

The Honorable Barbara Underwood
Attorney General of the State of New York
The Capitol
Albany, New York 12224

Re: Renewed Request to Initiate Investigation Whether to Dissolve and
Revoke Corporate Charter of the Trump Organization

August 24, 2018

Dear Attorney General Underwood:

On February 15, 2017 (and supplemented by additional correspondence on March 2, 2017, and November 2, 2017), we wrote to your predecessor, asking that he investigate whether to bring proceedings to dissolve and revoke the charter of The Trump Organization, Inc. under Section 1101 of the Business Corporation Law.¹ As your recent action seeking to dissolve the Trump *Foundation* illustrates, Trump uses artificial legal entities, including the Trump Organization itself, as tools for fraud and corruption. We now renew our request for your office to investigate whether to dissolve the Trump *Organization*.

In addition to the grounds we set forth in our earlier correspondence, and all of the widely-reported unconstitutional foreign and domestic emoluments that the Trump Organization continues to facilitate, new information has emerged recently that implicates the Trump Organization directly in a

¹The Trump Organization, Inc. (“Trump Organization”) is a New York domestic business corporation (DOS ID# 694908, filed Apr. 23, 1981) with its principal office at 725 Fifth Ave, 26th floor, New York, New York. The term “Trump Organization” is also commonly used to refer to embrace a separate LLC, Trump Organization LLC (DOS ID# 2405651, filed Aug. 4, 1999), and some 500 distinct but affiliated entities, including both corporations and LLCs. See Jean Eaglesham et al., *How Donald Trump’s Web of LLCs Obscures His Business Interests*, Wall Street Journal, Dec. 8, 2016, <http://on.wsj.com/2kI1jTK>. While the precise internal relationships among these entities can be opaque, it appears that Trump Organization corporate headquarters exercises management and control over the various entities created to own or operate specific business projects. See *infra* Part III.A. This letter seeks investigation into dissolution of The Trump Organization, Inc., but other Trump business entities may also warrant investigation and action under Sections 1101 or 1303 as appropriate.

criminal conspiracy. On August 21, 2018, Michael Cohen—until 2017 an executive vice president at the Trump Organization—pleaded guilty to eight federal criminal charges, one of which directly implicated the Trump Organization. The criminal information details how the Trump Organization conspired to violate federal campaign finance law and evade regulatory scrutiny through a fraudulent scheme of concealing “hush money” payments and campaign expenses. *See United States v. Cohen*, No. 18-cr-00602 (S.D.N.Y. filed Aug. 21, 2018), ECF No. 2 (information), ¶¶ 1, 37-40. As set forth in the information (to which Cohen pleaded guilty), Cohen used personal funds (routed through a shell LLC) to pay \$130,000 to buy the silence of Stephanie Clifford, one of President Trump’s former mistresses, with the purpose of influencing the 2016 election. *See id.* ¶¶ 32-36. In his plea allocution, Cohen told the judge that he had arranged both illegal hush payments “in coordination with and at the direction of” Donald Trump, the owner (directly then, and beneficially now) of the Trump Organization.²

Specifically, in January 2017, Cohen submitted a claim for reimbursement to the Trump Organization, seeking reimbursement for the \$130,000 that he had paid Clifford, as well as a \$35 wire fee and \$50,000 in unspecified “tech services” for campaign-related technology work, for \$180,035 in total. Two executives of the Trump Organization fraudulently booked the company’s reimbursement of Cohen as payment for legal services, rather than reimbursement for expenses paid, and they “grossed up” his \$180,035 claim to \$360,000 so that he would receive the full \$180,035 (if not more) after his personal income taxes were deducted. The Trump Organization also added a \$60,000 “bonus”—likely payment for Cohen’s services, though services as a “fixer” rather than a lawyer—bringing the total to \$420,000. *See id.* ¶ 37.

Rather than a single reimbursement payment, the \$420,000 was misleadingly paid in 12 monthly installments of \$35,000 each, for which Cohen submitted fraudulent invoices for “legal services.” Each month, Cohen sent an invoice for \$35,000 stating, “Pursuant to the retainer agreement, kindly remit payment for services rendered” in that month, even though there was no retainer agreement and he had provided no legal services to the

² *See* Devlin Barrett et al., *Michael Cohen says he worked to silence two women ‘in coordination’ with Trump to influence 2016 election*, Wash. Post, Aug. 21, 2018, <https://wapo.st/2PIUxm9>. Technically, Cohen said that he did so “in coordination with and at the direction of a candidate for federal office,” but that candidate could only be Trump. Similarly, the criminal information makes a faint-hearted effort at anonymizing Trump and the Trump Organization, as it refers to “Individual-1,” described as the owner of a “Manhattan-based real estate company” who by January 2017 “had become the President of the United States.”

company. Rather, the Trump Organization conspired with Cohen to violate federal campaign finance law by concealing illegal campaign contributions as supposed payment for non-existent legal services. *See id.* ¶¶ 38-40.

Judicial dissolution of a corporation should not be undertaken lightly. But this is not an ordinary case. As detailed in our earlier correspondence, by continuing to operate under Trump family ownership and control with President Trump in the White House, the Trump Organization flagrantly abuses its state-granted powers, contrary to the public policies of New York against corruption and conflicts of interest, and contrary to the U.S. Constitution. Furthermore, the Trump Organization has a history of alleged illegal, fraudulent, or abusive activity demonstrating that it has exceeded the authority conferred upon it by law and carried on its business in a persistently fraudulent or illegal manner. Worse yet, this activity has increased, not decreased, the longer that President Trump has remained in the White House.

We have attached, for your convenience, copies of our previous correspondence setting out the facts then known that justify an investigation into whether to bring proceedings to dissolve the Trump Organization.³ At this point, President Trump's use of the Trump Organization to facilitate violations of the Constitution's Foreign and Domestic Emoluments Clauses, and corruption more broadly, is well known and need not be repeated here in detail. These allegations span a breathtaking range of federal and state violations, occurring in locations both domestic (including New York City, Washington, D.C., and Palm Beach, Florida) and foreign (including Indonesia, the Philippines, the United Arab Emirates, and Azerbaijan). Rather, we focus here instead on why these violations justify an investigation into whether to dissolve the corporation.

I. The corporate charter in New York is a privilege, subject to revocation.

As you know, many of the world's largest corporations have chosen to use corporate charters granted by the people and State Legislature of New York. Yet the people, legislature, and courts of New York have always insisted that the corporate charter is a privilege, not a right. New York, like other states, reserves the right to revoke state corporate charters when corporations commit repeated unlawful conduct, or abuse their powers contrary to the public policy of the state.

³ These letters are also available for your convenience at <http://bit.ly/FSFP-NYAG1> (Feb. 15, 2017), <http://bit.ly/FSFP-NYAG2> (Mar. 17, 2017), and <http://bit.ly/FSFP-NYAG3> (Nov. 2, 2017).

The attorney general has broad authority to ensure that corporations that have been granted powers by a corporate charter issued by New York state do not exceed or abuse those powers. For example, the attorney general may apply to the court for an order to inspect the books and records of a corporation if such an inspection is “necessary to protect the interests of the people of [New York].” N.Y. Bus. Corp. Law § 109(a)(7). The attorney general’s authority to seek revocation of the corporate charter derives historically from “the ancient quo warranto proceeding.” See *People v. Abbott Maint. Corp.*, 22 Misc. 2d 1019, 1021 (N.Y. Sup. Ct.), *aff’d as modified*, 11 A.D.2d 136 (N.Y. App. Div. 1960), *aff’d*, 9 N.Y.2d 810 (1961). It is now codified in Section 1101(a)(2) of the Business Corporation Law:

(a) The attorney-general may bring an action for the dissolution of a corporation upon one or more of the following grounds:

...

(2) That the corporation has exceeded the authority conferred upon it by law, or has violated any provision of law whereby it has forfeited its charter, or carried on, conducted or transacted its business in a persistently fraudulent or illegal manner, or by the abuse of its powers contrary to the public policy of the state has become liable to be dissolved.

N.Y. Bus. Corp. Law § 1101(a)(2); *see also id.* § 109(a)(1). The critical question is whether the corporation’s exceedance or abuse of its powers is contrary to the public interest. See N.Y. Bus. Corp. Law § 1111(b)(1) (“In an action [for judicial dissolution] brought by the attorney-general, the interest of the public is of paramount importance.”); *State v. Cortelle Corp.*, 38 N.Y.2d 83, 87–88 (1975) (“The State’s cause of action is for the abuse of power entrusted to its creature, a corporate body. In this sense, apart from any possible wrong to individuals, it is also a wrong against the State.”); *People v. N. River Sugar Refining Co.*, 121 N.Y. 582, 609 (1890) (“Two questions, therefore, open before us: *First*, has the defendant corporation exceeded or abused its powers? and, *second*, does that excess or abuse threaten or harm the public welfare?”).

Of course, the Business Corporation Law provides for an orderly disposition of corporate assets to minimize disruption to innocent workers, creditors, and outside investors. A corporation undergoing dissolution may sell legitimate, commercially viable business lines (e.g., hotels, office buildings, or golf courses) to untainted outside buyers under court supervision, thus enabling ongoing operation, albeit under different ownership.

To accomplish this, the court may appoint a receiver to preserve corporate assets, and may restrain the corporation, its directors, and officers from transacting business, exercising corporate powers, collecting debt, or paying

out corporate property, except by permission of the court. N.Y. Bus. Corp. Law §§ 1113, 1115(a)(1)-(2). If the court enters a judgment for dissolution, then the corporation is required by law to “wind up its affairs, with power to fulfill or discharge its contracts, collect its assets, sell its assets for cash at public or private sale, discharge or pay its liabilities, and do all other acts appropriate to liquidate its business.” *Id.* § 1005(a)(2). At the same time, though, the dissolved corporation “shall carry on no business except for the purpose of winding up its affairs.” *Id.* § 1005(a)(1).

II. The Trump Organization is liable to be dissolved because its current entanglement with the President of the United States constitutes abuse of its state-granted powers contrary to the public policy of the state.

The Trump Organization has become liable to be dissolved because of “the abuse of its powers contrary to the public policy of the state.” N.Y. Bus. Corp. Law § 1101(a)(2). As explained in more detail below, due to the elevation of Donald J. Trump to the presidency of the United States, the exercise of even basic corporate powers by the Trump Organization now constitutes abuse of the powers granted by the state in a manner contrary to public policy.

A. The ongoing existence and business operations of the Trump Organization during the Trump presidency present unacceptable conflicts of interest, violations of the U.S. Constitution, and political corruption.

1. Political corruption and violations of the United States Constitution’s Foreign and Domestic Emoluments Clauses are contrary to the state’s public policy.

It is contrary to the public policy of New York State to allow the powers that it confers on a corporation to be used to facilitate a conflict of interest, let alone corruption, let alone constitutional violations. Over a century ago, the Court of Appeals called the fact “[t]hat sound morality and civic honesty are corner stones of the social edifice . . . a truism which needs no re-enforcement by argument.” *Veazey v. Allen*, 173 N.Y. 359, 368 (1903). Because of this truism, “whenever [New York] courts are called upon to scrutinize a [business] which is clearly repugnant to sound morality and civic honesty, they need not look long for a well-fitting definition of public policy.” *Id.*

In 1954, enacting sweeping ethics reforms, the Legislature made the public policy of the state clear:

A continuing problem of a free government is the maintenance among its public servants of moral and ethical standards which

are worthy and warrant the confidence of the people. The people are entitled to expect from their public servants a set of standards above the morals of the market place. A public official of a free government is entrusted with the welfare, prosperity, security and safety of the people he serves. In return for this trust, the people are entitled to know that no substantial conflict between private interests and official duties exists in those who serve them.

N.Y. Pub. Officials Law § 74, Decl. of Intent, L. 1954, c. 696, § 1.⁴ To this end, the state has enacted numerous prohibitions designed to prevent public corruption and conflicts of interest. *See, e.g.*, N.Y. Civ. Serv. Law § 107; N.Y. Gen. Muni. Law § 805-a; N.Y. Pub. Officials Law §§ 73-74; *see also* 19 N.Y. Code R. & Regs. § 932.3 (“No [public officer] shall engage in any outside activity which interferes or substantially conflicts with the proper and effective discharge of such individual’s official State duties or responsibilities.”). And while these laws of their own right bind state and local officials, not federal officials, the court may infer a broad state public policy against political corruption and conflicts of interest from the state’s laws on precisely that subject, sufficient to conclude that abuse of corporate powers is contrary to the state’s public policy. *See State v. Saksniit*, 69 Misc. 2d 554, 561, 332 N.Y.S.2d 343 (N.Y. Sup. Ct. 1972) (inferring public policy from various statutory prohibitions and concluding that abuse of powers violated that inferred policy, justifying charter revocation).

Moreover, the ongoing operation of the Trump Organization while its namesake and primary owner is president, and his adult children operate the corporation, will promote corruption more broadly. As Professor Michael C. Dorf of Cornell University has noted:

Corruption is contagious. When greasing the palms of the rulers is the way to get ahead, even people who are inclined to play by the rules will have reason to cheat, if only to avoid being left behind. The effect then feeds on itself, and in turn undermines the entire economy. It is thus hardly surprising that high national levels of perceived corruption correlate with poor economic performance.

⁴ As then-Governor Dewey noted in his annual message that year, “the public is entitled to expect from its servants a set of standards far above the morals of the market place.” Andrew M. Stengel, *Albany’s Decade of Corruption: Public Integrity Enforcement After Skilling v. United States, New York’s Dormant Honest Services Fraud Statute, and Remedial Criminal Law Reform*, 76 Alb. L. Rev. 1357 (2013) (quoting Thomas E. Dewey, Annual Message to the Legislature (Jan. 6, 1954)).

Michael C. Dorf, *Why—and How—President-Elect Trump’s Conflicts of Interest Matter*, Verdict, Nov. 30, 2016, <http://bit.ly/2gtbnNd>. And indeed, that is just what happened. As just one example, in May 2018, the public learned that Michael Cohen, the president’s personal lawyer and a longtime Trump Organization “fixer,” had created a corporate slush fund that received \$500,000 from Columbus Nova, a company tied to Russian oligarch Viktor Vekselberg (supposedly for “real estate investment advice”), as well as \$600,000 from AT&T (supposedly to advise on “specific long-term planning initiatives as well as the immediate issue of corporate tax reform and the acquisition of Time Warner”), \$1.2 million from Swiss pharmaceutical giant Novartis (supposedly for healthcare policy advice), and an undisclosed sum from South Korea’s Korea Aerospace Industries (supposedly for accounting advice).⁵ For example, in December 2016, Cohen allegedly shook down a Qatari investor at Trump Tower, for “millions” in bribes for “Trump family members.”⁶

The point here is not the extent to which the Trump Organization may have been directly involved in its lawyer’s slush fund. The point is that the Trump Organization promotes an environment of corruption that has infected the state more broadly. New York is internationally recognized as a center of business. Its legal system, particularly with respect to commerce and finance, is widely and justly respected. The state’s public policy will be harmed by increasing corruption emanating from a corporation deriving its powers from a grant by the state.

Similarly, the Trump Organization’s role in violations of the U.S. Constitution’s Domestic Emoluments and Foreign Emoluments Clauses is contrary to the public policy of New York State. As the supreme law of the land, the United States Constitution is part and parcel of the public policy of New York state. *See* U.S. Const. art. VI, cl. 2 (“This Constitution . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”); N.Y. Const. art. XIII, § 1 (requiring state officeholders to take oath to “support the constitution of the United States”).

⁵ *See, e.g.*, Rosalind S. Helderman et al., *Cohen’s \$600,000 deal with AT&T specified he would advise on Time Warner merger, internal company records show*, Wash. Post, May 10, 2018, <https://wapo.st/2KQpA7f>.

⁶ Josh Boswell & Ryan Parry, *Michael Cohen asked for ‘millions of dollars’ to ‘pass to Trumps’*, Daily Mail, May 15, 2018, <https://dailym.ai/2Gk94J6>.

2. *The Trump Organization has declined opportunities to remedy these problems.*

The Trump Organization has had more than enough opportunity to remedy these problems, but opted against taking that opportunity. On November 30, 2016, the United States Office of Government Ethics announced that the “[o]nly way to resolve these conflicts of interest is to divest.”⁷ The nearly ten-week transition period between the presidential election and the presidential inauguration gave Trump sufficient opportunity to sell or otherwise divest all conflict-producing interests in the Trump Organization in numerous ways.⁸ He could have liquidated the business and invested the proceeds in a diversified mutual fund or a true blind trust; initiated non-judicial dissolution under article 10 of the Business Corporation Law; or petitioned the court for judicial dissolution on behalf of directors and/or shareholders under article 11. *See* N.Y. Bus. Corp. Law §§ 1001, 1102-03.

But despite every opportunity, neither Trump nor the Trump Organization has done anything remotely adequate to address these serious concerns. Instead, on January 11, 2017, the Trump Organization’s tax law firm announced a plan to transfer *management* control of the Trump Organization to Trump’s sons and a senior executive, without removing Trump’s *ownership* stake.⁹ Trump transferred his ownership stakes in various Trump business entities to “The Donald J. Trump Revocable Trust.” This trust, of which Trump’s son and the Trump Organization’s chief financial officer are trustees, has as its purpose “to hold assets for the ‘exclusive benefit’ of the president,” and uses Trump’s Social Security number as its taxpayer identification number.¹⁰

⁷ Michael D. Shear & Eric Lipton, *Ethics Office Praises Donald Trump for a Move He Hasn’t Committed To*, N.Y. Times, Nov. 30, 2016, <http://nyti.ms/2gK988R>.

⁸ *See* Richard Painter & Norman Eisen, *Donald Trump will still be violating the Constitution as soon as he’s sworn in*, Wash. Post, Dec. 13, 2016, <http://wpo.st/9EZN2>.

⁹ *See Donald Trump’s News Conference: Full Transcript and Video*, N.Y. Times, Jan. 11, 2017, <http://nyti.ms/2kHSolf>.

¹⁰ Susanne Craig & Eric Lipton, *Trust Records Show Trump Is Still Closely Tied to His Empire*, N.Y. Times, Feb. 3, 2017, <https://nyti.ms/2kytJIP>. Similarly, on February 3, 2017, the Trump Organization filed paperwork to transfer *management* of the LLCs and corporations that operate the Trump International Hotel to Trump’s sons, without removing Trump’s *ownership* stake. *See* Patrick Madden, *It’s Official: Trump’s Son Takes Over Pennsylvania Avenue Hotel*, WAMU, Feb. 6, 2017, <http://bit.ly/2lkv9S5>.

This is not a “blind trust.” Trump knows which businesses his trust owns, and how his actions as President may affect their income and value. The trust is run not by an independent trustee, but by his own son and longtime chief financial officer. And he can revoke the trust at any time.¹¹ This arrangement does not diminish Trump’s interest and ability to enrich himself through presidential actions affecting his business entities, and to shape U.S. policy to preserve and promote his business assets. Indeed, Trump’s sons continue to forge ahead with Trump Organization business—e.g., opening a golf course in Dubai—and benefit from official escorts of U.S. embassy and presidential protective staff as they do so.¹²

Trump’s tax law firm also announced a plan to “voluntarily donate all profits from foreign government payments made to his hotel to the United States Treasury.”¹³ But the Trump Organization soon watered down that pledge. In response to a congressional inquiry, the company claimed that it would be “impractical” to “fully and completely identify” all foreign government customers and that it would “impede upon personal privacy and diminish the guest experience of our brand.”¹⁴ Furthermore, the Trump Organization decided that, even for self-identified foreign government patrons, the company would not calculate actual profits, because its pledge was “not practical” and compliance would require “time, resources, and specialists.” Instead, the Trump Organization decided simply to *estimate* costs.¹⁵ In February 2018, the Trump Organization sent the Treasury a check for \$151,470, purportedly representing its estimate of profits from 2017 foreign government business at its hotels and similar businesses, but without any explanation or accounting.¹⁶

¹¹ See Craig & Lipton, *supra* note 10.

¹² See Eric Lipton & Susanne Craig, *Trump Sons Forge Ahead Without Father, Expanding and Navigating Conflicts*, N.Y. Times, Feb. 12, 2017, <http://nyti.ms/2l88CYa>; Amy Brittain & Drew Harwell, *Eric Trump’s business trip to Uruguay cost taxpayers \$97,830 in hotel bills*, Wash. Post, Feb. 3, 2017, <https://wpo.st/-5Hb2> (describing pre-inauguration trip).

¹³ *Donald Trump’s News Conference: Full Transcript and Video*, *supra*, <http://nyti.ms/2kHSolf>.

¹⁴ Trump Organization, *Donation of Profits from Foreign Government Patronage*, <http://bit.ly/2Gg3I1x> (undated).

¹⁵ *Id.*

¹⁶ *Trump Org donated \$151,470 to gov’t from foreign profits at hotels*, NBC News, Mar. 9, 2018, <https://nbcnews.to/2KIWqwt>. As a federal court has noted, “[n]o details with respect to such payments, however, were provided, viz., when the payments were made, which governments or their instrumentalities made them, how much each paid, how the amounts each paid were calculated, who verified the calculations, and how much was

Ultimately, the Constitution does not provide an exception for receiving foreign government emoluments, deducting costs, and then donating the “profits” to the United States. And even if it did, the plan does not remedy the serious constitutional and ethical violations at the Trump Organization that go beyond the “profits” at one particular hotel.

III. The Trump Organization is also liable to be dissolved because it has exceeded the authority conferred upon it by law through repeated unlawful and fraudulent conduct.

Separate and apart from its implication in alleged constitutional violations and promotion of corruption more broadly, the Trump Organization has “exceeded the authority conferred upon it by law, or has violated any provision of law whereby it has forfeited its charter, or carried on, conducted or transacted its business in a persistently fraudulent or illegal manner” under Section 1101(a)(2) of the Business Corporation Law.

A. The Trump Organization has a history of alleged illegal, fraudulent, or abusive conduct.

The scope of alleged illegal, fraudulent, or abusive conduct by the Trump Organization and business ventures under its umbrella is quite broad, and has been catalogued in detail elsewhere. Our 2017 letters to your predecessor cited a plethora of examples of alleged illegal, fraudulent, or abusive conduct by the Trump Organization and business ventures under its umbrella, including racial discrimination in housing, fraud against customers and investors, labor law violations, campaign finance violations, and likely money laundering and foreign corrupt practices violations.

In most cases, the Trump Organization’s various business activities are conducted by and through nominally separate corporations and LLCs. However, the Trump Organization is reportedly directed by a headquarters staff of “no more than a few dozen employees.”¹⁷ And as your office has noted, the Trump Organization often closely directs the businesses and decisions of the nominally separate entities. For example, in the recent case *People of the State of New York v. The Trump Entrepreneur Initiative LLC*, No. 451463/13 (complaint filed Aug. 24, 2013), your office alleged:

calculated over what period of time.” *District of Columbia v. Trump*, No. 17-cv-01596, 2018 WL 3559027 (D. Md. July 25, 2018).

¹⁷ Megan Twohey et al., *Inside the Trump Organization, the Company That Has Run Trump’s Big World*, N.Y. Times, Dec. 25, 2016, <http://nyti.ms/2l7DN5E>.

Trump Organization also directed and controlled the acts and practices of Trump University and had knowledge of its fraudulent and illegal conduct. Indeed, the Trump University LLC corporate form was regularly ignored. There were never any meetings of the members, no votes ever taken, and no minutes of meetings ever prepared. Major corporate decisions were routinely made for Trump University LLC by individuals at Trump Organization who were not officers, directors, or employees of the company or of its members. . . . Requests from Trump University management for additional capital were made directly to . . . the Trump Organization. The Trump Organization controlled Trump University’s bank accounts and expenditures. . . .The in-house lawyers at The Trump Organization also made decisions for Trump University when legal and regulatory issues arose

Id. at 30-32 ¶¶ 149-60, <http://on.wsj.com/2hR5Kcp>; *see also* *People v. Trump Entrepreneur Initiative LLC*, 26 N.Y.S.3d 66, 69 (N.Y. App. Div. 2016).

This illustrates how the Trump Organization controls and directs individual business ventures under its umbrella, and does not appear atypical. For example, a 2016 CBS News report described how Trump Organization officials allegedly participated in a New York City property tax audit of the Grand Hyatt Hotel in the 1980s.¹⁸ The hotel was managed by the Hyatt Corporation and owned by a 50-50 partnership of “Wembley Realty” (a Trump business entity) and a Hyatt subsidiary, but “[c]ity correspondence with the hotel’s ownership partners was sent to the Trump Organization.” And after the city auditor (and state officials) determined that the hotel had underpaid \$2.9 million in taxes by using “mismatched cash and accrual methods” and other non-standard accounting practices, “a Trump Organization official signed for the ownership partners on a lawsuit against the city and state.”¹⁹

B. The Trump Organization’s history of alleged illegal, fraudulent, or abusive conduct exceeds the authority conferred upon the Trump Organization by law.

By definition, illegal corporate activity exceeds the authority conferred upon the corporation by law. New York authorizes corporations to be formed for “any *lawful* business purpose.” N.Y. Bus. Corp. Law § 201(a) (emphasis added); *see also* Kent Greenfield, *Ultra Vires Lives! A Stakeholder Analysis of Corporate Illegality (with Notes on How Corporate Law Could Reinforce International Law Norms)*, 87 Va. L. Rev. 1279, 1314-60 (2001) (noting that

¹⁸ *See* Graham Kates, “Unusual” accounting: Inside a Trump business audit, CBS Moneywatch, Aug. 8, 2016, <http://cbsn.ws/2kkqKgo>.

¹⁹ *Id.*

illegal action is always beyond a corporation's authority). Over the years, New York courts have dissolved corporations for even minor violations. See, e.g., *People v. Buffalo Stone & Cement Co.*, 131 N.Y. 140 (1892) (failure to file an annual report). More recently, "the Attorney-General has typically employed corporate dissolution as a remedy for persistent consumer fraud." *People by Abrams v. Oliver Sch., Inc.*, 206 A.D.2d 143, 147 (N.Y. App. Div. 1994) (affirming dissolution of educational services corporation that persistently failed to comply with student loan regulations).²⁰

It is not relevant that some of these violations are of federal law, not state law. "Federal law is as much a law of the State as any specific law enacted by the State Legislature." *In re People (Int'l Workers Order, Inc.)*, 199 Misc. 941, 976, 106 N.Y.S.2d 953 (N.Y. Sup. Ct. 1951) (in proceeding to dissolve union insurance fund for "wilfully violat[ing] its charter," rejecting argument that violation of federal law was not proper basis for charter revocation), *aff'd*, 113 N.Y.S.2d 755 (N.Y. App. Div. 1952), *aff'd*, 305 N.Y. 258 (1953) (per curiam).²¹ And New York state courts are fully capable of deciding any federal constitutional questions that may arise in the course of a dissolution action. See, e.g., Jed Shugerman, *State Attorneys General Can Enforce the Emoluments Clause with Quo Warranto vs. Trump's Hotels*, Shugerblog, <http://bit.ly/2l7rztH> (Feb. 9, 2017).

²⁰ See also *State of New York v. Cortelle Corp.*, 38 N.Y.2d 83 (1975) (reversing dismissal where corporation induced homeowners to convey title in return for loans, but failed to reconvey title after loans were repaid); *People v. Therapeutic Hypnosis, Inc.*, 374 N.Y.S.2d 576 (N.Y. Sup. Ct. 1975) (dissolving corporation that claimed to heal people through hypnosis); *State v. Saksniit*, 332 N.Y.S.2d 343 (N.Y. Sup. Ct. 1972) (in dissolution action, appointing temporary receiver and enjoining operations of corporation engaged in fraudulent "ghost-writing" of student papers); *People v. B.C. Assoc., Inc.*, 194 N.Y.S.2d 353 (N.Y. Sup. Ct. 1959) (holding that attorney general was authorized to seek dissolution of disc jockey school that made false assurances of employment prospects); accord *State ex rel. McKittrick v. Am. Ins. Co.*, 140 S.W.2d 36, 40 (Mo. 1940) (upholding ouster of foreign corporation for single act of bribery of public official, and stating: "When there has been a flagrant, inexcusable, malicious violation of its criminal laws, does the State have to wait until the parties do it again? We will not hold that this State is so powerless to protect its citizens and the public welfare. On the contrary, we hold that once is enough (and too much) if the act is a clear inexcusable violation of our criminal laws.").

²¹ *Int'l Workers Order*, though it involved a different charter revocation provision, is instructive in other ways. There, the court found a union insurance fund to be a front group for Soviet influence, putting the interests of the Soviet Union ahead of its policyholders.

Similarly, it is not relevant that some of these charges are still pending, or that some were or may be resolved without a formal adjudication or concession of liability. In *Int'l Workers Order*, the court concluded that “[i]t is not necessary nor proper that the Superintendent of Insurance await conviction for these violations before proceeding [to seek charter revocation]. . . . If he were required to await conviction it might be too late for him to act effectively in many cases.” 199 Misc. at 975-76.²² Here, two pending lawsuits in early stages in federal courts in Maryland and Washington, D.C., seek declaratory and injunctive relief against the president for violations of the emoluments clauses. See *District of Columbia v. Trump*, No. 17-cv-01596, 2018 WL 3559027 (D. Md. July 25, 2018) (denying motion to dismiss complaint by state attorneys general); *Blumenthal et al. v. Trump*, No. 17-cv-01154 (D.D.C. filed June 14, 2017) (complaint by Senators and Members of Congress). Just as in *Int'l Workers Order*, here the existence of separate litigation does not prevent you from taking appropriate action under the Business Corporation Law.²³

IV. Corporate charter revocation is an appropriate remedy for the Trump Organization.

Judicial dissolution of a corporation should not be undertaken lightly. But this is not an ordinary case. To the contrary, this is the only time in our nation’s history that a business corporation has been effectively merged with the presidency of the United States, so that the president and his family members can use the power of the presidency to enrich themselves.

²² In *Int'l Workers Order*, the court acknowledged that “there may not be sufficient evidence to establish that particular individuals have violated” federal or state law, even as it affirmed revocation of the corporation’s charter. 113 N.Y.S.2d at 761.

²³ Furthermore, the overlap with the federal emoluments lawsuits is limited. *District of Columbia v. Trump* is, by decision of the court, limited to emoluments accrued at one particular hotel in Washington, D.C., see 2018 WL 3559027 at *1 & n.4; *Blumenthal v. Trump* is broader in geography, but narrower in law, as the complaint solely alleges violations of the *Foreign Emoluments Clause*. In contrast, the present request pertains to the entire history of illegal, fraudulent, and abusive activity by the Trump Organization, Inc., including conduct that predated the Trump presidency. Finally, the federal actions seek declaratory and injunctive relief against the president himself; lacking your authority under the Business Corporation Law, they do not raise the separate question of whether the Trump Organization should be dissolved.

By continuing to operate under Trump ownership and family control with Trump in the White House, the Trump Organization abuses its state-granted powers contrary to the public policies of New York State against corruption and conflicts of interest, and contrary to the U.S. Constitution. New York should not permit a corporation created by a grant of legal authority under New York laws to facilitate these violations. Furthermore, the Trump Organization has a long history of alleged activity demonstrating that it has exceeded the authority conferred upon it by law and carried on its business in a persistently fraudulent or illegal manner. This alleged illegal, fraudulent, or abusive conduct, by itself, suffices to warrant revocation of the Trump Organization's corporate charter.

We respectfully urge you to investigate whether The Trump Organization, Inc. has forfeited the privilege of its corporate charter, and if so to initiate dissolution proceedings. We are available to discuss this referral with you further at your convenience, and we look forward to hearing from you. Thank you for your consideration.

Sincerely,

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