

November 2, 2017

The Honorable Eric T. Schneiderman  
Attorney General of the State of New York  
The Capitol  
Albany, NY 12224

Re: Additional information relevant to your investigation whether to dissolve and revoke corporate charter of the Trump Organization

Dear Attorney General Schneiderman,

On February 15, 2017, we wrote to request that you investigate whether to bring proceedings to dissolve and revoke the charter of the Trump Organization, Inc. under Section 1101 of the Business Corporation Law. On March 17, we provided additional information in support of this request. We write now to provide important new information, recently made public, regarding additional alleged conduct by the Trump Organization meriting dissolution. A recent report suggests that key executives of the Trump Organization may have engaged in a fraudulent real estate scheme, as well as obstruction of justice and a quid pro quo campaign contribution bribery scheme to conceal and avoid prosecution for the fraudulent actions. The goal of this apparent scheme was to influence Manhattan District Attorney Cyrus R. Vance, Jr., to end a criminal fraud prosecution of Donald Trump, Jr. and Ivanka Trump for actions related to marketing the failed Trump SoHo hotel and condominium development.<sup>1</sup>

As we explained in our initial letter detailing the Trump Organization's history of fraudulent and illegal activity, the Trump SoHo has been at the center of fraud and money laundering allegations since its early days.<sup>2</sup> A new report, with joint investigating by ProPublica and the New Yorker, has revealed heretofore unknown details about the criminal fraud investigation into Donald Trump Jr. and Ivanka Trump's attempts to market the property. These allegations, if confirmed, supply additional grounds for your investigation into revocation of the company's corporate charter, and should also result in a criminal investigation surrounding campaign contributions by President Trump's lawyer to District Attorney Vance.

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<sup>1</sup> Andrea Bernstein, et al., "How Ivanka Trump and Donald Trump, Jr., Avoided a Criminal Indictment," The New Yorker (Oct. 4, 2017) <https://goo.gl/vs5EZn>.

<sup>2</sup> Craig Unger, "Why Robert Mueller Has Trump SoHo in His Sights," Vanity Fair (Aug. 13, 2017) <https://goo.gl/TLi7uu>; Tom Burgis, "Dirty money: Trump and the Kazakh connection," Financial Times (Oct. 19, 2016) <https://goo.gl/ix2Kmd>; Jonathan Stempel, "Donald Trump sued for fraud over Trump SoHo condo," Reuters (Aug. 3, 2010) <https://goo.gl/Pi3f18>.

## The Trump SoHo Fraud Allegations

The Trump SoHo was announced in June 2006 in the season finale of “The Apprentice.” Because zoning laws did not allow a residential development, the Trump SoHo was billed as a luxury condo-hotel development where condominium owners bought a hotel room and could not occupy it for more than 120 nights per year.

As reported in the *New Yorker*, the units came on the market in September of 2007 as the global economy was collapsing.<sup>3</sup> The timing, along with the restrictions on occupancy, made the units difficult to sell, but Donald Trump Jr. and Ivanka Trump represented to potential buyers that they had already sold 31% of the units in April 2008 and 60% by June 2008.<sup>4</sup> According to the *New Yorker*, those representations were false. ProPublica had multiple sources confirming an email among the Trumps discussing how to coordinate false information they had given to prospective buyers as well as an email expressing concerns that a reporter might be “onto them.”<sup>5</sup> In addition, reporters obtained a sworn affidavit by a Trump partner filed with the New York Attorney General’s office stating that by March of 2010, only 15.8% of the units had sold.<sup>6</sup>

By August 2010, unit buyers filed a civil action against the Trump Organization, Bayrock/Sapir Organization, LLC, Donald J. Trump, Donald Trump, Jr., Ivanka Trump, and others for fraud claiming “consistent pattern of false representations.”<sup>7</sup> Shortly afterward, the Manhattan District Attorney’s office opened a criminal investigation.<sup>8</sup> The civil case settled in November 2011.<sup>9</sup> In the settlement, Donald Trump, Sr., the Trump Organization, Donald Trump, Jr., Ivanka Trump and the other co-defendants agreed to refund 90% of the \$3.16 million in deposits to the unit buyers in exchange for a letter to the district attorney that they would no longer provide any assistance in the criminal investigation.<sup>10</sup>

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<sup>3</sup> Bernstein, *supra* note 1.

<sup>4</sup> *Id.* (citing interviews with Reuters and London Times).

<sup>5</sup> Jesse Eisinger and Justin Elliott, et al, “Ivanka and Donald Trump Jr. Were Close to Being Charged with Felony Fraud,” ProPublica (Oct. 4, 2017) <https://goo.gl/whwfNb>.

<sup>6</sup> *Id.*

<sup>7</sup> Palmer Gardens LLC et al. v. Bayrock/Sapir Organization LLC et al., 1:10-cv-5830, Amended Complaint, ¶ 358 (9/13/2010).

<sup>8</sup> Bernstein, *supra* note 1.

<sup>9</sup> *Id.*

<sup>10</sup> Mike McIntire, “Donald Trump Settled a Real Estate Lawsuit, and a Criminal Case was Closed,” *New York Times* (Apr. 5, 2016) <https://goo.gl/EERHZx>.

## Campaign Contributions and the District Attorney's Investigation

Despite the civil settlement's termination of cooperation from the unit buyers, the district attorney's criminal investigation continued. According to ProPublica, multiple sources confirmed that the investigators had emails showing that Donald Trump Jr. and Ivanka Trump were intentionally misleading buyers.<sup>11</sup> As the investigation continued, Donald Trump, Sr. became frustrated and called on his long-time attorney Marc Kasowitz to intervene.<sup>12</sup> The criminal investigation was still ongoing when on January 11, 2012, Marc Kasowitz donated \$25,000 to District Attorney Vance's campaign.<sup>13</sup> Notably, at the time, this made Kasowitz one of Vance's largest donors.<sup>14</sup>

In May 2012, Kasowitz requested a meeting with the District Attorney to discuss the investigation.<sup>15</sup> According to Vance, he returned the \$25,000 campaign contribution prior to meeting with Kasowitz on May 16, 2012.<sup>16</sup> In the meeting Kasowitz reportedly repeated the same arguments that had been laid out by the defense team in meetings with assistant district attorneys.<sup>17</sup> The case was dropped on August 3, 2012.<sup>18</sup>

Mere weeks after the case had been resolved, Kasowitz contacted Vance's campaign about hosting a fundraiser.<sup>19</sup> The event was held in January 2013, and Kasowitz donated another \$31,993 to Vance's campaign.<sup>20</sup> Kasowitz hosted another campaign event for Vance in October 2013 which raised \$9,000.<sup>21</sup> Only after this information was widely reported earlier this month did Vance return the \$31,993 received from Kasowitz.<sup>22</sup>

## Grounds for Attorney General Investigation

The circumstances surrounding the dismissal of the criminal investigation against Donald Trump, Jr. and Ivanka Trump, in light of these campaign contributions close to the time of the decision, warrant close investigation by your office. The integrity of public officials is paramount to ensuring public trust in the government.

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<sup>11</sup> Eisinger, *supra* note 5.

<sup>12</sup> *Id.*

<sup>13</sup> Campaign Financial Disclosure, New York State Board of Elections, Contributions Search Page by Contributor Name, <https://goo.gl/jdps7U>, accessed October 18, 2017.

<sup>14</sup> Eisinger, *supra* note 5.

<sup>15</sup> *Id.*

<sup>16</sup> James McKinley, Jr., "Vance Returned Trump Lawyer's Donation After Reporters' Questions," (Oct. 4, 2017) <https://goo.gl/ND6wYk>.

<sup>17</sup> Bernstein, *supra* note 1.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> McKinley, Jr., *supra* note 16.

An investigation is critical to determine whether Kasowitz and Vance were indeed engaged in a quid pro quo campaign contribution scheme to influence the criminal investigation of Donald Trump, Jr. and Ivanka Trump.

Your office should investigate whether Kasowitz conspired with others to commit bribery in violation of New York State Penal Code § 200.03. Furthermore, your office should investigate whether Vance did in fact improperly influence the decision as a result of the campaign contributions he received, in violation of Penal Code §§ 200.10 or 200.11. In addition, in light of the cloud over the District Attorney's decision to end his investigation, we respectfully request that you investigate the underlying real estate fraud and Martin Act claims, as well as any other crimes arising from the marketing of the Trump SoHo.

### **Conclusion**

We respectfully urge the Attorney General's office to supplement your ongoing investigation into whether the Trump Organization, Inc. has forfeited the privilege of its corporate charter under Section 11 of the Business Corporation Law with this additional information, and to open an investigation into the conduct of District Attorney Vance, Marc Kasowitz, and their associates to determine whether they engaged in criminal bribery and conspiracy. Please let us know if we may be of assistance in this proceeding.

Sincerely,



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Shanna M. Cleveland  
Ronald A. Fein  
John C. Bonifaz  
Free Speech For People

Ben T. Clements  
Clements & Pineault LLP