March 16, 2026

Attorney Grievance Committee
Supreme Court of the State of New York
Appellate Division, First Judicial Department
180 Maiden Lane
New York, New York 10038
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Re: Professional Responsibility Investigation of Boris Epshteyn
Registration No. 4595732

Dear Grievance Committee Members:

The undersigned lawyers submit this ethics complaint against Boris Epshteyn, a member of the bar of the State of New York. Mr. Epshteyn does not occupy a position within the current Trump Administration; he is one of President Trump's personal lawyers. Yet Epshteyn appears to have played a key role in one of the President's most ominous assaults on the rule of law in America – the President's vindictive campaign to (i) punish law firms and lawyers that the President dislikes and, by extension, the kinds of clients that they historically have represented, and (ii) to intimidate other law firms and lawyers. The key elements of this campaign have been a series of executive orders and memoranda issued against individual law firms and a concerted effort that led nine law firms to enter into settlement agreements with the Administration in which the firms agree to do, or not do, a variety of things. It has been widely reported, without contradiction, that Mr. Epshteyn has personally led these settlement negotiations on behalf of the Administration, as well as follow-on negotiations in which at least one of these firms has undertaken work for the Administration. It is also possible that he played a role, not yet reported, in the issuance of the original EOs. The fact that Epshteyn's role is shrouded in mystery is itself deeply troubling.

The settlement agreements have never been made public. But they have had an enormous impact, not only on the settling firms, but even more consequentially on other large law firms that have scrambled to avoid the attention of the Administration. Collectively, these firms once provided a huge range of pro bono or low-cost representation of individuals and nonprofit organizations to vindicate statutory and constitutional rights – to the consternation of President Trump. Many large firms have now stopped or dramatically cut back this important work, and their former clients – even the American Bar Association – are finding it difficult or impossible to find lawyers.

One of the unique strengths of the American political system has been the freedom of lawyers to represent organizations and individuals of their choice, without fear of retaliation by the federal government. That independence has been seriously diminished by the Administration's

campaign against lawyers, including the settlements that Mr. Epshteyn has driven. It has been replaced by a culture of fear, as lawyers avoid taking on clients who might draw the Administration's wrath.

Among those who have signed this complaint are members of the Board of, and volunteers with, Lawyers Defending American Democracy ("LDAD"), a non-profit, non-partisan organization created to protect the rule of law and the Executive Chair for Democracy Defenders Fund ("DDF") a nonpartisan, nonprofit organization dedicated to defending the rule of law, fighting corruption, and protecting elections. They, and the other signatories below, believe that Mr. Epshteyn has violated the New York Rules of Professional Conduct through his work on, and in implementing, these settlements. In particular, we believe that he has violated three rules:

- Rule 5.6(a)(2), which prohibits a lawyer from participating in the offering or making an agreement in which a restriction on a lawyer's right to practice is part of the settlement of a client controversy.
- Rule 8.4(a), which provides that a lawyer engages in misconduct if he or she knowingly assists or induces others to violate the Rules. Mr. Epshteyn has induced settling law firms to violate Rule 1.7(a)(2), which prohibits a lawyer from representing a client when there is a significant risk that the representation will be adversely affected by the lawyer's responsibilities to a third person or by the lawyer's own interests.
- Rule 8.4(d), which prohibits a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Mr. Epshteyn may also have violated Rule 8.4(a) by inducing settling law firms to violate Rule 5.4(c), which prohibits a lawyer from allowing a person who recommends, employs or pays the lawyer to render legal services for another to direct or regulate the lawyer's independent professional judgment. We urge the Grievance Committee to investigate whether Mr. Epshteyn is interfering with the independent professional judgment of lawyers in settling law firms in their representation of clients the firms have agreed to represent pursuant to their settlement agreements.

Below we describe the facts as we understand them, explain how those facts constitute or may constitute violations of the New York Rules of Professional Conduct, and urge the Committee to conduct an investigation of Mr. Epshteyn's role in the settlements (and potentially the issuance of the EOs) and to impose appropriate sanctions.

I. Factual Basis for the Complaint

A. The Law Firm Coercion Campaign

Since taking office last year, President Trump has abused his office to intimidate and coerce lawyers and law firms to abandon clients, causes, and policy positions the President does not like and to refrain from challenging the President or his administration in court. The Administration has carried out this law firm intimidation campaign (the Campaign) primarily through: (i) issuing a series of punitive executive orders (EOs) and presidential memoranda designed to severely damage the targeted law firms and intimidate other firms and lawyers; and (ii) a series of coerced

settlement agreements between the Administration and law firms seeking to avoid such executive orders or to have them rescinded.

Between February 25 and April 9, 2025, the President signed five EOs and two memoranda directed at individual law firms that the President disliked, principally because they represented, employed, or had previously employed lawyers who had prosecuted or sued the President, or had represented clients who the President disfavored.[1] (For example, Covington & Burling was representing former independent counsel Jack Smith; Jenner & Block had previously employed Andrew Weissman, who had been involved in Robert Mueller's special counsel investigation; and Perkins Coie had represented Hillary Clinton's presidential campaign.) The EOs and memoranda also generally objected to the firms' diversity, equity and inclusion (DEI) policies. These actions, which were utterly unprecedented in American history, sought to suspend the security clearances issued to the targeted firms' lawyers; restrict lawyers' access to government buildings; ban the federal government from hiring employees of the firms; and prohibit any entity holding a federal contract from doing business with the firms. Among the principal purposes of these executive orders appears to be restricting the ability of America's largest law firms to provide pro and low-bono support to clients who the Administration disfavored. One practical impact of this stranglehold over law firms would be to prevent such clients from receiving adequate legal representation in matters adverse to the government.

To their credit, four of the firms targeted with EOs sued the Administration. All of these lawsuits were successful. For example, Federal District Judge Beryl Howell struck down the EO against Perkins Coie, assailing it as "an unprecedented attack on [a] foundational principle[: t]he importance of independent lawyers to ensuring the American judicial system's fair and impartial administration of justice."[2] Other federal judges struck down the EOs against Wilmer Hale, Jenner & Block, and Susman Godfrey.[3] Covington & Burling and the Elias Law Group did not respond to the memoranda directed toward them. But one firm, Paul, Weiss, concluded that the EO against it represented an "existential crisis,"[4] and so it reached out to the White House and struck a deal on March 20, 2025 that resulted in the President rescinding the EO against it.

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[1] The entire history of these EOs and memoranda, lawsuits against them, and settlements between the Administration and law firms is comprehensively cataloged in a Wikipedia page entitled "Targeting of law firms and lawyers under the second Trump administration." *Targeting of law firms and lawyers under the second Trump administration*, Wikipedia (last accessed Feb. 11, 2026), https://en.wikipedia.org/wiki/Targeting_of_law_firms_and_lawyers_under_the_second_Trump_administration. Unless otherwise noted, the facts contained in this part of the complaint are drawn from this page.

[2] *Perkins Coie LLP v. U.S. Dep't of Justice*, 783 F. Supp. 3d 105, 119-120 (D.D.C. 2025).

[3] *See Susman Godfrey LLP v. Executive Office of the President*, 789 F. Supp. 3d 15, 28 (D.D.C. 2025); *Wilmer Cutler Pickering Hale & Dorr LLP v. Executive Office of the President*, 784 F. Supp. 3d 127, 173 (D.D.C. 2025); *Jenner & Block LLP v. U.S. Dep't of Justice*, 784 F. Supp. 3d 76, 88 (D.D.C. 2025).

[4] E-mail from Brad Karp, Managing Partner of Paul, Weiss to "the Paul, Weiss community" (Mar. 23, 2025) (https://davidlat.substack.com/p/brad-karp-firmwide-email-to-paul-weiss-about-the-trump-administration-deal).

The Paul, Weiss settlement unsettled the "Big Law" world, and between March 28 and April 11, 2025, eight other firms entered into similar settlements with the White House.[5] These coerced settlement agreements have never been made public; indeed, the Deputy Associate Attorney General told Judge Howell that he didn't even know if they were written down.[6] As reported, the specific details of the agreements vary slightly from firm to firm, and at least one law firm and the government have described the same agreement differently.[7] But they all appear to include a commitment of specified dollar amounts of pro bono services, ranging from $40 million to $125 million and totaling $940 million, to causes supported by the President. They also all reportedly include commitments to end DEI hiring initiatives.[8] Some also include a public rebuke of firm practices and former partners.

B. Boris Epshteyn's Role in Driving and Administering the Law Firm Settlements

Boris Epshteyn has never had an official position in this Trump administration; he is neither an employee nor a contractor of the federal government. Rather, he is typically described as Trump's "personal lawyer,"[9] "personal counsel,"[10] or "personal senior counsel."[11] But he is highly influential with President Trump by all accounts – to the point where another Trump adviser described the White House as "the United States of Boris."[12] Mr. Epshteyn was one of the handful of people involved in the March 20, 2025 meeting between the President and Paul, Weiss's Brad Karp at which the precedent-setting first settlement was agreed upon.[13] From that moment on, Mr. Epshteyn has played the central role in the Campaign, leading settlement agreement negotiations with the other eight law firms that chose to capitulate in advance to the Administration's extortionary tactics.

As the *Wall Street Journal* reported:

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[5] These firms are Skadden, Arps, Slate, Meagher & Flom LLP; Willkie Farr & Gallagher LLP; Milbank; Kirkland & Ellis LLP; Latham & Watkins LLP; A&O Shearman US LLP; Simpson Thacher & Bartlett LLP; and Cadwalader, Wickersham & Taft LLP.

[6] *See* Robert Parloff, *A Reporter's Notes of the April 23 Perkins Coie Hearing*, Lawfare (Apr. 25, 2025), https://www.lawfaremedia.org/article/a-reporter-s-notes-of-the-april-23-perkins-coie-hearing.

[7] For example, President Trump contended that, in its settlement, Paul, Weiss agreed not to follow any DEI policies, but Paul, Weiss has never acknowledged such a pledge. *See* Michael S. Schmidt et al., *How a Major Democratic Law Firm Ended Up Bowing to Trump*, The New York Times (Mar. 21, 2025), https://www.nytimes.com/2025/03/21/us/politics/paul-weiss-trump.html.

[8] *But see* note 7, *supra*.

[9] *E.g.,* Michael S. Schmidt and Maggie Haberman, *Law Firms That Settled with Trump Are Asked to Help on Trade Deals*, The New York Times (Aug. 13, 2025), https://www.nytimes.com/2025/08/13/us/politics/trump-law-firms-trade-deals.html#:~:text=they%20were%20doing.-,Mr.,Times%2C%20reporting%20on%20President%20Trump).

[10] *E.g.,* Hugo Lowell, *White House buoyed by capitulation of major law firm attacked by Trump*, The Guardian (Mar. 22, 2025), https://www.theguardian.com/us-news/2025/mar/22/white-house-paul-weiss.

[11] *Boris Epshteyn*, Wikipedia (last accessed Jan. 28, 2026), https://en.wikipedia.org/wiki/Boris_Epshteyn.

[12] *E.g.*, Maggie Haberman & Jonathan Swan, *The Trump Lawyer Who Wields Outsize Influence on the Next White House*, The New York Times (Nov. 14, 2024), https://www.nytimes.com/2024/11/15/us/politics/boris-epshteyn-trump.html. Somewhat more colorfully, Mr. Epshteyn has referred to himself as "Boris f**king Epshteyn." *See* Matt Stieb, *The Second Trump Transition Is Starting to Get Ugly*, New York Magazine (Nov. 26, 2024), https://nymag.com/intelligencer/article/who-is-boris-epshteyn-the-lawyer-selling-access-to-trump.html -:~:text=Among aides, confidants, and hangers, this was apparently too much.

[13] *See* Lowell, *supra* note 10.

> Some of the law firms privately worried about negotiating with a lawyer who wasn't employed by the government and didn't have a government email address, some of the lawyers said. But they decided talking with Epshteyn was their best path to avoid a government investigation or executive order, the people said, after determining he had serious sway with Trump.

In fact, it was reported that "[i]n some conversations, Epshteyn . . . flagged deals other law firm rivals made" in what presumptively was an attempt to place pressure on those law firms to capitulate to Trump's demands.[14]

Epshteyn has been uniformly described as "the face" of the Campaign, who "played a direct role in brokering the . . . deals," and who "has extracted large commitments of pro bono work for Trump-supported causes and changes to the law firms' hiring practices to Trump's preferences…."[15] We are unaware of any statements by Mr. Epshteyn or the White House disputing this characterization.

The same week that the last settlement agreements were inked, President Trump mused that he might cash in personally on their pro bono commitments: "I think part of the way I'll spend some of the money that we're getting from the law firms in terms of their legal time will be . . . using these great law firms to represent us with regard to the many, many countries we'll be dealing with [over tariffs]."[16] It has been reported that the Department of Commerce did eventually talk with both Kirkland & Ellis and Skadden about the firms providing assistance on trade agreements, and that Kirkland did assist Commerce on the Japan and South Korea trade agreements announced in July.[17] Mr. Epshteyn connected the firms and the Department.[18] Thus, he remains at the heart of the settlements and their implementation. As discussed below, that implementation may not end until the Administration does, because the Administration regards them as open-ended.

Research has not disclosed any news reports indicating that Mr. Epshteyn also played a role in the issuance of the EOs, but it is certainly reasonable to think that he might have, given his pre-eminent role in the subsequent settlements. If it accepts this complaint, the Committee should investigate the full extent of Mr. Epshteyn's role in the Campaign.[19]

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[14] *See* Josh Dawsey, *Trump's $1 Billion Law Firm Deals Are the Work of His Personal Lawyer*, The Wall Street Journal (Apr. 14, 2025), https://www.wsj.com/us-news/law/trumps-1-billion-law-firm-deals-are-the-work-of-his-personal-lawyer-77bd7b8c?gaa_at=eafs&gaa_n=AWEtsqcCZiABPQAYOwY4i6FlbWyglIpWWJbGld9DQI7JWaPYl3NrIde7ll3wTdMnTgA=&gaa_ts=6941df36&gaa_sig=AUFwLsTfoPt6geBCmaPO5MZmbEE36hpK6_XgTBG_N7aR_F9fWOB_4yJqjStdcOgG10VVjMvv1M7235ssExzkFQ==;.

[15] *Id.*; *see also* Schmidt & Haberman, *supra* note 9.

[16] Melissa Quinn, *Trump suggests using law firms that pledged pro bono services to help U.S. in tariff talks*, CBS News (Apr. 10, 2025), https://www.cbsnews.com/news/trump-suggests-using-law-firms-that-pledged-pro-bono-services-to-help-u-s-in-tariff-talks/.

[17] *See* Schmidt & Haberman, *supra* note 9.

[18] *Id.*

[19] The Committee should also be aware that Democrats on the House Oversight Committee are currently conducting an investigation of the law firm settlements. *See* Congressman Dave Min, *House Democrats to probe Trump law*

C. The Harmful Impact of the Campaign

The New York Rules of Professional Conduct reflect the importance that the Court of Appeals places on pro bono service by New York lawyers. Rule 6.1 states that every lawyer should aspire to devote at least 50 hours a year to providing free legal services to poor persons, and to contribute financially to organizations that provide legal services to such persons. Comment [7] adds that, additionally, "all lawyers are urged to render public-interest and pro bono service in addition to assisting the poor."

In direct opposition to the spirit of this rule, the most consequential effect of the Campaign – by far – has been to coerce large law firms to forsake nonprofit clients they have historically taken on and to forgo litigation and other activities that they have historically engaged in, on a pro bono basis, on behalf of such clients. While demonstrating harmful consequences is not a prerequisite to establishing a violation of Rules 5.6(a)(2), 8.4(a) or 8.4(d),[20] it is important for the Committee – and the public more generally – to appreciate the scale of large firms' retreat from their prior pro bono efforts as a result of the Campaign.

In particular, there is reported evidence that the settlements negotiated by Mr. Epshteyn have led several of the settling law firms to limit their practices in just the way sought by the settlements:

- During the first Trump Administration, a Skadden Foundation fellow helped challenge the Administration's "Muslim ban," and Skadden developed an online platform to connect immigrants with lawyers. After its settlement, however, the firm declined to join a lawsuit challenging a Trump immigration policy.[21]

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firm deals, (Apr. 28, 2025), https://min.house.gov/media/in-the-news/house-oversight-democrats-probe-trump-law-firm-deals

[20] Rule 5.6(a)(2) prohibits a lawyer from "participat[ing] in *offering* or making . . . an agreement in which a restriction on a lawyer's right to practice is part of the settlement of a client controversy" (emphasis added) – so the agreement need not even be finalized to constitute a violation. N.Y. Rules of Prof. Conduct r. 5.6(a)(2) (N.Y. Comp. Codes R. & Regs. tit. 22, § 1200, 2025). Rule 8.4(a) prohibits a lawyer from "assist[ing] or induc[ing] another to . . . violate or *attempt* to violate" another rule, so a violation of the latter rule need not have occurred. N.Y. Rules of Prof. Conduct r. 8.4(a) (N.Y. Comp. Codes R. & Regs. tit. 22, § 1200, 2025). Finally, the NYSBA Committee on Professional Ethics has opined that Rule 8.4(d) is violated "if the conduct in question *is likely to* cause substantial individual or systemic harm to the administration of justice," or "*has the potential to* cause [such] harm. NYSBA Comm. Pro. Ethics, Formal Op. 1098 at 2 (2016) (emphasis added), https://nysba.org/wp-content/uploads/2016/06/Opn-1098.pdf.

[21] *See* Matthew Goldstein & Jessica Silver-Greenberg, *Some Giant Law Firms Shy Away From Pro Bono Immigration Cases*, The New York Times (May 6, 2025), https://www.nytimes.com/2025/05/06/business/trump-law-firms-pro-bono-immigration.html - :~:text=Trump's first term, when many part of the Muslim ban.

- Before their settlements, both Paul, Weiss and Simpson Thacher & Bartlett had regularly filed lawsuits against the federal government. After their settlements (March 20 and April 11, respectively), neither had done so by late July 2025.[22]

It seems quite likely that the Committee could uncover similar evidence regarding these and the other settling firms.

Much more extensive harm has occurred from the actions of large American law firms who were neither the target of an EO nor a party to a settlement. It seems entirely appropriate to attribute this harm, at least in part, to Mr. Epshteyn and his actions. First, the EOs and the settlements are obviously two manifestations of a single effort by the White House to force large firms to abandon causes and clients the president dislikes and to shift their efforts toward causes he favors – and to his administration. Second, the settlements that Mr. Epshteyn has negotiated are so onerous and costly that they offer no better alternative to an EO. The adverse features of the settlements may well explain why no firm has sought to enter into one since last April. But the settlements dovetail with the EOs to make it clear that the *only* way to avoid harsh treatment from the Administration is to stay below its radar.

And "Big Law" has done just that. Since spring 2025, many nonprofit organizations have reported a reduction in pro bono support and willingness of lawyers to tackle representations that may be at odds with the preferences of the President. Firms that had previously sued the Administration over controversial rules or actions have declined to challenge regulations on behalf of business interests, take on pro bono representation of immigrants seeking asylum, or advocate positions that may seem controversial or too political.

Early this past summer, Reuters conducted an extensive investigation of this retreat by Big Law.[23] Reporters interviewed more than 50 lawyers, reviewed 50 law firm websites, contacted more than 70 nonprofits and analyzed millions of court records. They found:

- Of the 33 nonprofits who responded, 12 said that law firms "had already backed away from providing legal help," and 27 expressed concern about the availability of future assistance.
- Lawsuit filings against the federal government by the top 50 law firms had dropped "sharply."
- 17 firms revised descriptions of their pro bono practices to "omit contentious areas like immigration and racial justice . . . while at least three added language highlighting work aligned with Trump's agenda."
- Nonprofits and firms alike indicated that firms had stopped putting their names on filings, working instead in secret.
- None of the 20 top-grossing firms that sued the Trump Administration in its first term had sued it in the second term.

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[22] *See* Mike Spector et al., *A Reuters Special Report -- How Trump's crackdown on law firms is undermining legal defenses for the vulnerable*, Reuters (July 31, 2025), https://www.reuters.com/investigations/trumps-war-big-law-leads-firms-retreat-pro-bono-work-underdogs-2025-07-31/.
[23] *Id*.

The former head of pro bono at Paul, Weiss, who resigned from the firm after the settlement, told Reuters "the actions of the president are accomplishing their goal."[24]

Other news outlets present similar findings:

- Of six major nonprofits NPR interviewed, two reported having been turned down by firms that they had regularly teamed with, and all expressed "deep concerns" about further pull-backs by firms.[25]

- Three law firms that had worked on immigration matters during the first Trump Administration (e.g., challenging the "Muslim ban") – Skadden, Davis Polk and Gibson Dunn – were unwilling, post-settlements, to join new suits, or to put their name on a suit.[26]

- "[A] couple" of firms that had worked with a nonprofit in the past were unwilling even to investigate an immigration matter, according to a nonprofit director cited by Law360.[27]

- Nonprofits fear that the Administration will revoke their nonprofit status – and that they will be unable to find a law firm to defend them.[28]

Even the American Bar Association told a court that it "has experienced difficulty finding previously willing law firms to represent it" in actions adverse to the Administration, and that it was unable to join one suit because of the delay in finding counsel.[29]

As recently as last October, big firms' reluctance to challenge the Administration had not changed. Large firms represented 75% of plaintiffs challenging Trump Administration executive orders during his first term, but only 15% of plaintiffs filing similar challenges in this Administration.[30] The gap is being filled by smaller firms that are often overextended, or by nonprofit firms – or it is simply not being filled.[31]

II. Ethical Rules Violated and Which May Have Been Violated by Mr. Epshteyn

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[24] *Id*.
[25] Ryan Lucas, *Trump Attacks on Law Firms Begin to Chill Pro Bono Work on Causes He Doesn't Like*, NPR (Apr. 13, 2025), https://www.npr.org/2025/04/13/g-s1-59497/trump-law-firms-pro-bono.
[26] *See* Goldstein & Silver-Greenberg, *supra* note 21.
[27] Alison Knezevich, *BigLaw Shying Away From Some Pro Bono Work 'Out of Fear'*, LAW360 (Apr. 10, 2025), https://www.law360.com/pulse/articles/2323753.
[28] Michael Birnbaum, *Law Firms Refuse to Represent Trump Opponents in the Wake of His Attacks*, The Washington Post (Mar. 25, 2025), https://www.washingtonpost.com/politics/2025/03/25/trump-law-firms/.
[29] Shayna Jacobs, Clara Ence Morse, & Mark Berman, *Nation's Biggest Law Firms Back off from Challenging Trump Policies*, The Washington Post (Oct. 26, 2025), https://www.washingtonpost.com/national-security/2025/10/26/smaller-law-firms-struggle-trump-administration-initiatives/.
[30] *Id*.
[31] *Id*.

Boris Epshteyn is a member of the New York State bar and thus is subject to the New York Rules of Professional Conduct. So far as we are aware, he is not a member of any other state bar. Through the central role that he has played in executing the settlement agreement component of the Campaign on behalf of the Trump Administration, Mr. Epshteyn has violated the New York Rules of Professional Conduct in several ways, as explained below. Moreover, because Mr. Epshteyn has no official position in the Administration, but rather is President Trump's personal lawyer, he has no legitimate basis to claim any sort of immunity or to argue that state disciplinary proceedings against him would be preempted by some federal law.

A. Rule 5.6(a)(2) – Restrictions on Right to Practice

The reported terms of the coerced settlement agreements and public statements made by President Trump and members of his administration about the "settlements" clearly establish that their core purpose was to intimidate, coerce and restrict the practices of our nation's leading law firms – to get them to affirmatively agree to represent certain clients or types of clients and to stop representing entities and individuals that the president disfavors.[32]

Rule 5.6(a)(2) prohibits just such an agreement. The Rule forbids a lawyer from participating in the making – or offering – of an agreement that would place a restriction on a lawyer's right to practice independently. New York has made clear that the prohibitions of Rule 5.6 apply to lawyers on *both sides* of a negotiation aimed at restricting a lawyer's right to practice:

> Rule 5.6 provides that no lawyer may "participate in offering or making" a settlement agreement that restricts *any* lawyer's right to practice. *See* N.Y. State 730 (2000) (predecessor rule applied "equally to a lawyer who would propose or offer such an agreement and to a lawyer who would accept it").[33]

The District of Columbia similarly applies the rule to any lawyer participating in such an agreement: "Importantly, Rule 5.6 applies not only to a lawyer who agrees to limit her practice, but to any lawyer who makes such an agreement (i.e., to lawyers on both sides of such a negotiation)."[34]

The D.C. Bar Legal Ethics Committee recently issued a prominent opinion on the issues raised in this complaint, entitled "Lawyers and Law Firms That Contemplate Agreeing with Governments to Conditions That May Limit or Shape Their Law Practices." This opinion confirms that Rule

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[32] *See* Daniel Barnes, *Major law firm strikes preemptive deal with White House*, Politico (March 28, 2025) ("'This was essentially a settlement' Trump said of the deal [with Skadden]."), https://www.politico.com/news/2025/03/28/skadden-arps-trump-law-deal-028324; *see also* Exec. Order No. 14244, 90 Fed. Reg. 13685–13686 (Mar. 26, 2025) ("Addressing Remedial Action by Paul Weiss" (March 21, 2025), in which President Trump explained that "[e]arlier this week . . . Paul Weiss indicated that it will engage in a remarkable change of course.").

[33] NYSBA Comm. Pro. Ethics, Formal Op. 1006 (2016), https://nysba.org/ethics-opinion-1006/?srsltid=AfmBOopRjvD7_4ciOa0_GaE24VSuKx1ktSjF4-4j6lD9fTxjtD1EyqDP.

[34] "Lawyers and Law Firms That Contemplate Agreeing with Governments to Conditions That May Limit or Shape Their Law Practices," D.C. Legal Ethics Comm., Formal Op. 391 (2024). https://www.dcbar.org/for-lawyers/legal-ethics/ethics-opinions-210-present/ethics-opinion-391

5.6 applies to "a lawyer who represents the government in negotiating such an agreement" and that, "[t]hus, a lawyer who represents the government in negotiating such an agreement also should consider this rule."[35]

The N.Y. State Bar has taken a broad view of Rule 5.6, recognizing that (i) the "policies underlying this rule include enhancement of the public's access to lawyers and avoidance of conflicts,"[36] and (ii) the rule provides that "no lawyer may 'participate in offering or making' a settlement agreement that restricts *any* lawyer's right to practice." Likewise, in Ethics Opinion 730 (2000), the Bar made clear that a settlement agreement can violate Rule 5.6 (a)(2) because of its practical effect, even if its literal wording does not restrict the lawyer's right to practice law. This expansive interpretation is consistent with other jurisdictions that have found the rule to prohibit "conditions whose effect is to limit the access of future clients to lawyers of the choosing – particularly 'lawyers, who by virtue of their background and experience, might be the very best available talent to represent [such] individuals.'"[37]

As documented in Part I.C above, several settling firms have already limited their pro bono practices exactly as intended by the Administration, thus preventing their pro bono clients from receiving adequate legal representation in matters adverse to the government. The open-ended and vague nature of the settlement agreements also heightens the chance that, in the future, the Administration will further limit a settling firm's practice by advising that it is unhappy with the firm's choice of clients or actions on behalf of a client.[38] Finally and most important, as discussed above, the agreements appear to have had the effect of inducing many large non-settling law firms to limit their practices so as to avoid triggering the Administration.

As discussed above, Epshteyn's "participat[ion] in offering or making" the settlement agreements with nine settling law firms limits the practices of the settling law firms in violation of Rule 5.6(a)(2).

B. 8.4(a) -- Violating or Inducing Another to Violate the Rules of Professional Conduct

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[35] *Id*. We recognize that that the D.C. version of Rule 5.6(b) is worded somewhat differently than the N.Y. version. It references agreements "in which a restriction on the lawyer's right to practice is part of the settlement of a controversy between parties," rather than the "settlement of a client controversy" referenced in the N.Y. rules. The D.C. Bar opinion in n.16 calls attention to this distinction and says that the conduct being considered there was not the settlement of a client controversy. In our view, this distinction is not relevant to the applicability of N.Y. Rule 5.6(a)(2) to the conduct of addressed in this complaint. As we explain, the "client controversy" being settled here is the specific dispute between Mr. Epshteyn's client, President Trump, and the targeted law firms. This client controversy was then used by Mr. Epshteyn as a punitive bargaining chip to extract concessions from the law firms. The settlement agreements containing these concessions restrict the rights of the firms to manage their practices independently. This type of coercive bargaining and resulting harm to the public's access to lawyers detailed in this complaint are plainly inconsistent with both the purpose and spirit of N.Y. Rule 5.6.

[36] NYSBA Comm. Pro. Ethics, Formal Op. 1006, *supra* note 33.

[37] D.C. Legal Ethics Comm., Formal Op. 391, *supra* note 34 (quoting *In re Hager*, 812 A.2d 904, 918 (D.C. 2002)).

[38] The high degree of uncertainty about the nature of the obligations created by these agreements is highlighted in Gregory J. Wallance, "Law firms that settle with Trump have a Sword of Damocles over their heads," Politico (April 8, 2025).

Rule 8.4(a) provides that lawyers engage in misconduct if they "knowingly assist or induce another to . . . violate the Rules." Through his representation of the President in driving the nine law firm settlements, Mr. Epshteyn induced the firms to violate Rule 1.7(a)(2), involving conflicts of interest, and may have induced the firms to violate Rule 5.4(c), involving professional independence.

1. Rule 1.7(a)(2) – Conflict of Interest

Rule 1.7(a)(2) specifically prohibits a lawyer from representing a client when there is a significant risk that the representation will be adversely affected by the lawyer's responsibilities to a third person or by the lawyer's own interests. As stated in Comment [1] to Rule 1.7, "[l]oyalty and independent judgment are essential aspects of a lawyer's relationship with a client. The professional judgment of a lawyer should be exercised, with the bounds of the law, solely for the benefit of the client and free of compromising influences and loyalties…. A lawyer should not permit these competing responsibilities or interests to impair the lawyer's ability to exercise professional judgment on behalf of each client." Comments [9] and [10] confirm that these compromising influences can arise from not just from current or former clients, but from "the lawyer's responsibilities to other persons" and "the lawyer's own . . . personal interests."

The law firms that have entered into settlement agreements to avoid punitive measures by the president are now facing significant risk of violating Rule 1.7. By entering into the settlements, the firms have created responsibilities to President Trump that are essentially open-ended in both scope and duration. As illustrated above in the example of trade agreements,[39] the firms are directly exposed to the President's whims. A legal commentator noted:

> At the same time, it is not evident precisely what terms the administration and the law firms have agreed to. The New York Times has reported that "It is unclear whether the firms even signed formal written deals spelling out the terms, or if they were essentially handshake agreements." . . . That lack of clarity appears to have led to an "emerging gap between what the firms initially thought they agreed to and what Mr. Trump says they can be used for."[40]

Similarly, Senator Richard Blumenthal, Congressman Jamie Raskin and Senator Adam Schiff have written to Paul, Weiss about the expansion of the scope of Paul, Weiss's engagement to include trade agreements, expressing concern that "the Administration's coercion of your law firm may be ongoing and escalating."[41]

Not only have the firms committed to align themselves with the administration's evolving and idiosyncratic interests, but it is now in their own personal interest not to antagonize the

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[39] *See supra* text accompanying note 17.
[40] Natalie K. Orpett & James Pearce, *The Law Firms' Deals with Trump Are Even Riskier than They Seem*, Lawfare (May 16, 2025), https://www.lawfaremedia.org/article/the-law-firms--deals-with-trump-are-even-riskier-than-they-seem.
[41] *See* letter from the House Judiciary Committee to Brad S. Karp, Chairman, Paul, Weiss, Rifkind, Wharton & Garrison LLP (Sept. 24, 2025), https://www.hsgac.senate.gov/wp-content/uploads/2025-9-24-Letter-from-Sen.-Blumenthal-Congressman-Raskin-Sen.-Schiff-to-Paul-Weiss.pdf.

Administration. These interests could obviously compromise their ability and willingness to provide diligent and competent representation to clients adverse to the government (as required by Rules 1.1 and 1.3) because of fear of retribution by the Trump Administration. Any limitation on a lawyer's duty to diligent and competent representation would violate the lawyer's duty not to "represent a client if a reasonable lawyer would conclude that . . . there is a significant risk that the lawyer's professional judgment on behalf of a client will be adversely affected by the lawyer's own financial, business, property or other personal interests."[42] This quandary is exacerbated by the Department of Justice's position that a private lawyer's adversity to any element of "the United States" constitutes a conflict.[43]

While conflicts caused by loyalties to third parties or a lawyer's personal interests may be waived after informed consent, the possibility of informed consent is hampered, if not prevented, by the lack of clarity, just noted, regarding the precise nature and breadth of commitments and ability of government unilaterally to change them. The D.C. ethics opinion on law firm agreements with governments discussed this potential problem at length:

> As for the waiver option, if a law firm does not know what actions on their part might trigger adverse government action, the firm may be unable to provide the requisite "full disclosure of the existence and nature of the possible conflict and the possible adverse consequences of such representation." That would mean, in turn, that clients could not provide the informed consent that is a prerequisite to a valid waiver. Similarly, if the precise nature and breadth of the commitments made by a law firm are unclear or are subject to change unilaterally by the government, the firm cannot be confident of its ability to remove the cause of the conflict because the conflict may reignite with little or no notice.

A lawyer in a settling firm might think that the best solution to avoid a conflict of interest that cannot be waived would be to decline to represent a prospective client. But this decision would violate Rule 5.6(a)(2) because it would restrict the "lawyer's right to practice as part of the settlement of a client controversy." There is no ethical solution to resolve the conflicts of interest that confront law firms that settled with the Trump Administration.

Mr. Epshteyn's participation in inducing the settling firms to place themselves in a position where they are unable to exercise independent legal judgment, given the risk of financial and legal threats from the administration, makes it impossible for them to accord fully with Rule 1.7(a)(2). This ethical consequence for the settling law firms likely also results in a violation by Mr. Epshteyn of Rule 8.4(a).

2. Rule 5.4(c) -- Professional Independence of a Lawyer

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[42] N.Y. Rules of Prof. Conduct r. 1.7(a)(2) (N.Y. Comp. Codes R. & Regs. tit. 22, § 1200, 2025).

[43] *See* Memorandum from the Deputy Attorney General to All [DOJ] Component Heads re "Conflicts of Interest Between the Department of Justice and Private Counsel Engaged by the Government" (May 9, 2025) at 1 (announcing policy of not engaging "private counsel who contemporaneously are directly adverse to the United States"; citing ABA Model Rule of Pro. Conduct r. 1.7(b)(4) (A.B.A., 2025), https://www.justice.gov/dag/media/1399976/dl?inline).

Rule 5.4(c) provides in pertinent part that "a lawyer shall not permit a person who recommends, employs or pays the lawyer to render legal service for another to direct or regulate the lawyer's professional judgment in rendering such legal services . . . ." Comment [2] explains that "[t]his Rule . . . expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another." New York Ethics Opinions 957 states more precisely that, under Rule 5.4(c), "the lawyer must not permit the organization [recommending the lawyer to potential clients] to direct, regulate, or otherwise interfere with the lawyer's independent professional judgment in rendering legal services for [those] clients. . . ."[44]

Following the lead of Ohio, the District of Columbia's opinion on law firm agreements with governments takes the position that—

> this rule prohibits not only acceding to a third party's direction as to the services to be provided to a client, but also to taking third-party direction as to whether to accept or decline a particular prospective client: "[B]y agreeing in advance to provide a legal service to an unknown individual with unknown legal needs, a lawyer improperly places limitations on the exercise of his or her independent professional judgment as to whom he or she will accept as a client and what legal services will be provided." Thus, if an official of a government with which a lawyer has made an agreement of the type discussed here recommends the lawyer to a prospective client and then directs the lawyer to take on that client or specifies what services the lawyer may or may not provide to that client, the lawyer must examine whether following such direction would violate this rule.[45]

Given the substantial uncertainty regarding both the scope of the law firm agreements and the President's intentions and future conduct, it is almost inconceivable that a settling law firm will be (i) left free to determine which clients to take on (or not take on) and what services to provide (or not provide), and (ii) able to exercise their independent judgment without interference by Mr. Epshteyn. By coercing the firms to enter into the agreements, Mr. Epshteyn may have forced them to violate Rule 5.4(c), and in turn violate Rule 8.4(a) himself. Although we do not have evidence that Epshteyn has interfered with the professional judgment of settling law firms in providing legal services to clients he has "recommended," we urge the Grievance Committee to investigate this issue.

C. 8.4(d) – Conduct Prejudicial to the Administration of Justice

Rule 8.4(d) prohibits a lawyer or law firm from engaging in conduct that is prejudicial to the administration of justice. As Simon's Rules of Professional Conduct Annotated notes, Rule 8.4(d) "covers any kind of conduct that makes it more difficult for the justice system to work, or that undermines public confidence in lawyers or the justice system."[46] Mr. Epshteyn's

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[44] NYSBA Comm. Pro. Ethics, Formal Op. 957 (2013), https://nysba.org/ethics-opinion-957/#:~:text=Digest%3A%20A%20lawyer%20for%20a,with%20Judiciary%20Law%20%C2%A7%20495.

[45] D.C. Legal Ethics Comm., Formal Op. 391, *supra* note 34 (quoting Ohio Bd. Prof. Conduct Op. 2019-7 (Aug. 2, 2019), https://ohioadvop.org/wp-content/uploads/2019/12/Adv-Op-2019-07-Final.pdf).

[46] Simon's, New York Rules of Professional Conduct Annotated 2024, at § 8.4:34 (Thomson Reuters 2024).

participation in negotiating and administering the law firm settlements is the type of conduct the rule proscribes.

The law firm settlement agreements are intended to lead large law firms to forsake pro bono clients they have historically taken on and to curtail litigation and other activities for such clients. By limiting the demonstrated willingness of large firms to work in the public interest for clients of their choosing, Mr. Epshteyn's work has "result[ed] in substantial harm to the justice system" and is "seriously inconsistent with [his] responsibility as an officer of the court" and "harms the integrity of the law and the legal profession."[47]

More generally, the Campaign has singled out law firms because the Administration disapproves of some of their attorneys, cases or clients, and the entire legal profession has been put on notice that taking on cases or clients disfavored by the administration may result in severe retaliation. This fear erodes the independence of the bar and the protection of those seeking vindication of their Constitutional rights in court. It also undermines our adversarial system of justice itself, because courts cannot decide cases that lawyers do not bring. As recognized by Judge Howell in her opinion striking down the Perkins Coie EO:

> The Supreme Court, too, has recognized the importance of lawyers to the functioning of the American judicial system, since "[a]n informed, independent judiciary presumes an informed, independent bar." *Legal Servs. Corp. v. Velazquez*, 531 U.S. 533, 545 (2001). This is so because Congress may legislate, the President may implement, and courts may adjudicate, "but only the lawyers can prepare and submit the great issues of human justice under law in such manner and form that courts, in the ultimate, may be effective." *Williams v. Beto*, 354 F.2d 698, 706 (5th Cir. 1965). Absent their crucial independence, lawyers would "become nothing more than parrots of the views of whatever group wields governmental power at the moment." *Cohen v. Hurley*, 366 U.S. 117, 138 (1961) (Black, J., dissenting)."[48]

As explained above, the settlement agreements effectively enable the Administration to dictate what positions the settling firms might advocate in court. The Supreme Court has held that restrictions on the positions lawyers may take in court imposed by the legislative branch of government are "inconsistent with accepted separation-of-powers principles" and "threaten[] severe impairment of the judicial function."[49] The same is equally true of impositions by the executive branch. By negotiating these agreements on behalf of the President, Mr. Epshteyn has violated Rule 8.4(d).

III. Aggravating Factor: Pattern of Misconduct

Comment [2] to Rule 8.4 makes clear that "[a] pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligations."

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[47] N.Y. Rules of Prof. Conduct r. 8.4 cmt. 3 & 4(a) (N.Y. Comp. Codes R. & Regs. tit. 22, § 1200, 2025).
[48] *Perkins Coie LLP*, 783 F. Supp. 3d at 119-120.
[49] *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 546 (2001) (invalidating law prohibiting recipients of legal services funds from challenging welfare laws in court).

Consistently, the Appellate Division has sanctioned a lawyer for violating Rule 8.4(d) "by repeatedly making unfounded allegations of corruption by members of the judiciary."[50] Likewise, the ABA Standards for Imposing Lawyer Sanctions provide that "a pattern of misconduct" is an aggravating factor in imposing sanctions.[51]

Mr. Epshteyn is currently under indictment in Arizona, charged with nine felony counts for allegedly working to overturn the state's law 2020 presidential election results. The scheme, according to the indictment, called for fake electors to fraudulently vote for Trump, "falsely claiming to be the duly elected and qualified Electors for President and Vice President of the United States from the State of Arizona."[52] Kenneth Chesebro, who first devised the fake electors scheme, and who has since pled guilty to a similar charge in Georgia, described in contemporary emails how Epshteyn was "taking the lead" in overseeing the deployment of fake electors" in Arizona and other states.[53] Epshteyn texted Chesebro, passing along a request from Rudy Giuliani for Chesebro to develop sample elector ballots for each of the swing states that President Trump had lost.[54]

Mr. Epshteyn has also been investigated for soliciting improper payments of as much as $100,000 per month from potential Trump administration nominees, including now-Treasury Secretary Scott Bessent and Missouri Governor Eric Greitens, in exchange for lobbying for them to the president-elect.[55]

Finally, Mr. Epshteyn has twice pled guilty in Arizona to misdemeanors after being arrested for fighting and groping women in bars.[56]

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[50] *Matter of Manchanda*, 2024 NY Slip Op 05833 (App. Div. 1st Dep't Nov. 21, 2024) (lawyer sanctioned for violating Rule 8.4(d)(conduct that is prejudicial to the administration of justice) "by repeatedly making unfounded allegations of corruption by members of the judiciary" and Rule 8.4(h) (conduct that adversely reflects on the lawyer's fitness as a lawyer) by "repeatedly making racist, anti-Semitic, homophobic, and misogynistic statements about members of the judiciary and the bar in complaints to the AGC and other agencies.").

[51] *Standards for Imposing Lawyer Sanctions* §§ 3.0(d), 9.22, A.B.A. Joint Comm. on Prof. Discipline & Disability Proc. (1992), https://cdn.ca9.uscourts.gov/datastore/library/2013/02/26/Girardi_sanctions.pdf.

[52] Danny Hakim, Alan Feuer, & Maggie Haberman, *Trump's 'Wartime Consigliere' Now Faces Legal Peril of His Own*, The New York Times (June 18, 2024), https://www.nytimes.com/2024/06/18/us/boris-epshteyn-arizona-trump.html.

[53] *Id.*

[54] *Id.* If Mr. Epshteyn is convicted or changes his not guilty plea in Arizona, he should be disbarred, just as Mr. Chesebro was by New York for essentially identical conduct. Chesebro pled guilty to conspiracy to knowingly file a false document in a public record. *See Matter of Chesebro*, 2025 NY Slip Op 03855 (App. Div. 3d Dep't June 26, 2025), https://decisions.courts.state.ny.us/ad3/Decisions/2025/PM-143-25 Chesebro.pdf. Mr. Epshteyn has been charged with the same thing, which is a felony in Arizona. *See* Indictment, No. 93 SGJ 81, Count 1, at 4 (Ariz. State Grand Jury) (citing A.R.S. § 39-161), https://www.azag.gov/sites/default/files/2025-06/12079639-v1-TRUE_BILL_-_INDICTMENT_93_SGJ_81.pdf.

[55] *See* Luke Broadwater & Maggie Haberman, *Top Senate Democrats Want Epshteyn to Address Pay-to-Play Allegations*, The New York Times (Dec. 20, 2024), https://www.nytimes.com/2024/12/20/us/politics/boris-epshteyn-allegations.html; Nick Visser, *Top Trump Aide Asked For Payments From Those Hoping For White House Jobs: Reports*, Huffpost (Nov. 26, 2024), https://www.huffpost.com/entry/boris-epshteyn-donald-trump-transition_n_67455cbce4b03640703b0b9c; Sara Murray, Kristen Holmes, & Kate Sullivan, *Trump lawyers investigate allegations that top aide sought financial gain from influence with president-elect, sources say*, CNN (Nov. 25, 2024), https://www.cnn.com/2024/11/25/politics/trump-lawyers-investigate-allegations-boris-epshteyn-financial-gain.

[56] *See* Hakim et al., *supra* note 52.

While we are not seeking an investigation of Mr. Epshteyn's conduct unrelated to his role in the law firm settlements, we believe his prior conduct demonstrates a repeated disregard for the law and ethical standards of the legal profession. Therefore, we believe that the Committee should consider this conduct in determining what sanctions it might impose upon Mr. Epshteyn.

IV. Importance of this Investigation

This complaint is about law, not politics. As a review will make clear, its aim is to assure that a lawyer who represents the President of the United States abides by the Rules of Professional Conduct that all lawyers are obliged to follow. The long list of signatories to the complaint, many of whom are distinguished professors of legal ethics, vindicates that intent. Lawyers have every right to represent their clients zealously. But they cross ethical boundaries—which are equally boundaries of New York law—when they seek to restrict the rights of other lawyers to practice, induce lawyers to take on conflicting interests and give up their independent professional judgment, and limit the clients and positions that other lawyers can take up.

Because of the secretive nature of the Campaign, this complaint rests on an incomplete record. Publicly available information leaves open a number of questions. These include whether Mr. Epshteyn was involved in the drafting or issuance of the EOs, the full extent of his role in extracting the settlements from the law firms, the details of the negotiation and terms of the settlements, and the details of the performance by the firms and the Administration under the terms of the settlements. The Committee plainly has the investigative tools to address these and other questions in the course of an investigation into the apparent violations by Mr. Epshteyn of his ethical obligations as a member of the New York bar.[57]

V. Conclusion

For all the foregoing reasons, we urge the Committee to investigate the serious professional misconduct discussed here and to take appropriate action.

Respectfully submitted,

LAWYERS DEFENDING AMERICAN DEMOCRACY

By: /s/
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DEMOCRACY DEFENDERS FUND

By: /s/
Norman Eisen, Executive Chair
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[57] N.Y. Comp. Codes R. & Regs. Tit. 22 § 1240.7 (2025)

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