

The Honorable Joon H. Kim
Acting United States Attorney
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, NY 10007

Re: Request for Investigation into President Trump and Trump
Organization Under the Hobbs Act, Federal Anti-Bribery Statutes,
Foreign Corrupt Practices Act, and Iran Sanctions Act

March 17, 2017

Dear Acting U.S. Attorney Kim,

We respectfully request that you investigate whether to bring charges against President Trump and the Trump Organization under federal anti-corruption statutes for potential violations arising from incidents involving the Chinese government's Trademark Office and a failed building project in Baku, Azerbaijan. While the publicly available information at this point does not conclusively establish that violations have occurred, recent reports raise serious questions justifying your opening an investigation.

In particular, recent reports surrounding the grant of Chinese trademarks to the Trump Organization suggest that President Trump may have violated, among other federal laws, the Hobbs Act, 18 U.S.C. §§ 1951 *et seq.*, and/or anti-bribery statutes at 18 U.S.C. §§ 201 *et seq.* Additionally, a recent journalistic investigation alleges that the Trump Organization's dealings in Baku, Azerbaijan, may have violated the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. §§ 78dd-1 *et seq.*, and/or the United States government sanctions on Iran, 31 C.F.R. §§ 560.201 *et seq.*¹

In light of these reports, we urge that you open investigations of President Trump under the Hobbs Act and the bribery statutes; that, in accordance with Section 9-47.110 of the U.S. Attorneys' Manual and with U.S. Senator Sherrod Brown's call for a federal investigation into the Trump Organization's Baku project,² you seek authorization from the Department of

¹ Adam Davidson, *Donald Trump's Worst Deal*, New Yorker, Mar. 13, 2017, <http://nyer.cm/8l8fdNA>.

² Letter from Sen. Sherrod Brown to Secretary Steven T. Mnuchin, Mar. 2, 2017, <https://go.usa.gov/xXYV7>.

Justice to investigate the Trump Organization's potential FCPA violation; and that you make a written request to the Office of Foreign Assets Control of the U.S. Department of the Treasury to investigate the possible violation of the United States' sanctions on Iran.

As you know, the Trump Organization is chartered by the state of New York and most of its business is conducted by Mr. Trump, his family, and his associates out of New York City. Furthermore, Mr. Trump's permanent residence is apparently in New York City. For these reasons, the Southern District of New York is an appropriate venue for any criminal actions that may result from your investigation.

I. President Trump and Chinese Trademarks

The publicly reported timeline of President Trump's statements and actions concerning United States foreign policy with respect to China, and the Chinese government's grant of trademarks to the Trump Organization, raise serious questions about the possibility of quid pro quo agreements and extortion involving the president of the United States and the government of China.

Starting in 2006, the Trump Organization sought to persuade Chinese authorities to award the right to register dozens of trademarks, starting with a trademark for construction services.³ During the decade that followed, the Trump Organization made little headway. The Chinese trademark office rejected Trump's application in 2009, and rejected an appeal in 2014.⁴ Later in 2014, a court in Beijing rejected an appeal, and then in May 2015, two months before Mr. Trump announced his candidacy, a higher Chinese court issued a final judgment rejecting Trump's appeal, even as he continued to apply for additional trademarks.⁵

There matters stood until September 2016, when the Chinese Trademark Office reversed course after more than a decade and invalidated a rival claim for certain Trump trademarks.⁶ Finally, on November 13, 2016, just five days after the election, the Chinese Trademark Office granted preliminary

³ Jethro Mullen *et al.*, *China Grants Trump a Trademark He's Been Seeking for a Decade*, CNN, Feb. 17, 2017, <http://cnnmon.ie/2npCXQ1>.

⁴ Zheping Huang, *A Curious Timeline of Trademarks Granted to Donald Trump by an Increasingly Helpful China*, Quartz, Mar. 13, 2017, <https://qz.com/930896>.

⁵ *Id.*

⁶ *Id.*; Mullen *et al.*, *supra*, *China Grants Trump a Trademark He's Been Seeking for a Decade*.

approval to the Trump Organization to register a construction services trademark.⁷

On December 2, 2016, then President-elect Trump accepted a call from the president of Taiwan, making him the first U.S. president or president-elect to do so since before the United States broke diplomatic relations with the Taiwan in 1979.⁸ The call prompted a domestic and international outcry that he had broken with the United States' longstanding "One China" policy.⁹ China lodged a formal complaint with the United States.¹⁰ Following his telephone call with the president of Taiwan, Mr. Trump publicly stated that the United States' One China policy could change if the United States did not receive concessions from China on trade.¹¹

In a sudden reversal, on February 9, 2017, President Trump engaged in a telephone phone call with China's president, after which Mr. Trump publicly announced that he would honor the One China policy.¹² As the BBC reported the next day, it was not clear "what, if anything, the Trump Administration . . . won in return."¹³

On February 15, after the expiration of a three-month objection period and less than one week after Mr. Trump made his official One China declaration, the Chinese Trademark Office granted the Trump Organization approval to register a construction services trademark.¹⁴ On February 27, President Trump held his first face-to-face meeting with a member of the Chinese leadership, as he met China's top diplomat, State Councilor Yang Jiechi, at the White House.¹⁵

⁷ *Donald Trump Scores Legal Win in China Trademark Dispute*, Wall St. J., Nov. 14, 2016, <http://on.wsj.com/2npMUNv>.

⁸ *Trump Agrees to Honour 'One China' Policy Despite Threats*, BBC, Feb. 10, 2017, <http://bbc.in/2npyBsl>; Stephen Collinson *et al.*, *China Lodges Complaint over Trump-Taiwan Call*, CNN, Dec. 3, 2016, <http://cnn.it/2girg9W>.

⁹ Collinson *et al.*, *supra*, *China Lodges Complaint over Trump-Taiwan Call*.
¹⁰ *Id.*

¹¹ BBC, *supra*, *Trump Agrees to Honour 'One China' Policy Despite Threats*.

¹² Mark Landler & Michael Forsythe, *Trump Tells Xi Jinping U.S. Will Honor 'One China' Policy*, N.Y. Times, Feb. 9, 2017, <http://nyti.ms/2npxfh7>; BBC, *supra*, *Trump Agrees to Honour 'One China' Policy Despite Threats*.

¹³ BBC, *supra*, *Trump Agrees to Honour 'One China' Policy Despite Threats*.

¹⁴ Jackie Northam, *China Grants Trump a Valuable Trademark Registration*, Nat'l Pub. Radio, Feb. 16, 2017, <http://n.pr/2nBjZ8g>.

¹⁵ *US-China Relations: Trump Meets Senior Official Yang Jiechi*, BBC, Feb. 27, 2017, <http://bbc.in/2nFOA4N>.

That same day (February 27), and also on March 6, in an apparent break with usual protocol and ten years of prior rulings, the Chinese Trademark Office gave preliminary approval for the Trump Organization to register thirty-eight additional trademarks.¹⁶

On March 13, just one week after that action by the Chinese Trademark Office, the Trump administration announced plans for President Trump to host Chinese President Xi Jinping at a two day summit on April 6-7.¹⁷ The meeting is reportedly scheduled to take place not in Washington, D.C., but at Mr. Trump's Mar-a-Lago resort in Florida.¹⁸

These events, as reported, may violate several provisions of federal law. The Hobbs Act prohibits actual or attempted extortion affecting commerce.¹⁹ Among other conduct, the statute specifically prohibits public officials from obtaining or seeking to obtain property “under color of official right.”²⁰ To establish a violation of the Hobbs Act, the government need not show that the public official took “any specific action to induce the offering of the benefit”; rather, “passive acceptance of a benefit by a public official *is* sufficient to form the basis of a Hobbs Act violation if the official knows that he is being offered the payment in exchange for a specific requested exercise of his official power.”²¹ A public official commits “color of right” extortion in violation of the Hobbs Act “when he or she encourages or accepts payments prompted by the hope that the official will be influenced in the exercise of his or her powers.”²²

The federal bribery statute prohibits a public official from directly or indirectly demanding, accepting, or seeking anything of value in exchange for being influenced in an official act.²³ “The agreement need not be explicit, and the public official need not specify the means that he will use to perform his end of the bargain.”²⁴ The statute also prohibits public officials from

¹⁶ Sui-Lee Wee, *In China, Trump Wins a Trove of New Trademarks*, N.Y. Times, Mar. 8, 2017, <http://nyti.ms/2mGagvy>.

¹⁷ *Trump Reportedly Plans to Host China's President in April*, CNBC, Mar. 13, 2017, <http://cnb.cx/2nmKGhJ>.

¹⁸ *Id.*

¹⁹ 18 U.S.C. §§ 1951(a), (b)(2).

²⁰ *Id.*

²¹ *United States v. Evans*, 910 F.2d 790, 796 (11th Cir. 1990) (emphasis in original), *aff'd*, 504 U.S. 255 (1992).

²² *United States v. Davis*, 890 F.2d 1373, 1378 (7th Cir. 1989).

²³ 18 U.S.C. §§ 201(a), (b)(2).

²⁴ *McDonnell v. United States*, 136 S. Ct. 2355, 2371 (2016).

accepting gratuities that are given to curry favor, even without a direct quid pro quo.²⁵

Accordingly, we ask that your office investigate whether President Trump used his position to obtain trademark approvals for the Trump Organization under color of official right, and whether he demanded or accepted those approvals in exchange for official acts or to be influenced in his official acts, in violation of the Hobbs Act and/or 18 U.S.C. § 201, including, but not limited to, an investigation of the following matters:

- (a) What communications did Mr. Trump or associates of Mr. Trump, acting on behalf of his transition team and/or on behalf of the Trump Organization, have with Chinese authorities leading up to the November 13, 2016, decision of the Chinese Trademark Office to grant preliminary approval for the Trump Organization to register a construction services trademark.
- (b) Whether Mr. Trump's statements and actions relating to China, including his telephone call with the president of Taiwan in December 2016 and his subsequent threats to abandon the United States' One China policy, were intended, at least in part, to create fear on the part of the government of China that if the Trump Organization did not receive favorable action on its trademark applications, the Trump administration would abandon or move away from the One China policy, or take other official action adverse to the interests of China.
- (c) What communications did Mr. Trump and his representatives, acting on behalf of the Trump administration and/or the Trump Organization, have with Chinese authorities leading up to the decisions of the Chinese Trademark Office to grant final approval to register the construction services trademark on February 15, 2017, and to grant preliminary approval to register an additional thirty-eight trademarks on February 27 and March 6, 2017.
- (d) What agreements or understandings, if any, were reached between Mr. Trump and the president of China on their telephone call of February 9, 2017.

²⁵ 18 U.S.C. § 201(c)(1)(B); *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398 (1999).

- (e) Whether Mr. Trump implicitly or explicitly agreed to take one or more official acts in exchange for favorable action by the government of China on the Trump Organization's trademark applications.
- (f) Whether Mr. Trump's announcement on February 9, 2017, that he would honor the One China policy was part of an agreement with the government of China in exchange for that government's support or action with respect to the Trump Organization's trademark applications before the Chinese Trademark Office.
- (g) Whether the Chinese Trademark Office's actions on February 15, February 27, and March 6, 2017 with respect to the Trump Organization's applications were part of an agreement with the government of China in exchange for Mr. Trump's honoring the One China policy and other official action affecting the interests of China.
- (h) Whether Mr. Trump's reported agreement to meet with the president of China at Mar-a-Lago in April, 2017, is part of an agreement with the government of China in exchange for favorable action by the government of China on the Trump Organization's trademark applications.

II. The Trump Organization and Trump Tower Baku

According to the recently-published report, in May 2012, the Trump Organization joined a development project in the capital of Azerbaijan. That project, which came to be called the Trump Tower Baku, appears to have been created and owned by entities closely held by members of the Mammadov family,²⁶ who have elsewhere been called the "Corleones of the Caspian."²⁷ The Mammadovs have close business ties with the Darvishi brothers of Iran, whose companies (including a construction company called Azarpassillo) may be affiliated and actively engaged with the activities of Iran's Revolutionary Guard.²⁸ The alleged flow of money between the Trump Organization, the Mammadovs, and the Darvishi business may implicate the

²⁶ Davidson, *supra*, *Donald Trump's Worst Deal*.

²⁷ Michael Weiss, *The Corleones of the Caspian: How Azerbaijan's Dictator Woos the United States and Europe*, Foreign Policy, June 10, 2014, <http://atfp.co/2nbHwfU>.

²⁸ Davidson, *supra*, *Donald Trump's Worst Deal* (quoting scholar concluding "Azarpassillo is a front organization for the Revolutionary Guard").

Trump Organization in violations of the Foreign Corrupt Practices Act and U.S. sanctions on Iran.²⁹

Trump Tower Baku was conceived as a luxury hotel in Azerbaijan's capital.³⁰ Originally budgeted at \$195 million, the development underwent several revisions that significantly raised the cost.³¹

The Trump Organization entered into a brand licensing agreement, giving the hotel its name, and a profit sharing deal of an undisclosed value in May 2012.³² According to Donald Trump's FEC filings, in April 2012 and December 2014, the Trump Organization established several New York-based LLCs and corporations with Baku in their names: DT Marks Baku LLC, DT Marks Managing Member Corp., THC Baku Hotel Manager Services LLC, THC Baku Hotel Manager Services Member Corp., THC Baku Services LLC, and THC Baku Services Member Corp.³³

The deal reportedly included a technical services agreement, which the Trump Organization apparently diligently oversaw—indeed, the Trump Organization allegedly played a more significant role than most brand partners typically would.³⁴ Reportedly, the developers were in constant contact with the Trump Organization, and a Trump Organization representative visited monthly.³⁵ Ivanka Trump was dispatched to Baku to check in on the project.³⁶

In December 2016, the Trump Organization cancelled the Baku project, citing stalled progress and no indication of moving forward.³⁷

The Mammadov Family

Azerbaijan is ranked by Transparency International among one of the most corrupt countries in the world.³⁸ Transportation Minister Ziya Mammadov

²⁹ Davidson, *supra*, *Donald Trump's Worst Deal*.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See Jeremy Venook, *Everything We Know From Trump's (Limited) Financial Disclosures*, *The Atlantic*, Jan. 19, 2017, <http://theatlntc/2mmUkT8>.

³⁴ Davidson, *supra*, *Donald Trump's Worst Deal*.

³⁵ *Id.*

³⁶ *Id.*; see also Ivanka Trump, Instagram post, Nov. 24, 2014, <https://www.instagram.com/p/vys5QXikA2/> (post with photo of Ms. Trump visiting construction site in Baku).

³⁷ *Id.*

has received special attention as one of the country's richest and most powerful oligarchs.³⁹ A U.S. diplomatic cable from Azerbaijan identified Mammadov as "notoriously corrupt even for Azerbaijan."⁴⁰ As Transportation Minister, Mammadov oversaw the extraction of large state-owned oil reserves in the Caspian Sea. Despite his nominal government salary, Mammadov is a billionaire. He is suspected to have made his fortune by directing transportation contracts funded by the oil boom to companies owned by his close associates.⁴¹

President Trump's key partner in the Trump Tower Baku venture was reportedly Garant Holding, controlled by Anar Mammadov, Ziya Mammadov's son.⁴² At the time that the Trump Organization joined the project, the tower was owned by a company called Baku XXI Century.⁴³ Baku XXI Century was founded and controlled by Elton Mammadov, Ziya's brother.⁴⁴ The company has at least two other stakeholders: ZQAN and the Baglan Group. ZQAN is an acronym for the members of Ziya Mammadov's close family: himself; Qanira, his wife; Anar, his son; and Nigar, his daughter.⁴⁵ Baglan Group is allegedly run by a close associate of Ziya Mammadov and has received billions in contracts from the Transportation Ministry.⁴⁶

Ziya and Anar Mammadov have long been suspected by U.S. diplomats and others of laundering money for Iran's Revolutionary Guard.⁴⁷ While

³⁸ Transparency Int'l, *Foreign Corruption Index 2016*, Jan. 25, 2017, <http://bit.ly/fci2016> (ranking Azerbaijan 123d worst out of 176 studied countries, with score of 30/100).

³⁹ Davidson, *supra*, *Donald Trump's Worst Deal*.

⁴⁰ *Id.*

⁴¹ Michael Weiss, *supra*, *The Corleones of the Caspian*.

⁴² Kurt Eichenwald, *How the Trump Organization's Foreign Business Ties Could Upend U.S. National Security*, Newsweek, Sept. 14, 2016, <http://bit.ly/2nc0kM5>; see also Jeremy Venook, *supra*, *Everything We Know From Trump's (Limited) Financial Disclosures*.

⁴³ Davidson, *supra*, *Donald Trump's Worst Deal*. A separate report cited the owner and developer as Garant, a company controlled by Anar Mammadov. See Russ Choma, *Donald Trump is Doing Business with a Controversial Azerbaijani Oligarch*, Mother Jones, July 29, 2015, <http://bit.ly/2mjqBL1>.

⁴⁴ Davidson, *supra*, *Donald Trump's Worst Deal*.

⁴⁵ *Id.*; see also Weiss, *supra*, *The Corleones of the Caspian*.

⁴⁶ *Id.*

⁴⁷ Jeff Horwitz, *Tale of Trump and Partner in Azerbaijan Business Project*, Associated Press, Jun. 4, 2016, <http://apne.ws/2mmUKZG>; see also Mixing Crime and Government in Azerbaijan, Radio Free Europe/Radio Liberty, Apr.

Mammadov was Transportation Minister, Azerbaijan awarded several highway construction projects to a former senior official in the Revolutionary Guard, Kamal Darvishi.⁴⁸ Leaked U.S. diplomatic cables reportedly stated the assumption that “Mammadov is a silent partner in these contracts.”⁴⁹

The Foreign Corrupt Practices Act

The Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1 *et seq.*, prohibits American businesses and individuals from engaging in corruption abroad by offering, paying, or promising to pay, directly or indirectly, money or anything of value to a foreign official, politician, or intermediary to assist in obtaining or retaining business. If the allegations that the Trump Tower Baku project was enriching Mammadov, either directly or as a money-laundering scheme, prove true, then the Trump Organization’s involvement may have violated the Foreign Corrupt Practices Act.

Reportedly, sources familiar with compliance with the Foreign Corrupt Practices Act expressed shock at the apparent lack of due diligence of the Trump Organization in investigating the project’s ties to Mammadov and possible link to the Iranian Revolutionary Guard.⁵⁰ In fact, in May 2012—the very month that the Trump Organization joined the Baku project—Mr. Trump told CNBC interviewers that the Foreign Corrupt Practices Act is a “horrible law” that “should be changed.”⁵¹

If it comes to light (through your investigation or otherwise) that the project was part of a corrupt conspiracy, then ignorance of the scheme will not be a viable defense. A person cannot evade liability by consciously avoiding information that would reveal his or her role in such a prohibited scheme.⁵²

The alleged connections between the project, Mammadov, and the Revolutionary Guard were reported well before the Trump Organization

4, 2013, <http://bit.ly/2mmKznX> (report produced in cooperation with the Organized Crime and Corruption Reporting Project); Weiss, *supra*, *The Corleones of the Caspian*.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Davidson, *supra*, *Donald Trump’s Worst Deal*.

⁵¹ *Trump: Dimon’s Woes & Zuckerberg’s Prenuptial*, CNBC, May 15, 2012, <http://cnb.cx/2cyYK2E>.

⁵² *United States v. Kozeny*, 667 F.3d 122, 132 (2d Cir. 2011) (where there were easily discoverable signs of corruption, defendant doing business in Azerbaijan was not able to establish ignorance of the conspiracy without implicating himself under a conscious avoidance theory).

became involved with the deal. Consequently, it seems implausible that the Trump Organization conducted due diligence to avoid violating the Act.

According to Department of Justice protocol, any new investigation under the FCPA requires the authorization of the Criminal Division.⁵³ We ask that you request such authorization to launch an investigation to determine whether Trump Organization officials (including President Trump's daughter, who reportedly traveled to Baku) knew of the alleged scheme, or were willfully avoiding such knowledge.

The Iran Sanctions Act

If the allegations of the Mammadovs' business connection and money laundering activities for the Revolutionary Guard prove true, it is also possible that the Trump Organization has violated federal sanctions on the government of Iran. *See* Iran Sanctions Act of 1996, Pub. L. 104-172, as amended, Pub. L. 114-277 (2016).

These sanctions prohibit, *inter alia*, investment in property or entities owned or controlled by the Government of Iran, 31 C.F.R. § 560.207; financing or facilitating a foreign person to engage in such a transaction, *id.* § 560.208; and using foreign entities to engage in such transactions, *id.* § 560.215. Conspiring, and structuring transactions to evade the sanctions, are also prohibited. *Id.* § 560.203.⁵⁴

Only a thorough investigation of the Trump Tower Baku affair and the Mammadov's connections to the Revolutionary Guard could reveal if these allegations are substantiated. The Office of Foreign Assets Control has the authority to apply these sanctions and may involve the Justice Department to enforce them. *See* 31 C.F.R. part 560 subpart G. We ask that you send a letter to the Office of Foreign Assets Control requesting the initiation of an investigation.

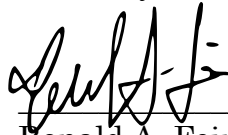
⁵³ U.S. Attorneys' Manual § 9-47.110.

⁵⁴ The term "Government of Iran" includes the Revolutionary Guard. *See* 31 C.F.R. § 560.304 note 1; Office of Foreign Assets Control, *Sanctions List Search: Islamic Revolutionary Guard Corps*, <https://go.usa.gov/xXatd> (last Mar. 14, 2017).

III. Conclusion

We respectfully urge that your office begin inquiries into the aforementioned events and possible legal violations. These potential violations of the Hobbs Act, federal bribery law, the Foreign Corrupt Practices Act, and the Iran Sanctions Act raise questions of the utmost importance that merit your serious examination. Please let us know if we may be of assistance in this proceeding.

Sincerely,



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