



August 15, 2023

Attorney Grievance Committee – First Department

Re: Professional Responsibility Investigation of Rudolph W. Giuliani, Registration No. 1080498

Dear Members of the Committee:

Lawyers Defending American Democracy (“LDAD”) is a non-profit, non-partisan organization, the purpose of which is to foster adherence to the rule of law. On January 20, 2021, LDAD filed an ethics complaint against Rudolph W. Giuliani because he violated multiple provisions of the New York Rules of Professional Conduct while representing former President Donald Trump and the Trump Campaign.

As we believe the Attorney Grievance Committee (“AGC”) is aware, Mr. Giuliani recently made certain admissions in an action pending in the United States District Court for the District of Columbia, Freeman v. Giuliani, Case No. 1:21-cv-03354 (BAH) (the “Freeman Action”). The purpose of this letter is to emphasize the substantial evidentiary significance of those admissions in the New York disciplinary proceedings concerning Mr. Giuliani.

The plaintiffs in the Freeman Action, Ruby Freeman and Wandrea ArShaye Moss, were official election workers in Georgia during the 2020 election. They allege that they were the subjects of a campaign of malicious lies accusing them of interfering with a fair and impartial election, and that Mr. Giuliani bears substantial responsibility for that campaign. According to plaintiffs, Mr. Giuliani “published, caused to be published, and foreseeably led others to publish false accusations that [they] had committed election fraud”. (ECF 22, ¶ 4)

On July 25, 2023, Mr. Giuliani submitted a document in the Freeman Action that was styled as a Nolo Contendre Stipulation (the “Freeman Admissions”) (ECF 84-2). In the Freeman Admissions, which purported to be “solely for the purposes of this litigation,” Mr. Giuliani conceded that (a) he made the statements of and concerning plaintiffs set forth at ¶¶57-101 of their Amended Complaint, (b) those statements carry meaning that is defamatory per se, (c) he published the statements to third parties, and (d) “to the extent the statements were statements of fact and otherwise actionable, such actionable factual statements were false”.

On August 4, 2023, the judge in the Freeman Action ordered Mr. Giuliani to submit a revised stipulation to clarify his admissions. On August 8, 2023, Mr. Giuliani submitted a document styled as a Superseding Nolo Contendre (the “Superseding Admissions”) (ECF 90). In addition to repeating his prior admissions, Mr. Giuliani conceded, for purposes of the Freeman Action only, that (a) his defamatory statements are presumed to have caused Plaintiffs’ damages, (b) all factual allegations in Plaintiffs’ Amended Complaint as to his liability, but not damages, for defamation, intentional infliction of emotional distress, civil conspiracy, and for punitive damages, and (c) that liability on Plaintiffs’ causes of action should be treated as though there is default liability.

The Freeman Admissions and the Superseding Admissions (collectively, the “Admissions”) are formal judicial admissions in the Freeman Action, and as such are conclusive of the facts admitted by Mr. Giuliani in that action. People v. Brown, 98 N.Y. 2d 226 (2002). In this disciplinary proceeding, the Admissions are informal judicial admissions. “[F]acts incidentally admitted during the trial or in some other judicial proceeding, as in statements made by a party ... or an affidavit” constitute informal judicial admissions. Matter of Liquidation of Union Indem. Ins. Co. of N.Y. v. American Centennial Ins. Co., 89 N.Y.2d 94, 103 (1996) (citation omitted) “Although not conclusive, informal judicial admissions are ‘evidence’ of the fact or facts admitted and may, if unrebutted or unexplained, support a motion for summary judgment.” Koslowski v. Koslowski, 245 A.D.2d 266, 268 (2d Dep’t 1997) (granting summary judgment where plaintiff failed to rebut or otherwise explain certain informal judicial admissions).

In its decision in In the Matter of Rudolph W. Giuliani, An Attorney, dated June 24, 2021, the First Department granted the AGC’s motion for an order immediately suspending Mr. Giuliani from the practice of law. The First Department found that there was “uncontroverted evidence that respondent communicated demonstrably false and misleading statements to courts, lawmakers and the public at large in his capacity as lawyer for former President Donald J. Trump”. Among the false statements by Mr. Giuliani cited by the court were the false statements concerning the alleged illegal counting of ballots in Georgia that are the subject of the Freeman Action (pages 21-23).

The evidentiary value of the Admissions in the disciplinary proceedings against Mr. Giuliani is manifest. Mr. Giuliani’s widely repeated -- and now admittedly false and defamatory -- statements about the election workers in Georgia played a major role in his improper attempt to overturn the last presidential election. It is difficult to imagine that any conceivable explanation for his Admissions that Mr. Giuliani might proffer to the AGC would be persuasive.

LDAD respectfully submits that the Admissions constitute significant additional evidence of Mr. Giuliani’s dishonesty, fraud, deceit, and misrepresentation and strongly support LDAD’s complaint seeking his disbarment.

John T. Montgomery
Board Member, Lawyers Defending American Democracy

/s/ John T. Montgomery