

November 2, 2017

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 for potential violations of federal fraud, racketeering and conspiracy laws related to Trump SoHo project

Dear Acting U.S. Attorney Kim,

We respectfully request that you investigate potential misconduct by Marc Kasowitz, an attorney acting on behalf of the Trump Organization; the Trump Organization and its executives. New information has come to light that key executives of the Trump Organization may have engaged in a fraudulent real estate scheme, as well as a possible quid pro quo campaign contribution bribery scheme to conceal and avoid prosecution for the fraud.¹ 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.² While the publicly available information at this point does not conclusively establish that violations have occurred, these reports raise serious questions justifying your opening an investigation.

The Trump Organization has a history of fraudulent and illegal activity, and the Trump SoHo has been at the center of fraud and money laundering allegations since its early days.³ A new report, with joint investigating by ProPublica and the New Yorker, has revealed heretofore unknown details about the Manhattan District Attorneys' office criminal fraud investigation into Donald Trump Jr. and Ivanka Trump's attempts to market the Trump SoHo, and the ultimate decision by District Attorney Vance to drop the investigation. These reports suggest that executives and agents of the Trump Organization, acting through attorney Marc Kasowitz, may have conspired to influence District Attorney Vance to intervene in a criminal

¹ 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>.

² *Id.*

³ 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>.

prosecution in exchange for campaign contributions.⁴ If such actions occurred and resulted in the District Attorney improperly influencing the prosecution, then Marc Kasowitz, the Trump Organization and its executives, and District Attorney may have violated, among other federal laws, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq.*, federal fraud and wire fraud statutes at 18 U.S.C. § 1341 and § 1343, and the conspiracy statute at 18 U.S.C. § 371.

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, the actions giving rise to the request for this investigation all occurred within New York City. For these reasons, the Southern District of New York is the appropriate venue for any criminal actions that may result from your investigation.

Trump SoHo Fraud Allegations and Criminal Investigation

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.⁵ 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 2008.⁶ 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.”⁷ 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.⁸

By August 2010, unit buyers filed a civil action against the Trump Organization, Bayrock/Sapir Organization, LLC, Donald J. Trump, Sr., Donald Trump, Jr., Ivanka Trump, and others for fraud claiming that Trump Organization executives had

⁴ 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>.

⁵ Bernstein, *supra* note 1.

⁶ *Id.* (citing interviews with Reuters and London Times).

⁷ Eisinger, *supra* note 4.

⁸*Id.*

engaged in a “consistent pattern of false representations.”⁹ Shortly afterward, the Manhattan District Attorney’s office opened a criminal investigation.¹⁰ The civil case settled in November 2011.¹¹ 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.¹²

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.¹³ As the investigation continued, Trump, Sr. became frustrated and called on his long-time attorney Marc Kasowitz to intervene.¹⁴ The criminal investigation was still ongoing when on January 11, 2012, Marc Kasowitz donated \$25,000 to District Attorney Vance’s campaign.¹⁵ Notably, at the time, this made Kasowitz one of Vance’s largest donors.¹⁶

In May 2012, Kasowitz requested a meeting with the District Attorney to discuss the investigation.¹⁷ According to Vance, he returned the \$25,000 campaign contribution prior to meeting with Kasowitz on May 16, 2012.¹⁸ In the meeting Kasowitz reportedly repeated the same arguments that had been laid out by the defense team in meetings with assistant district attorneys.¹⁹ The case was dropped on August 3, 2012.²⁰

Mere weeks after the case had been resolved, Kasowitz contacted Vance’s campaign about hosting a fundraiser.²¹ The event was held in January 2013, and Kasowitz

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

¹⁰ Bernstein, *supra* note 1.

¹¹ *Id.*

¹² 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>.

¹³ Eisinger, *supra* note 4.

¹⁴ *Id.*

¹⁵ Campaign Financial Disclosure, New York State Board of Elections, Contributions Search Page by Contributor Name, <https://goo.gl/jdps7U>, accessed October 18, 2017.

¹⁶ Eisinger, *supra* note 4.

¹⁷ *Id.*

¹⁸ James McKinley, Jr., “Vance Returned Trump Lawyer’s Donation After Reporters’ Questions,” (Oct. 4, 2017) <https://goo.gl/ND6wYk>.

¹⁹ Bernstein, *supra* note 1.

²⁰ *Id.*

²¹ *Id.*

donated another \$31,993 to Vance's campaign.²² Kasowitz hosted another campaign event for Vance in October 2013 which raised \$9,000.²³ Only after this information was widely reported earlier this month did Vance return the \$31,993 received from Kasowitz.²⁴

Grounds for U.S. Attorney to Investigate

The circumstances surrounding the dismissal of the criminal investigation against the Trump Organization's executives, in light of the campaign contributions from an attorney representing the Trump Organization and its executives in the criminal investigation so close to the time of the decision, clearly warrant opening a criminal investigation into whether Trump's attorney Marc Kasowitz conspired with others to illegally influence District Attorney Vance in furtherance of a racketeering activity under 18 U.S.C. § 1861, fraud, 18 U.S.C. § 1341, wire fraud under 18 U.S.C. § 1343, and/or conspiracy to commit such crimes under 18 U.S.C. § 371.

The integrity of public officials is paramount to ensuring public trust in the government. 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 the actions of Trump Organization Executives, including Donald Trump, Jr. and Ivanka Trump in violation of federal racketeering, fraud, and conspiracy statutes.

²² *Id.*

²³ *Id.*

²⁴ McKinley, Jr., *supra* note 17.

Conclusion

We respectfully urge you to open an investigation into the conduct of the Trump Organization executives who were engaged in marketing the Trump SoHo, including Donald Trump, Jr. and Ivanka Trump; Marc Kasowitz, an attorney retained to represent the Trump Organization and its executives in the criminal investigation that was being pursued by the Manhattan District Attorney's office; and, District Attorney Vance to determine whether they engaged in criminal activity. Please let us know if we may be of assistance in this proceeding.

Sincerely,



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

Ben T. Clements
Clements & Pineault LLP