Law Profs Hit Kellyanne Conway With Misconduct Complaint

By Andrew Strickler

Law360, New York (February 23, 2017, 6:52 PM EST) -- A group of law professors and ethics experts this week filed a misconduct complaint against President Trump adviser Kellyanne Conway, arguing that a series of false statements she made in TV interviews "brings shame" to the profession.

The Feb. 20 letter addressed to the D.C. Office of Disciplinary Counsel alleges that Conway violated the Rule 8.4 prohibition against "conduct involving dishonesty, fraud, deceit, or misrepresentation" when she referenced a terrorism-related "Bowling Green massacre" as justification for Trump's executive order banning immigrants from seven Muslim-majority countries.

No such massacre took place. While Conway later apologized and said she'd misspoken, the letter notes that it was later revealed that she'd previously cited the "massacre" in two press interviews.

The complaint, signed by 15 professors from Georgetown University, Duke and Fordham, among others, also calls out the George Washington University Law School graduate for endorsing Ivanka Trump products in a Feb. 9 interview on Fox News, statements that drew a highly critical response from government ethics experts.

Ellen Yaroshefsky of Hofstra University's Maurice A. Deane School of Law in New York and director of the school's legal ethics institute, said Conway's repeated false statements, even from a nonpracticing lawyer, undercut the profession's credibility and the work of government more broadly.

"We're particularly concerned about lawyers working for the government and government counsels," she said. "We're people who take our ethical obligations seriously and our obligations to discipline authorities seriously, and at the end of the day, falsehoods like these have to matter for a lawyer in the government, whether they're practicing or not."

Conway graduated from GW Law in 1992 and was admitted in D.C. in 1995. Her license is currently suspended over nonpayment of dues.

A message left Thursday for the D.C. Disciplinary Counsel was not immediately returned. The White House press office also did not respond to a request for comment.

Yaroshefsky and other professors also cited Conway's now-notorious “alternative facts” assertion in an interview on NBC's "Meet the Press." In that interview, the Trump adviser was explaining White House spokesman Sean Spicer's spurious assertion that the Trump inauguration drew the largest audience in history.

In their letter, the professors say they did not "file this complaint lightly," and argue that Conway's falsehoods should fall under a broad interpretation of the jurisdiction's Rule 8.4, which can be applied to statements made outside of the practice of law and address noncriminal conduct.

The American Bar Association model rules also state that lawyers holding public office assume
responsible beyond those of other citizens.

“[W]e believe that lawyers in public office — Ms. Conway is counselor to the president — have a higher obligation to avoid conduct involving dishonest[y], fraud, deceit, or misrepresentation than other lawyers,” the letter states.

“If Ms. Conway were not a lawyer and was ‘only’ engaging in politics, there would be few limits on her conduct outside of the political process itself,” the letter continues. “She could say and do what she wished and still call herself a politician. But she is a lawyer. And her conduct, clearly intentionally violative of the rules that regulate her professional status, cries out for sanctioning by the D.C. bar.”

--Editing by Jack Karp.

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