal). *DeLay*, 465 S.W.3d at 243-244. The Court methodically analyzed both theories and found them legally insufficient to support money laundering convictions.

Here, the indictment names the supposed underlying felony as "tampering with a governmental record...with intent to defraud or harm," referring to Mr. George's own filing of a campaign finance report. Tampering with a governmental record (Tex. Penal Code § 37.10) can indeed be a felony (a state jail felony if done with intent to defraud or harm). The indictment, however, provides no details of this tampering other than the label. More importantly, filing a false campaign finance report is not an offense that inherently generates money or "proceeds." It is essentially a paperwork violation – the act of making a false statement or entry in a report. Unlike prototypical money laundering predicates (e.g. drug trafficking, theft, fraud) which directly yield illicit profits or funds, a false document offense does not, by itself, produce any

proceeds. The money in the campaign account existed independently of the report; those funds came from donations or loans that were lawfully obtained by the campaign. Misreporting them (if that occurred) is certainly unlawful, but it does not transform the money into "ill-gotten gains" of crime in the way that, say, selling narcotics or embezzling funds would.

The *DeLay* court's analysis is directly applicable and dispositive here. The Court emphasized that to constitute money laundering, the State had to prove the funds were "tainted" by a felony – that is, the crime generating the funds must be a felony-level offense that actually produced or involved the money at issue. *DeLay* argued that, as a matter of law, the circumstances under which the funds were generated did not violate any felony provision of the Election Code in a way that would create "proceeds." The Court ultimately agreed, noting that if the acts alleged (even if proved) did not amount to a felony that generated proceeds, then the money could not be considered "proceeds of criminal activity," and the convictions could not stand. In other words, "[i]f the evidence establishes precisely what the State has alleged, but the acts alleged do not constitute a criminal offense under the totality of the circumstances, then that evidence, as a matter of law, cannot support a conviction." *DeLay*, 465 S.W.3d at 235.

That principle applies with even greater force here. In *DeLay*, the State at least argued that certain political transactions themselves violated the Election Code and created illicit proceeds. Here, the State's theory is that a false report *about* money somehow transformed the money itself into criminal proceeds. This is fundamentally different from and more attenuated than the *DeLay* prosecution theory. Assuming, arguendo, Mr. George did falsify a campaign finance report (a felony offense under § 37.10), that act did not itself generate any funds. The indictment appears to "bootstrap" the false report into a money laundering charge by asserting that all funds associated with the report became criminal proceeds. This is circular reasoning that

exceeds even the flawed logic rejected in *DeLay*. It treats the money as "proceeds of criminal activity" solely because it was mentioned (untruthfully) in a document. In reality, the money in question consists of campaign contributions and/or campaign expenditures – funds lawfully obtained and used for political campaigning. The alleged falsification of the report did not change the character of those funds; it was a crime of dishonesty about the money, not a crime that produced or obtained the money.

The *DeLay* court specifically addressed this type of bootstrapping theory. The Court rejected the State's argument that "this agreement that makes it money laundering" simply by virtue of an alleged arrangement involving otherwise legal funds. *DeLay*, 465 S.W.3d at 238 n.9. As the Court explained: "In the absence of any transfer of corporate money from RNSEC's soft money account into its hard money account, the character of the monies never changed; it cannot be said that the Texas candidates ever received corporate contributions, even indirectly." *Id.* at 246. The Court found that an alleged agreement about money did not transform the character of the money itself or create "proceeds of criminal activity" where none existed before.

Similarly, here, an alleged false statement about campaign funds does not transform those funds into "proceeds of criminal activity." If the State believes the money itself was obtained illegally (for instance, if contributions were illegally solicited or expenditures were made in violation of law), it has not said so in this indictment. It chose to plead only tampering with a governmental record as the underlying offense. By doing so, it has not alleged any prior unlawful act that yielded the money. Therefore, one of two things is true: either (1) the funds were legal in origin (in which case handling them is not money laundering, regardless of a false report), or (2) the State failed to plead the actual unlawful source of the funds (in which case the indictment omits an essential element). Under either scenario, the indictment does not charge a valid money

laundering offense. At most, it charges the separate offense of falsifying a government record – which is already addressed by other laws and not by stretching § 34.02.

The *DeLay* court's warning about misusing the money laundering statute resonates here: "Using § 34.02 to prosecute what is essentially an alleged campaign paperwork violation 'turns the statute on its head.'" The Court further noted that such applications "find no support in the statute" and represent improper attempts to criminalize routine political activities through creative prosecutorial theories. *DeLay*, 465 S.W.3d at 252-253.

More simply, the State's theory erroneously conflates the alleged cover-up (the false report) with an entirely new crime (laundering) when no separate illicit proceeds exist. The money laundering statute was designed to target transactions involving money derived from crime (or used to facilitate crime). Here, the only crime alleged is the falsification of the record, and the only money referenced is the campaign's own funds. The indictment tries to transform the handling of legitimate campaign money into a laundering offense by virtue of a false statement about that money. That is beyond the scope of § 34.02, and *DeLay* compels rejection of such reasoning.

Texas courts have consistently required that an indictment for money laundering identify or describe the felony conduct that produced the proceeds. An indictment cannot simply proclaim that some unidentified funds are "proceeds of criminal activity" without alleging facts that, if true, show the funds were derived from a specified felony. Here, the indictment fails that test. It provides a label (tampering) but no factual narrative tying that offense to any proceeds. Indeed, it cannot logically do so, because no proceeds were generated by the mere act of filing a form. Consequently, the indictment does not allege a fundamental element of money laundering – the existence of illicit proceeds – and it must be quashed for that reason alone.

B. The Indictment's Language is Impermissibly Vague and Overbroad, Violating Due Process Notice Requirements

The deficiencies in the indictment described above are not mere technicalities; they rise to the level of a violation of Mr. George's constitutional right to due process and fair notice of the charges. An indictment that forces the defendant to guess what the factual basis of the charge is will not satisfy constitutional standards. The U.S. Supreme Court has held that a charging instrument must contain the elements of the offense and sufficiently apprise the defendant of what he must be prepared to meet at trial. *Russell v. United States*, 369 U.S. 749, 764–65 (1962). Texas courts echo this requirement: if the indictment's language is so vague that it fails to give adequate notice, it is subject to being quashed on that basis alone. *State v. Moff*, 154 S.W.3d 599, 601–02 (Tex. Crim. App. 2004).

The vagueness problems here exceed even those that concerned the *DeLay* court. In *DeLay*, despite the ultimate reversal, the indictment at least provided specific details about transactions, parties, amounts, and dates. As the Court noted, "Count II, which set out the object offense of money laundering, [expressly] alleged two things of particular note. First, it expressly alleged that the particular transaction that constituted the money laundering was the transfer of \$190,000 from the RNSEC to the seven Texas candidates. Second, it expressly identified the event that rendered that \$190,000 the 'proceeds of criminal activity.'" *DeLay*, 465 S.W.3d at 239. The *DeLay* indictment thus provided the type of specific factual allegations that are entirely absent here.

Here, the indictment's vagueness is extreme. To prepare a defense, Mr. George needs to know, at minimum, which financial transaction or handling of funds is alleged to be illegal. Yet the indictment does not say. Is the State complaining of the act of transferring money from the campaign to some other account? Paying a particular expense? Maintaining the campaign bank

account while knowing the report was false? Receiving a certain contribution? The indictment's broad phrasing encompasses all of these possibilities and more, without clarity. As in *Moff*, it appears the State is reserving the right to choose among many acts at trial – precisely what due process forbids.

This lack of definition not only hampers trial preparation, but also undermines protections against double jeopardy. An indictment must be sufficiently certain that an acquittal or conviction can be pleaded in bar of a subsequent prosecution for the same offense. If Mr. George were tried under this indictment and acquitted, the vagueness could allow the State later to claim that a different transaction (never clearly specified the first time) was the real offense and attempt to prosecute him again. The uncertainty of what acts are encompassed by this charge would make it difficult for Mr. George to plead former jeopardy. This is exactly the scenario art. 21.04 and constitutional due process seek to prevent. Thus, the indictment is not constitutionally adequate.

Moreover, the indictment's repeated use of disjunctive/alternative allegations ("maintain or conceal or possess or transfer"; "conduct or facilitate"; "invest or expend or receive") magnifies the notice problem. While it is sometimes permissible to plead alternative means in the conjunctive (and let the jury convict on any proved), here the grand jury itself presented them in the disjunctive, reflecting a lack of certainty about what conduct it was indicting. This leaves the defendant and the Court to speculate as to which theory will be pursued. Such pleading is frowned upon because it fails to inform the accused of what he actually must defend. In *Moff*, the Court noted that when a statute can be violated in multiple ways, the indictment must be specific about which manner or means is alleged, if merely reciting the statutory alternatives would be

too general for notice. That is the case here. By charging every possible way the statute could have been violated, the indictment in fact charges none with the requisite certainty.

The *DeLay* court's emphasis on the knowledge element also highlights the notice problems here. The Court held that money laundering requires the defendant to know that the transaction involves proceeds of criminal activity. *DeLay*, 465 S.W.3d at 246-247. Without specific allegations about which funds, which transactions, and which predicate offense, the indictment here fails to provide notice of what knowledge Mr. George is alleged to have possessed. This compounds the due process violation.

The indictment violates the Fifth and Fourteenth Amendments' due process guarantees (by failing to inform the defendant of the nature of the accusation) and the analogous protections of the Texas Constitution (Art. I, §§ 10, 19). It should be quashed for vagueness alone. No accused should have to proceed to trial wondering "what exactly am I alleged to have done?" yet that is the position Mr. George is in with this indictment.

D. The Indictment's Theory Produces Absurd and Unintended Results – The Money Laundering Statute Was Not Meant for This Scenario

Another principle of statutory construction bolsters the need to quash this indictment: courts will not interpret a statute in a manner that leads to absurd or fundamentally unjust results the Legislature could not have intended. Yet the State's use of § 34.02 here would do exactly that. It would transform virtually any alleged false statement involving money into a felony money laundering charge, even when the money itself is entirely lawfully obtained. This is a grotesque extension of the statute that trivializes true money laundering and over-criminalizes lesser offenses.

The *DeLay* court expressly addressed these policy concerns. The Court warned against prosecutorial theories that would "transform every false document offense involving money into

a money laundering felony." *DeLay*, 465 S.W.3d at 252-253. The Court noted that such applications would "usurp the carefully calibrated penalties for records tampering (typically a state jail felony) and upgrade them into far more severe offenses (third-degree felony or higher) whenever money is involved – even if the money itself is not illicit in any conventional sense." The Court concluded that allowing such prosecutions would "undermine the legislative scheme" and impose "a much harsher punishment than the Legislature prescribed for the wrongdoing at issue."

Consider the implications if the State's theory were accepted here: Every instance of filing a false document that in any way involves money could trigger a money laundering prosecution. For example, if a person falsely reports the value of an item on a government form, the State could say the difference or the item itself is now "proceeds of criminal activity" and charge money laundering. Or if a campaign treasurer makes an accounting error (even an intentional one to avoid embarrassment or late fees), suddenly the routine act of spending or receiving campaign funds becomes a first-degree felony (if the amounts are high) for "laundering." This is not a fanciful parade of horrors – it directly follows from equating a false filing with "proceeds of crime." The Legislature did not intend to "transform every false document offense involving money into a money laundering felony." Cf. *Boykin v. State*, 818 S.W.2d 782, 785–86 (Tex. Crim. App. 1991) (courts should not apply even plain statutory language literally if it leads to absurd results contrary to legislative intent). Yet that is what the State's application of § 34.02 would do here.

The *DeLay* court's concern about prosecutorial overreach is even more applicable here. In *DeLay*, the State at least argued that the alleged Election Code violations were directly related to the handling of political funds. Here, the State's theory is even more attenuated – that a false

statement about funds transforms the funds themselves into criminal proceeds. This represents an unprecedented expansion of money laundering law that finds no support in precedent and would create absurd results.

The *DeLay* court also noted separation of powers concerns with such prosecutorial theories. Using § 34.02 to prosecute what is essentially a record-keeping violation "bypasses the intended enforcement framework and imposing a much harsher punishment than the Legislature prescribed for the wrongdoing at issue." *DeLay*, 465 S.W.3d at 253. This raises separation of powers concerns and offends principles of fair notice: citizens regulate their conduct according to the laws and penalties the Legislature sets, and it would be fundamentally unfair to subject someone to a drastic felony punishment under a general law when a specific law more directly addresses the conduct.

Here, Mr. George could not have anticipated that allegedly mishandling a campaign finance report would expose him to a money laundering charge – a charge typically reserved for drug dealers, fraudsters, and those who actually profit from crime. The equal protection guarantee is also implicated if such a broad statute is applied in an arbitrary or discriminatory manner. A law enforced "with an evil eye and an unequal hand" violates equal protection, even if its text is neutral. While the money laundering statute is neutral, using it in this novel way primarily against a political actor raises the **specter of selective enforcement**. There is no indication that others who file false records are charged with money laundering; singling out Mr. George for this treatment could be seen as a form of unequal, politically motivated enforcement.

The *DeLay* court specifically addressed First Amendment concerns in the political context. The Court noted that "Campaign finance activity is intertwined with political speech and association. The U.S. Supreme Court has repeatedly held that laws burdening political donations

or expenditures must be narrowly tailored and justified by compelling interests." *DeLay*, 465 S.W.3d at 253 (citing *Citizens United v. FEC*, 558 U.S. 310, 340 (2010)). The Court warned that "recasting a campaign finance reporting violation as money laundering introduces severe criminal penalties into the political arena and could chill protected political participation. Donors and campaign workers would think twice if routine financial mistakes or omissions might be escalated to 'laundering' charges."

In *Ex parte Ellis*, 309 S.W.3d 71 (Tex. Crim. App. 2010) – a case stemming from the same investigation that led to *DeLay* – the Court of Criminal Appeals acknowledged the "significant issues" raised by wielding money laundering charges in the election context. The convictions in that case were ultimately overturned, reinforcing the *DeLay* court's concerns about misuse of money laundering statutes in political contexts.

Finally, the *DeLay* court applied the rule of lenity to resolve ambiguities in favor of the defendant. When a criminal statute is applied in a way that is not clearly intended or is susceptible to two interpretations, "the rule of lenity requires adopting the narrower construction in favor of the accused." *DeLay*, 465 S.W.3d at 251. The Court held that "if the statute's applicability is unclear, it should be construed narrowly" and ambiguity resolved in favor of lenity. *Id.* (citing *State v. Johnson*, 219 S.W.3d 386, 388 (Tex. Crim. App. 2007)). Here, if §34.02 could be read to cover Mr. George's alleged conduct, it also can be read not to – and the tie must go to the defendant. The Court should reject the State's expansive theory and quash the indictment to uphold the integrity of the statute and the constitutional protections at stake.

E. DeLay Compels Application of the Knowledge Requirement to Defeat This Prosecution

The *DeLay* decision provides an additional ground for quashing this indictment through its analysis of the knowledge requirement for money laundering. The Court held that to be

convicted of money laundering, "the actor must be aware of the fact that the transaction involves the proceeds of criminal activity." *DeLay*, 465 S.W.3d at 247. The Court explained that "what makes the conduct unlawful is that it is done under certain circumstances," and concluded that the knowledge requirement must extend to those circumstances that make the conduct criminal.

In *DeLay*, even though the State presented evidence of complex political fundraising arrangements and explicit agreements between parties, the Court found insufficient evidence that the defendant knew his conduct violated the law. The Court noted: "There is no evidence in the record from which it may fairly be inferred that the appellant was aware that, by agreeing beforehand to send \$190,000 of soft money to RNSEC in exchange for RNSEC sending \$190,000 of its hard money to the Texas candidates, TRMPAC had committed a violation of the Election Code." *DeLay*, 465 S.W.3d at 247-248.

Here, the knowledge problem is even more pronounced. Unlike *DeLay*, where there were at least specific transactions and arrangements that could theoretically create awareness of illegality, the indictment here provides no factual basis for any knowledge allegation. The indictment never identifies which specific funds were allegedly "proceeds," which specific acts constituted "laundering," or what circumstances would have alerted Mr. George to any illegality. Without such factual allegations, there is no basis for the State to prove the knowledge element required by *DeLay*.

Moreover, the *DeLay* court emphasized that "in the absence of some decisional law or other authority in Texas at that time that had construed the Election Code so as to render such an agreed swap illegal under the Election Code, it cannot reasonably be concluded that the appellant was, or even could have been, aware that the transaction whereby RNSEC contributed hard money to the seven Texas candidates involved the proceeds of criminal activity." *DeLay*, 465

S.W.3d at 248. Here, there is no precedent suggesting that allegedly filing a false campaign finance report transforms the campaign's funds into "proceeds of criminal activity" for money laundering purposes. Indeed, this appears to be a novel prosecution theory without legal precedent. Under *DeLay*'s reasoning, Mr. George could not have been aware that routine campaign financial activities might constitute money laundering simply because a report was allegedly false. The *DeLay* court's holding on the knowledge requirement alone is sufficient to defeat this prosecution. "That being so, he simply was not susceptible to conviction for laundering money or conspiring to launder money." *DeLay*, 465 S.W.3d at 248.

F. Preservation of Error and Relief Requested

Mr. George raises all of the above issues at the earliest opportunity to preserve them for review. Texas law (Tex. Code Crim. Proc. art. 1.14) requires defendants to object to defects in an indictment before trial, or else those defects (even fundamental ones) may be deemed waived. By filing this motion, Mr. George ensures that his objections – to lack of notice, failure to charge an offense, and constitutional infirmities – are on the record and preserved for appellate consideration should that become necessary.

Quashing the indictment now is not only legally compelled by *DeLay* and other controlling authority, but it also promotes judicial economy and fairness. If the Court were to deny this motion and the case proceeded to trial on this fatally flawed indictment, any conviction would be subject to reversal on the very grounds raised here and definitively established in *DeLay*. That would waste the time and resources of the Court, the jury, and the parties.

The *DeLay* precedent makes clear that creative prosecutorial theories cannot overcome fundamental legal requirements. As the Court stated, courts must ensure that prosecutions

"adhere to the law as written and intended." *DeLay*, 465 S.W.3d at 252. The indictment here fails that test even more dramatically than the one reversed in *DeLay*.

IV. CONCLUSION

For the foregoing reasons, and guided by the controlling authority of *DeLay v. State*, the Defendant prays that the Court grant this Motion and quash all three counts of the indictment. The indictment does not allege a cognizable offense under Texas Penal Code § 34.02, fails to provide the constitutionally required notice, and impermissibly misuses the money laundering statute in precisely the manner condemned by the Texas Court of Criminal Appeals in *DeLay*. The *DeLay* decision provides dispositive guidance that this type of prosecution theory – attempting to transform campaign finance reporting violations into money laundering charges – is legally insufficient as a matter of law.

Mr. George respectfully requests that the Court enter an order dismissing the indictment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above document was served on the Fort Bend County District Attorney's office, through the electronic filing manager on August 11, 2025.

/s/ Jared R. Woodfill

Jared R. Woodfill
Attorney for Defendant

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