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January 21, 2021

VIA E-MAIL

Jorge Dopico, Esq.

Chief Counsel

Attorney Grievance Committee

First Judicial Department

180 Maiden Lane

New York, NY 10038

Re: Complaint against Rudolph Giuliani, Atty. Regis. No. 1080498

Dear Mr. Dopico:

We represent Michael Miller, Past President of both the New York State Bar Association and the New York County Lawyers' Association, and other current and past Bar leaders from throughout New York State, as well as firm leaders, professional responsibility lawyers, and legal academics. A list of our clients is attached as Exhibit A. Please accept this letter as our clients' complaint against Rudolph Giuliani, a New York attorney, for (i) his conduct as the attorney for Donald J. Trump for President, Inc. (the "Trump Campaign") in an unsuccessful lawsuit entitled *Donald J. Trump for President, Inc. et al. v. Boockvar*, No. 4:20-CV-02078 (E.D. Pa.) ("*Boockvar*") that sought to invalidate millions of ballots cast in Pennsylvania during the Presidential election, and (ii) his false and inflammatory statements (which were lent the force of law from his appearance in *Boockvar*), most especially his outrageous and egregious statements at a rally in Washington, D.C. on January 6, 2021 – statements which encouraged and incited the violent attempted insurrection and effort to interfere with Congressional counting of the electoral vote at the Capitol.

Introduction

We do not bring this Complaint lightly. We are aware of Mr. Giuliani's long and distinguished career, first as U.S. Attorney for the Southern District of New York and later as Mayor of New York City. We are also aware that he acted and spoke in the aftermath of a highly contentious election, in the context of representing a major client, the Trump Campaign, on an issue of the most critical public importance. *But it is precisely these things that make Mr. Giuliani's conduct so objectionable.* With no evidence, he made statements inside and outside of court that sought to paint the election as tainted by a wide-ranging fraud conspiracy,

and portray his own actions – and the *Boockvar* lawsuit itself – as an effort to thwart this conspiracy.

During his oral argument to the federal District Court in *Boockvar*, Mr. Giuliani admitted that his case was not about fraud at all, but merely whether two voters in two different Pennsylvania counties had failed to have their absentee ballots counted. He sought to use this as the basis for discounting the ballots cast by *millions* of other voters in several different Pennsylvania counties, a request so outlandish that simply repeating it demonstrates its frivolousness. The District Court quickly shot this argument down, and its ruling was affirmed a few days later by the Third Circuit Court of Appeals. Both courts were harsh in their assessment of Mr. Giuliani's case, citing his meritless legal arguments and lack of evidentiary support. In the District Court's words: "[i]n the United States of America, this cannot justify the disenfranchisement of a single voter, much less all the voters of its sixth most populous state." *Donald J. Trump for President, Inc. v. Boockvar*, 2020 WL 6821992, at *1 (M.D. Pa. 2020), *aff'd sub nom. Donald J. Trump for President, Inc. v. Sec'y of Pennsylvania*, 830 F. App'x 377 (3d Cir. 2020).

By the time these rulings came down, however, Mr. Giuliani had traded on his reputation to obtain maximum press coverage and spread disinformation about the nature of his claims and the quality and content of his evidence. Following unfavorable rulings for the Trump Campaign in other similar cases brought in Michigan, Arizona, Georgia, Nevada, and Wisconsin, Mr. Giuliani continued to misuse his pulpit as a lawyer and former public official to convince millions of people to believe his false, unsupported claims, irresponsibly casting doubt on the integrity of the Presidential election. Mr. Giuliani's appearance in *Boockvar* lent these public statements the air of credibility, made all the more dangerous by Mr. Giuliani's insistence, despite the unfavorable rulings, that he could prove election fraud (when in fact the Trump Campaign's fraud claims had been abandoned and dismissed in the *Boockvar* action). Mr. Giuliani's actions culminated in a speech in front of protestors in Washington, D.C. – in which Mr. Giuliani urged "trial by combat" – that resulted in a mob storming the Capitol building.

Mr. Giuliani's actions violated, among others, New York Rules of Professional Conduct ("RPC") 3.1 (prohibiting "frivolous" litigation conduct), 3.3(a)(1) (making false statements of fact and law to a tribunal), 4.1 (prohibiting "knowingly mak[ing] false statements of fact and law to a third person" in the course of representing a client), 8.4(b) (engaging in illegal conduct); 8.4(c) (prohibiting "engag[ing] in conduct involving dishonesty, fraud, deceit or misrepresentation"); 8.4 (d) (prohibiting conduct "prejudicial to the administration of justice") and 8.4(h) (prohibiting engaging in conduct "that adversely reflects on the lawyer's fitness as a lawyer").

Our larger concern – beyond these clear violations – is that Mr. Giuliani's conduct implanted in the public mind the notion that (i) lawyers can (and perhaps even should) do or say anything to support their client, whether or not the facts or law support it, and (ii) if the stakes

are high enough, they can get away with it. As lawyers and Bar leaders, we cannot allow this impression to stand, and urge the Committee to not allow it either. Mr. Giuliani's unseemly misuse of the litigation process and his pulpit as counsel – particularly in a case as highly publicized as this one – should be the subject of professional discipline.

The Boockvar Lawsuit

The original complaint in *Boockvar* (the “Complaint”) was filed on November 9, 2020, a few days after the election. A copy is attached as Exhibit B. It asserted seven causes of action, including: two equal protection claims, two due-process claims, and three claims under the Electors and Elections Clauses of the U.S. Constitution. *See* Ex. B, pp. 62-84. Named as defendants were Pennsylvania Secretary of State Kathleen Boockvar and the County Board of Elections for seven Pennsylvania counties, including Philadelphia. The pleading focuses on the Pennsylvania Legislature's adoption, in the months before the election and in the wake of the COVID-19 pandemic, of a procedure for absentee voting. That procedure required absentee voters to follow certain procedures to ensure their vote would be counted, including, “for example, that voters mark their ballots in pen or pencil, place them in secrecy envelopes, and that ballots be received by the county elections board on or before 8:00 P.M. on Election Day.” *Boockvar*, 2020 WL 68219992 at *2. The Legislature, however, did not allow for a procedure to allow voters to cure a defective absentee ballot; nor did it state that such a procedure was forbidden. *Democratic Party of Pennsylvania v. Boockvar*, 238 A.3d 345, 374 (Pa. 2020). Secretary Boockvar nevertheless sent an email to counties encouraging them to adopt such a procedure; some counties did, and others did not.

The Complaint focused on two separate, allegedly defective aspects of the Pennsylvania Presidential election. The first involved whether election observers could adequately watch the counting of ballots. The second concerned the absentee balloting issue detailed above. The two individual plaintiffs in *Boockvar*, John Henry and Lawrence Roberts, cast defective ballots in two separate counties (not among the named defendants) which had not adopted “notice-and-cure” procedures. As a result, their ballots were not counted. They sued, claiming that the fact that seven other counties *had* adopted such procedures violated their Equal Protection and due process rights, and as a result all the votes cast in those seven counties (approximately 2.6 million votes) should be disallowed.

Mr. Giuliani was not counsel of record on the original Complaint. Nor was he counsel of record when that Complaint was amended to drop the claims regarding the election observers, and limit the case to the defective absentee ballots claim. A copy of the Amended Complaint is attached as Exhibit C. He substituted in as counsel shortly thereafter, on the morning of oral arguments on Defendants' Motions to Dismiss (which was open to the public and audio recorded; the audio was released to the public soon after). At oral argument, Mr. Giuliani continued his dissemination of false claims of election fraud, initially speaking for over thirty uninterrupted minutes and failing to legitimately connect the issues of Mr. Henry and Mr. Lawrence with his strong calls for 2.6 million ballots in Pennsylvania to be invalidated.

At various points in his rambling soliloquy, Mr. Giuliani made claims of “widespread nation-wide voter fraud” caused by mail-in ballots, and repeatedly harped that counties in Pennsylvania were “holding back votes” and “controlled by Democratic machines” that was perpetuating fraud on a “grand scale.” *See* an Audio Recording of the November 17, 2020 Oral Argument in *Boockvar*,¹ at 10:42; 13:18; 14:06; 22:23; 22:37. Despite the fact that Mr. Trump’s legal team had dropped the election observer counts from the Complaint, Mr. Giuliani doubled down on his wild accusations, claiming that the inspection process had “been trashed, [] stepped all over, disregarded here and in ten other places [in] an eerily similar pattern . . . [and] they all happen to be big cities, controlled by Democrats.” *Id.* at 16:12.

Although the Amended Complaint focused on voter issues in Pennsylvania, Mr. Giuliani continued to rope in other jurisdictions by asserting that “inspectors [and] watchers [...] weren’t allowed to observe the counting of absentee ballots” in Detroit, Phoenix, Las Vegas, and Milwaukee. *Id.* at 15:04; 16:50. Mr. Giuliani went so far as to accuse Democrats of erecting “corrals or cages” to keep observers away and procuring “a subcontract with a major company to get all of them in all these places.” *Id.* at 17:25.² Mr. Giuliani summarized that if the Trump legal team proved the allegations, they would prove they “had an election stolen in the state of Pennsylvania and . . . in other states.” *Id.* at 24:44.

After opposing counsel contested much of Mr. Giuliani’s claims, Judge Brann pressed Mr. Giuliani to confirm his allegations:

J. Brann: So you are alleging a fraud?

Mr. Giuliani: *Yes, you’re right.*

J. Brann: Well if [] you’ve acknowledged at the beginning of the hearing that the only issue in the case is the equal protection claim related to ballot curing procedure, but you’ve repeatedly spoken now about claims relating to alleged violations of your right to have poll watchers present during the ballot counting process, your poll watching claims were deleted. They’re now not before this court, so why should I consider them now on oral argument, when you deleted the claims and thus took them out of this action?

¹ Found at: https://www.youtube.com/watch?v=c_-Rvu8jTjk&feature=emb_err_woyt. A full transcript of the proceedings has yet to be released by the Court, but will eventually be made public. *See* Dkt. 199 of *Donald J. Trump for President, Inc. et al. v. Boockvar*, No. 4:20-CV-02078 (E.D. Pa.).

² Later in the recording, Mr. Giuliani returned to these allegations, claiming that “the conduct was premeditated, the conduct was planned . . . [t]hey have to have gotten those barriers beforehand, they couldn’t have just done it on the spur of the moment . . . [t]he purpose was to have those ballots examined in secret so that only a Democratic office holder would get to see it in just two counties.” *Id.* at 2:29:31.

Mr. Giuliani: Yes your honor, *and I-I really have to correct what I said because we'd have to interpret it, we'd have to interpret it to charge fraud, right?* So the charges, what it charges is the conduct in [paragraphs] 132 [through] 149 without character.

J. Brann: I understand that . . . does the Amended Complaint plead fraud with particularity.

Mr. Giuliani: No, you're right. And [] *it doesn't plead fraud . . .*
Id. at 2:42:20-2:44:17 (emphasis added).

Following oral argument, on November 21, 2020, the District Court granted Defendants' motions to dismiss with prejudice, remarking that Plaintiffs' only remaining claim, "like Frankenstein's Monster, has been haphazardly stitched together from two distinct theories in an attempt to avoid controlling precedent." *Boockvar*, 2020 WL 6821992, at *4. A copy of the District Court's decision is attached as Exhibit D. The court explained that Plaintiffs' first assertion – that local discretion as to whether Pennsylvania counties can adopt notice and cure procedures is unconstitutional and arbitrary – was foreclosed under prior precedent. *Id.* The court also found that Plaintiffs' attempt to merge this with a theory of harm based on individual Plaintiffs for purposes of standing, was misguided and largely abandoned. *Id.* Regardless, the court addressed Plaintiffs' claims as if they had been properly raised, holding that Plaintiffs lacked standing. *Id.* at *5. The court ultimately concluded that even if Plaintiffs had asserted valid claims, seeking to discredit millions of other votes, rather than requesting that their two own votes be counted, "is simply not how the Constitution works." *Id.* at *12. With regard to Mr. Giuliani's claims of poll-watcher interference, the court noted that "Plaintiffs fail to plausibly plead that there was 'uneven treatment' of Trump and Biden watchers and representatives." *Id.* at *13.

When the Trump Campaign appealed the District Court's determination to deny leave to file another amended complaint, the Third Circuit affirmed in a blunt unanimous decision. *Id.*, *aff'd sub nom. Donald J. Trump for President, Inc.*, 830 F. App'x 377. A copy of the Third Circuit's decision is attached as Exhibit E. The Court remarked that the "Campaign offers no specific facts to back up [its] claims," and that it had "already litigated and lost most of these issues." *Id.* at 387. Turning to what remained – the Equal Protection claims regarding poll watchers – the Court reiterated the District Court's holding that the "Campaign never pleads that any defendant treated the Trump and Biden campaigns or votes differently." *Id.* at 388. The Court called the relief sought "breathtaking," remarking that the Trump Campaign cited no authority for barring the commonwealth from certifying its results and ordering the Pennsylvania General assembly, not the voters, to choose presidential electors. *Id.*

In a stark rebuke of the Trump Campaign, the Court concluded its decision with a lengthy admonition:

Voters, not lawyers, choose the President. Ballots, not briefs, decide elections Seeking to turn those state-law claims into federal ones, the Campaign claims discrimination. But its alchemy cannot transmute lead into gold. *The Campaign never alleges that any ballot was fraudulent or cast by an illegal voter. It never alleges that any defendant treated the Trump campaign or its votes worse than it treated the Biden campaign or its votes. Calling something discrimination does not make it so.* *Id.* at 391 (emphasis added)

While neither the District Court nor the Third Circuit sanctioned Mr. Giuliani – apparently the Defendants did not seek sanctions – their rebuke of the lack of evidence of his fraud claims and his outlandish legal theory was obvious.

Mr. Giuliani’s False and Inflammatory Statements

In the lead-up to Mr. Giuliani entering his appearance *Boockvar* and spreading false information in-court, he made a number of dangerous and unsupported statements meant to stir public support for the Trump Campaign’s effort to undermine the results of the November 3, 2020 Presidential Election. Perhaps more damning, following the dismissal or settlement of the Trump Campaign’s election cases, Mr. Giuliani continued to advocate for overturning the election at additional public events, on television news stations, in front of tribunals, and in private communications with elected U.S. Congressmen – all without any discernible evidence..

On November 7, 2020, as most media outlets called the race for President-Elect Joseph R. Biden (“Biden”), Mr. Giuliani stood in front of the Four Seasons Total Landscaping parking lot and made numerous false and misleading statements, including that mail-in ballots “can easily be fraudulent” and that election observers in Philadelphia were not granted the legally required access to ballots, making the whole election process “illegitimate.” *See* Associated Press Archive Video Footage of November 7, 2020 Press Conference.³ Just a day later, in an interview with Fox News’ Maria Bartiromo, Mr. Giuliani claimed that Philadelphia was “an epicenter of voter fraud,” and that the Trump Campaign would investigate “dead persons’ ballots, which may actually be very, very substantial.” *See* Robert Farley, *Thin Allegations of ‘Dead People’ Voting*, FactCheck.Org (Nov. 9, 2020).⁴ All of these claims were unfounded; Mr. Giuliani produced no evidence of voter fraud.

Following his oral argument in *Boockvar*, Mr. Giuliani, in a November 18, 2020 appearance on Fox News, outwardly supported the conspiracy theory that Smartmatic voting machines used in Georgia were a source of fraud and that the company was “founded in 2005 in

³ Found at: <https://www.youtube.com/watch?v=7QTRO9MG6z8>.

⁴ Found at: <https://www.factcheck.org/2020/11/thin-allegations-of-dead-people-voting/>.

Venezuela for the specific purpose of fixing elections.” See Video of Mr. Giuliani’s November 18, 2020 Appearance on Fox News.⁵ Mr. Giuliani’s baseless claims were quickly discounted. See Saranac Hale Spencer, *Baseless Conspiracy Theory Targets Another Election Technology Company*, FactCheck.Org (Nov. 25, 2020).⁶ On November 19, 2020, Mr. Giuliani added to these allegations at a press conference at the Republican National Committee headquarters in Washington D.C., stating that the fraud was widespread and that it:

“repeats itself in a number of states, almost exactly the same pattern, which *any experienced investigator prosecutor*, which suggests that there was a plan—from a centralized place to execute these various acts of voter fraud, specifically focused on big cities, and specifically focused on, as you would imagine, big cities controlled by Democrats, and particularly if they focused on big cities that have a long history of corruption.” See A Video of the November 19, 2020 RNC Press Conference⁷ (emphasis added).

Mr. Giuliani then continued his grandstanding, boasting at his prowess as a former prosecutor —“*I know crimes, I can smell them*. You don’t have to smell this one, I can prove it to you, 18 different ways. I can prove to you that he [Trump] won, Pennsylvania, by 300,000 votes. I can prove to you that he [Trump] won Michigan, probably 50,000 votes.” *Id.* (emphasis added). The rest of the press conference is more bizarre and outlandish, with Mr. Giuliani claiming multiple times that there was “massive [ballot] fraud” in Michigan, Pennsylvania, and Georgia, and that the Democrats had been committing fraud on a smaller scale for many years. *Id.* If Mr. Giuliani ever provided such proof, we are unaware of it. But his references to his experience as a well-known prosecutor added credibility to his baseless claims and led millions of people to believe him.

Mr. Giuliani’s rhetoric continued in other settings. After the Third Circuit rejected the Trump Campaign’s appeal in *Boockvar*, Mr. Giuliani appeared in back-to-back hearings before the Michigan legislature and Georgia Senate (on the 2nd and 3rd of December 2020, respectively). In the over four-hour Michigan hearing, Mr. Giuliani claimed to have sworn affidavits that allege “massive cheating” by the Democratic party in Detroit, “to the extent of easily 500,000, 600,000, 700,000 illegal votes” were cast. See Video Recording of the Trump Campaign’s December 3, 2020 Hearing before the Michigan legislature,⁸ at 26:13. Once again, Mr. Giuliani blamed voting machines, this time made by the company Dominion, exclaiming that the “votes are

⁵ Found at: <https://video.foxbusiness.com/v/6210812337001/#sp=show-clips>.

⁶ Found at: <https://www.factcheck.org/2020/11/baseless-conspiracy-theory-targets-another-election-technology-company>.

⁷ Found at: <https://www.youtube.com/watch?v=sq7TeUJwQD4>.

⁸ Found at: https://www.rev.com/transcript-editor/shared/QQodU0TgHNW4ACZmBtqq6EbotJVTGos3UifEuLQA8ygjV7GrDDAeGJ6hdps86h_ywJAatI_KepUqEeZnloKHBiByyMI?loadFrom=PastedDeeplink&ts=1037.86.

counted by a foreign company” that “was just disqualified in the state of Texas thrown out of Chicago [and] [i]n its infancy, had ties with Hugo Chavez, Venezuela, [and] conducted fraudulent elections in two South American countries.” *Id.* at 27:07. Mr. Giuliani then proceeded to parade a series of witnesses in front of the legislature who claimed that ballot packages were sent out with false dates, that thousands of ballots were being counted nine to ten times, that vans full of ballots were taken out of one of the counting centers, and that Hugo Chavez invested in Smartmatic voting machines to control Venezuelan elections and that Dominion is allied with Smartmatic. *Id.* at 41:31, 1:44:50, 1:51:06, 3:26:09. Despite the fact that *Boockvar* had been decided and Mr. Giuliani’s claims of fraud rejected, he continued to state that there had been massive ballot fraud in Pennsylvania, that the election was “a con job,” “a theft,” and that the Democrats have “been stealing elections for years.” *Id.* at 4:03:13. A hand-count audit later refuted many of these witnesses’ claims that Dominion machines were fraudulently counting votes, while a judge had previously ruled that the Trump Campaign’s star witnesses’ allegations were simply “not credible.” *See* Angelo Fichera, *Audit in Michigan County Refutes Dominion Conspiracy Theory*, FactCheck.Org (Dec. 18, 2020)⁹; Teo Armus, *Trump campaign’s star witness in Michigan was deemed ‘not credible.’ Then, her loud testimony went viral*, The Washington Post (Dec. 3, 2020).¹⁰

A day later, in front of the Georgia Senate, Mr. Giuliani called for a forensic audit of both the voting machines and signatures on absentee-ballot envelopes. During the 7-hour meeting, Mr. Giuliani presented the tribunal with a 90-second surveillance video clip from Fulton County’s tabulation center at the State Farm Arena, purporting to show election workers bringing suitcases of ballots out from underneath a table to be counted in secret after Republican monitors were told to go home. *See* Stephen Fowler, *Fact Checking Rudy Giuliani’s Grandiose Georgia Election Fraud Claim*, Georgia Public Broadcast (Dec. 4, 2020).¹¹ The “suitcases” turned out to be empty ballot bins, the state’s investigator reported that “the ballots from it were actually out on the table when the media were still there, and then it was placed back into the box when the media were still there.” *Id.*

Over the next month, Mr. Giuliani spread the false election theories to his hundreds of thousands of followers on his Twitter and YouTube channel. *See* Mr. Giuliani’s Twitter feed¹²;

⁹ Found at: <https://www.factcheck.org/2020/12/audit-in-michigan-county-refutes-dominion-conspiracy-theory/>.

¹⁰ Found at: <https://www.washingtonpost.com/nation/2020/12/03/melissa-carone-michigan-trump-giuliani-election/>.

¹¹ Found at: <https://www.gpb.org/news/2020/12/04/fact-checking-rudy-giulianis-grandiose-georgia-election-fraud-claim>.

¹² Found at: https://twitter.com/RudyGiuliani?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthn.

Mr. Giuliani's YouTube channel.¹³ Then on January 6, 2021, as the U.S. Congress was meeting to certify the election in favor of President-elect Biden, Mr. Giuliani spoke before a crowd of thousands at Donald Trump's "Save America" rally in Washington, D.C.. *See* Transcript and Video Recording of the January 6, 2020 Save America Rally Speech.¹⁴ In his five-minute speech, Mr. Giuliani claimed to chanting crowds that it was perfectly legal for the Vice President to cast aside electors, and that the Democrats refused to let the Trump Campaign inspect any voting machines – "who hides evidence? Criminals hide evidence," Mr. Giuliani said. *Id.* at 0:09, 2:01. Mr. Giuliani then called for "trial by combat," stating that the Trump Campaign "need[s] two days to establish [fraud]" and that "[i]t would be a shame if that gets established after it's over." *Id.* at 2:43, 4:34. Mr. Giuliani concluded:

"This has been a year in which they have invaded our freedom of speech, our freedom of religion, our freedom to move, our freedom to live. I'll be darned if they're going to take away our free and fair vote. *And we're going to fight to the very end to make sure that doesn't happen.*" *Id.* at 5:15 (emphasis added).

Just a few hours later, the same crowds that chanted Mr. Giuliani's name stormed the Capitol building, desecrated the Senate chamber and congressional offices, left pipe bombs, and killed a Capitol officer. *See* Ted Barrett & Manu Raju, US Capitol secured, 4 dead after rioters stormed the halls of Congress to block Biden's win, CNN (Jan. 7, 2021).¹⁵ Inexplicably, after the attempted insurrection was brought under control and just an hour before Congress reconvened to certify the election, Mr. Giuliani attempted to call newly elected Senator Tommy Tuberville (R-Alabama) to ask that he delay the certification until the end of the next day so that the Trump Campaign could continue to contest the election. *See* Marina Pitofsky, *Giuliani calls wrong senator in last-ditch effort to delay certification of Biden's win*, The Hill (Jan. 7, 2021).¹⁶ Mr. Giuliani left a voicemail for the wrong Senator. *Id.*

Mr. Giuliani's Violations of the Rules of Professional Conduct

Under RPC 3.1 "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." RPC 3.1(a). A lawyer's conduct is considered "frivolous" if (1) "the lawyer knowingly advances a claim . . . that is unwarranted under existing law;" or (2) the conduct's only purpose is "to delay or prolong the resolution of litigation;" or (3) "the lawyer knowingly asserts material factual

¹³ Found at: https://www.youtube.com/channel/UC-9J07yyuXQTx_uZQchtwsg.

¹⁴ Found at: <https://www.rev.com/blog/transcripts/rudy-giuliani-speech-transcript-at-trumps-washington-d-c-rally-wants-trial-by-combat>.

¹⁵ Found at: <https://www.cnn.com/2021/01/06/politics/us-capitol-lockdown/index.html>.

¹⁶ Found at: <https://thehill.com/homenews/news/533086-giuliani-calls-wrong-senator-in-pressuring-them-to-continue-objecting-votes>.

statements that are false.” RPC 3.1(b)(1)-(3). Mr. Giuliani violated this Rule when he appeared at oral argument in *Boockvar* and spent the majority of his time claiming that the Democrats engaged in widespread voter fraud, despite admitting that he knew all claims of fraud had been dropped from the pleadings. Moreover, although Mr. Giuliani stated that he had ample evidence of voter fraud, the Trump Campaign, both before and after the decision in *Boockvar*, has been unable to produce such evidence even as its lawsuits in multiple states have been settled or dismissed. Mr. Giuliani knew¹⁷ this, but used his first thirty minutes of oral argument, the time in which he also knew most people would be tuned in, to spout unsupported theories of election tampering. As the Court remarked in its decision, even Mr. Giuliani’s remaining claims were a deliberate attempt to ignore controlling precedent. *See Boockvar*, 2020 WL 6821992, at *4. More concerning, Mr. Giuliani sought relief contrary to any reasonable understanding of the Constitution and voting rights in this country – looking to invalidate millions of valid votes on the basis of two ballots that may or may not have been unfairly discounted. *Id.* at *12. That claim is so illogical and overreaching on its face that no reasonable lawyer would think it would succeed.

Mr. Giuliani’s violations only grow more serious. Under RPC 3.3(a), a lawyer shall not knowingly “make a false statement of fact or law to a tribunal” or “offer or use evidence that the lawyer knows to be false,” including witnesses called by the lawyer. RPC 3.3(a)(1), (3).¹⁸ On at least three occasions—at oral argument in *Boockvar*, and before the Michigan and Georgia legislatures—Mr. Giuliani paraded witnesses that put forward unsubstantiated allegations of fraud or made his own false claims of election fraud in violation of RPC 3.3(a). In particular, despite later admitting that the Trump Campaign had dropped its claims for fraud in *Boockvar*, Mr. Giuliani spent the majority of oral argument stating that the Democrats had stolen the election in Pennsylvania. Then, following the Third Circuit’s affirmance of the dismissal of the Trump Campaign’s case in *Boockvar*, Mr. Giuliani went before the Michigan legislature and repeated his baseless claims of ballot fraud in Pennsylvania, among other outlandish claims that the ballot machines used in Detroit were tampered with or programmed to hand the election to President-elect Biden.

The following day, Mr. Giuliani presented a video-clip before the Georgia Senate, purporting to show suitcases of ballots that were smuggled into a counting center after Republican election observers left. A diligent examination of the full video, as required under the RPC, *see* RPC 3.3 Commentary, Representations by a Lawyer [3], revealed that these “suitcases” were actually empty bins and that the ballots from these bins were counted in full

¹⁷ Under RPC 1.0(k), “[a] person’s knowledge may be inferred from circumstances.”

¹⁸ Under RPC 1.0(w), a “tribunal” is defined as “a court,” or “a legislative body . . . acting in an adjudicative capacity.”

view of bi-partisan election observers and the press.¹⁹ As required by Rule 3.3(3), Mr. Giuliani failed to take any remedial measures to address his false statements, but rather continued to spread these allegations in the lead-up to the January 6, 2021 riot at the Capitol.

All of this shows multiple violations of Rules 3.3 and 4.1, given Mr. Giuliani's numerous false, unsubstantiated and misleading statements calculated to undermine the results and integrity of the Presidential election in several key states.

Finally, and most egregiously, Mr. Giuliani consistently violated RPC 8.4(c), (d), and (h), the provision that prohibits a lawyer from engaging in conduct that "involv[es] dishonesty, fraud, deceit or misrepresentation," that is "prejudicial to the administration of justice," and that "adversely reflects on the lawyer's fitness." Over the last two months, Mr. Giuliani, on behalf of the Trump Campaign, publicly and in front of multiple tribunals, alleged that Democrats engaged in a grand conspiracy of election fraud, while failing to produce any facts to back up his assertions. New York Courts have upheld letters of reprimand and public censure based on much less sweeping false accusations or inappropriate statements by New York attorneys in violation of 8.4. *See Matter of Holtzman*, 78 N.Y.2d 184 (1991) (wherein the Court of Appeals upheld a Letter of Reprimand against District Attorney of Kings County Elizabeth Holtzman for false accusations of misconduct against a Judge, and releasing witness audio to the press with knowledge that the witness would be used in other investigations)²⁰; *Matter of Schlossberg*, 2020 WL 7550464 (1st Dep't 2020) (wherein the First Department upheld a public censure under 8.4 because of an attorney's racist ranting and threats to call Immigration Customs Enforcement to a member of the public). Mr. Giuliani's actions here merit more.

Not only did Mr. Giuliani knowingly spread falsehoods, but he traded on his reputation to support these falsehoods – publicly referencing his stature as a lawyer ("I know crimes[,] I can smell them"; also stating that "any experienced [] prosecutor" would see the Democrats' machinations). *See* Mr. Giuliani's False and Inflammatory Statements, *supra*. Mr. Giuliani gave his public statements the mirage of legal truth and asked supporters of the Trump Campaign to continue to fight the Constitutional certification of the election in favor of President-elect Biden so that he could reveal the Democrats' supposed fraud. His reputation and fame – the weight that his words would carry – make his violations of RPC 4.1, 8.4 (c) and (h) more serious. A lawyer of less note would not have the platform and outreach Mr. Giuliani had; he should not be permitted to use that platform to make knowingly false statements, or statements as to which he had no evidence, to support a fraud theory designed to undermine the foundation of democracy

¹⁹ Mr. Giuliani's actions here, in particular, his public statements of election fraud that he continued to disseminate on behalf of the Trump Campaign on his Twitter and YouTube channel also violated RPC 4.1, under which a lawyer is prohibited from knowingly making "a false statement of fact or law to a third person" in the course of representing a client.

²⁰ At the time of Holtzman's reprimand, section 8.4 was codified under CPR DR 1-102, [22 NYCRR § 1200.3] (McKinney).

Jorge Dopico, Esq.
January 21, 2021
Page -12-

in this country—fair and honest elections. In doing so, Mr. Giuliani played a part (if not a substantial role) in inciting what would become the most egregious breach of our nation's Capitol Building since the war of 1812—a clear violation of 8.4(d). This conduct is unbecoming of any citizen of the United States, let alone a lawyer in New York State and cannot be tolerated.

Mr. Giuliani should be appropriately disciplined.

Please contact us if the Committee has any further questions or seeks further information.

Very truly yours,



Ronald C. Minkoff

cc: Michael Miller, Esq.

EXHIBIT A

Complaint against Rudolph W. Giuliani, Attorney Registration Number 1080498

List of Complainants

*Those listed here as Complainants are acting solely in their individual capacities, and do not purport to act on behalf of any institution or organization.
The New York County Lawyers Association acts in its official capacity.*

Name

Micahel P. Ambosio	Professor of Law, Seton Hall University Law School
Jonathan B. Behrins	Vice President (13th Judicial District), New York State Bar Association Executive Committee
Ray Brescia	Professor of Law and Hon. Harold R. Tyler Chair in Law and Technology, Albany Law School
John M. Burkoff	Professor of Law Emeritus, University of Pittsburgh
Daniel Capra	Reed Professor of Law, Fordham University School of Law
David Louis Cohen	Past President, Queens County Bar Association Vice President (11th Judicial District), New York State Bar Association Executive Committee
Stephen G. Crane	Senior Associate Justice for the Appellate Division, Second Department (Retired)
John C. Coffee	Adolf A. Berle Professor of Law, Columbia University Law School
Klaus Eppler	Past President, New York County Lawyers Association
Linda C. Fentiman	Professor of Law Emerita, Elisabeth Haub School of Law at Pace University
Arthur N. Field	Past President, New York County Lawyers Association
Rosalind S. Fink	Past President, New York County Lawyers Association
James Fishman	Professor of Law Emeritus, Elisabeth Haub School of Law at Pace University
Brian Glick	Clinical Associate Professor, Fordham University School of Law
Cynthia Godsoe	Professor of Law, Brooklyn Law School
Sarah Gold	Member-at-Large, New York State Bar Association Executive Committee
Lissa Griffin	Professor of Law and Director of the Criminal Practice Concentration, Elisabeth Haub School of Law at Pace University
Marc Gross	President, Institute of Law & Economic Policy

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Claire Gutenkunst	Past President, New York State Bar Association
Andre R. Jaglom	Member-at-Large, New York State Bar Association Executive Committee
Scott Karson	Past President, Suffolk County Bar Association
Eileen Kaufman	Professor of Law Emerita, Touro Law School Past Co-President, Society of American Law Teachers
John S. Kiernan	Past President, New York City Bar Association
James B. Kobak Jr.	Past President, New York County Lawyers Association
James S. Kunen	Author of ' <i>How Can You Defend Those People?</i> ' <i>The Making of a Criminal Lawyer</i> (Random House 1983) and <i>The Strawberry Statement, Notes of a College Revolutionary</i> (Random House 1969)
Ann B. Lesk	Past President, New York County Lawyers Association
Stephen Lessard	President, New York County Lawyers Association
Howard Levine	Judge, New York Court of Appeals (Retired)
Carol B. Liebman	Clinical Professor Emerita, Columbia University School of Law
Lance M. Liebman	Professor of Law Emeritus and Dean Emeritus, Columbia University School of Law
Mary A. Lynch	Professor of Law, Kate Stoneman Chair in Law and Democracy and Director of the Domestic Violence Prosecution Hybrid Clinic, Albany Law School
Kathryn Grant Madigan	Past President, New York State Bar Association Past President, Monroe County Bar Association
Damon R. Maher	County Legislator, Westchester County Board of Legislators
Roger Juan Maldonado	Past President, New York City Bar Association
Thomas M. McDonnell	Professor of Law, Elisabeth Haub School of Law at Pace University
Vanessa Merton	Professor of Law, Elisabeth Haub School of Law at Pace University

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Michael Miller	Past President, New York State Bar Association Past President, New York County Lawyers Association
James C. Moore	Past President, New York State Bar Association
Eleanor W. Myers	Associate Professor Emerita, Temple University Law School
Domenick Napoletano	Treasurer, New York State Bar Association Past President, Brooklyn Bar Association
New York County Lawyers Association	
Robert L. Ostertag	Past President, New York State Bar Association
Richard Ottinger	Dean Emeritus, Elisabeth Haub School of Law at Pace University Former U.S. Congressman
Russel G. Pearce	Professor of Law and Edward and Marilyn Bellet Chair in Legal Ethics, Morality, and Religion, Fordham University School of Law
M. Catherine Richardson	Past President, New York State Bar Association
Aimee L. Richter	Vice President (2nd Judicial District), New York State Bar Association Executive Committee
Mirna Santiago	Member-at-Large, New York State Bar Association Executive Committee
Philip H. Schaeffer	Co-Chair of the Committee on Professionalism and Professional Discipline, New York County Lawyers Association
Beth G. Schwartz	Clinical Professor of Law and Direct of Professional Skills, Fordham University School of Law
Anthony J. Sebok	Professor of Law and Co-Director of the Jacob Burns Center for Ethics in the Practice of Law, Benjamin N. Cardozo School of Law
Carol A. Sigmond	Vice President (1st Judicial District), New York State Bar Association Executive Committee Past President, New York County Lawyers Association
Marjorie A. Silver	Director of Externship Programs and Professor of Law, Touro Law Center
Tucker Stanclift	Member-at-Large, New York State Bar Association Executive Committee
Lewis Tesser	Past President, New York County Lawyers Association Editor-in-Chief of "The New York Rules of Professional Conduct Annotated"

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Justin L. Vigdor	Past President, New York State Bar Association Past President, Monroe County Bar Association
William B. Wendel	Edwin H. Woodruff Professor of Law, Cornell Law School
Ellen C. Yaroshefsky	Howard Lichtenstein Professor of Legal Ethics and Director of the Monroe Freedman Institute for the Study of Legal Ethics, Maurice A. Deane School of Law at Hofstra University