

United States Senate

WASHINGTON, DC 20510

July 28, 2023

Departmental Disciplinary Committee for
the First Department
Appellate Division of State Supreme Court
180 Maiden Lane
New York, NY 10038

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

Dear Departmental Disciplinary Committee for the First Department and Office of Disciplinary Counsel:

I write to you regarding the apparent unethical conduct of members of the New York State Bar and the District of Columbia Bar. As you know, the cornerstone of the legal profession is ethics. All legal professionals, lawyers and non-lawyers alike, are expected to maintain strict standards for the protection of colleagues, clients, and the court. The Rules of Professional Conduct guide lawyers in all aspects of their representation of clients and are integral to every facet of the practice of law. Courts, legislatures, and state bars all take part in governing the practice of law in each state. I am asking both the New York Departmental Disciplinary Committee for the First Department and the District of Columbia's Office of Disciplinary Counsel to take swift action to examine the actions of attorneys Christopher Clark and Jessica L. Bengels.

Christopher Clark is a partner and Co-Chair of the Washington, D.C. Corporate Department of Latham & Watkins LLP.¹ Jessica Bengels is the Managing Attorney of Litigation Services in the firm's New York office.² Mr. Clark is the lead attorney representing Hunter Biden in the federal government's case against the President's son. Biden has been accused of tax crimes and possession of a firearm by a person who is a known drug user.³

On July 25, 2023, in the United States District Court for the District of Delaware, Judge Maryellen Noreika threatened sanctions against Biden's attorneys.⁴ She explained that an employee at Latham & Watkins called the court clerk's office and falsely claimed to work for a law firm hired by House of Representatives Ways & Means Committee Chairman Jason Smith in the hopes of persuading the clerk to remove an amicus brief containing Biden's personal tax

¹ Christopher Clark, *Latham & Watkins LLP*, <https://www.lw.com/en/people/christopher-j-clark>.

² Jessica Bengels, *Latham & Watkins LLP*, <https://www.lw.com/en/people/jessica-bengels>.

³ Claudia Lauer, Randall Chase & Colleen Long, *Hunter Biden pleads not guilty to 2 tax crimes after agreement with prosecutors falls through*, PBS (July 26, 2023), <https://www.pbs.org/newshour/politics/hunter-biden-pleads-not-guilty-to-2-tax-crimes-after-agreement-with-prosecutors-falls-through>.

⁴ Josh Gerstein, *Judge says member of Hunter Biden's legal team 'misrepresented her identity' on eve of plea deal hearing*, POLITICO (July 25, 2023), <https://www.politico.com/news/2023/07/25/hunter-biden-judge-plea-deal-phone-call-00108184>.

information.⁵ The brief, submitted by Chairman Smith, complains that Biden’s plea deal on gun and tax charges is too lenient and alleges that federal prosecutors’ investigation of Biden was tainted by political interference.⁶ After the brief was filed, the clerk’s office informed Judge Noreika that Jessica Bengels called the clerk and falsely claimed to work on behalf of Congressman Smith’s attorney. According to Judge Noreika’s order, Ms. Bengels asked that the brief be removed from the public docket due to its sensitive information.

The Rules of Professional Conduct for the New York State Bar and District of Columbia Bar are modeled after the American Bar Association’s (ABA) rules. According to the following three rules, the conduct in question warrants an investigation:

- Rule 8.4 states “a lawyer or law firm shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”⁷
- Rule 7.1 states “a lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services,” and “communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.”⁸
- Rule 5.3 requires lawyers who manage a law firm or directly supervise non-lawyers to make reasonable efforts to ensure that non-lawyers employed or retained by the lawyer or firm conduct themselves in a manner consistent with lawyers’ professional conduct rules. This rule also requires partners, managers and direct supervisors to take prompt corrective action when they learn of misconduct by a non-lawyer assistant.⁹

While the exact details of this matter are uncertain, it appears an ethical line was crossed. Regardless of whether or not it was Ms. Bengels or another staff member at Latham & Watkins who called the clerk, the circumstances surrounding the incident demand an investigation. Furthermore, it was the responsibility of Biden’s lead lawyer, Christopher Clark, to ensure his team conducted themselves in a manner consistent with the Rules of Professional Conduct.

It is the responsibility of courts, legislatures, and state bars to ensure that members of the profession adhere to the Rules of Professional Conduct. Therefore, I ask both the New York Departmental Disciplinary Committee for the First Department and the District of Columbia’s Office of Disciplinary Counsel to open investigations into the conduct of both Christopher Clark and Jessica Bengels.

Thank you for your attention to this serious matter.

Sincerely,



A handwritten signature in black ink, appearing to read "Peter Richetto". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

⁵ *Id.*

⁶ *Id.*

⁷ MODEL RULES OF PROF’L CONDUCT r. 8.4 (AM. BAR ASS’N 1983).

⁸ MODEL RULES OF PROF’L CONDUCT r. 7.1 (AM. BAR ASS’N 1983).

⁹ MODEL RULES OF PROF’L CONDUCT r. 5.3 (AM. BAR ASS’N 1983).

Pete Ricketts
U.S. Senator (NE)