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Winter Leadership
Conference

Attorney Ethics in the Spotlight: What Can We Learn from Ethical Issues Raised in Recent High-Profile Cases?

Hosted by Commercial Fraud & Ethics and Professional Compensation Committees

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Introductions

ABI.CNF.IO

- ▶ Navigate to <https://abi.cnf.io/> and tap the session titled "Attorney Ethics in the Spotlight: What Can We Learn from Ethical Issues Raised in Recent High-Profile Cases?"
- ▶ OR just point your phone's camera at the QR code to join directly



Agenda

- FTX
- Chesebro
- Giuliani
- Jones/Freeman

FTX

The Rise, Fall and Fallout

Background and Rise of FTX

- Founded in 2019 by Sam Bankman-Fried (“SBF”), FTX quickly became one of the largest cryptocurrency exchanges, reaching a \$32 billion valuation at its peak.
- Known for innovative offerings (derivatives, futures, tokenized stocks), FTX attracted retail and institutional investors alike.
- SBF’s reputation as an altruistic, philanthropic leader bolstered trust, alongside FTX’s high-profile marketing (e.g., FTX Arena, celebrity endorsements from Tom Brady, Gisele Bündchen, and Steph Curry).
- FTX was seen as a credible platform in a volatile industry due to aggressive marketing and promises of high returns on deposits.

Events Leading to FTX's Downfall

- In November 2022, a CoinDesk report revealed Alameda Research's financial dependence on FTT tokens, highlighting risky financial ties between FTX and Alameda.
- Binance, a rival exchange, sold off its FTT holdings, sparking a "bank run" as customers rushed to withdraw funds from FTX.
- FTX faced a liquidity crisis, unable to meet withdrawal demands as much of its assets had been transferred to Alameda and invested in high-risk ventures.
- After a failed bailout attempt by Binance, FTX filed for bankruptcy on November 11, 2022, revealing an \$8 billion shortfall in customer funds.

Criminal Charges and Lawsuits

- Post-bankruptcy investigations uncovered widespread financial misconduct and lack of oversight within FTX.
- SBF was arrested and charged with fraud, money laundering, and conspiracy for allegedly misappropriating customer funds for Alameda's trading losses and personal expenses.
- Numerous civil lawsuits emerged from customers, investors, and regulators, with claims that FTX misled investors and violated securities laws.
- Some lawsuits targeted celebrity endorsers, accusing them of promoting an unregulated, risky platform.

Corporate and Ethical Failures

- FTX lacked separation between customer funds and corporate assets, transferring customer deposits to Alameda without consent.
- Weak corporate governance: FTX had no internal audit, risk management, or independent board of directors.
- An insular, inexperienced executive team with close personal ties led to poor accountability and risk management.
- FTX's corporate culture neglected compliance, lacked conflict-of-interest policies, and left employees without whistleblower protections.

Financial and Legal Issues

- Poor financial controls and reliance on FTT tokens as collateral led to severe financial instability when FTT's value dropped.
- FTX's noncompliance with regulations, including anti-money laundering laws and securities laws, heightened its legal exposure.
- Allegations of securities fraud and misrepresentation of financial health to investors due to Alameda's risky investments.

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Poll: What is Crypto/Bitcoin?

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Poll: Why do companies like FTX implode?

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Poll: FTX – was it a designed fraud from the get-go?

Kenneth Chesebro

“Architect of the 2020 Fake
Electors”

Some would say he came to his senses.

Some would say he lost his mind.

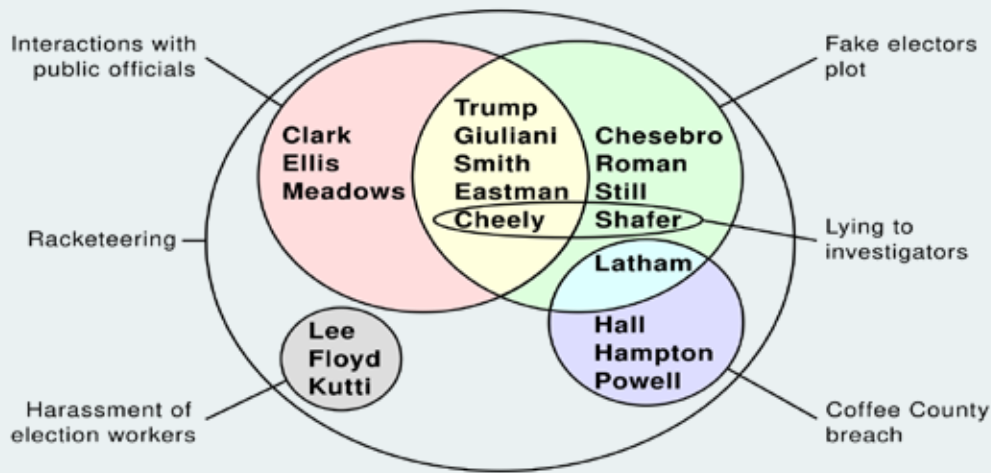
Summary of Key Events leading up to the Georgia Indictment of Kenneth Chesebro

- Chesebro authored three memos on 11/18/2020, 12/6/2020 and 12/9/2020 that outlined a plan to certify Donald Trump as the winner of the 2020 presidential campaign.
- Six allegedly contested states would submit alternate slates of electors with the hope that Vice President Mike Pence would count them. The memos inspired the scheme in seven states based on the "President of the Senate" arguing that the Senate President is charged with making judgements in the event of conflicting votes when the joint session met on January 6, 2021. VP Pence refused to participate.
- Kenneth Chesebro entered a pre-trial plea to Conspiracy to commit filing false documents in Georgia.

Georgia Allegations/Charges

- **1st count:**
Alleges that on 12/7/2020, Trump requested the late Speaker of the Georgia House of Representatives, David Ralston, call a special session of the Georgia General Assembly to unlawfully appoint a different slate of electors to the electoral college that would then vote for Trump.
- **2nd count:**
Alleges that Trump on 1/2/2021 requested Georgia Secretary of State, Brad Raffensperger, to violate his oath by unlawfully altering, unlawfully adjusting and otherwise influencing the certified returns for presidential electors.
- **3rd count:**
Alleges that Trump further asked Mr. Raffensperger to unlawfully decertify the Election or whatever the correct legal remedy is and announce the true winner.

Criminal Charges and Interactions



By Antony-22 - Own work, CC BY-SA 4.0, <https://commons.wikimedia.org/w/index.php?curid=138380420>

Ethical Considerations

- Both The 65 Project and Lawyers Defending American Democracy have filed ethics violation cases against Chesebro in multiple states.
- The 65 Project complaint to the New York Grievance Committee requests investigation under:
 1. Mr. Chesebro violated Rule 3.1 by pursuing a claim that lacked any basis in law and fact.
 2. Mr. Chesebro violated Rule 1.2 (d) by assisting Mr Trump to engage in illegal and/or fraudulent behavior.
 3. Mr. Chesebro violated multiple aspects of Rule 8.4 (a), (b), (c), (d), (h)
- Lawyers Defending American Democracy have filed ethical complaints in multiple states citing ethical violations under Rule 8.4 (c), (h)

Villain? Victim? Fed Up?

- Long time law school and professional colleagues of Chesebro state they are "baffled" by the change in his character and behavior.
- On 12/16/2020 Chesebro followed up Mr. Eastman's memo with a five-page, single spaced email proposing a strategy to Mr. Giuliani concluding with, *"It's an honor and privilege to be involved with you in this fight!"*
- Chesebro had a long history of supporting liberal policies and the Democratic party. Perhaps unrest and rifts within the Democratic party itself? Perhaps lack of recognition within the Democratic party? Perhaps alienation from the party?
- Be it an evolution of political beliefs, a desire to right wrongs/slights or other issues, Chesebro felt his disenchantment with the Democratic party and/or candidate slate combined with his belief that his president-of-the-senate electoral count theory could, or should, result in enough recognition to risk a lifetime as a respected attorney.

Possible Red Flags

- Was a long time Democrat turned Independent.
- Divorced his wife of 20+ years in 2016.
- Invested heavily in Bitcoin 2014; sales resulted in a multimillion-dollar gain.
- Began donations to all political parties but heavily into the Republican party.
- Created *BadgerPundit*, his alter ego on X (formerly Twitter)
- Appears to have changed politics, friends and professional playground.
- Possible lack of concern for personal consequences or above the law attitude.
- Lack of empathy or concern to damage inflicted on others.

Duty to Colleagues and Other Considerations

- **Professional Duties Toward Colleagues:**

ABI has hosted many sessions looking into our own profession regarding:

- Substance Abuse Signs
- Mental Health
- Professional Civility

- **Other Considerations**

- Chesebro was in possession of legal education, training and experience to know that this was a violation of the Electoral Count Act.
- Chesebro testified to the Jan 6th committee that he did his Trump work pro bono. Plausible deniability or self-appointed?
- January 20, 2025 may change the entire story.

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Poll: Do you agree that the lack of financial gain for Mr. Chesebro does not excuse Mr. Chesebro's involvement from an ethics perspective in the election scheme?

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Poll: Colleagues and former partners have issued statements and press releases distancing themselves from Chesebro professionally. Further, they claim they don't know what caused the "change" of beliefs of their colleague. What should our human responsibility be to our colleagues? Describe your thoughts in a few words.

Rudy Giuliani: A Case Study

NEW YORK DISCIPLINARY PROCEEDING

Applicable New York Rules of Professional Conduct:

- Rule 4.1** In the course of representing a client, a lawyer shall not knowingly make a false statement of fact or law to a third person
- Rule 8.4(b)** A lawyer or law firm shall not engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer
- Rule 8.4(c)** A lawyer or law firm shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation
- Rule 8.4(d)** A lawyer or law firm shall not engage in conduct that is prejudicial to the administration of justice
- Rule 8.4(h)** A lawyer or law firm shall not engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer

Applicable Pennsylvania Rules of Professional Conduct

- **Rule 3.3(a)(1)** A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to a tribunal by the lawyer
- **Rule 4.1(a)** In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person
- **Rule 8.4(c)** It is the professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud or misrepresentation, except that a lawyer may advise, direct, or supervise others, including clients, law enforcement officers, and investigators, who participate in lawful investigative activities

DISTRICT OF COLUMBIA DISCIPLINARY PROCEEDING

Applicable Pennsylvania Rules of Professional Conduct:

- **Rule 8.4(d)** A lawyer or law firm shall not engage in conduct that is prejudicial to the administration of justice
- **Rule 3.1** A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law

16 Proven Charges in New York Disciplinary Proceeding

Falsely and dishonestly:

1. Asserted **to the public** that people were bused in from Camden, New Jersey to vote illegally in Philadelphia, Pennsylvania
2. Claimed, **under oath to Pennsylvania state legislators**, that many thousands of votes were cast in the names of dead people.
3. Asserted, **to the public at a press conference at Four Seasons Total Landscaping**, that a vote was cast in the name of deceased boxing champion Joe Frazier
4. Asserted, **to the public and before the U.S. District Court for the Middle District of Pennsylvania and to the public at the Four Seasons press conference**, that in Philadelphia there occurred "an extraordinary number of voter fraud convictions that stood as evidence of endemic election fraud in that city."
5. Asserted, **under oath to Michigan and Missouri state legislators**, that during the 2020 election, ballots were smuggled by truck from Bethpage, New York into Pennsylvania
6. Asserted, **under oath to Arizona state legislators and to the public in radio broadcast and podcasts**, that in Arizona, tens of thousands or even hundreds of thousands of non-US citizens voted in the 2020 Presidential election
7. Asserted, **under oath to Georgia state legislators and to the public radio broadcasts and podcasts**, that a video recording from the State Farm Arena (SFA) in Atlanta, Georgia constituted proof of large-scale fraud during the 2020 election
8. Asserted, **under oath before Georgia state legislators and to the public in two radio broadcasts**, that Dominion voting machine manipulation yielded fraudulent results in Georgia during the 2020 election.

Continuation of 16 Proven Charges

9. Asserted, **under oath before Georgia state legislators and to the public in two radio broadcasts**, that during the 2020 election in Georgia, thousands of votes were cast in the names of dead people.
10. Asserted, **under oath before Georgia state legislators and to the public in two radio broadcasts**, that during the 2020 election in Georgia, thousands of felons voted illegally.
11. Asserted, **to the public in two radio broadcasts**, that in Georgia during the 2020 election, tens of thousands of votes were cast in the names of, or by, underaged individuals.
12. Asserted, **under oath before Georgia and Pennsylvania state legislators and a press conference at the RNC Headquarters**, that in Michigan, trucks delivered ballots in garbage receptacles and paper bags.
13. Asserted, **under oath before Georgia state legislators**, that he had recordings of 1000 people admitting to committing fraud in the 2020 election
14. Asserted, **under oath before Missouri state legislators**, that 2,000 affidavits attesting to firsthand knowledge of fraud had been filed in court cases brought in support of former President Trump's reelection.
15. Asserted, **under oath at his depositions before the AGC**, that Georgia Secretary of State Brad Raffensperger had described the 2020 election in Georgia as "perfect."
16. Asserted, **during a deposition before the AGC**, that a report provided to Georgia Secretary of State Raffensperger had both found the 2020 election in Georgia "very disturbing."

Factors Supporting Disbarment in Both Proceedings

New York

- A pattern of misconduct.
- Falsehoods during the disciplinary process — namely, false deposition testimony and a lack of candor in hearing testimony in the disciplinary proceeding.
- Substantial experience in the practice of law
- Illegal conduct — namely, "numerous lies under oath"
 - before Missouri state legislators - in his affidavit in opposition to his interim suspension,
 - during his deposition before the AGC
- no acknowledgement of wrongdoing or acceptance of responsibility for his misconduct, including "intemperate and defiant" behavior during the hearing

District Of Columbia

- His rash overstatement claiming that the election was stolen was not supported by any evidence
- His failure to acknowledge or accept responsibility for his misconduct and his indignation over being subjected to the disciplinary process
- The "broader context" in which his misconduct took place was "calculated to undermine the basic premise of our democratic form of government: that elections are determined by the voters"
- His meritless claims are antagonistic to the oath to "support the Constitution of the United States of America" that he swore when he was admitted to the bar

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Poll: Mr. Giuliani was disbarred in New York for inter alia making “false and dishonest statements” to the public (radio broadcasts, press conferences, and podcasts) and to various state legislators. Arguably many lawmakers and elected officials make statements to these audiences that could be construed as false. Do you envision a future where lawmakers and public officials, who are also lawyers, are charged with ethical violations and subjected to disciplinary proceedings for making false public statements?

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Poll: Do you agree with the District of Columbia Ad Hoc Hearing Committee’s conclusion that public and unsupported claims of election fraud “are antagonistic to the oath” a lawyer takes to support the U.S. Constitution?

Jones/Freeman and the Complex Case Panel

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The Complex Case Panel & the Increase in Filings in SDTX

- In the SDTX, complex Chapter 11 bankruptcy cases are assigned randomly between a panel of two bankruptcy judges.
- The complex case panel was originally comprised of Judge Marvin Isgur and Judge David R. Jones.
- It was introduced in March 2016.
- Following, the introduction of the panel, SDTX experienced a surge in Chapter 11 filings. As of early 2018, it had the third largest commercial bankruptcy docket, behind only Delaware and the SDNY.

Revelation of the Jones/Freeman Relationship

- Freeman was Jones' law clerk from around the time Jones took the bench in 2011 until 2018, when she left for Jackson Walker.
- At some point, Jones and Freeman began an intimate relationship.
- On May 6, 2021, an anonymous letter accused Jones and Freeman of being in a relationship and asserted that Jackson Walker had gotten favorable treatment.
- A second accusation was made in March of 2022.
- By late December 2022, Freeman had left Jackson Walker and started her own practice.

Jackson Walker Cases

- Judge Jones presided over at least 26 bankruptcies in which he awarded Jackson Walker fees while Freeman was a partner and living with him.
- He mediated another seven cases involving the firm and Freeman.
- In all, Jones approved or oversaw cases in which Jackson Walker was paid several million dollars.

Resulting Proceedings & Lawsuits

- October of 2023 - The Fifth Circuit Court of Appeals publicly files an Ethics Complaint against Jones and Jones submitted his resignation.
- Van Deelen v. Jones et al.: Van Deelen sued Jones, Freeman, Jackson Walker, and Kirkland & Ellis alleging, inter alia, that the defendants breached their fiduciary duties, committed fraud, and were unjustly enriched.
- Morton S. Bouchard III v. Jones et al.: Bouchard alleges fraud, breach of fiduciary duties, and unjust enrichment, among other claims. Freeman, Jackson Walker, Kirkland & Ellis & Jones have each filed motions to dismiss.
- The UST has challenged at least \$23 million in fees collected by Jackson Walker in proceedings that were held before Jones, seeking to have these fee awards set aside.

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Poll: Should bankruptcy courts have complex case procedures that result in the assignment of complex chapter 11 cases to certain identified judges?

Ethical Failures?

- Jones
- Freeman & Jackson Walker
- Others?

Jones

(a) Any justice, judge, or magistrate judge of the United States ***shall*** disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

28 U.S.C. § 455 (emphasis supplied).

Jones

Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities

(A) Respect for Law. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) Outside Influence. A judge should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge.

<https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#c>

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Jones

COMMENTARY

Canon 2A. An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges, including harassment and other inappropriate workplace behavior. A judge must avoid all impropriety and appearance of impropriety. This prohibition applies to both professional and personal conduct. A judge must expect to be the subject of constant public scrutiny and accept freely and willingly restrictions that might be viewed as burdensome by the ordinary citizen. Because it is not practicable to list all prohibited acts, the prohibition is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code.

<https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#c>

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Jones

(b) He **shall** also disqualify himself in the following circumstances:

....

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

28 U.S.C. § 455 (emphasis supplied).

Jones

Canon 3C. Recusal considerations applicable to a judge's spouse should also be considered with respect to a person other than a spouse with whom the judge maintains both a household and an intimate relationship.

Commentary to Canon 3 of the Code of Conduct for U.S. Judges

<https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges>

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Poll: Which of the following types of relationships between a judge and a lawyer on a case should be disqualifying for judges? [Select all that apply.]

Freeman & Jackson Walker

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, ***that do not hold or represent an interest adverse to the estate, and that are disinterested persons***, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C.A. § 327 (emphasis added)

Freeman & Jackson Walker

(2) Application for Employment. The applicant must file the application and, except in a Chapter 9 case, must send a copy to the United States trustee. The application must state specific facts showing:

(F) to the best of the applicant's knowledge, all the person's connections with:

- the debtor;
- creditors;
- any other party in interest;
- their respective attorneys and accountants;
- the United States trustee; and
- any person employed in the United States trustee's office.

Fed. R. Bankr. P. 2014

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Poll: In an application of employment, would you disclose the existence of an intimate relationship between an attorney in your firm and the presiding judge?

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Poll: In an application of employment, would you disclose the existence of a significant business relationship between a member of your firm and the presiding judge?

Freeman & Jackson Walker

(b) Other Considerations in Approving Appointments or Employment. A bankruptcy judge must not approve appointing a person as a trustee or examiner--or employing an attorney, accountant, appraiser, auctioneer, or other professional person--if the person is, or has been, so connected with the judge or the United States trustee as to make the appointment or employment improper.

Fed. R. Bankr. P. 5002

Freeman & Jackson Walker

(a) From Presiding Over a Proceeding, Contested Matter, or Case. A bankruptcy judge's disqualification is governed by 28 U.S.C. § 455. The judge is disqualified from presiding over a proceeding or contested matter in which a disqualifying circumstance arises--and, when appropriate, from presiding over the entire case.

(b) From Allowing Compensation. The bankruptcy judge is disqualified from allowing compensation to a relative or to a person who is so connected with the judge as to make the judge's allowing it improper.

Fed. R. Bankr. P. 5004

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Freeman & Jackson Walker

In order for the policy of this rule to be meaningfully implemented, it is necessary to extend the prohibition against appointment or employment to the firm or other business association of the ineligible person and to those affiliated with the firm or business association. "Firm" is defined in Rule 9001 to include a professional partnership or corporation of attorneys or accountants. All other types of business and professional associations and relationships are covered by this rule.

Advisory Committee Notes to Fed. R. Bankr. P. 5002

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Conflict of Interest

(b) In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person:

....

(2) reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests.

....

(f) If a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member or associated with that lawyer's firm may engage in that conduct.

TX ST RPC Rule 1.06

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Candor to the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of material fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act;

TX ST RPC Rule 3.03

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Maintaining Impartiality of Tribunal

A lawyer shall not:

- (a) seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure;
- (b) except as otherwise permitted by law and not prohibited by applicable rules of practice or procedure, communicate or cause another to communicate ex parte with a tribunal for the purpose of influencing that entity or person concerning a pending matter other than:

TX ST RPC Rule 3.05

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Misconduct

(a) A lawyer shall not:

- (1) violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;

....

- (3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

....

- (6) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law

....

TX ST RPC Rule 8.04

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Reporting Professional Misconduct

(a) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

(b) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

....

TX ST RPC Rule 8.03

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Poll: Reporting other attorneys for ethical violations is fraught with complications. How do you think attorney ethics boards and state bars can best encourage third party or self-reporting?

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Poll: Confronting colleagues with concerns regarding behavior and/or belief changes is bound to be contentious. How do you think concerns should be approached by the profession? [Select all that apply.]

Questions?

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American Bankruptcy Institute
Winter Leadership Conference
December 12 – 14, 2024
Scottsdale, Arizona

**Attorney Ethics in the Spotlight: What Can We Learn from
Ethical Issues Raised in Recent High-Profile Cases?
December 14, 2024
9:45- 10:45 am**

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FTX: The Rise, Fall, and Fallout

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Background and Rise of FTX

Founded in 2019 by Sam Bankman-Fried, FTX rapidly grew to be one of the largest cryptocurrency exchanges globally, with a valuation that peaked at \$32 billion. Positioned as an innovative financial platform, FTX offered unique trading options such as derivatives, futures, and tokenized stocks, attracting both retail and institutional investors. Bankman-Fried, often called “SBF,” became one of the most prominent figures in the cryptocurrency industry, cultivating a reputation as a savvy, altruistic leader who aimed to use his wealth for philanthropic causes. His public image and apparent commitment to “effective altruism” helped instill confidence in investors, many of whom viewed FTX as a safe entry point into the cryptocurrency market.

Part of FTX’s appeal and meteoric rise was due to its aggressive and high-profile marketing strategy. The company’s marketing tactics included securing naming rights to the Miami Heat’s arena, transforming it into the “FTX Arena,” and running memorable ads during the Super Bowl, featuring celebrities such as comedian Larry David, who humorously portrayed skepticism about innovation — implying that doubt toward FTX was similarly misguided. Other celebrities, like Tom Brady, Gisele Bündchen, and Steph Curry, publicly endorsed the platform, lending it mainstream credibility. FTX also promised attractive yields on deposits, promoting itself as a way for users to earn returns higher than traditional banks. These marketing efforts contributed to a widespread perception that FTX was a credible, trustworthy institution within a volatile industry, attracting millions of users and significant capital from investors worldwide.

However, behind this successful facade, FTX had serious internal and ethical issues that ultimately led to its downfall. The company’s operational structure, financial controls, and governance were

FTX: The Rise, Fall, and Fallout

poorly developed, and many of its decisions and practices were ethically dubious. These structural flaws came to a head in late 2022, leading to a dramatic and highly publicized collapse.

Series of Events Leading to FTX's Downfall

In November 2022, a report by CoinDesk raised questions about the financial stability of Alameda Research, a trading firm closely linked to FTX and also controlled by Bankman-Fried. The report disclosed that Alameda's balance sheet was heavily comprised of FTT, a token created by FTX and not widely held outside of the company. This revelation highlighted a precarious financial interdependence between FTX and Alameda, suggesting that Alameda's stability relied on the inflated valuation of FTT rather than independent, liquid assets. This triggered widespread concern, as it suggested that FTX's finances were artificially propped up by its own token rather than by diversified or secure assets.

Soon after the report, Binance, a major rival exchange and one of FTX's early investors, announced that it would sell off its FTT holdings, citing concerns over FTX's financial health. This announcement triggered panic among FTX users, leading to a sudden spike in withdrawal requests — a crypto equivalent of a bank run. However, FTX was unable to meet these massive withdrawal demands because much of its liquid assets had reportedly been funneled to Alameda Research and were invested in high-risk, illiquid assets. As the crisis intensified, FTX sought a bailout from Binance, but Binance ultimately backed out of the acquisition after examining FTX's finances and discovering the extent of its instability. On November 11, 2022, FTX filed for bankruptcy, disclosing an \$8 billion shortfall in customer funds. The collapse shook the cryptocurrency market, causing billions of dollars in losses and tarnishing trust in the industry.

Criminal Charges and Lawsuits

Following the bankruptcy, a series of investigations uncovered extensive evidence of financial misconduct, lack of corporate oversight, and unethical practices within FTX. Sam Bankman-Fried was soon arrested and charged with multiple criminal offenses, including wire fraud, securities fraud, money laundering, and conspiracy to commit fraud. Federal prosecutors alleged that

FTX: The Rise, Fall, and Fallout

Bankman-Fried orchestrated a massive scheme to defraud investors and customers by misappropriating billions of dollars in customer funds. The charges accused him of using these funds to cover Alameda's trading losses, make speculative investments, and finance a luxurious lifestyle.

In addition to criminal charges, Bankman-Fried and other FTX executives faced numerous civil lawsuits from customers, investors, and even celebrity endorsers. The U.S. Securities and Exchange Commission (SEC) alleged that Bankman-Fried and FTX misled investors about the safety and usage of customer funds, violating securities laws. Some lawsuits targeted FTX's celebrity endorsers, arguing that they helped promote an unregulated and highly risky platform to the public, contributing to massive financial losses.

Corporate and Ethical Failures

FTX's collapse revealed severe deficiencies in corporate governance, internal controls, and ethical standards. One of the most glaring issues was FTX's failure to separate customer funds from corporate assets. Reports indicated that FTX had transferred billions of dollars in customer deposits to Alameda Research without customer consent, which Alameda then used to engage in high-risk, speculative trades. This lack of fund segregation not only constituted a serious breach of trust but also violated fundamental ethical and financial norms.

Further exacerbating these issues was FTX's lack of internal oversight. The company reportedly had no formal internal audit or risk management functions, which left it vulnerable to financial mismanagement and fraud. There was no independent board of directors to oversee the company's operations and ensure accountability. Key financial controls and policies, such as transaction approvals and fund transfers, were either weak or nonexistent, allowing executives to move funds freely without adequate tracking or oversight.

FTX's corporate culture was insular, with key executives often related personally or romantically. This created a lack of objectivity and accountability, with decisions made by a small, close-knit group rather than by experienced, independent professionals. Many employees were young and

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relatively inexperienced in finance, leading to poor risk management and compliance practices. Without a dedicated compliance department or proper human resources policies, FTX lacked a system for addressing conflicts of interest, ethical concerns, and corporate misconduct.

Financial and Legal Issues

FTX's lack of sound financial controls led to numerous financial issues, with the company failing to track liabilities accurately, maintain segregated funds, or perform proper accounting. The company's heavy reliance on FTT tokens as collateral further destabilized its financial position, as the value of these tokens was highly volatile and tied directly to FTX's own performance. When FTT's value plummeted, FTX's liabilities exceeded its assets, leading to insolvency.

On the legal front, FTX's practices raised numerous red flags. The company's apparent lack of compliance with financial regulations, including anti-money laundering (AML) laws and securities regulations, increased its legal exposure. FTX also faced accusations of securities fraud, as its lack of transparency around the usage of customer funds violated the fiduciary duties owed to investors and customers. The misrepresentation of its financial health to investors and its failure to disclose Alameda's risky activities constituted additional legal breaches.

Conclusion

FTX's rise and rapid collapse highlight the dangers of unchecked ambition, inadequate corporate governance, and a lack of regulatory oversight in the cryptocurrency sector. FTX's downfall was the result of a combination of financial mismanagement, ethical lapses, and corporate control failures that allowed its executives to engage in risky, unethical, and ultimately illegal practices. Sam Bankman-Fried's charges underscore the seriousness of FTX's missteps, with allegations of fraud, securities violations, and financial mismanagement putting him at risk of a lengthy prison sentence if convicted.

In the aftermath, FTX's collapse has prompted calls for greater regulatory oversight of the cryptocurrency industry. It has become a cautionary tale of the importance of transparency,

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accountability, and sound governance in any financial institution, particularly in an industry as volatile and high-stakes as cryptocurrency. The fallout from FTX's failure continues to reverberate across the market, serving as a stark reminder of the need for ethical business practices, robust corporate controls, and clear legal standards to protect investors and maintain the stability of financial systems.

References

- Cohen, L. (2023, August 15). Bankman-fried used \$100 mln in stolen FTX funds for political donations, US says. Reuters. <https://www.reuters.com/legal/bankman-fried-used-customer-funds-100-mln-us-political-donations-prosecutors-say-2023-08-14/>
- Lang, H., & Chiacu, D. (2022, December 13). Poor management, inexperienced leaders led to FTX collapse, new CEO says. Reuters. <https://www.reuters.com/legal/poor-management-inexperienced-leaders-led-ftx-collapse-new-ceo-tells-lawmakers-2022-12-13/>
- Reiff, N. (2024, October 10). The collapse of FTX: What went wrong with the Crypto Exchange?. Investopedia. <https://www.investopedia.com/what-went-wrong-with-ftx-6828447>
- Tortorellipaige, P., & Rooney, K. (2024, March 28). Sam Bankman-Fried's Alameda quietly used FTX customer funds for trading, say sources. CNBC. <https://www.cnbc.com/2022/11/13/sam-bankman-frieds-alameda-quietly-used-ftx-customer-funds-without-raising-alarm-bells-say-sources.html>
- Werber, C. (2022, November 17). FTX's approach to Human Resources was predictably messy. Quartz. <https://qz.com/ftxs-approach-to-human-resources-was-predictably-messy-1849796384>

Kenneth Chesebro

Virginia Tate, CFE/CIRA/EA

FAI International – Forensic Accounting & Investigations

Summary of Key Events leading up to the Georgia Indictment of Kenneth Chesebro:

Chesebro authored three memos on 11/18/2020, 12/6/2020 and 12/9/2020 that outlined a plan to certify Donald Trump as the winner of the 2020 presidential campaign.

Six allegedly contested states would submit alternate slates of electors with the hope that Vice President Mike Pence would count them. The memos inspired the scheme in seven states based on the "President of the Senate" arguing that the Senate President is charged with making judgements in the event of conflicting votes when the joint session met on January 6, 2021. VP Pence refused to participate.

Kenneth Chesebro entered a pre-trial plea to Conspiracy to commit filing false documents in Georgia.

Georgia Allegations/Charges:

1st count: Alleges that on 12/7/2020, Trump requested the late Speaker of the Georgia House of Representatives, David Ralston, call a special session of the Georgia General Assembly to unlawfully appoint a different slate of electors to the electoral college that would then vote for Trump.

2nd count: Alleges that Trump on 1/2/2021 requested Georgia Secretary of State, Brad Raffensperger, to violate his oath by unlawfully altering, unlawfully adjusting and otherwise influencing the certified returns for presidential electors.

3rd count: Alleges that Trump further asked Mr. Raffensperger to unlawfully decertify the Election or whatever the correct legal remedy is and announce the true winner.

State of Georgia v. Trump, et al.

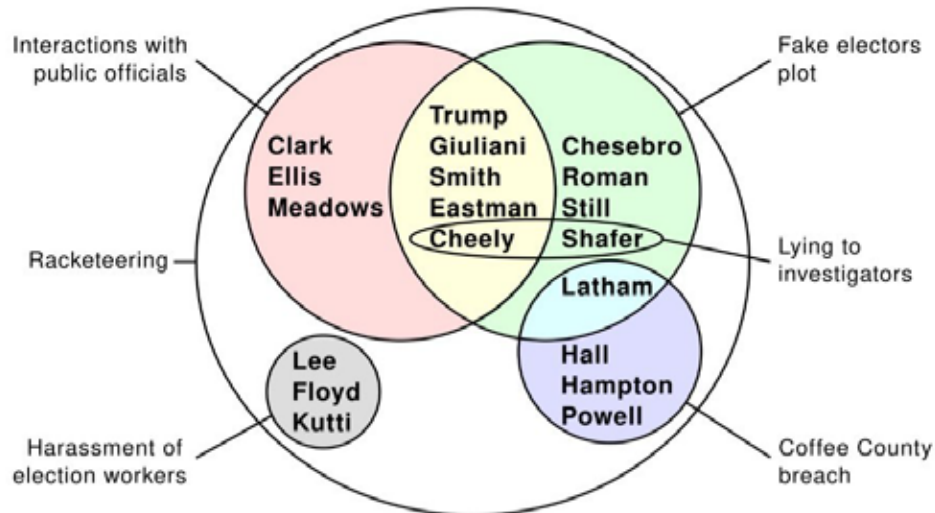
Fulton County Superior Court, Judge Scott F. McAfee, Citation 23SC188947

List of Charges

- Violation of Georgia RICO Act
- Solicitation of violation of oath by public officer
- False statements and writings
- Conspiracy to commit false statements and writings
- Criminal attempt to commit false statements and writings
- Impersonating a public officer
- Conspiracy to commit impersonating a public officer
- Forgery in the first degree
- Conspiracy to commit forgery in the first degree
- Filing false documents
- Conspiracy to file false documents
- Influencing Witnesses
- Criminal attempt to commit influencing witnesses

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- Conspiracy to commit election fraud
- Conspiracy to commit computer theft
- Conspiracy to commit computer trespass
- Conspiracy to commit computer invasion of privacy
- Conspiracy to defraud the state
- Perjury



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Kenneth Chesebro Background Recap

Born Kenneth John Chesebro
June 5, 1961 (63 years of age)
Wisconsin

Education Northwestern University (BS) 1983
Harvard University – Juris Doctor 1986

Same law class as:
Elena Kagan, 4th woman to serve on Supreme Court (Obama)
Jeffrey Toobin, Attorney and legal analyst for CNN

Research Assistant for Harvard Law School professor Laurence Tribe with Ron Klain, White House Chief of Staff 2021, (Biden as President and VP, Gore as VP)

Legal Career Clerked for Judge Gerhard Gesell, WA DC (presided over Pentagon papers ruling in favor of the Washington Post re: Nixon Administration)

Highlights Opened own law firm in Cambridge MA focused principally on plaintiff claims against large corporations and a wide variety of appellate matters which frequently involve constitutional law issues.
Chesebro has tried more than 100 cases before the US Supreme Court.

Cases include:

- Assisted Laurence Tribe in Al Gore's dispute of the 2000 Bush v. Gore election.
- Lead Counsel in Daubert case.
- Lead counsel in TXO.
- Represented plaintiffs suing big corporations including Vietnam veterans taking on chemical companies.
- Deputy special counsel against the Reagan administration involvement in the Iran-Contra investigation.
- Beginning in 2018, Chesebro represented Republicans including Ted Cruz and Mike Lee (Utah voting rights).

Net Worth Estimated at 10 Million (unconfirmed).
Source of major investment is Crypto in 2014 resulting in a multi-million-dollar return.

Spouse Emily Stevens (m. 1994; div. 2016)

Political Democratic (prior to 2016)

Party Independent (2016 – present)
Supported Democrats including Bill Clinton, John Kerry and Barack Obama
2016 forward has donated to Republicans JD Vance, Ron Johnson and Trump.

Criminal Charges **7 Georgia state charges:**

1. Georgia RICO Act
2. Conspiracy to impersonate a public officer
3. Conspiracy to commit forgery (2 counts)
4. Conspiracy to make false statements (2 counts)
4. Conspiracy to file false documents

1 Wisconsin state charge:

1. Conspiracy to utter a forgery

Criminal Penalty 5 years suspended sentence
\$5,000 restitution
100 hours community service

Criminal Status Plea bargain, pleaded guilty to:
Conspiracy to commit filing false documents in Georgia (election)

Additional 18 parties indicted alongside Kenneth Chesebro in the Georgia election case:

1. Rudi Giuliani, Trump attorney
2. Mark Meadows, White House chief of staff (Trump Administration)
3. Scott Graham Hall, Georgia bail bondsman served as Trump's deputy campaign manager in 2016

4. Sidney Powell, Trump attorney
5. Jenna Ellis, Trump attorney
6. Fani Willis, Fulton County DA
7. Jeffrey Clark, assistant attorney general for the Environment and Natural Resources Division (Trump Administration)
8. John Eastman, Trump attorney
9. Ray Smith, Trump local attorney of record in Georgia
10. Robert Cheeley, Georgia attorney
11. Michael Roman, former White House aide
12. David Shafer, Chairman of Georgia GOP
13. Shawn Still, one of 16 Georgia Republicans who signed a certificate falsely
14. Stephen Cliffgard Lee, pastor charged with pressuring Georgia election workers
15. Harrison William Prescott Floyd, director of Black Voices for Trump
16. Trevian Kutti, publicist claimed to have high-level law enforcement connections.
17. Cathy Latham, one of 16 Georgia Republicans who signed a certificate falsely
18. Misty Hampton, elections director in Coffee County

Chesebro – Villain? Victim? Fed Up?

Long time law school and professional colleagues of Chesebro state they are “baffled” by the change in his character and behavior. They cannot explain the change from what they believe is a quiet man to the architect of an election fraud.

On 12/16/2020 Chesebro followed up Mr. Eastman’s memo with a five-page, single spaced email proposing a strategy to Mr. Giuliani concluding with, *“It’s an honor and privilege to be involved with you in this fight!”*

Chesebro had a long history of supporting liberal policies and the Democratic party. Perhaps unrest and rifts within the Democratic party itself? Perhaps lack of recognition within the Democratic party? Perhaps alienation from the party?

We may never know what caused Chesebro to cast off decades of party alliance and appear in the January 6th, 2021, mob wearing a MAGA hat.

Be it an evolution of political beliefs, a desire to right wrongs/slights or other issues, Chesebro felt his disenchantment with the Democratic party and/or candidate slate combined with his belief that his president-of-the-senate electoral count theory could, or should, result in enough recognition to risk a lifetime as a respected attorney.

Ethical Considerations:

January 6, 2021, is a key date in the Chesebro plan (see opening summary). He is seen in Washington DC with Alex Jones. Despite the federal indictment in Georgia there are currently no convictions for the January 6th storming of the Capitol.

Both The 65 Project and Lawyers Defending American Democracy have filed ethics violation cases against Chesebro in multiple states.

The 65 Project complaint to the New York Grievance Committee requests investigation under:

1. Mr. Chesebro violated Rule 3.1 by pursuing a claim that lacked any basis in law and fact.
2. Mr. Chesebro violated Rule 1.2 (d) by assisting Mr Trump to engage in illegal and/or fraudulent behavior.
3. Mr. Chesebro violated multiple aspects of Rule 8.4 (a), (b), (c), (d), (h)

Lawyers Defending American Democracy have filed ethical complaints in multiple states citing ethical violations under Rule 8.4 (c), (h)

Rule 1.2: Scope of Representation & Allocation of Authority between Client & Lawyer
Client-Lawyer Relationship

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Rule 3.1: Meritorious Claims & Contentions
Advocate

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Rule 4.1: Truthfulness in Statement to Others
Transactions with Persons Other Than Clients

In the course of representing a client a lawyer shall not knowingly:

- (a) Make false statement of material fact of law to a third person; or
- (b) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting in a criminal or fraudulent act by a client unless disclosure is prohibited by Rule 1.6.

Rule 8.3: Reporting Professional Misconduct
Maintaining the Integrity of the Profession

(a) a lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority. (Reporting should occur without undue delay).

Rule 8.4: Misconduct
Maintaining the Integrity of the Profession
It is professional misconduct for a lawyer to:

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- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (e) state of imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Professional Duties Toward Colleagues:

ABI has hosted many sessions looking into our own profession regarding:

- Substance Abuse Signs
- Mental Health
- Professional Civility

It is difficult to define the issues leading up to Chesebro's behavioral and political changes but there are signs that point to it.

Red Flags? Progression /evolution of Chesebro's behavior:

- Was a long time Democrat turned Independent.
- Divorced his wife of 20+ years in 2016.
- Invested heavily in Bitcoin 2014; sales resulted in a multimillion-dollar gain.
- Began donations to all political parties but heavily into the Republican party.
- Created *BadgerPundit*, his alter ego on X (formerly Twitter)
- Appears to have changed politics, friends and professional playground.
- Possible lack of concern for personal consequences or above the law attitude.
- Lack of empathy or concern to damage inflicted on others.
- Controlled behavior with perhaps
 - Tendency to participate in schemes and take calculated risks to minimize evidence or exposure;
 - Tendency to appear superficially normal in social relationships

Other Considerations

- Chesebro was in possession of legal education, training and experience to know that this was a violation of the Electoral Count Act.
- Chesebro testified to the Jan 6th committee that he did his Trump work pro bono. Plausible deniability or self-appointed?

References:

Fulton Clerk of the Court-Case NO 23sc188947;In re 2 May 2022 Special Purpose Grand Jury (<https://www.fultonclerk.org/DocumentCenter/>)

Memo from Kenneth Chesebro to James Troupis 11/18/2020; 12/6/2020
(<https://www.documentcloud.org/documents/23939549-december-6-memo-from-kenneth-chesebro-to-james-troupis>)

Timeline: The Trump team's "fake elector" plot
(<https://www.washingtonpost.com/politics/2022/06/20/trump-fake-electors-timeline/>)

Kenneth Chesebro (https://en.wikipedia.org/wiki/Kenneth_Chesebro/)

Kenneth Chesebro (<https://www.linkedin.com/in/ken-chesebro/>)

Kenneth Chesebro – low-profile, bright, seemingly decent- is not your average Trump guy, So how did he become the architect of the election subversion scandal?
(<https://www.theguardian.com/us-news/2023/aug/19/kenneth-chesebro-trump-georgia-indictment-fake-electors>)

Anatomy of a Fraud: Kenneth Chesebro's Misrepresentation of my Scholarship in His Efforts to Overturn the 2020 Presidential Election. Laurence H. Tribe
(<https://www.justsecurity.org/87498/kenneth-chesebros-misrepresentation-of-laurence-tribe-scholarship-in-his-efforts-to-overturn-the-2020-presidential-election/>)

His Ethics Account was Empty. Fromo Harrop
(<https://www.columbian.com/news/2023/oct/28/harrop-his-ethics-account-was-empty/>)

Ethics complaints Claim DOH Lawyer & Trump Attorney Tried to Undermine 2020 Election. Avalon Zoppo (<https://www.law.com/nationallawjournal/2022/07/20/ethics-complaint-claims-doh-lawyer-trump-attorney-tried-to-undermine-2020-election/?slreturn=20241116153815>)

The 65 Project 7/20/2022 ethics complain against Kenneth Chesebro to Supreme Court of the State of New York (<https://the65project.com/ethics-complaint-against-kenneth-chesebro/>)

Lawyer group says Trump attorney broke ethics rules in fake elector plan. Reuters
(<https://www.reuters.com/legal/legalindustry/lawyer-group-says-trump-attorney-broke-ethics-rules-fake-electors-plan-2022-10-12/>)

Lawyers Defending American Democracy ethics complaints to Attorney Grievance Committee, Supreme Court of the State of New York 9/8/2022 and 10/12/2022
(<https://ldad.org/letters-briefs/chesebro-complaint>)

Rudy Giuliani: A Case Study

Prepared by:
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Background Facts

Rudy Giuliani, President Elect Donald Trump's former lawyer, was formally disbarred in New York and the District of Columbia for his role in trying to overturn the 2020 election. Specifically, the New York Supreme Court stated in its disbarment order that Giuliani "not only deliberately violated some of the most fundamental tenets of the legal profession, but that he also actively contributed to the national strife that has followed the 2020 Presidential election, for which he is entirely unrepentant." *Matter of Giuliani*, 230 A.D.3d 101, 102, 214 N.Y.S.3d 366, 372 (2024). The District of Columbia Court of Appeals Board on Professional Responsibility Ad Hoc Hearing Committee recommended Giuliani's disbarment for "filing a lawsuit seeking to change the result of the 2020 presidential election when he had no factual basis, and consequently no legal grounds, to do so . . . [his] frivolous lawsuit attempted unjustifiably and without precedent to disenfranchise hundreds of thousands of Pennsylvania voters, and ultimately sought to undermine the results of the 2020 presidential election." *In re Rudolph W. Giuliani*, District of Columbia Board of Appeals, Board on Professional Responsibility, Report and Recommendation of Ad Hoc Hearing Committee, Board Docket No. 22-BD-027, Disciplinary Docket No. 2020-D-253.

In addition to the loss of his law license in two states, Giuliani was criminally charged in Arizona and in Georgia on the same offense. He was also sued for defamation by voting machine companies, Dominion Voting Systems and Smartmatic and was ordered to pay \$148 million to two Georgia election workers whom he defamed (referring to them as "serial criminals"). This liability resulted in Giuliani declaring bankruptcy.

Giuliani's New York Disbarment

The New York disciplinary charges stemmed from the allegations that Giuliani “communicated demonstrably false and misleading statements to courts, lawmakers, and the public at large in his capacity as lawyer for former President Donald J. Trump and the Trump campaign . . . [t]hese false statements were made to improperly bolster [Giuliani’s] narrative that due to widespread voter fraud, victory in the 2020 United States presidential election was stolen from his client.”

In February 2023, the Attorney Grievance Committee (AGC) served Giuliani with a petition of 20 charges. The Supreme Court of New York, Appellate Division, First Judicial Department appointed a Referee to conduct a hearing on the charges and file a report making findings of fact and conclusions of law, with a recommendation for discipline, if any. After a six-day evidentiary hearing at which the AGC called Giuliani as its only witness and Giuliani called three witnesses, the Referee found that the AGC had proven 16 of the charges which violated five New York disciplinary rules: 4.1, 8.4(b)(c)(d)(h):

Rule 4.1	Truthfulness in statements to others
Rule 8.4(b)	A lawyer or law firm shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
Rule 8.4(c)	A lawyer or law firm shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
Rule 8.4(d)	A lawyer or law firm shall not engage in conduct that is prejudicial to the administration of justice;
Rule 8.4(h)	A lawyer or law firm shall not engage in any other conduct that adversely reflects on the lawyer’s fitness as a lawyer;

and three Pennsylvania rules applicable under New York rule 8.5[b][1].

Regarding the proven charges, the Court noted that Giuliani “essentially conceded most of the factual predicates supporting the alleged acts of misconduct as gathered from the stipulated facts, the documentary evidence and the testimony presented.” And that instead of challenging the relevant facts, Giuliani “fundamentally presented the defense that he lacked knowledge that statements he had made were false and that he had a good faith basis to believe the allegations he made”

The Referee noted Giuliani’s “extraordinary record of service to the people of the State of New York and to our country” but nonetheless recommended disbarment opining:

“Respondent’s singular reputation and position as the personal attorney for the then President of the United States gave his acts and words a special currency to the public. They allowed what he said to be credited and his ideas to be believed when, if promulgated by others, they would be dismissed as incredulous. Taking advantage of his unique position, Respondent told numerous lies in numerous forums all designed to create distrust of the elective system of our country in the minds of its citizens and to destroy their confidence in the legitimacy of our government. This behavior has done immeasurable damage to our democracy. . . .” and “Respondent displayed no remorse for his actions and, indeed, during the Hearing, magnified his lack of contrition.”

This recommendation was adopted by the Court.

Giuliani’s D.C. Disbarment

President Biden won Pennsylvania in the 2020 election by a margin of more than 80,000 votes. According to Giuliani’s testimony, the day after the election, then-President Trump asked Giuliani to take charge of post-election litigation challenging the voting results. Giuliani immediately met with other attorneys to prepare to bring litigation in approximately ten states (including Pennsylvania). He intended all those cases to raise similar claims so they could be consolidated in a single lawsuit that would eventually be heard in the U.S. Supreme Court.

Giuliani started work on litigation specific to Pennsylvania after receiving a call complaining about observational boundaries during mail-in ballot canvassing there. Although

election challenges based on state law are required to be brought in state court, the campaign had lost other cases in the state courts and so Giuliani worked with others to draft a complaint which was ultimately filed in federal district court in Pennsylvania. The complaint, which named as defendants, the Pennsylvania Secretary of State and the election boards of seven counties that had returned majorities for President Biden, contained seven counts asserting violations of plaintiffs' civil rights under 42 U.S.C. Sec. 1983 and the Electors and Elections Clauses of the U.S. Constitution.

Giuliani testified that initially, he played only a limited role in preparing the lawsuit, which was based on information obtained by others. However, after other attorneys on the case sought to withdraw, Giuliani ultimately argued the case in front of a federal judge, claiming there was "widespread, nationwide voter fraud" and that Democrats had plotted to steal the election in Pennsylvania.

The disciplinary proceedings focused on Giuliani's failure to properly vet the voter fraud allegations before filing the lawsuit. Giuliani contended, however, that had the Pennsylvania lawsuit proceeded through the discovery phase, his legal team would have been able to gather more evidence that would have supported the allegations in the lawsuit.

The D.C. Disciplinary Council charged Giuliani with violating Pennsylvania Rules of Professional Conduct 3.1 and 8.4(d).

Pennsylvania Rule 3.1 states in relevant part that "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law."

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The Hearing Committee used *In re Spikes*, 881 A.2d 1118, 1125 (D.C. 2005) as a guide to its analysis. *Spikes* held that a claim is frivolous if, after undertaking “an ‘objective appraisal of merit’ . . . , a reasonable attorney would have concluded that there was not even a ‘faint hope of success on the legal merits’ of the action being considered.” Here, the Committee found that Giuliani “possessed no evidence of widespread fraud or impropriety” but “instead rested on the unsupported conclusive presumption that ballots canvassed without close third-party oversight were fraudulent and must not be counted” and that a “reasonable attorney” would not have advanced such an argument.

The Ad Hoc Hearing Committee explained Mr. Giuliani’s sanction of disbarment as follows:

We cannot clearly and convincingly say that Mr. Giuliani intentionally lied to the District Court in connection with the Pennsylvania litigation, and he was not charged with doing so. But his hyperbolic claims of election fraud and the core thesis of the Pennsylvania litigation were utterly false, and recklessly so. Mr. Giuliani’s rash overstatement claiming that the election was stolen had no evidence to support it. His utter disregard for facts denigrates the legal profession.

Disclosure and Accountability:
The Complex Case Panel and the Jones/Freeman Relationship

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This memorandum provides a very summary overview of the circumstances surrounding the relationship between David R. Jones (“Jones”) and Elizabeth Freeman (“Freeman”) and Jones’ time as the Chief Judge of the United States Bankruptcy Court for the Southern District of Texas as one of only two judges on the Complex Case Panel for that court.¹ After briefly summarizing the factual background, relying largely on news stories and filings in various court proceedings, it then identifies some of the various investigations and proceedings, that have been initiated following the public revelation of the Jones/Freeman relationship.

I. Summary Background

As Chief Judge of the United States Bankruptcy Court for the Southern District of Texas, Jones maintained a busy calendar, overseeing 11% of all Chapter 11 bankruptcies involving more than \$100 million in liabilities.² Freeman was Jones’ law clerk before she left that work to join Jackson Walker LLP (“Jackson Walker”) as a partner in the firm.³ The United States Trustee (“UST”) alleges that Jones presided over at least 26 bankruptcy proceedings in which he

¹ As Chief Judge, Jones entered orders permitting chapter 11 cases be designated as complex and, in that event, assigned to either Judge Jones or Judge Isgur. *See* General Order 2016-1; General Order 2018-1, Order Regarding Complex Case Assignment (Jan. 29, 2018).

² Dietrich Knauth, *Top US bankruptcy judge, under ethics review, steps back from major cases*, Reuters (October 13, 2023) <https://www.reuters.com/legal/top-us-bankruptcy-judge-steps-back-major-cases-under-ethics-review-2023-10-13/>

³ Complaint Identified by the Chief Judge of the Fifth Circuit Court of Appeals Against United States Bankruptcy Judge David R. Jones, Southern District of Texas, Under the Judicial Improvements Act of 2002 at 1–2, No. 05-24-90002 (5th Cir. Oct. 13, 2023), ECF No. 1.

awarded Jackson Walker fees while Freeman was a partner and cohabitating with him⁴ and that Jones mediated another seven cases involving the firm and Freeman.⁵ The UST is challenging at least \$23 million in fees collected by Jackson Walker in proceedings that were held before Jones, asking the court to set aside as much as \$23 million in fees paid to Jackson Walker in cases over which Jones presided.⁶ Jackson Walker often served as local counsel in a proceeding, with Kirkland & Ellis⁷ serving as lead counsel.⁸

On October 6, 2023, the Business Insider published a story about the Jones/Freeman relationship.⁹ The next day, Jones confirmed the relationship to The Wall Street Journal.¹⁰ He took the position that the relationship did not need to be disclosed because they were not married and “there was no economic benefit to him from her legal work.”¹¹

On October 13, 2023, the Chief Judge of the Fifth Circuit Court of Appeals filed an Ethics Complaint against Judge Jones.¹² Judge Jones submitted his resignation from the bench on October 16, 2023, effective as of November 15, 2023.¹³

II. Resulting Proceedings and Investigations

⁴ Mot. For (1) Relief from Judgment Pursuant to Federal Rule of Civil Procedure 60(b)(6) and Federal Rule of Bankruptcy Procedure 9024 Approving compensation Applications of Jackson Walker LLP, (2) Sanctions, and (3) Related Relief, p. 10, *In re: AUTO PLUS AUTO SALES LLC, Wind-Down Debtor*, No. 23-90055 (Bankr. S.D. Tex. March 29, 2024).

⁵ *Id.*

⁶ United States Trustee’s Motion for Withdrawal of the Reference and Referral of Motion for Relief Under Rule 60(b)(6) and Related Matters, *In re. Sanchez Energy Corp., et al.*, No. 2:19-bk-34508 (Bankr. S.D. Tex. Oct. 7, 2024) [ECF No. 2980].

⁷ Kirkland & Ellis is used to refer collectively and individually to Kirkland & Ellis LLP and Kirkland & Ellis International LLP.

⁸ Plaintiff’s First Amended Complaint, at 9-11, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., Jan. 11, 2024) [ECF No. 10].

⁹ James Nani, *How Four Judges Kept Romance Allegations Quiet for Two Years*, Bloomberg Law, (May 1, 2024) <https://news.bloomberglaw.com/banking-law/how-four-judges-kept-romance-allegations-quiet-for-two-years>

¹⁰ *Id.*

¹¹ *Id.*

¹² Complaint Identified by the Chief Judge of the Fifth Circuit Court of Appeals Against United States Bankruptcy Judge David R. Jones, Southern District of Texas, at 1–4, No. 05-24-90002 (5th Cir. Oct. 13, 2023) [ECF No. 1].

¹³ Order Concluding Complaint in the Complaint Identified by the Chief Judge of the Fifth Circuit Court of Appeals Against United States Bankruptcy Judge David R. Jones, Southern District of Texas, No. 05-24-90002 (5th Cir. Oct. 13, 2023), Nov. 15, 2023.

A. *Van Deelen v. Jones, Bankr., S.D. Tex., No. 4:23cv3729*

Jones presided over the jointly administered bankruptcy case of McDermott International, Inc. (“McDermott”) and certain of McDermott’s affiliates.¹⁴ Plaintiff Michael Van Deelen claims that his stock in McDermott was improperly extinguished under the confirmed plan in the case¹⁵

Van Deelen sued Jones, Freeman, Jackson Walker, and Kirkland & Ellis¹⁶ alleging, *inter alia*, that the defendants breached their fiduciary duties, committed fraud, and were unjustly enriched.¹⁷ He also alleged Jackson Walker, Kirkland & Ellis, and Freeman’s actions in failing to disclose the relationship constituted legal malpractice and professional negligence.¹⁸

Defendants each filed motions to dismiss the complaint.¹⁹ The court granted the motions,²⁰ finding, among other things, that Van Deelen failed to establish a causal link between Defendant’s conduct and his primary injury - reduced recovery from the McDermott estate.²¹

In granting the dismissal, the court expressed that it did so “with some consternation”²² and took “no pleasure in [the] result.”²³ It emphasized that the dismissal does not redeem Jones’s misconduct, observing that Jones violated the obligation of the judge to disqualify himself in any proceeding where his impartiality might reasonably be questioned.²⁴ The court also noted that,

¹⁴ See Docket for Case No. 20-30336, initiated January 1, 2020, United States Bankruptcy Court for the Southern District of Texas.

¹⁵ Plaintiff’s First Amended Complaint, at 2, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., Jan. 11, 2024) [ECF No. 10].

¹⁶ *Id.* at 88.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 82.

¹⁹ Defendant David R. Jones’ Motion to Dismiss Under FED.R.CIV. P. 12(b)(6), at 15, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., Mar. 11, 2024) [ECF No. 39]; Defendants Kirkland & Ellis LLP and Kirkland & Ellis Int’l LLP’s Motion to Dismiss, at 44, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., Mar. 18, 2024) [ECF No. 44]; Defendant Jackson Walker LLP’s Fed. R. Civ. P. 12(b)(1) and 12(b)(6) Motion to Dismiss, at 14, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., Mar. 22, 2024) [ECF No. 46]; Defendant Elizabeth Freeman’s Motion to Dismiss, No. 4:23cv3729 (Bankr., S.D. Tex.) [ECF No. 45].

²⁰ Memorandum and Opinion and Order, *Van Deelen v. Jones*, No. 4:23cv3729 (Bankr., S.D. Tex., August. 16, 2024) [ECF No. 101].

²¹ *Id.* at 23.

²² *Id.* at 1.

²³ *Id.* at 38.

²⁴ *Id.* at 31.

the UST has been seeking to claw back attorneys' fees paid to Jackson Walker and, by all indications, has been vigorously investigating the Jones-Freeman relationship."²⁵ Still, the court observed, "the damage has been done. Public confidence in our courts is difficult to rebuild."²⁶

B. *Morton S. Bouchard III v. Jones et al.*, S.D.Tex., No. 4:24-cv-00693

Morton S. Bouchard III is the former CEO of a now-defunct Bouchard Transportation Company ("BTC"). Jones presided over the jointly administered bankruptcy proceedings of BTC and certain of its affiliates. Jackson Walker and Kirkland & Ellis served as counsel to the debtors. Bouchard subsequently filed suit against Jones, Kirkland & Ellis, Jackson Walker, Freeman, restructuring advisor Portage Point Partners, and Matthew Ray, founder of Portage Point Partners.²⁷ Bouchard alleges fraud, breach of fiduciary duties, and unjust enrichment, among other claims.²⁸ Freeman, Jackson Walker, Kirkland & Ellis & Jones have each filed motions to dismiss.²⁹ These motions are currently pending.

C. *In re: Professional Fee Matters Concerning the Jackson Walker Law Firm, Bankr. S.D.Tex.*, 4:23mp645

The UST has challenged at least \$23 million in fees collected by Jackson Walker in proceedings that were held before Jones, seeking to have these fee awards set aside.³⁰ These matters are pending.

²⁵ *Id.* at 38.

²⁶ *Id.*

²⁷ Plaintiff's Original Complaint, at 1-2, *Bouchard III v. Jones et al.*, No. 4:24-cv-693 (Bankr., S.D. Tex., Feb. 26, 2024).

²⁸ *Id.* at 40.

²⁹ Defendants Kirkland & Ellis LLP and Kirkland & Ellis Int'l LLP's Motion to Dismiss, *Bouchard III v. Jones et al.*, No. 4:24-cv-693 (Bankr., S.D. Tex., Apr. 30, 2024); Defendant Jackson Walker LLP's Motion to Dismiss, *Bouchard III v. Jones et al.*, No. 4:24-cv-693 (Bankr., S.D. Tex., May. 15, 2024); Defendant David R. Jones's Motion to Dismiss Under Fed. R. Civ. P. 12(B)(6), *Bouchard III v. Jones et al.*, No. 4:24-cv-693 (Bankr., S.D. Tex., Jul. 11, 2024).

³⁰ United States Trustee's Motion for Withdrawal of the Reference and Referral of Motion for Relief Under Rule 60(b)(6) and Related Matters, *In re. Sanchez Energy Corp., et al.*, No. 2:19-bk-34508 (Bankr. S.D. Tex. Oct. 7, 2024) [ECF No. 2980].

On August 2, 2024, the UST filed a notice in the miscellaneous proceeding in which administrative matters for these challenges are being managed. It advised the Court that, despite the court's admonishment that no parties may obtain testimony regarding any previously listed deposition topic with Jones until authorized by the court, on July 29 and 30 of 2024, both counsel to Jones and counsel for Jackson Walker confirmed to the UST that Jones recently appeared for an interview conducted by Jackson Walker's counsel.³¹ On July 29, 2024, counsel for Jones had also offered the UST a similar "off the record" interview."³²

At a hearing on August 16, 2024, the court found Jones had acted in bad faith by engaging in a private conversation with attorneys from Jackson Walker.³³ Under the Judiciary Regulations, federal judicial personnel may not provide testimony or produce records in legal proceedings except as authorized in accordance with the regulations.³⁴ The court rejected Jones argument that "interviews" as described in the Judiciary Regulations are only a reference to sworn testimony given at a deposition, observing that, "[d]epositions" is listed separately as a type of testimony that may not be given until this Court makes a determination."³⁵

The court mandated that Jones complete seven and a half hours of ethics training, stating that Jones preferred to seek forgiveness rather than permission, which he deemed unacceptable in this sensitive matter.³⁶ It chose not to sanction or hold in contempt the Jackson Walker attorneys or Jones' counsel, "narrowly" finding that their "conduct did not amount to bad faith."³⁷ In reaching this conclusion, the court noted that "the Judiciary Regulations do not impose any direct

³¹ Memorandum Opinion, at 8, *In re Pro. Fee Matters Concerning Jackson Walker L. Firm*, No. 23-645, (Bankr. S.D. Tex. Aug. 16, 2024)[ECF No. 266].

³² *Id.*

³³ *Id.* at 15.

³⁴ *Id.* at 13.

³⁵ *Id.* at 13-14.

³⁶ *Id.* at 15.

³⁷ *Id.* at 17.

requirement on the requester of information to affirmatively refrain from contacting or receiving information from the former judiciary employee, nor do they impose a requirement on the requestee's counsel."³⁸

Although the court determined that it would not impose sanctions on counsel, it cautioned, "it is incredulous to this Court that well-seasoned attorneys would play with fire like this and proceed on such a legally dubious course of action..... they decided to play fast and loose with the Judiciary Regulations and this Court's authority. This Court expects a more conservative and cautious approach from all attorneys involved and is deeply disappointed. Further actions that undermine and circumvent this Court's authority as determining officer will not be tolerated and any further incursion on this Court's authority as determining officer will result in severe sanctions."³⁹

D. Ethics Complaint Against Jones

On October 13, 2023, Chief Judge Richman of the United States Court of Appeals for the Fifth Circuit filed an Ethics Complaint against Jones, finding "probable cause to believe that misconduct by Judge Jones has occurred."⁴⁰ The Complaint observed that, "Judge Jones is in an intimate relationship with Elizabeth Freeman. It appears that they have cohabited (living in the same house or home) since approximately 2017."⁴¹ The Complaint further observed that Judge Jones approved substantial legal fees and expenses payable to Jackson Walker that, in some instances, included fees attributable to services performed by Freeman.⁴² The Complaint asserts that there is a "reasonable probability" that Freeman, as a partner at Jackson Walker, "obtained a

³⁸ *Id.* at 15.

³⁹ *Id.* at 16.

⁴⁰ Complaint Identified by the Chief Judge of the Fifth Circuit Court of Appeals Against United States Bankruptcy Judge David R. Jones, Southern District of Texas, Under the Judicial Improvements Act of 2002 at 1–4, No. 05-24-90002 (5th Cir. Oct. 13, 2023) [ECF No. 1].

⁴¹ *Id.* at 1.

⁴² *Id.* at 2.

financial benefit from, or had a financial interest in, fees approved by Judge Jones.”⁴³ Based on these and other observations, the court concluded that “[T]here is probable cause to believe that Judge Jones has engaged in misconduct, as that term is defined or described in the code of conduct applicable to federal judges including bankruptcy judges”⁴⁴ and that further proceedings were warranted.⁴⁵ The proceeding was ended, however, when Jones resigned from the bench.

E. *In re: Jackson Walker LLP*, Docket No. 4:24-mc-01523 (S.D. Tex. Sep 20, 2024).

On September 20, 2024, Judge Marvin Isgur submitted a referral of Jackson Walker to Chief Judge Randy Crane of the United States District Court for the Southern District of Texas, recommending an ethics inquiry be initiated.⁴⁶ In his referral, Judge Isgur asserts that Jackson Walker appears to have breached its ethical duties to clients, the court, and to opposing parties and counsel by failing to disclose the Jones/Freeman relationship.⁴⁷ Judge Rosenthal has been assigned hearing judge in the matter.⁴⁸

F. Reported Criminal Investigation by the Department of Justice

The Department of Justice is reportedly investigating potential criminal activity pertaining to the Jones/Freeman relationship.⁴⁹ The investigation has reportedly been expanded to include an investigation of the actions of certain restructuring professionals involved in the proceedings over which Jones presided.⁵⁰

⁴³ *Id.*

⁴⁴ *Id.* at 4.

⁴⁵ *Id.* At 6.

⁴⁶ Marvin Isgur, Referral of Jackson Walker LLP, (Sept. 20, 2024) *In re: Jackson Walker LLP*, No. 4:24-mc-01523 (S.D. Tex. Sep 20, 2024) [ECF No.1].

⁴⁷ *Id.* at 4-5.

⁴⁸ Order, *In re: Jackson Walker LLP*, No. 4:24-mc-01523 (S.D. Tex. Sep 20, 2024) [ECF No.2].

⁴⁹ James Nani, *Ex-Bankruptcy Judge Jones Target of Criminal Probe, Report Says*, Bloomberg Law (July 16, 2024) <https://news.bloomberglaw.com/bankruptcy-law/ex-bankruptcy-judge-jones-target-of-criminal-probe-report-says>

⁵⁰ *Id.*

Faculty

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