

**Congress of the United States**  
**Washington, DC 20515**

December 3, 2018

Ms. Diana Maxfield Kears  
Chief Counsel  
Grievance Committee for the Second, Eleventh and Thirteenth Judicial Districts  
Renaissance Plaza  
335 Adams Street, Suite 2400  
Brooklyn, NY 11201-3745

Dear Ms. Kears:

We write regarding the conduct of Mr. Kevin Downing – Paul Manafort’s personal attorney – who was admitted to the New York State Bar on March 15, 1995.<sup>1</sup> As Members of Congress and former prosecutors, we believe respect for the rule of law is of utmost importance to a strong democracy. We also believe Mr. Downing’s continued efforts to share communications between Paul Manafort and the Special Counsel’s office with President Trump’s attorneys may violate the New York State Bar’s Rules of Professional Conduct. Please consider this letter a request for a formal investigation into Mr. Downing’s conduct.

As you may know, public reporting indicates that Mr. Downing briefed President Trump’s attorneys on discussions with the Special Counsel after agreeing to cooperate with federal investigators. More than simply an unusual situation, this conduct threatens to interfere with the primary purpose of the Special Counsel’s investigation—to ascertain the truth about Russian interference in the 2016 election and hold any American conspirators accountable. Last week, Special Counsel Mueller filed a status report accusing Manafort of breaking the terms of their cooperation agreement and lying to the FBI.<sup>2</sup>

Joint defense agreements like the one shared by President Trump’s and Paul Manafort’s attorneys are a typical way for criminal defendants to share information while maintaining attorney-client privilege *before* one of the defendants agrees to cooperate. However, Mr. Manafort’s lawyers continued to share information about what the Special Counsel asked Manafort, and what he said in response, past the point at which Manafort began working with the Special Counsel.

Legal analysts have speculated that Mr. Manafort kept the lines of communication open between his team and the President’s in the hopes of a presidential pardon. Indeed, on Tuesday, November 28, President Trump said that a pardon for Paul Manafort was “not off the table. Why would I take it off the table?”<sup>3</sup>

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<sup>1</sup> New York State Unified Court System, “Attorney Search: Kevin M. Downing,” Accessed November 30, 2018.

<sup>2</sup> Sharon LaFraniere, “Manafort Breached Plea Deal by Repeatedly Lying, Mueller Says,” *New York Times*, November 26, 2018.

<sup>3</sup> Chad Day, “Trump Says He Wouldn’t Take Manafort Pardon Off the Table” *Associated Press*, November 29, 2018.

**Under The New York Rules of Professional Conduct Section 8.4 – “Misconduct”  
Subsection C: “It is professional misconduct for a lawyer to...Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”<sup>4</sup>**

By deceiving prosecutors who had rightfully assumed that Mr. Manafort and his lawyers were cooperating as per the terms of their agreement, Mr. Downing at the very least should be subject to a review by the Grievance Committee for potential disbarment.

We appreciate your attention to these critical matters and look forward to hearing from you. You can contact our offices at (202) 225-3976 or (202) 225-5516 should you have any questions.

Sincerely,



Ted W. Lieu  
Ted W. Lieu  
Member of Congress



Kathleen M. Rice  
Kathleen M. Rice  
Member of Congress

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<sup>4</sup>New York Rules of Professional Conduct, “Misconduct,” Accessed November 29, 2018.