Code of Conduct Complaint: Matthias Kirschner, Gabriel K.W. Bin, Pamela Chestek, Karen M. Sandler, Bradley Kuhn

Eben Moglen

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Background

1. On April 11, 2019, I requested a meeting with defendant Kirschner on the sidelines of the Barcelona meeting. My purpose was to discuss my dissatisfaction with a disciplinary action that had resulted in the exclusion from the Legal Network of Armijn Hemel, a valued colleague and important contributor to the free software movement. I explained to him that his actions concerning Hemel were problematic. He had suddenly exiled from our professional society a friend and colleague whose role in the free software movement's activities was considerable and largely irreplaceable. He had not presented evidence in a due public process, which I pointed out is always preferable. If there were pressing reasons for taking immediate action without accountable process, I said, he had an obligation to consult with other movement leaders to explain his reasons privately. Otherwise, I said, he was at risk of appearing to have exercised unprovoked aggression against a comrade.

2. Kirschner offered no defense or explanation of his conduct. He suggested that we hold a telephone conversation, to which I agreed. This phone conversation never occurred.

3. On Friday, April 12, 2019, the concluding session of the conference was held; the topic was possible expansion of the GPL Cooperation Commitment. The panel moderator was David Levine of Red Hat (not yet Red Hat/IBM). The participants were Google's Max Sills and defendant Sandler. I had planned certain comments, previously discussed with Red Hat's General Counsel, Michael Cunningham, with whom I had been in frequent touch about the GPL Cooperation Commitment since long before its initial public announcement.

4. Mr. Sills made his comments. Defendant Sandler then suggested that the GPL Cooperation Commitment should be expanded to include the whole of the "Principles of Community Enforcement" document authored by the Free Software Foundation and the Conservancy.[1]

5. When defendant Sandler concluded her statement, I raised my hand, was recognized by the moderator, and began to make my prepared comment. I explained why the success of the GPL Cooperation Commitment depended in substantial part on the use of additional permissions to add to GPLv2 flexibility derived from the provisions of GPLv3, which had been publicly discussed and adopted with broad understanding, increased by a dozen years of widespread use. I distinguished the incorporation of further GPLv3 flexibility through additional permissions from the contents of the "Community Enforcement" document. The GPL-CC, I pointed out is a consensus including both community and business organizations; for the businesses, provisions such as the transparency requirement are inappropriate. Even for community organizations, I said, they can be difficult to follow. "We are still waiting," I said, "for Christoph Hellwig and the Conservancy to release the complaint in VMWare, long after the conclusion of the lawsuit."

[1] Defendant Sandler began her statement by "waiving Chatham House Rules for everything I've said at this conference," thus putting this and all her subsequent statements on the public record.

6. My statement was true, in two senses. First, because the complaint has not been made public, as originally promised in compliance with the "Community Enforcement" principles. Second, because the drafts of the complaint made by Bradley Kuhn and Karen Sandler and other documents were then and are still subject to an outstanding discovery request in the trademark cancellation petition brought by SFLC in the US Trademark Trial and Appeal Board.[2] That request has been unlawfully refused.

7. While I was speaking, defendant Sandler interrupted. She stated that Conservancy was not involved in Hellwig's suit against VMWare , "except for a little financial aid," and had nothing to do with the complaint.

8. This was a lie. I did not say so. The colloquy continued as follows:

> MOGLEN: But that's not what the complaint says, is it? The complaint says that you initially approached Hellwig, and taught him what his infringement claim was. It also contains an advertisement for the Conservancy's legal services. Isn't that right?
>
> SANDLER: This conversation would not be productive.

9. She having concluded her interruption, I then resumed my prepared comment, proposing particular flexibility-enhancing provisions of GPLv3 that could be adopted as additional permissions for GPLv2 through the GPL-CC mechanism. The moderator thanked me for my comments, indicating that they were likely candidates for further discussion. I made no further comments and had no further dialogue of any kind with defendant Sandler. The conference ended at the end of the panel.

10. I made no attack of any kind on defendant Sandler, but her own intervention had been catastrophic for her and her organization. Not only had she volunteered a lie on a professional subject before an auditorium of lawyers. Not only had her lie been revealed by the very document whose connection to her organization she was falsely denying, the lie she had just unnecessarily volunteered and which was disproved by a document her organization was concealing concerned continuing unlawful action by her organization, for which she was as Executive Director personally responsible.

11. When, in 2006, I created the Conservancy as a wholly-owned subsidiary of the Software Freedom Law Center, its purpose was to serve as an asset manager for free software projects that were SFLC clients. By managing software copyrights and trademarks and acting as a fiscal and contracting administrator for projects without their own formal legal identity, such an entity could allow the lawyers at SFLC to achieve highly productive results for our clients at a very low coordinated cost, all of which I could personally raise. Because these arrangements were so efficient, there would be surplus administrative capacity that could be offered to other, non-client projects at no additional cost.

12. A separate organization was needed for liability protection purposes. The legal services and educational organization chartered for those activities by New York State

[2] Documents in this matter are available at
https://ttabvue.uspto.gov/ttabvue/v?qt=adv&procstatus=All&pno=+92066968

as SFLC created a new New York State non-profit, Software Freedom Conservancy, with a new charter. This charter specifically prohibited the affiliate from offering or providing legal services. The asset manager would be, as it necessarily had to be for integrity and liability reasons, distinct from the lawyers providing clients with advice and arrangements that might involve the use of its services. The SFLC associate who prepared and filed these papers under my direction was defendant Sandler.

13. Under New York State non-profit law, tax-exempt corporations are strictly limited to the activities delineated in their charter. Any operational activity not specifically allowed in the charter, let alone any activity prohibited by the charter, is a violation of the non-profit law. NY N-PCL §§114, 720. So strictly does New York law enforce this restriction that directors of NY non-profits are individually personally liable to sanction and fine for failing to prevent unlawful operation. NY EPTL §8-1.4.

14. Defendants Sandler and Kuhn intentionally violated the law in their management of the Conservancy in providing legal assistance to Christoph Hellwig. Indeed, they solicited him to consume their services and advertised the availability of those services in violation of law. The proof of their unlawful activity—which also exposes them and the members of their board to personal liability to the People of the State of NY through their Attorney General—is the complaint in VMWare, which they have been concealing, not only in violation of their supposed "Principles of Enforcement," but also in defiance of outstanding discovery obligations. It was about this matter that defendant Sandler volunteered a bare-faced lie to a room full of lawyers in Barcelona.

15. At the time she made this intentionally false statement, defendant Sandler was under notice to give sworn testimony in the trademark cancellation proceeding. (Conservancy's counsel in that action is defendant Chestek.) By interrupting me and volunteering her falsehood—defendant Sandler therefore realized during the Barcelona panel—she had also sprung a perjury trap for herself in the upcoming deposition, as well as putting the Conservancy's directors, for whom she works, in jeopardy of personal liability. Naturally, I did what any lawyer with good training and decades of experience would do: absolutely nothing.

16. I had no further contact with any of the defendants, and scarcely any with the Legal Network, for two months.

17. On June 28, I received an email message from defendant Bin, writing behind the screen "FSFE Care Team," stating that someone (explicitly stated to be not defendant Sandler) had submitted a code of conduct complaint concerning my treatment of defendant Sandler at the panel in Barcelona, where I had

    1. "acted inappropriately by making derogatory comments about the Principles of community-Oriented GPL Compliance;
    2. by making a personal attack on Ms. Sandler by insinuating that she and the SFC engage in unethical practices, and keep unsavoury company by assisting Patrick McHardy; and

3. by attempting to pressure Ms. Sandler into making a statement about her and the SFC's involvement in Mr. McHardy's activities, which was not necessary to continue the panel discussion. "

The message stated that FSFE had acquired statements from "corroborating witnesses" present at the event. According to defendant Bin, the process of adjudicating the complaint would be for me to submit, within one week by July 5, 2019 in the US, a response to the complaint I wasn't being shown and the corroborating statements I couldn't see, after which action would be taken. I was told that,"If you do respond, we will take your response into consideration and let you have a final decision shortly after that date. " (See Exh. A.)

18. Despite the obvious falsity of the complaint and the travesty of the process proposed, we responded cooperatively, denying the charge, offering cooperation and requesting (1) adequate time to respond, (2) after reviewing the complaint and supposedly "corroborating" statements; and (3) requesting to speak to FSFE's lawyer. (See Exh. B.)

19. Given the statement about defendant Sandler volunteered by defendant Bin under the "Care Team" pseudonym, we named the likely state of affairs (that the complaint had been submitted by defendant Chestek, counsel to SFC, and "corroborated" by defendant Sandler and defendant Kuhn) and asked for confirmation. Instead, defendant Bin, as part of the conspiracy to operate the code of conduct inquiry in a biased fashion, concealed defendant Chestek's identity and those of the "corroborating" witnesses.

20. We asked to speak to FSFE's counsel in order to call counsel's attention to the interactions between the filing of a false code of conduct complaint by defendant Chestek on behalf of defendant Sandler and the ongoing proceedings in the US judicial system. We wanted FSFE's counsel to have that information directly from us, to discuss with FSFE's management (that is, defendants Kirschner and Bin) under attorney-client privilege and with due respect for FSFE's legal interests. We had to ask whom to call because FSFE's longtime counsel, my old friend and distinguished colleague Carlo Piana, had resigned unexpectedly some months earlier, reportedly over the same abuse of code of conduct process in the case of Mr Hemel to which I had objected in my April discussion with defendant Kirschner.

21. Though we asked to speak to counsel, in writing, on four occasions (see Exh. B, C, D.) our request was entirely ignored.

22. Our request to see the complaint was denied by defendant Bin, still attempting to conceal his identity behind the screen of the wonderfully named "Care Team," on the ground that the complainant and witnesses had a right to complete anonymity. We immediately agreed to forego the identity of the complaining party and witnesses at that stage, concerned only with access to the substance of the documents in preparing my response. (See Exh. C) Despite our agreeing to this absurd condition, and without statement of further reasons, the complaint and the "corroborating" statements were not sent to me.

23. Over the following three weeks, I reiterated our requests to be provided with the complaint and statements, and to speak to FSFE's counsel. No response whatever was forthcoming. (See Exh. D.)

24. Among the steps defendants Bin and Kirschner had obviously *not* taken was to talk to the panel moderator, who would have confirmed my position that the complaint was false. I am informed and believe that during July the moderator took the step of communicating directly with defendant Kirschner, who was explicitly informed that the complaint was bogus.

25. Nevertheless, on August 2, Care Team wrote to inform me that FSFE had concluded "no concrete steps need to be further taken" with the complaint, and imposing a minor disciplinary demerit on me anyway, for the reason that "some people can interpret how you communicate as intimidating." (See Exh. E.)

26. I have taught in Ivy League law schools (including Harvard and the University of Virginia as well as Columbia) for thirty-three years, since I finished clerking at the US Supreme Court for Justice Thurgood Marshall. I have a PhD in History earned at Yale along with my law degree, and a long career (since the age of fourteen in 1973) as a professional maker of software, including for Xerox and IBM. It is possible that I might intimidate people. That is not in any respect a valid basis for imposing code of conduct discipline. Knowing that the record of their conduct would not stand future scrutiny, I did not waste time further objecting to this highly objectionable conduct by defendants Kirschner and Bin.

27. On September 20, 2019, after a series of unexpected events had caused the retirement of my comrade and former client Richard M. Stallman from the Free Software Foundation, I sent a message to defendant Kirschner, requesting our long-delayed phone call, which was then arranged for September 30.

28. My purpose in talking to defendant Kirschner was to encourage him to suggest to the FSF search committee highly-qualified candidates for FSF's leadership. I had many such conversations, with the same object, in the same period, with parties around the world.

29. Defendant Kirschner and I spoke as scheduled on September 30. At the beginning of the call, as a minor prefatory matter, I asked defendant Kirschner to send me the complaint itself and evidentiary statements connected with the false code of conduct complaint.

30. To my surprise, defendant Kirschner consumed one hour of our scheduled conversation on this issue. Repeatedly he told me that he hadn't done anything wrong; that I was making too much of the disciplinary proceeding, which hadn't been important anyway; and that it wasn't FSFE's "policy" to show code of conduct complaints to the people complained of. Each time he made these points I said I was making a simple request that he should honor because it was the right thing to do. I said that a false complaint had been filed for the purpose of causing me harm, that it had been treated seriously by him and by FSFE, and that any code of conduct policy (with

which subject we were quite familiar in my law practice) had to be as concerned with protecting the innocent and dealing with false complaints as with adjudicating violations. He would then respond with the same points in the same order, beginning always that he had done nothing wrong.

31. After sixty-five minutes of this, I suggested that we get to the real subject of the call. Defendant Kirschner had nothing to say to my intended purpose, which he purported not to understand, and we bade one another adieu.

32. Within hours of our phone call, defendant Kirschner wrote and called numerous people, presenting a wildly distorted version of our telephone conversation. In one phone call he claimed I had "threatened [his family]." When the party to whom he told this lie challenged it, he backed down, saying that he might have misunderstood my English. He did not explain whether I had threatened his family in connection with the request for a copy of the code of conduct complaint or the search process for Richard Stallman's successor. His defamatory lies—at least in the versions relayed to me—were transparently inept, as though he did not care whether they were believed. As it turned out, he didn't, because he intended to be star witness, prosecutor, judge, jury and executioner all in one, supported in the latter roles by his ever-loyal lieutenant, defendant Bin.

33. After months of ignoring the notice for her deposition, defendant Chestek and co-counsel in the trademark cancellation proceedings proposed a date in December 2019 for the deposition of defendant Sandler. That date was inconsistent with my and Ms Choudhary's travel schedules, and we proposed January 2020. The deposition has still not occurred as of the time of this filing.

34. With defendant Sandler's deposition then impending, defendant Kirschner wrote to me on December 9, requesting a phone call, as "follow-up" to our call of September 30. I declined, stating my unhappiness with his falsehoods regarding our previous conversation, and suggesting that we conduct our discussion in writing. Defendant Kirschner was insistent on a phone conversation to occur before December 17; I inferred that he had a task to perform before going on Christmas vacation. I refused. (See Exh. F.)

35. On December 17, defendant Bin. writing now in his own name, informed me that I had been excluded from the LN list and activities, and that "FSFE staffers shall not speak with you alone, and must always be accompanied by another staffer, until further notice." (See Exh. G.)

36. Defendant Bin began his communication by stating that:

> After internal discussion considering your proposal for the FSFE to work closer with you, the FSFE feels that it would be best for us to instead distance ourselves from you in our work and in our events.

37. Predicating their disciplinary action on a political judgment, as this statement did, would have been an overt violation of the code of conduct. So the notice then veered

in a different direction, finding me guilty of non-specific charges of which I had not been previously notified or given an opportunity to submit a defense:

> To clarify, we are taking these measures due to the following factors:
>
> 1. A phone call between yourself and FSFE President Matthias Kirschner, where you used language that can be interpreted as threatening, both on a personal level, and to the FSFE on an organisational level;
> 2. The FSFE receiving feedback from a number of Legal Network members who have expressed an unwillingness to attend or give talks at the LLW as they are concerned about the possibility of being verbally attacked by you; and
> 3. The FSFE considering that you have a history of acting threateningly or intimidatingly towards others in the Legal Network, whether on the mailing list, or at our events.

38. Aside from the false statements made by defendant Kirschner concerning the content of our private phone call on September 30, in which I asked for the documentary record of the false complaint abandoned without process protective of my rights as an innocent party wrongfully accused, this finding was based—in its own words—on nothing more than gossip, and a "history" of supposedly "intimidating" or "threatening" conduct of which no evidence was offered. The reference to unnamed third parties who"expressed an unwillingness to attend or give talks at the LLW as they are concerned about the possibility of being verbally attacked by you" was soon explained.

39. On February 29, 2020, I sent a farewell message to the Network, forwarded by Ms. Choudhary, stating that I had been excluded from the Network without notification of charges or an opportunity to submit a response, and attaching defendant Bin's email of December 18. Defendant Bin then submitted a statement to the mailing list falsely stating that this was an act of mailing list moderation, in flagrant conflict with the text of his own statement to me, knowing that I would have no opportunity to respond to his lie. (See Exh. G.)

40. On March 1, 2020, in a document provided to me in connection with investigation of possible obstruction of justice in the trademark action (see ¶42) defendant Chestek wrote to the mailing list:

> I had submitted a talk to LLW for this year, but on reflection realized that Eben would be there and withdrew my talk. He viciously attacked Karen Sandler last year, completely off-topic to the panel, and I was not willing to be put in a position where it might happen to me. I told the organizers of LLW that was the reason why I had to withdraw.

41. This was a lie. As discussed in ¶¶7-15, no such "vicious attack" had occurred. Instead, defendant Chestek (who failed to identify herself as counsel to defendant Sandler's organization) used my absence from the list to repeat her false accusation from the

spring, already fully discredited, and to add more false and defamatory material to which I could not respond. Defendants Kirschner and Bin, who had an obligation to prevent retaliatory conduct for true statements made by me under the Code of Conduct, did nothing, though they had certain knowledge that defendant Chestek was lying, and that she was intentionally repeating her false charge.

42. On or about March 10, 2020, defendants Kuhn and Sandler, as executives of the Conservancy, submitted through their counsel defendant Chestek and her co-counsel a settlement proposal to our trademark litigation counsel in the matter of the petition to cancel the "Software Freedom Conservancy" trademark:

> In return for SFLC's withdrawing the petition for cancellation, with prejudice, SFC will ... contact the Free Software Foundation Europe to notify it that the parties have resolved their differences, that Eben has given assurances that he will not engage in personal attacks on Conservancy or any of its employees, and that Conservancy does not object to Eben being re-admitted to the FSFE's Legal Network[.]

43. This settlement offer, based on intimidating me into influencing SFLC to withdraw the cancellation petition, would have had the effect of preventing the deposition of defendant Sandler. Her legal position, notwithstanding all the efforts to retaliate against or discredit me for her public lie of the proceeding April, remained perilous. The collusive efforts of all the defendants combined now came to fruition. SFLC immediately rejected the proposed "settlement."

44. The crime of witness tampering is a felony under US federal criminal law, punishable by up to 20 years imprisonment. The offense is committed, among other ways, when a party "uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to ... influence, delay, or prevent the testimony of any person in an official proceeding;" See 18 U.S.C. §1512(b)(1). Congress specifically provides for the exercise of extraterritorial jurisdiction over non-US parties committing or conspiring to commit this offense outside the US. See 18 U.S.C. §1512(h).

Complaint of Violation Against Defendant Bradley Kuhn

45. Defendant Bradley Kuhn

    1. Conspired with the other defendants to retaliate against me for true statements made in Legal Network communications, in violation of the Code of Conduct;
    2. Aided, encouraged, and conspired with other defendants and other persons to use false Code of Conduct complaints against me to achieve illicit purposes, including obstruction of justice and witness tampering in violation of US law, in violation of the Code of Conduct.

46. In particular, defendant Kuhn actively participated with defendant Sandler in causing defendants Chestek, Kirschner and Bin to submit and pretend to adjudicate a false Code of Conduct complaint against me (see ¶¶17, 19, 22), in retaliation for my accurate and truthful public comment at the Legal Network meeting held April 2019 in Barcelona. In response to my comment defendant Sandler publicly, intentionally and deceitfully lied in order to conceal her and defendant Kuhn's unlawful conduct in the management of the Conservancy. (See ¶¶7-15.) Further, defendant Kuhn actively participated in the drafting and presentation of a "settlement" offer in ongoing US federal litigation (see ¶6) that criminally attempted to intimidate me into influencing SFLC to withdraw its complaint, and to prevent me from testifying in and examining defendants Kuhn and Sandler under oath in that proceeding. (See ¶42.)

Complaint of Violation Against Defendant Karen M. Sandler

47. Defendant Karen M. Sandler

    1. Conspired with the other defendants to retaliate against me for true statements made in Legal Network communications, in violation of the Code of Conduct;
    2. Aided, encouraged, and conspired with other defendants and other persons to use false Code of Conduct complaints against me to achieve illicit purposes, including obstruction of justice and witness tampering in violation of US law, in violation of the Code of Conduct.
    3. Conspired with, aided, and encouraged other defendants and other persons to use false Code of Conduct complaints against me to discredit me, to distract attention from, and ultimately to secure impunity for her own illicit actions and violations of the Code of Conduct.

48. In particular, defendant Sandler actively participated with defendant Kuhn in causing defendants Chestek, Kirschner and Bin to submit and pretend to adjudicate a false Code of Conduct complaint against me (see ¶¶17, 19, 22), in retaliation for my accurate and truthful public comment at the Legal Network meeting held April 2019 in Barcelona. In response to my comment defendant Sandler publicly, intentionally and deceitfully lied in order to conceal her and defendant Kuhn's unlawful conduct in the management of the Conservancy. (See ¶¶7-15.) Further, defendant Sandler actively participated in the drafting and presentation of a "settlement" offer in ongoing US federal litigation (see ¶6) that criminally attempted to intimidate me into influencing SFLC to withdraw its complaint, and to prevent me from testifying in and examining defendants Sandler and Kuhn under oath in that proceeding. (See ¶42.)

Complaint of Violation Against Defendant Pamela Chestek

49. Defendant Pamela Chestek

    1. Conspired with the other defendants to retaliate against me for true statements made in Legal Network communications, in violation of the Code of Conduct;
    2. Aided, encouraged, and conspired with other defendants and other persons to use false Code of Conduct complaints against me to achieve illicit purposes, including obstruction of justice and witness tampering in violation of US law, in violation of the Code of Conduct.
    3. Made false statements and submitted false complaints to the Network Code of Conduct process in an effort to gain advantage in litigation, in violation of the Code of Conduct.
    4. Made intentionally false public statements asserting false claims against me in retaliation for true statements made by me in Legal Network Communications.
    5. Aided, abetted, and conspired with defendants Kirschner and Bin to abuse the Legal Network Code of Conduct process for inappropriate and illicit purposes.
    6. Failed to disclose conflicts of interest in connection with her violations of the Code of Conduct.

50. In particular, defendant Chestek—who is counsel to the Conservancy in a federal judicial proceeding brought by SFLC, see ¶6—knowingly and intentionally submitted a false Code of Conduct complaint against me (see ¶¶17, 19, 22), in retaliation for my accurate and truthful public comment at the Legal Network meeting held April 2019 in Barcelona. Defendant Chestek submitted this false complaint in order to help conceal defendant Sandler's public lies and to interfere with the process of justice before the US tribunal. (See ¶¶7-15.) Further, defendant Chestek, acting as counsel, actively participated in the drafting and presentation of a "settlement" offer in the ongoing US proceedings that criminally attempted to intimidate me into influencing SFLC to withdraw its complaint, and to prevent me from testifying in and examining defendants Sandler and Kuhn under oath in that proceeding. (See ¶42.) She committed a further overt act in this conspiracy to obstruct justice by making similar false allegations against me on the LN mailing list, knowing that I would be prevented from responding to her defamatory falsehoods. In making these false statements, she failed to disclose that she was acting as counsel, attempting by defaming opposing counsel to gain an advantage in litigation in violation of the Code of Conduct. (See ¶¶40-42.)

Complaint of Violation Against Defendant Matthias Kirschner

51. Defendant Matthias Kirschner

    1. Conspired with the other defendants to retaliate against me for true statements made in Legal Network communications, in violation of the Code of Conduct;
    2. Aided, encouraged, and conspired with other defendants and other persons to use false Code of Conduct complaints against me to achieve illicit purposes, including obstruction of justice and witness tampering in violation of US law, in violation of the Code of Conduct.
    3. Conspired with, aided, and encouraged other defendants and other persons to use false Code of Conduct complaints against me to discredit me, to distract attention from, and ultimately to secure impunity for his own abuse of power and violations of the Code of Conduct in connection with the matter of Armijn Hemel.
    4. Made false and misleading statements to me and to third parties, in voice conversation and in writing, intentionally misstating his relationship to the collusive submission of false and retaliatory Code of Conduct complaints against me, for the purpose of concealing his liability for code of conduct violations and violations of criminal law.
    5. Abused power delegated to him for the investigation of Legal Network Code of Conduct complaints for illicit purposes.

52. In particular, defendant Kirschner colluded with defendants Kuhn, Sandler and Chestek to receive and pretend to adjudicate the false Code of Conduct claim against me to retaliate for my inquiry into the possible abuse of Code of Conduct process with respect to Armijn Hemel. Defendant Kirschner supervised and directed defendant Bin in violations of the Code. (See ¶¶1, 17-25.) After defendant Kirschner had confirmed that the complaint against me was false, he concealed the violation involved in its submission and repeatedly refused to produce the evidence proving the submission of an intentionally false claim. (See ¶¶27-31.) Defendant Kirschner repeatedly made false statements concerning the content of a private telephone conversation. (See ¶32.) He then used those false statements as the sole evidence supporting another false Code of Conduct complaint against me, brought by himself, to be investigated by himself and defendant Bin, who would adjudicate and punish this supposed violation by my exclusion from the Legal Network, decreed by themselves. (See ¶¶35-38.) Defendant Kirschner conspired with defendants Kuhn, Sandler, and Chestek to use this second false Code of Conduct complaint as a threat in obstruction of justice in ongoing proceedings before a US tribunal. (See ¶42.)

Complaint of Violation Against Defendant Gabriel K.W. Bin

53. Defendant Gabriel K.W. Bin

    1. Conspired with the other defendants to retaliate against me for true statements made in Legal Network communications, in violation of the Code of Conduct;
    2. Aided, encouraged, and conspired with other defendants and other persons to use false Code of Conduct complaints against me to achieve illicit purposes, including obstruction of justice and witness tampering in violation of US law, in violation of the Code of Conduct.
    3. Conspired with, aided, and encouraged other defendants and other persons to use false Code of Conduct complaints against me to discredit me, to distract attention from, and ultimately to secure impunity for his own abuse of power and violations of the Code of Conduct.
    4. Made false and misleading statements to me and to third parties, for the purpose of concealing his liability for code of conduct violations and violations of criminal law.
    5. Abused power delegated to him for the investigation of Legal Network Code of Conduct complaints for illicit purposes.

54. In particular, defendant Bin, under the direction and supervision of defendant Kirschner, colluded with defendants Kuhn, Sandler and Chestek to receive and pretend to adjudicate the false Code of Conduct claim against me. (See ¶¶17-25.) After defendant Bin had confirmed that the complaint against me was false, he concealed the violation involved in its submission and repeatedly refused to produce the evidence proving the submission of an intentionally false claim. (See ¶¶17-22.) Defendant Bin colluded with defendant Kirschner to fabricate the second false Code of Conduct complaint against me. (See ¶¶35-38.) Defendant Bin fabricated the exclusion order that in violation of the Code of Conduct gave me no notice of charges, offered me no opportunity for defense, and excluded me from the Legal Network on the sole evidence of defendant Kirschner as to the content of a private telephone conversation. (See ¶36.) Defendant Bin conspired with defendants Kirschner Kuhn, Sandler, and Chestek to use this second false Code of Conduct complaint as a threat in obstruction of justice in ongoing proceedings before a US tribunal. (See ¶42.)

Conclusion

55. Five people committed at least 21 code of conduct violations in order to force one elderly professor off a mailing list. The scale of the misconduct involved demonstrates their unfitness to participate in, much less direct, a professional network of lawyers. Review of the communications among and between the defendants will likely disclose further wrongdoing, and reveal more comprehensively their motives. FSFE cannot be tasked with the investigation of its executives, particularly where the charges involve their repeated abuse of investigative and disciplinary powers. I ask that an independent counsel affiliated with the Legal Network be appointed to investigate this complaint, that the defendants be ordered immediately to produce relevant documents, that witnesses (including those I will identify to the investigator) be interviewed, that the results of the investigation be promptly published, and that swift action be taken on its findings and recommendations.

Respectfully submitted.