DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of	:	
JENNIFER KERKHOFF MUYSKENS,	:	Disciplinary Docket Nos. 2018-D218
Respondent,	:	2018-D262
	:	2018-D300
A Member of the Bar of the District of Columbia Court of Appeals Bar Registration No. 475353	:	

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based on conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar Rule X and Rule XI, § 2(b).

1. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because Respondent, Jennifer Kerkhoff Muyskens, is a member of the D.C. Bar, having been admitted on December 3, 2001, and assigned Bar number 475353.

2. During the relevant period, Respondent was an Assistant United States Attorney ("AUSA") for the District of Columbia.

3. Respondent was the lead prosecutor in over 200 related criminal cases against defendants charged with felony rioting, conspiracy to riot, and destruction of property during the inauguration of President Donald J. Trump, on January 20, 2017.

I. BACKGROUND ON THE CRIMINAL CASES

A. DISRUPTJ20 AND PROJECT VERITAS

4. A group referring to itself as "DisruptJ20" organized more than a dozen unpermitted, civil-disobedience protests during the week of President Trump's inauguration. Most protests involved blocking pedestrian and vehicular traffic at the January 20, 2017 inauguration. Before the inauguration, DisruptJ20 held public meetings about its protests, which were widely publicized online.

5. An organization called Project Veritas infiltrated and secretly recorded DisruptJ20's pre-inauguration meetings and generated editorialized content, claiming that DisruptJ20 was a radical, progressive group that was secretly planning to commit violence. Other online groups claimed that Project Veritas was a radical conservative group that was attempting to present DisruptJ20 in a false light and secretly planning to incite violence to frame DisruptJ20.

B. THE ANTI-CAPITALIST/ANTI-FASCIST BLOC MARCH AND ARRESTS

6. One of DisruptJ20's protests was the Anti-Capitalist/Anti-Fascist Bloc march, on January 20, 2017. That morning, hundreds of individuals, dressed mostly in black, gathered at Logan Circle around 10:00 a.m. and marched with the group. Some individuals engaged in violent and destructive behavior, including smashing building windows, destroying a limousine, over-turning city trash cans, and throwing objects at police officers. The government later alleged there was over $100,000 in property damage.

7. Metropolitan Police Department ("MPD") officers used "police lines" and non-lethal ammunition, such as "pepper spray" and "sting-ball grenades" to "corral" and arrest everyone in the group. Many participants fled the scene. Officers arrested the participants they were able to detain, which was around 230 people. The propriety of MPD's actions, including whether there was probable cause to detain and arrest the participants as a group was an issue in the later criminal trials.

C. THE GOVERNMENT CHARGES A CONSPIRACY

8. On January 20, 2017, Respondent was the chief of the Violent and Repeat Offenders Unit for the United States Attorney's Superior Court Division, and she worked on processing the approximately 230 people who were arrested. Respondent and the government decided to charge all the arrested participants—even individuals who were non-violent—on the theory that everyone took part in a conspiracy to use a "black-bloc tactic" by using all-black clothing, face coverings, and coordinated group tactics, to frustrate law enforcement and help the rioters.

9. Respondent was assigned as the lead prosecutor. MPD Detective Greggory Pemberton was permanently assigned to the case. Respondent and Pemberton were primarily responsible for the government's investigation.

10. Although Respondent supervised other government attorneys who assisted in the litigation, she was the only attorney who remained assigned to the prosecution through the indictment, discovery, and trial.

II. THE CREATION OF THE "*PLANNING MEETING VIDEO*"

A. PROJECT VERITAS PRODUCES VIDEOS OF DISRUPTJ20 MEETINGS TO MPD

11. Before any grand jury proceedings began, Respondent and Pemberton knew about Project Veritas's recordings of DisruptJ20 meetings. They also understood Project Veritas had a reputation for editing videos in a misleading way.

12. Project Veritas produced to MPD a hard drive of some of its recordings. The recordings were made by "operatives," who attended DisruptJ20 meetings posing as interested protesters or supporters. The operatives wore hidden cameras ("button cameras") to secretly record the meetings.

13. Although Respondent and Pemberton knew that Project Veritas had omitted and edited some of its videos before producing them, they did not request or obtain Project Veritas's missing videos or unedited footage.

B. THE FIRST GRAND JURY [redacted]

14. Respondent presented evidence to two Grand Juries, one convened in January 2017, which sat for three months, and another that convened in April 2017. The second grand jury returned the final, superseding indictment.

15. In January 2017, [redacted].

16. Respondent [redacted] if the government presented any evidence from Project Veritas.

C. RESPONDENT AND PEMBERTON EDIT PROJECT VERITAS'S VIDEOS OF DISRUPTJ20'S JANUARY 8 MEETING TO CREATE THE "*PLANNING MEETING VIDEO*"

17. One meeting that Project Veritas recorded was DisruptJ20's January 8, 2017 "Spokes Council" meeting. Spokes Council meetings were large, public meetings about DisruptJ20's dozen or more planned civil-disobedience protests, called "Actions," which included the anti-capitalist march. (Each Action was described as a "spoke" on a wheel.) Representatives would present on the planned Actions, divide into small "breakout" discussion groups, and reconvene for a public "council" meeting where representatives would determine the plan for the Actions.

18. In early 2017, while reviewing the Project Veritas videos, Det. Pemberton recognized undercover MPD officer, Bryan Adelmeyer, on the videos of the January 8 Spokes Council meeting. He and Respondent met with Adelmeyer, who said the videos appeared to accurately record the meeting.

19. Respondent planned to use Adelmeyer to authenticate footage of the January 8 meeting without disclosing that the footage came from Project Veritas.

20. In March 2017, Respondent and Pemberton edited the original January 8 videos by omitting video segments and cutting footage.

21. Project Veritas produced its January 8 video recordings in a sub-folder labeled "*1.8.17 Anti-Trump Protests Mass Meeting*." There were seven consecutive "*.mov*" files organized chronologically by timestamp with over two hours of roughly continuous footage:

(i) *FNQI0873_20130511**191053**.mov*,
(ii) *FNQI0873_20130511**192859**.mov*,
(iii) *FNQI0873_20130511**194703**.mov*,
(iv) *FNQI0873_20130511**201302**.mov*,
(v) *FNQI0873_20130511**203106**.mov*,
(vi) *FNQI0873_20130511**204911**.mov*, and
(vii) *FNQI0873_20130511**210716**.mov.*

(Emphasis on timestamps added).

22. Respondent and Pemberton omitted the first three segments entirely (*-191053*, *192859*, and *-194703*). Then, they created a new folder, labeled "*Planning Meeting Videos*," which contained only the last four video files, which they converted to an "*.mp4*" video format and renamed:

(iv) (*-201302*) became *Planning Meeting Video 1.mp4*;
(v) (*-203106*) became *Planning Meeting Video 2.mp4*;
(vi) (*-204911*) became *Planning Meeting Video 3.mp4*; *and*
(vii) (*-210716*) became *Planning Meeting Video 4.mp4*.

23. The three omitted video segments (*-191053*, *-192859*, and *-194703*), about 50 minutes total, showed general planning about DisruptJ20's various protests, including the anti-capitalist march. The last of the three omitted segments (*-194703*)

ended with the Project Veritas operative resetting his hidden camera in the bathroom.

24. The first included video segment, *Planning Meeting Video 1* (original file ending in -*201302*) picked up where the last segment left off. It showed the operative reset his hidden camera in the bathroom and walk through various "breakouts" for the DisruptJ20 protests to join the anti-capitalist march "breakout." Respondent and Pemberton cut the footage of the operative resetting his camera and walking through the breakouts, so the disclosed version of *Planning Meeting Video 1* began by showing the anti-capitalist breakout session.

25. The next two videos segments, *Planning Meeting Videos 2-3* (original files ending in -*203106* & -*204911*) continued showing the anti-capitalist breakout. Then, during the third segment, the video showed the operative move to another room away from the Spokes Council meeting to interview a DisruptJ20 organizer. The operative asked for permission to record, and he conducted an interview. Respondent and Pemberton did not cut any footage from these video segments. The only edit was to "crop" Officer Adelmeyer's face without otherwise cutting any footage or audio.

26. The fourth included video segment, *Planning Meeting Video 4* (original file ending in -*210716*) showed the Project Veritas operative finish his first interview and interview another organizer about the January 20 protests. Then, the last several

minutes showed the operative zip his coat over his hidden camera (obscuring the video but not the audio), leave the meeting location, and call someone at Project Veritas about the meeting. The operative reported, "I don't think they know anything about the upper echelon stuff." Then, in response to an inaudible statement, he said: "Oh shit, yeah, I heard. So, they were saying how they sent someone out to this building. Ugh, is anyone else in there?" Respondent and Pemberton cut the footage of the operative leaving and reporting back to Project Veritas. So, the disclosed version of *Planning Meeting Video 4* omitted the operative's phone call.

27. Respondent and Pemberton omitted and cut footage from the original videos, in part, to remove footage of the operative that could reveal his identity or reveal the identity of Project Veritas as the source of the video.

28. In March 2017, Respondent and Pemberton disclosed the *Planning Meeting Video* to the defense by uploading the four edited video segments to a discovery portal. They did not disclose Project Veritas was the source of the video or that the government had edited the original videos to omit footage of the January 8 meeting and cut footage of the Project Veritas operative who filmed it.

D. RESPONDENT [redacted] THE SECOND GRAND JURY

29. The government presented evidence to the second grand jury to support a superseding indictment [redacted]

30. [redacted].

31. Respondent understood that Project Veritas's identity as the source of the video tended to undermine the credibility and reliability of the government's *Planning Meeting Video*. [redacted].

32. Two days later, the second grand jury returned a superseding indictment that charged over 200 defendants, including Petrohilos, with D.C. Code violations: COUNT I, Inciting or Urging a Riot, under § 22-1322(d); COUNT II, Rioting, under §22-1322(b); COUNT III, Conspiracy to Riot, under § 22-1805a; and COUNTS IV – VIII, five counts of Malicious Destruction of Property, under §22-303.

III. THE SIGNIFICANCE OF THE UNDISCLOSED VIDEOS

A. PROJECT VERITAS'S COMPLETE, ORIGINAL RECORDINGS

33. Project Veritas organized the recordings it produced to the government in folders by the first name of the recording operative and the date of the meeting. Based on how its hidden cameras recorded in "segments," meetings were recorded over multiple video segments. DisruptJ20's January 8 Spokes Council meeting, for

example, was captured in seven segments. *See* ¶ 21. Project Veritas gave the government over 70 video segments, which captured the following DisruptJ20 planning meetings:

- Dec. 16-19, 2016 *(Recorded by "Marisa")*.
  Party for Socialism and Liberation meetings in New York.
- Dec. 29, 2016 *(Recorded by "Eric")*.
  Deploraball protest meeting.
- **Jan. 8, 2017 *(Recorded by "Matt").***
  D.C. Spokes Council meeting for Inauguration protests.
- Jan. 14, 2017 *(Unlisted Operative)*.
  Meeting and conversation with Aaron Cantu in New York.
- Jan. 14, 2017 *(Recorded by "Gio")*.
  D.C. Action Camp meetings at American University for Inauguration protests.
- Jan. 14, 2017 *(Recorded by "Luke")*.
  D.C. Action Camp meetings at American University for Inauguration protests.
- Jan. 15, 2017 *(Recorded by "Gio")*.
  D.C. Action Camp meetings at American University for Inauguration protests.
- Jan. 15, 2017 *(Recorded by "Luke")*.
  D.C. Action Camp meetings at American University for Inauguration protests.
- Jan. 17, 2017 (Recorded by "Gio").
  D.C. Spokes Council meeting for Inauguration protests.

(Bold emphasis added on the videos used to make the *Planning Meeting Video*.)

34. Most of the recordings captured "Spokes Council" and "Action Camp" meetings, which Respondent knew were planning meetings related to DisruptJ20's various Inauguration protests, including the anti-capitalist march. There were also

edited audio clips, including edited audio clips from operative "Eric's" recordings of the January 8 meeting. But Respondent and Pemberton did not request the complete recordings.

35. Respondent disclosed none of the January 8-17 Spokes Council and Action Camp recordings to the defense, except the edited *Planning Meeting Video*.

B. THE GOVERNMENT'S USE OF THE EDITED "*PLANNING MEETING VIDEO*"

36. Respondent knew that most defendants did not commit violent acts themselves. She argued that these defendants were still liable for felony rioting and felony property destruction because they joined a criminal conspiracy to use the protest march to further the violence and destruction that occurred.

37. The edited *Planning Meeting Video* was central to the government's alleged conspiracy and aiding-and-abetting theories of liability. It was the only video of planning that Respondent relied on at trial. Along with Adelmeyer's testimony that he overheard planning for property destruction at DisruptJ20's planning meetings, the video was the government's primary evidence that there was a conspiracy to riot using black bloc tactics at the anti-capitalist march.

38. Even for non-violent defendants who did not attend the meeting, the government argued in opening and closing statements that the *Planning Meeting Video* showed that the rioting was "planned," that the march was "not a protest," and that each defendant "got the memo." The government argued that the video was

circumstantial proof of each defendant's criminal intent based on how they acted "consistent" with black-bloc planning on the video: wearing black; bringing face coverings, goggles, and medical supplies; and staying with the group despite apparent property destruction. As the court said to Respondent before the first trial, "The whole point of this case is you're relying on planning, and you're relying on intentions when people came."

C. THE COMPLETE AND UNEDITED JANUARY 8 MEETING VIDEOS

39. The three video segments that Respondent and Pemberton omitted from the *Planning Meeting Video*—approximately the first 50 minutes of the January 8 Spokes Council meeting—provided exculpatory context supporting the defense's theories. For example, the footage at the beginning of the meeting supported that DisruptJ20 advertised and broadcast the anti-capitalist march as simply one of many non-violent, unpermitted protest "Actions" planned for January 20, which supported defendants' claim that their intent—consistent with the planning—was merely to protest, independent of the "small minority" of individuals who engaged in destructive acts. The omitted footage also showed that the "breakouts" were preliminary, open discussions. Any consensus or plan would have been determined by representatives at the "Spokes Council" after the depicted "breakout" session. However, the consensus part of the meeting was not shown in the Government's

Planning Meeting Video because the Project Veritas operative left early to interview two organizers in a separate part of the church.

40. The footage that Respondent and Pemberton cut—the Project Veritas operative's undercover activity at the beginning and end of the *Planning Meeting Video* segments—revealed that the video was filmed as part of Project Veritas's infiltration of DisruptJ20, which tended to undermine the credibility and reliability of the government's evidence. In addition, the operative's post-meeting report indicated that some DisruptJ20 protest organizers did not know anything about plans or decisions that were being made by an "upper echelon." This lack of knowledge supported the non-violent defendants' theory that, assuming a plan to riot existed at all, only a small group was involved, which they knew nothing about. Alternatively, if the operative was discussing protest organizers being unaware of *Project Veritas's* "upper echelon" plans, the statements supported [redacted] claims that Project Veritas conspired to frame DisruptJ20 defendants for third-party violence, including by possibly inciting violence themselves. Both judges who later considered the issue—Superior Court Judges Morin and Knowles—found that the complete, unedited footage was exculpatory.

D. THE UNDISCLOSED ACTION CAMP AND SPOKES COUNCIL VIDEOS

41. The videos of January 14-17, 2017 "Action Camp" and "Spokes Council" planning meetings contained exculpatory information. Action Camp was a

multi-day series of public classes, training sessions, orientation, and Spokes Council meetings the week before the Inauguration for all protesters participating in any DisruptJ20 "Action," including the anti-capitalist march. Many of the Action Camp meetings occurred at American University on January 14-15. The undisclosed videos consistently showed that protesters were trained and instructed to expect a non-violent protest; to remain non-violent; to use non-violence and de-escalation techniques with police and counter-protesters; to be wary of counter-protester infiltrators, including Project Veritas; to rely on MPD to handle any violence from either protesters or counter-protesters; to stay close with their protest group for safety and security; and to comply with police instructions and "police lines."

42. In sum, the undisclosed videos supported the defense's counter-theory that non-violent defendants did *not* "get the memo" for a riot; rather, they expected and planned to participate in a non-violent protest march and acted consistent with the non-violent protest training and instruction that DisruptJ20 provided. As the court later explained, the government "was prosecuting defendants based on a theory of collective responsibility" for the rioting. So, "the collective actions of persons who were engaging in relevant Inauguration planning activities, including evidence that persons were planning non-violent activities" would "in some cases, be exculpatory" as to the defendant's intent and would "be important to a jury's decision whether a defendant was engaging in unlawful behavior or merely present

at the protests exercising his or her First Amendment rights when other persons at the protest were engaging in independent criminal activity."

IV. RESPONDENT'S SUPPRESSION OF INFORMATION ABOUT PROJECT VERITAS AND THE *PLANNING MEETING VIDEO*

A. RESPONDENT'S SUPPRESSION OF INFORMATION IN DISCOVERY

43. Due to the number of cases, defendants were divided into trial groups of around six defendants per group. The first trial was scheduled for November 2017. The first trial group consisted of six non-violent defendants who were charged under the government's conspiracy and aiding-and-abetting theories.

44. In Fall 2017, Respondent oversaw and was responsible for the government's discovery disclosures. The *Planning Meeting Video* was the only "planning" video she designated as an exhibit.

45. Other than the *Planning Meeting Video*, Respondent disclosed only two other Project Veritas recordings: (i) a single, edited video of the December 29, 2016 meeting about the "Deploraball" protest; and (ii) a single, edited video of the January 14, 2017 planning meeting and discussion in New York involving Aaron Cantu. Defense counsel sought discovery about the disclosed videos—the *Planning Meeting Video*, the *Deploraball* video, and the *Cantu* video—including who filmed them, how the government obtained them, and whether the government made any edits or was aware of any third-party editing. The defense also requested that the

government produce the original files as received by the government from whatever party provided the videos to the government.

46. Other than saying that the videos were given to the government by a third party, Respondent refused to disclose how the government obtained the videos, saying "I decline to provide you any information about who recorded the meetings or the circumstances under which they were recorded."

47. Respondent also refused to produce the original files. Instead, she falsely said that the government had made only two edits, which were both to redact the identity of the videographer and an undercover officer (Adelmeyer), and that, other than the two redactions, the defense had the same videos as the government.

48. Based on the defense's own investigation, defense counsel for the first trial group filed a pre-trial motion to exclude the *Planning Meeting Video*, the *Deploraball* video, and the *Cantu* video because they "believe[d] the videos were recorded by the ultra-conservative media outlet, Project Veritas." The defense noted that the *Planning Meeting Video* appeared "to cut in part way through the gathering" and may have been "edited in a potentially misleading and distortive manner by a biased third party."

49. Respondent knew but did not disclose how she and Pemberton had edited the original January 8 videos to create the *Planning Meeting Video*, including by omitting the first part of the meeting.

50. Respondent knew but did not disclose that other videos, including the *Deploraball* and *Cantu* videos, had been edited by Project Veritas and/or by her and Pemberton.

51. Respondent knew but did not disclose that Project Veritas had selectively produced footage of DisruptJ20's planning meetings and withheld footage from its production to the government.

52. Respondent knew but did not disclose that she had withheld from discovery additional videos of DisruptJ20 planning meetings, including the complete January 8 meeting videos and recordings of the January 14-17 Action Camp and Spokes Council meetings.

53. The court did not rule on the defense's authenticity and reliability objections to the *Planning Meeting Video* before trial.

B. RESPONDENT'S MISREPRESENTATIONS AND OMISSIONS AT THE FIRST TRIAL

54. For trial, Respondent and Pemberton combined the portions of the three *Planning Meeting Video* segments that captured the anti-capitalist "breakout" into a single video exhibit to be played at trial.

55. At the first trial in November 2017, before Judge Leibovitz, Respondent sought to introduce and play the *Planning Meeting Video* exhibit during Undercover Officer Adelmeyer's testimony. Defense counsel objected on authenticity and reliability grounds. As defense counsel started to explain their belief that the video was filmed by Project Veritas (and was therefore biased and unreliable), Respondent interrupted:

> Defense Counsel: The Government hasn't identified who [provided the video]. We believe it was provided by --
>
> Respondent: Objection. Who provided it is irrelevant.

56. After further inquiries, the court asked Respondent why she had not yet disclosed the source of the video if it came from a biased organization. Respondent disclosed, for the first time, that the videos came from Project Veritas. The court asked Respondent if she had "somebody in house who reviewed the tape that was given" to confirm that the video was not "redacted, altered, or otherwise messed with" or if she relied on MPD. Respondent assured the court that although no technical analysis was done, both she and Pemberton had reviewed everything and confirmed it "was provided in what appears to be complete, unredacted form."

57. Respondent falsely told the court that she had provided defense counsel with "the full entirety of those videos from that day."

58. Adelmeyer testified that based on his presence at the January 8 meeting, the *Planning Meeting Video* exhibit appeared to be fair and accurate, and the court

permitted defense counsel to cross-examine him about Project Veritas's bias and reputation for editing video to distort what really happened.

59. Respondent called Pemberton in rebuttal and elicited his testimony to "verify the authenticity as well as the accuracy and non-editing" of the *Planning Meeting Video* and confirm that the defendants "have exactly what we have." Pemberton testified falsely that Project Veritas had produced only the four disclosed video segments of the *Planning Meeting Video*, and the only editing the government did was to combine the first three video segments into one exhibit to be played at trial. Respondent and Pemberton did not disclose how they had edited the original videos they received from Project Veritas, nor did they disclose that they had omitted from discovery many other videos Project Veritas videos of DisruptJ20's planning meetings.

60. Respondent did not correct her false statements or Pemberton's false testimony after the first trial.

C. RESPONDENT'S SUPPRESSION OF INFORMATION AFTER THE FIRST TRIAL

61. All six defendants in the first trial were acquitted. In January 2018, the government voluntarily dismissed more than one hundred cases. It proceeded against 59 defendants, who allegedly committed violent or destructive acts, were involved with planning, or knowingly used "black bloc" tactics.

62. Remaining defense counsel made renewed discovery requests about the *Planning Meeting Video*, the *Deploraball* video, and the *Cantu* video. They emphasized that the "beginning of the January 8 meeting had been omitted," and they needed the complete, original video files as received by the government so that they could technically analyze what edits had been made.

63. Respondent still did not produce the original video files or disclose how she and Pemberton had omitted and edited Project Veritas's original videos to create the *Planning Meeting Video*.

64. Respondent understood that disclosing Pemberton's and her editing of the original videos could hurt the prosecution and help the defense, including if it were used to impeach Pemberton or attack the authenticity and reliability of the government's evidence and investigation.

65. In March 2018, defense counsel moved to exclude the *Planning Meeting Video*, the *Deploraball* video, and the *Cantu* video from evidence and to compel the government to provide information about what Project Veritas produced to the government and what the government produced to the defense. They also asked the court to compel the government to produce the original files the government received from Project Veritas. The defense noted that additional evidence led them to believe that there were undisclosed edits, including the

omission of the beginning of the January 8 meeting. Respondent did not file a written response before the motions were heard at a trial readiness hearing.

D. RESPONDENT'S MISREPRESENTATIONS AND OMISSIONS TO JUDGE MORIN

66. On April 6, 2018, Judge Morin heard arguments on the defendants' pre-trial motions, including the motion to compel discovery about the Project Veritas videos and any edits the government or Project Veritas may have made.

67. The court asked for "the government's position on what they have and what's available to them." Respondent said that after Pemberton requested unedited videos from Project Veritas, "They provided unedited video. We posted the video." Respondent's statements were false and misleading.

68. Respondent falsely said that other than redacting the identities of the Project Veritas operative and Adelmeyer, "the defense has the exact video we have."

69. The court asked Respondent whether the government had "any other presentation of that meeting." Respondent falsely said that she did not and that the defendants could "ask Project Veritas for the original" because "We don't have it. We have this, it's how we received it."

70. The court later found that Respondent "left a clear impression" that she had disclosed everything that Project Veritas had produced.

71. Because Respondent had falsely suggested that the only video footage that had been withheld was the two identity redactions, the court ordered Respondent to produce the "two cropped portions" that showed the witnesses' identities.

72. The court also added: "And again — let me just put a formal order here and it's not to suggest — I doubt the government's representations. It's — you are officers of the Court, but I am ordering you, the entirety of whatever is in the government's possession to be turned over to the defense."

73. In response to the court's orders, Respondent created two new subfolders on the discovery portal: (1) a "*Planning Meeting Videos – unedited*" folder with the four original video segments used to create the *Planning Meeting Video*, and (2) a "*Pre-Planning Meeting Videos – unedited*" folder with the three original January 8 video segments that she had been withholding.

74. On April 12, 2018, Respondent emailed defense counsel that she had uploaded (1) "unedited" versions of the "same 4 videos originally posted," and (2) "three videos that capture conversations occurring before the planning meeting."

75. Respondent did not disclose that Project Veritas had initially produced seven consecutive video segments of the January 8 meeting. She also did not disclose how she and Pemberton had intentionally edited the original videos to omit the newly disclosed footage. Nor did she correct her false representations to the court

that the government did not have original files and that the *Planning Meeting Video* segments were "exactly" what the government received from Project Veritas.

76. In addition, although the court ordered her to produce "the entirety of whatever is in the government's possession" and to disclose, as *Brady* information, any statements at DisruptJ20 planning meetings about "non-confrontation, nonviolence," Respondent still did not disclose that she was withholding additional videos of DisruptJ20's January 2017 planning meetings for the Inauguration protests, which showed training on non-violence and de-escalation.

E. RESPONDENT PRESENTS THE *PLANNING MEETING VIDEO* AT THE SECOND TRIAL

77. The second trial involved four defendants and was scheduled to begin May 14, 2018, before Judge Knowles. One defendant was non-violent. The government alleged the other three defendants committed at least some violence or property destruction. The third and fourth trial groups were set to begin May 29, and June 4. Judge Morin handled pre-trial hearings for the second, third, and fourth trial groups. Additional defendants were scheduled for trials later in 2018.

78. On May 21, Respondent introduced the *Planning Meeting Video* at the second trial before Judge Knowles. Defense counsel objected to the video's authenticity and reliability. Relying on Respondent's earlier false and misleading representations, the defense argued incorrectly that Project Veritas had removed the footage before the anti-capitalist breakout, and the government did not have an

original video. *See, e.g.*, ¶¶ 68-69 (Respondent: "the defense has the exact video we have;" "We don't have [an original]. We have this.").

79. Respondent did not correct defense counsel's misunderstanding. She told the court that the government had "provided the clips as we have them," and "the only editing" by the government "was to combine the three clips" of the anti-capitalist "breakout" into a single video exhibit for trial. Her statements to the court were false and misleading.

F. THE COURT'S FIRST *BRADY* FINDINGS (JANUARY 8 VIDEOS)

80. Based on its own analysis of the discovery ordered by Judge Morin, the defense realized that the government—not Project Veritas—had omitted footage of the January 8 meeting. Defendants moved for sanctions, arguing that the footage the government omitted and cut contained material, exculpatory information.

81. On May 23, 2018, during the second trial, Judge Morin held a pre-trial hearing for the third and fourth trial groups. He found the undisclosed footage from the January 8 meeting was exculpatory, and the government had violated its *Brady* and Rule 16 obligations by not clearly disclosing it to the defense. *See* ¶¶ 39-40 (discussing exculpatory information). Judge Morin reserved his ruling on sanction but said he would "likely" exclude the *Planning Meeting Video* from evidence. He gave the government five days to conduct a thorough investigation to cure its

violation, including making the Project Veritas operative who filmed the January 8 meeting and made the "upper echelon" statement available to the defense.

82. Judge Knowles, who was in trial with Respondent and the second trial group, also considered the government's late disclosure of the complete footage of the January 8 meeting. The government had already presented the *Planning Meeting Video* to the jury. She found a *Brady* violation as to the cut footage of the operative's "upper echelon" statement, but she reserved ruling on sanction.

83. Pemberton's involvement in omitting and editing videos was also potentially impeachment evidence, and defense counsel in the first and second trials impeached him for having alleged pro-police, anti-liberal biases. However, after defense counsel raised that the "troubling" edits to the January 8 footage appeared to be attributable to Pemberton, Respondent falsely told the court that only she—not Pemberton—was responsible for the edits.

V. RESPONDENT'S SUPPRESSION OF INFORMATION ABOUT THE ACTION CAMP AND SPOKES COUNCIL VIDEOS

A. OFFICER ADELMEYER'S TESTIMONY ABOUT ACTION CAMP AND SPOKES COUNCIL MEETINGS

84. For all four trial groups, Respondent elicited testimony from Officer Adelmeyer about DisruptJ20's "Action Camp" and "Spokes Council" meetings. He testified that he attended these DisruptJ20 meetings and heard statements about destroying property and being "non-violent but confrontational." (He testified in the

first two trials and in hearings on co-conspirator statements for the first four trial groups.) Adelmeyer's testimony about allegedly overhearing discussion of property destruction at the planning meetings was the government's only proffered evidence of pre-Inauguration statements about planning property destruction.

85. Respondent understood that Adelmeyer's credibility, including his potential bias and unreliability, were impeachment issues for the defense. She also understood that evidence of planning for non-violence or non-confrontation was *Brady* information that she was obligated to disclose. *See* ¶ 76.

86. The undisclosed Spokes Council and Action Camp videos were exculpatory because they showed that DisruptJ20 planning meetings consistently involved training and instructing protesters how to participate in its unpermitted "Actions," including the anti-capitalist march, as non-violent protests, using non-violence and de-escalation techniques, which supported the non-violent defendants' claim that their intent was merely to peacefully protest. *See* ¶¶ 41-42. Because the undisclosed videos captured DisruptJ20's training and instruction across multiple days of protest planning meetings the week before the Inauguration, and they showed discussions and planning for peaceful protests (and *not* violence or property destruction), the videos also tended to undermine and rebut Adelmeyer's testimony about overhearing planning for property destruction.

B. RESPONDENT WITHHOLDS ACTION CAMP AND SPOKES COUNCIL VIDEOS IN DISCOVERY

87. In Fall 2017, during discovery, Respondent reviewed Project Veritas's various recordings of Action Camp and Spokes Council recordings, and she intentionally withheld them, except the *Planning Meeting Video*.

88. For all four trial groups, Respondent introduced, as co-conspirator statements, alleged discussions of planned violence and property damage that Adelmeyer said he overheard at DisruptJ20's Action Camp and Spokes Council meetings. At the April 2018 pre-trial hearing, Judge Morin asked Respondent if there were any recordings of what Adelmeyer overheard. Respondent said there were no recordings, which was technically true because there was no recording of the specific discussions Adelmeyer said he heard. Respondent knew, however, that the government had extensive undisclosed footage of Action Camp and Spokes Council meetings that did not discuss planning for destruction. Even after Judge Morin ordered her to disclose everything in the government's possession, and he explicitly directed her to disclose any "statements about non-confrontation, nonviolence," Respondent remained silent about the undisclosed videos.

89. In May 2018, in response to Judge Morin's instructions and first *Brady* finding for withholding the complete January 8 videos, Respondent and Pemberton arranged a meeting between the defense and "Matt," the Project Veritas operative who filmed the videos of the January 8 Spokes Council meeting that Respondent and

Pemberton used to create the government's *Planning Meeting Video*. (He identified himself only by his first name.)

90. Respondent did not disclose that she was withholding Action Camp and Spokes Council recordings from other Project Veritas operatives ("Gio," "Luke," and "Eric"). *See* ¶¶ 33-34. She did not disclose the existence of these operatives or their recordings. Nor did she disclose that, like "Matt," these other operatives were available to be interviewed and may have relevant information. Operative "Eric," for example, had attended and recorded the same January 8 Spokes Council meeting as "Matt." *Id.*

91. On May 28, "Matt" met with defense counsel and said that he had attended numerous DisruptJ20 meetings, including Action Camp and Spokes Council meetings, and he did not recall any violence or destruction being discussed at any of the numerous DisruptJ20 planning meetings he attended. He also explained that there should be additional Project Veritas recordings of those meetings.

92. The next day, defense counsel informed Judge Morin and Judge Knowles about the new information from Matt. Respondent responded to inquiries from Judge Knowles about what was in the government's possession. For the first time, she acknowledged that the government had additional, undisclosed Project Veritas videos of DisruptJ20's planning meetings. But she mischaracterized them and falsely suggested that they were irrelevant. Respondent knew but did not

disclose that most of the undisclosed videos captured DisruptJ20 Action Camp and Spokes Council meetings the week before the Inauguration protests.

C. RESPONDENT'S SUMMARY OF UNDISCLOSED VIDEOS

93. On May 29, 2018, Respondent was in trial with the second trial group before Judge Knowles. Attorneys she supervised were handling a pre-trial hearing before Judge Morin for the upcoming third trial group. Based on the new information that there were still undisclosed Project Veritas videos of DisruptJ20 planning meetings, Judge Morin ordered the government to email a summary of any undisclosed Project Veritas videos with an explanation why they were not disclosed.

94. That night, Respondent sent an internal email summarizing the undisclosed videos, which was based on her Fall 2017 notes. Her internal email described planning meetings about a "de-escalation Action;" "practicing how to de-escalate;" "guidance that, if you see violence, you should report it to the ACLU and sometimes to law enforcement;" "another de-escalation workshop;" "helping to de-escalate conflict;" dealing with "hostile" media such as "Veritas;" "de-escalation techniques;" "role-playing on how to de-escalate;" "Veritas infiltrating" DisruptJ20; and discussions at a January 17 "spokes council" meeting.

95. In her summary, Respondent admitted that she intentionally withheld the undisclosed videos.

96. Respondent falsely said that she did not disclose the summarized videos because her discovery policy was to withhold evidence that related to protests other than the anti-capitalist march or particular defendants. To the contrary, Respondent had repeatedly confirmed during discovery that she had a *Brady* obligation to disclose evidence relating to DisruptJ20's various D.C. Inauguration protests. She also understood that footage of DisruptJ20's Action Camp and Spokes Council planning meetings were for all the planned "Actions," including the anti-capitalist march. In any event, the undisclosed videos captured some discussions that were explicitly about the anti-capitalist march, and they showed multiple defendants who attended the American University Action Camp.

97. Respondent removed certain information from her internal summary before disclosing it. For example, she removed references to the January 17 planning meeting being a "spokes council" and to a discussion about reporting violence "to the ACLU and sometimes to law enforcement." She removed some information about Project Veritas. She also deleted descriptions of the January 17 Spokes Council meeting videos that closely paralleled Adelmeyer's notes about a planning meeting he attended that, according to his notes, was on January 18.

98. Respondent understood that the defense was trying to investigate what other relevant videos existed and subpoena operatives, like "Matt," who was the only disclosed operative. Still, her edited email did not mention that most of the

undisclosed videos were D.C. Action Camp and Spokes Council meetings, nor did she disclose the known identities of "Gio," "Luke," and "Eric," who filmed them. However, the descriptions of videos from January 14 and January 15 meetings identified the meetings as occurring at American University.

99. The next morning, Respondent had one of the attorneys she supervised forward the edited summary to the third trial group and Judge Morin with a note that the summary came from Respondent.

D. RESPONDENT'S MISREPRESENTATIONS AND OMISSIONS AT THE SECOND TRIAL

100. The day that Respondent made her summary disclosure to Judge Morin and the third trial-group defendants, she intended to rest the government's case in the second trial after completing Det. Pemberton's testimony, including cross-examination about what Project Veritas produced to the government versus what the government produced to the defense. Respondent intentionally did not share her summary disclosure with Judge Knowles or the defendants in the second trial group.

101. Respondent responded to inquiries from Judge Knowles about the undisclosed videos. She said the undisclosed videos were "videos of individuals in New York discussing political views and socialism and Cuban revolution and saying that, you know, protesting Trump might be a good thing." She did not disclose the information from her written summary or that most of the undisclosed videos were

of DisruptJ20's D.C. Action Camp and Spokes Council meetings for its January 20 protest Actions, and she opposed allowing the defense to further investigate:

> I have represented to the Court as an officer of the Court what is on the other videos. We have nothing else from Matt. We have nothing else recorded by Matt. We have nothing else. No videos that are of the meetings Officer Adelmeyer attended with the exception of the planning meeting, and we've produced all seven segments of those videos in full. . . . We oppose [defense] counsel's desire to now further investigate[.]

102. After an afternoon trial break, defense counsel for the second trial group forwarded Judge Knowles Respondent's written summary of the undisclosed videos, which they received from defense counsel for the third trial group.

E. JUDGE MORIN'S SECOND *BRADY* FINDING (ACTION CAMP VIDEOS)

103. That evening, defense counsel for the third and fourth trial groups, relying on Respondent's written summary, moved to dismiss the indictment as a *Brady* sanction for the government's intentional withholding of Project Veritas's complete January 8, Action Camp and Spokes Council videos.

104. The next day, Respondent gave the government's closing argument in the second trial. AUSAs she supervised appeared before Judge Morin to argue the third and fourth trial groups' sanction motions. At the outset, the AUSAs moved to dismiss the charges against the fourth trial group without prejudice, which defendants objected to because they argued the dismissal should be *with* prejudice. Judge Morin granted the government's motion to dismiss.

105. Relying on Respondent's summary disclosure, Judge Morin ruled that Respondent's intentional withholding of the complete January 8 and Action Camp and Spokes Council planning meeting videos was a sanctionable *Brady* violation and the planning videos were exculpatory. *See* ¶¶ 41-42. As a sanction, he dismissed the Conspiracy to Riot charge (with prejudice) and precluded the government from going forward on any theory of co-conspirator liability for any remaining defendants.

106. The government discussed going forward on misdemeanor charges against the defendants in the third trial group the following week but later dismissed all charges against them with prejudice.

107. The defendants in the second trial group renewed their motions for sanctions and for a mistrial. Respondent opposed. Judge Knowles deferred ruling on defense counsel's motions. She proceeded with closing arguments and allowed the case to proceed to jury deliberations, which ultimately resulted in an acquittal for the non-violent defendant, and mistrials for three defendants for whom the jury could not reach a unanimous decision. The government voluntarily dismissed the three remaining defendants before Judge Knowles ruled on the sanction motions.

108. Respondent never provided the undisclosed Action Camp and Spokes Council videos to any defendants or the court. The defense's arguments and the court's findings and analysis relied on her written summary disclosure.

109. Not included in Respondent's summary was additional relevant, exculpatory information. *See* ¶¶ 41-42 (discussing training and instruction for participating in non-violent protests). The undisclosed videos also showed, for example, DisruptJ20 organizers advertising and broadcasting the anti-capitalist march as a protest march, not a riot. And they showed Project Veritas operatives discussing their infiltration operation of DisruptJ20, which supported the defense's theory that Project Veritas conspired to blame DisruptJ20 for others' misconduct. For example, the undisclosed videos showed Project Veritas operatives discussing—*before* the Inauguration protests—how they were providing information on DisruptJ20 to the FBI, how there was likely to be violence from "outside influencers," and how DisruptJ20 would "catch the blame" for outsiders' misconduct because the FBI was "going to say" that they incited it.

VI. RESPONDENT'S SUPPRESSION OF INFORMATION ABOUT HER GRAND JURY PRESENTATION AND C.B.

A. PEMBERTON MISIDENTIFIES C.B. TO THE GRAND JURY

110. To obtain the superseding indictment, Detective Pemberton testified to the second grand jury [redacted]

111. [redacted]

[redacted], but he misidentified someone at the meeting as defendant **C.B.** [redacted].

112. In May 2017, Respondent held a discovery conference and informed **C.B.**'s counsel that the government had identified **C.B.** on the *Planning Meeting Video*. **C.B.**'s counsel requested discovery about the purported identification. After Respondent did not respond, **C.B.**'s counsel moved to suppress any identification testimony in September 2017.

B. RESPONDENT DOES NOT PRODUCE THE APRIL 25, 2017 GRAND JURY TRANSCRIPT AS *JENCKS* MATERIAL

113. In Fall 2017, Respondent was responsible for producing *Jencks* material (prior written statements and reports made by government witnesses) for the first trial group, which did not include **C.B.**.

114. Respondent knew that Pemberton's grand jury testimony was *Jencks* material that she needed to disclose. Although she produced the transcripts for Pemberton's testimony on April 18 and April 21, she did not produce the transcript from his April 25 grand jury testimony. (She also did not produce three transcripts from Pemberton's testimony before the first grand jury.)

C. **C.B.** 'S MOTIONS FOR SANCTIONS AND TO DISMISS THE INDICTMENT

115. **C.B.** attended the anti-capitalist march with her boyfriend. Neither was alleged to commit any violence or property destruction. In January 2018, the government voluntarily dismissed **C.B.**'s boyfriend and hundreds of other non-

violent defendants. Respondent decided not to dismiss **C.B.**'s case based on Pemberton's misidentification of **C.B.** as someone who had attended the anti-capitalist breakout shown on the *Planning Meeting Video*.

116. In January, Respondent reviewed **C.B.**'s still-pending identification suppression motion, and she became concerned about Pemberton's identification, which she asked him to double check. Pemberton informed Respondent that he had misidentified **C.B.**, but Respondent did not disclose it.

117. In February 2018, **C.B.** moved for an emergency pre-trial hearing on her still-pending identification suppression motion, noting that the hearing could potentially resolve the case. Although Respondent filed a written opposition, she still did not disclose Pemberton's misidentification. The court granted an emergency hearing, which was handled by an AUSA Respondent supervised but was not familiar with the underlying facts. The court asked the government to confer with **C.B.**'s counsel about its identification evidence.

118. When **C.B.**'s counsel asked about the identification over email, Respondent said she already knew as of January 2018 that **C.B.** was not at the January 8 planning meeting. She wrote, "Earlier in the case, we did think it might be her, but later identified that person as a different female[.]"

119. **C.B.**'s counsel moved for sanctions and to dismiss the indictment for withholding the misidentification. **C.B.** argued the misidentification was

exculpatory, and the government's decision to maintain its case was the result of a vindictive or selective prosecution since it had now been confirmed that she was similarly situated to the hundreds of defendants, like her boyfriend, whose cases had already been dismissed.

D. RESPONDENT'S MISREPRESENTATIONS AND OMISSIONS ABOUT HER GRAND JURY PRESENTATION AND THE *PLANNING MEETING VIDEO*

120. In April 2018, Respondent opposed **C.B.**'s sanctions and vindictive prosecution motions. She falsely stated that the misidentification was merely her own opinion. She argued that there was no *Brady* violation since a prosecutor's opinion is not evidence. She also falsely told the court that the grand jury "was never presented with the undersigned assistant's belief" or with "any evidence, suggestion, or argument that defendant **C.B.** was present (or not present) at the planning meeting."

121. Respondent knew but did not disclose that it was Pemberton who misidentified **C.B.** on the *Planning Meeting Video*, and he continued to serve as a government identification witness.

122. In May 2018, Respondent repeated her false statements at a pre-trial hearing with Judge Morin. She also falsely stated that when she met with **C.B.**'s counsel a year earlier, she gave him "every bit of material and information" and "provided him every video" that related to **C.B.**'s purported attendance at the January 8 meeting. But she knew that she had only recently disclosed the complete

videos in response to Judge Morin's order. *See* ¶¶ 73-75. When Judge Morin asked if there was "any piece of evidence that" **C.B.**'s counsel was not provided, Respondent falsely said, "No, Your Honor. He had it."

E. RESPONDENT WITHHOLDS THE GRAND JURY TRANSCRIPTS FROM THE COURT AND DOES NOT CORRECT HER MISREPRESENTATIONS

123. Judge Morin accepted Respondent's representation that "the defense was provided with all the information upon [which] the government was rendering its opinion about who was on the planning meeting." He nonetheless ordered Respondent to produce *in camera* any grand jury transcripts "concerning **C.B.** and any arguments made by the government to the grand jury about whether or not she should be indicted."

124. Respondent never complied with Judge Morin's order. Although she made the government's *Jencks* disclosures to the defense, she did not share or provide any transcripts to the court. Nor did she order any transcripts of the government's legal discussions with the grand jury, which were maintained separate from witness testimony, and would contain the government's arguments about whether **C.B.** and other defendants should be indicted.

125. At the May 18 hearing, Judge Morin moved **C.B.** from the third trial group to a later trial group based on her personal scheduling conflict. Her trial-readiness hearing was set for July 13.

126. On June 19, **C.B.**'s counsel emailed the court and Respondent to inquire whether the government had complied with Judge Morin's order to disclose the grand jury transcripts. Respondent did not respond to this or subsequent emails from the clerk and **C.B.**'s counsel.

127. Although she did not respond to **C.B.** and the court's emails, Respondent ordered the April 25, 2018 transcript from the court reporter, which it produced on June 28.

128. On July 4, **C.B.** filed a Motion to Dismiss the Indictment, requesting the court to treat the government's protracted failure to produce the grand jury transcripts as an admission that she was improperly indicted. Her counsel emailed a copy directly to Respondent, who did not respond.

129. On July 6, the government moved to voluntarily dismiss all remaining cases, including **C.B.**'s, without prejudice, which the court granted.

130. On July 11, **C.B.** moved the court to dismiss her case *with prejudice*, citing her previous motions and her alleged improper indictment based on Respondent's withholding of information and ongoing suppression of the grand jury transcripts. Other defendants filed similar motions to dismiss their cases with prejudice, seal their criminal records, and for attorney's fees.

131. Respondent knew but did not disclose that Pemberton had misidentified **C.B.** to the grand jury and that she had made material, false statements to the court.

132. Respondent also knew that the undisclosed April 25 transcript showed [redacted]

133. Although Respondent knew that litigation was ongoing, she did not disclose the April 25 transcript or correct her misrepresentations to the defense, the court, or the government's appellate attorney, AUSA David Goodhand, who was brought in to handle the ongoing litigation regarding defendants' motions and a government motion requesting that the court reconsider findings that suggested that Respondent had acted in bad faith.

134. In November 2018, Judge Morin granted the government's reconsideration motion, finding that Respondent acted intentionally to withhold evidence, but crediting her representations that she did not act maliciously. Respondent still had not disclosed the April 25 grand jury transcript or corrected her false statements and misrepresentations. The hearing on **C.B.**'s and other defendants' motions was set for March 2019.

135. In March 2019—ten months after Judge Morin had initially directed Respondent to produce the relevant grand jury transcripts—AUSA Goodhand voluntarily dismissed, *with prejudice*, all cases that had not been finally adjudicated or that had previously been dismissed without prejudice. Goodhand also disclosed that the government had recently discovered that Respondent had made material

misrepresentations to the court because she had, in fact, presented the grand jury with Pemberton's misidentification of **C.B.** on the *Planning Meeting Video*.

VII. RESPONDENT'S FALSE STATEMENTS AND OMISSIONS DURING INVESTIGATIONS INTO HER CONDUCT

136. During the government's investigation into Respondent's conduct, including the disciplinary investigation conducted by the Office of Professional Responsibility (OPR), and during Disciplinary Counsel's investigation, Respondent repeated her false statements and material omissions about Pemberton's and her responsibility for (a) omitting and editing the original January 8 Spokes Council videos to create the *Planning Meeting Video*; (b) withholding videos of Action Camp and Spokes Council meetings; (c) suppressing relevant information and evidence; (d) failing to produce complete *Jencks* material; and (e) making misrepresentations and omissions to the grand jury, the defense, and the court, and failing to correct known misrepresentations to the court. *See* ¶¶ 19-135.

137. Respondent made additional false statements and material omissions to falsely explain her conduct. For example, to explain her withholding of Project Veritas videos, she falsely suggested that the undisclosed videos of DisruptJ20's D.C. Action Camp and Spokes Council meetings were irrelevant and did not discuss the anti-capitalist march, and she omitted that she knew that defendant Petrohilos—the government's alleged lead conspirator—could be seen on the undisclosed videos. To explain her failure to produce the April 25, 2017 grand jury transcript,

Respondent falsely said that she personally reviewed the U.S. Attorney Office's grand jury logbook and confirmed the entry for April 25, 2017 was missing. In fact, the logbook correctly listed Pemberton's grand jury testimony for April 18, 21, and 25, 2017. To explain not correcting her misrepresentations to Judge Morin, she falsely claimed to have turned over responsibility for disclosing the misrepresentation to others in the office.

138. Respondent's statements and omissions to the government, OPR, and Disciplinary Counsel were false and misleading.

139. Respondent's conduct violated the following Rules of Professional Conduct of the District of Columbia:

a. **Rule 3.3(a) (*Candor to Tribunal*)**, by knowingly making false statements, offering false evidence, and failing to correct material false statements to the court;

b. **Rule 3.4(a), (c), & (d) (*Fairness to Opposing Party and Counsel*)**, by obstructing the defense's access to evidence and altering or concealing evidence, or assisting another person to do so when she reasonably should have known that the evidence was or may have been subject to discovery; knowingly disobeying the court's direct orders to produce information in the government's possession without openly asserting that no valid obligation existed; and/or failing to make reasonably diligent efforts to comply with the defense's discovery requests;

c. **Rule 3.8(d) & (e) (*Special Responsibilities of a Prosecutor*)**, by intentionally avoiding pursuit of evidence and information because it may have damaged the prosecution's case or aided the defense; and by intentionally failing to disclose to the defense, upon request and at a time when use by the defense was reasonably feasible, evidence and information that she knew or reasonably should have known tended to negate the guilt of the accused or mitigate the offense;

d. **Rule 8.4(a)**, by knowingly assisting or inducing another to violate the Rules of Professional Conduct and/or doing so through the acts of another;

e. **Rule 8.4(c) (*Dishonesty, Misrepresentation, Deceit, and Fraud*)**, by engaging in conduct that involved reckless or intentional dishonesty, misrepresentations, deceit, and fraud, which misled the grand jury, the defense, the court, the government, and disciplinary authorities about the evidence in the government's possession and the government's conduct; and

f. **Rule 8.4(d) (*Serious Interference with the Administration of Justice*)**, by engaging in conduct that seriously interfered with the administration of justice.

Respectfully submitted,

Hamilton P. Fox, III
Disciplinary Counsel

/s/ *Sean P. O'Brien*
Sean P. O'Brien
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501

VERIFICATION

I declare under penalty of perjury under the laws of the United States of America that I believe the facts stated in the Specification of Charges to be true and correct. Executed on this 10th day of July 2024.

/s/ *Sean P. O'Brien*
Sean P. O'Brien
Assistant Disciplinary Counsel

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of	:	
JENNIFER K. MUYSKENS, ESQUIRE,	:	**Disciplinary Docket Nos. 2018-D218, 2018-D262, 2018-D300**
Respondent,	:	

PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. ***Procedures***

(1) **Referral to Hearing Committee** – When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** – Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** – The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** – Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** – Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

Hamilton P. Fox, III

Hamilton P. Fox, III
Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
Telephone: (202) 638-1501
Fax: (202) 638-0862