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October 17, 2017

Mr. Jorge Dopico, Chief Attorney
Departmental Disciplinary Committee
First Judicial Department
Supreme Court, Appellate Division
61 Broadway, 2nd Floor
New York, New York 10006

Via facsimile
(212) 287-1045

Re: James Brien Comey, Jr. (Registration No. 2074615)

Mr. Dopico:

I wish to file a grievance against former FBI Director James Brien Comey, Jr. for giving false testimony to Congress. I also request that you reopen the investigation that is referenced in your January 5, 2017 letter to me (attached). Your letter indicates that the investigation has been postponed.

On September 28, 2017, Mr. Comey testified that he had not predetermined the outcome of the FBI's investigation into Hillary Clinton's secret email server, and specifically that the outcome was not determined until after she was interviewed by the FBI. *See* Transcript of September 28, 2016 Hearing before the House Judiciary Committee, https://judiciary.house.gov/wp-content/uploads/2016/09/114-91_22125.pdf. In an August 31, 2017 letter from U.S. Senator Charles Grassley to current FBI Director Christopher Wray, however, Senator Grassley noted that Mr. Comey's testimony was contradicted by the testimony of two other FBI officials. *See* <https://www.grassley.senate.gov/news/news-releases/transcripts-comey-drafted-conclusion-clinton-probe-prior-interviewing-key>.

Those officials testified that months before Mrs. Clinton was interviewed by the FBI, Mr. Comey had begun circulating a draft statement exonerating her. *Id.* Two days ago, the FBI released a document that corroborated their testimony. *See* <https://vault.fbi.gov/drafts-of-director-comeys-july-5-2016-statement-regarding-email-server-investigation/Drafts%20of%20Director%20Comeys%20July%202016%20Statement%20Regarding%20Email%20Server%20Investigation%20Part%20001%20of%20001/view>. Insofar as Mr. Comey gave materially false testimony to Congress, it appears that he violated Rules 1.0(w), 3.3(a)(1), and 8.4 of the New York Rules of Professional Conduct.

With respect to my earlier grievance against Mr. Comey, I would note Senator Grassley's statements in his August 31, 2017 letter regarding the destruction of laptops belonging to Cheryl Mills and Heather Samuelson. As you know, my earlier grievance was premised in part on Mr. Comey's role in destroying evidence that was sought by Congress and by private litigants. Even if Mr. Comey had the right to destroy evidence for purposes of the federal criminal investigation, he had no right to destroy evidence that was the subject of subpoenas or discovery requests from other parties.

On March 7, 2017, I filed a Freedom of Information Act request for records related to the destruction of the laptops, and I was informed by the Department of Justice two weeks ago that I should receive responsive documents by early November. I will forward copies of those documents to you as soon as I obtain them. Meanwhile, I am not aware of any ongoing criminal or disciplinary investigation into Mr. Comey's conduct, therefore I see no reason why the investigation should be further postponed. I would also note that a Maryland court recently ordered the Attorney Grievance Commission of Maryland to investigate Ms. Mills, Ms. Samuelson, and David Kendall for their role in destroying evidence related to the Clinton email investigation. *See* Debra Cassens Weiss, "Maryland judge orders ethics investigation of Hillary Clinton lawyers over deleted emails," *American Bar Association Journal*, September 12, 2017, http://www.abajournal.com/news/article/maryland_judge_orders_ethics_investigation_of_hillary_clinton_lawyers_over/, citing Stephen Dinan, "Judge orders Maryland bar to investigate lawyers who helped Clinton delete emails," *The Washington Times*, September 11, 2017, <http://www.washingtontimes.com/news/2017/sep/11/judge-order-clinton-lawyers-face-bar-investigation/> and Chase Cook, "Anne Arundel judge orders investigation into three of Hillary Clinton's attorneys," *Baltimore Sun*, September 11, 2017, <http://www.baltimoresun.com/news/maryland/anne-arundel/ac-cn-clinton-emails-20170912-story.html>.

In addition to the investigation of Mr. Comey, I wish to renew my grievances against former U.S. Attorney General Loretta E. Lynch (Registration No. 2069516) and private attorney Beth Ann Wilkinson (Registration No. 2181592). In my earlier grievances, I explained that they too should be held responsible to the extent that they were involved in efforts to destroy evidence sought by Congress and private litigants. Since that time, Mr. Comey has testified that he felt pressure from Ms. Lynch to downplay the significance of the Clinton email investigation. *See, e.g.*, Anne Gearan, "Comey describes being 'queasy' when attorney general made Clinton request," *Washington Post*, June 8, 2017, https://www.washingtonpost.com/world/national-security/comey-describes-being-queasy-when-attorney-general-made-clinton-request/2017/06/08/fa9984bc-4c77-11e7-9669-250d0b15f83b_story.html?utm_term=.3cc6f8b19a79. Given her level of involvement, it appears highly likely that Ms. Lynch participated in the decision to destroy the laptops belonging to Ms. Mills and Ms. Samuelson.

At the very least, Ms. Lynch should be asked to respond to my grievance and explain her role, if any, in the destruction of the laptops. As mentioned above, I expect to provide more evidence in early November as soon as I receive records from the Department of Justice.

Finally, I would remind this Committee of its role in the disbarment of former President Richard M. Nixon. Mr. Comey and Ms. Lynch might well argue that they were not acting in their capacities as attorneys when they ordered the destruction of email evidence, but that is no excuse:

We note that while Mr. Nixon was holding public office he was not acting in his capacity as an attorney. However, the power of the Court to discipline an attorney extends to misconduct other than professional malfeasance when such conduct reflects adversely upon the legal profession and is not in accordance with the high standards imposed upon members of the Bar (*Matter of Dolphin*, 240 N.Y. 89, 92—93, 147 N.E. 538, 539; *Matter of Kaufman*, 29 A.D.2d 298, 287 N.Y.S.2d 437). We find that the evidence adduced in the case at bar warrants the imposition of the most severe sanction available to the Court and, accordingly, we direct that respondent should be disbarred.

Matter of Nixon, 53 A.D.2d 178, 181-182, 385 N.Y.S.2d 305 (1976). If anything, attorneys in high public office should be held to a higher standard of conduct, not a lower one. For that reason, I ask that you investigate Mr. Comey and Ms. Lynch (as well as Ms. Wilkinson) and direct them to respond in writing to my grievances.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger