

The Honorable Letitia James  
Attorney General of the State of New York  
The Capitol  
Albany, New York 12224

July 18, 2019

Dear Attorney General James,

We write 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. Your office has already taken comparable action resulting in the dissolution of the Trump *Foundation*, run largely by the same individuals who lead the Trump Organization, under a similar statutory provision for dissolution of *nonprofit* corporations.<sup>1</sup> And we understand that your office has begun an investigation into four Trump Organization projects, and commend that effort.<sup>2</sup> But the problem goes beyond just four projects. The Trump Organization is inextricably enmeshed in unlawful misconduct, and the entire corporation should be dissolved.

Judicial dissolution of a corporation should not be undertaken lightly. But this is not an ordinary case. As we explained in correspondence to

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<sup>1</sup> See *People v. Trump*, No. 451130/2018, 88 N.Y.S.3d 830 (N.Y. Sup. Ct. Nov. 21, 2018) (denying motion to dismiss action for judicial dissolution of Donald J. Trump Foundation); *People v. Trump*, No. 451130/2018, So-Ordered Stipulation Concerning the Dissolution of the Donald J. Trump Foundation (N.Y. Sup. Ct. Dec. 19, 2018), <https://on.ny.gov/2XxM5qR>.

<sup>2</sup> See William K. Rashbaum & Danny Hakim, *New York Attorney General Opens Investigation of Trump Projects*, N.Y. Times, Mar. 11, 2017, <https://nyti.ms/2TybUG6>.

your predecessors,<sup>3</sup> the Trump Organization has a long history of 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. Furthermore, 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. It is time for the state to dissolve the Trump Organization and revoke its corporate charter.

## **I. Legal background**

As you know, many of the world's largest corporations have chosen to use corporate charters granted by the people and 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.

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.<sup>4</sup> The attorney general's authority to seek revocation of the corporate charter is a civil remedy

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<sup>3</sup> See Letter to Eric Schneiderman (Feb. 15, 2017), <https://freespeechforpeople.org/wp-content/uploads/2017/02/FSFP-Ltr-to-NY-AG-re-Trump-Org-20170215-WEB-signed-1.pdf>; Letter to Eric Schneiderman (Mar. 17, 2017), <https://freespeechforpeople.org/wp-content/uploads/2017/03/FSFP-supp-ltr-to-NY-AG-3-17-17-WEB.pdf>; Letter to Eric Schneiderman (Nov. 2, 2017), [https://freespeechforpeople.org/wp-content/uploads/2017/11/FSFP\\_Letter-to-AG-Schneiderman\\_102317.pdf](https://freespeechforpeople.org/wp-content/uploads/2017/11/FSFP_Letter-to-AG-Schneiderman_102317.pdf); Letter to Barbara Underwood (Aug. 24, 2018), <https://freespeechforpeople.org/wp-content/uploads/2018/08/FSFP-updated-Trump-Org-sec1101-request-8-24-18-WEB.pdf>.

<sup>4</sup> 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).

deriving historically from “the ancient quo warranto proceeding.”<sup>5</sup> 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.<sup>6</sup>

Your office has applied this civil remedy cautiously, but it is not unusual. Notably, your office is currently litigating a case for dissolution of a for-profit corporation.<sup>7</sup> And your office has won a court order for dissolution of a for-profit corporation as recently as May 2018, in addition to other recent judicial dissolutions.<sup>8</sup>

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<sup>5</sup> 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).

<sup>6</sup> N.Y. Bus. Corp. Law § 1101(a)(2); see also *id.* § 109(a)(1); N.Y. Exec. Law § 63(12).

<sup>7</sup> *People v. Northern Leasing Sys., Inc.*, 75 N.Y.S.3d 785, 801 (N.Y. Sup. Ct. 2017) (denying motion to dismiss claim for dissolution under Section 1101 but granting motion to dismiss other claims), *aff'd as modified on other grounds*, 94 N.Y.S.3d 259 (N.Y. App. Div. Feb. 19, 2019); N.Y. Attorney General, *Information about the Lawsuit Filed Against Northern Leasing Systems, Inc.*, <https://ag.ny.gov/NLFAQ>.

<sup>8</sup> *People v. Abbingdon Hill Pet Cemetery & Crematory, Inc.*, No. 003370/2018, slip op. (N.Y. Sup. Ct. May 1, 2018), <https://on.ny.gov/2Xyrcrc5>; *People 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); *State v. Cortelle Corp.*, 38 N.Y.2d 83, 87–88 (1975) (reversing dismissal of action for dissolution where corporation induced homeowners to convey title in return for loans, but never reconveyed 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 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 trade school that made false assurances of employment prospects).

By definition, illegal corporate activity exceeds the authority conferred upon any corporation by law. New York authorizes corporations to be formed for “any *lawful* business purpose.”<sup>9</sup> Over the years, New York courts have dissolved corporations for even minor violations, such as failure to file an annual report.<sup>10</sup> More recently, as the appellate division explained in 1994, “the Attorney-General has typically employed corporate dissolution as a remedy for persistent consumer fraud.”<sup>11</sup> In evaluating whether a corporation’s exceedance or abuse of its powers justifies dissolution, “the interest of the public is of paramount importance.”<sup>12</sup>

Of course, the statute 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 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.<sup>13</sup> If the court orders dissolution, the corporation must

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<sup>9</sup> 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) (illegal action is always beyond a corporation’s authority).

<sup>10</sup> *See, e.g., People v. Buffalo Stone & Cement Co.*, 131 N.Y. 140 (1892).

<sup>11</sup> *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).

<sup>12</sup> N.Y. Bus. Corp. Law § 1111(b)(1); *Cortelle Corp.*, 38 N.Y.2d at 87–88 (“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?”).

<sup>13</sup> N.Y. Bus. Corp. Law §§ 1113, 1115(a)(1)-(2).

“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.”<sup>14</sup> But the dissolved corporation “shall carry on no business except for the purpose of winding up its affairs.”<sup>15</sup>

## II. The Trump Organization

The Trump Organization, Inc. (“Trump Organization”) is a New York domestic business corporation (DOS ID# 694908, filed Apr. 23, 1981) with its principal office at Trump Tower in Manhattan.<sup>16</sup> Typically, its business activities are conducted by and through nominally separate corporations and LLCs. However, the headquarters is reportedly directed by a staff of “no more than a few dozen employees.”<sup>17</sup> As your office argued in the “Trump University” case, the Trump Organization closely directs the decisions of the nominally separate entities associated with individual business lines.<sup>18</sup>

Shortly before Donald Trump was inaugurated as president, he and the Trump Organization’s tax counsel announced a plan to transfer

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<sup>14</sup> *Id.* § 1005(a)(2).

<sup>15</sup> *Id.* § 1005(a)(1).

<sup>16</sup> The term “Trump Organization” is also used to refer to embrace a separate LLC, Trump Organization LLC (DOS ID# 2405651, filed Aug. 4, 1999), and a congeries of some 500 distinct but affiliated entities, including both corporations and LLCs. *See* Donald J. Trump, Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e) (May 16, 2016) (list of entities), <http://bit.ly/OGE278e>; *see also* 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, available evidence indicates that Trump Organization corporate headquarters exercises management and control over the various entities created to own or operate specific business projects. 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.

<sup>17</sup> 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>.

<sup>18</sup> *People v. The Trump Entrepreneur Initiative LLC*, No. 451463/13 (complaint filed Aug. 24, 2013), 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).

*management* control of the company to Mr. Trump's sons and a senior executive, without removing Mr. Trump's *ownership* stake.<sup>19</sup> Instead, Mr. Trump transferred his ownership stakes in various Trump business entities to "The Donald J. Trump Revocable Trust." This trust, of which Mr. Trump's son and the company's chief financial officer are trustees, has as its purpose "to hold assets for the 'exclusive benefit' of the president," and uses Mr. Trump's Social Security number as its taxpayer identification number.<sup>20</sup> This is no "blind trust." Mr. 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 son and longtime chief financial officer. And he can revoke the trust at any time.<sup>21</sup> As time has confirmed, this arrangement did not diminish Mr. Trump's interest and ability to enrich himself through presidential actions affecting his businesses, and shape U.S. policy to preserve and promote his business assets.

### **III. The Trump Organization should be dissolved.**

The Trump Organization should be dissolved because (1) it has long conducted its business in a persistently fraudulent or illegal manner, and (2) 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. Dissolution is an appropriate remedy in this case because of the scope and pervasiveness of these violations make clear that the corporation's continued existence and operation is a threat to public welfare.

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<sup>19</sup> See *Donald Trump's News Conference: Full Transcript and Video*, N.Y. Times, Jan. 11, 2017, <http://nyti.ms/2kHSolf>.

<sup>20</sup> 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 Mr. Trump's sons, without removing Mr. 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>.

<sup>21</sup> See Craig & Lipton, *supra*, <https://nyti.ms/2kytJIP>.

**A. The Trump Organization has a long history of conducting business in a persistently fraudulent or illegal manner.**

Our previous correspondence detailed much of the Trump Organization's lengthy history of conducting its business in a persistently fraudulent or illegal manner, which need not be repeated here in detail.<sup>22</sup> As set forth in more detail in those letters, the Trump Organization has accumulated an astonishing record of corporate misconduct, including:<sup>23</sup>

- Racial discrimination in housing
- Fraud against customers and investors
- Labor law violations
- Unlawful political contributions
- Violating the Foreign Corrupt Practices Act and U.S. sanctions against Iran
- Obstruction of justice
- Quid pro quo bribery
- Criminal conspiracy to violate federal campaign finance law and evade regulatory scrutiny through a fraudulent scheme of concealing "hush money" payments and political campaign expenses

The last item is particularly noteworthy because the Trump Organization has been directly implicated in federal campaign finance felonies. The criminal information against Michael Cohen details an elaborate scheme involving fraudulent invoicing by the Trump Organization to conceal unlawful campaign financing.<sup>24</sup> Mr. Cohen (then an Executive Vice President and Special Counsel at the Trump Organization) paid \$130,000 in "hush money" to buy the silence of adult film actress Stormy Daniels regarding her earlier affair with Mr.

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<sup>22</sup> See *supra* note 3 for links to our previous letters for detailed factual background.

<sup>23</sup> See *infra* Part III.B for how the Trump Organization has become a vehicle to facilitate unconstitutional emoluments and other forms of corruption since 2017.

<sup>24</sup> See *United States v. Cohen*, No. 18-CR-00602, ECF No. 2 (S.D.N.Y. Aug. 21, 2018).

Trump.<sup>25</sup> He then sought reimbursement from the Trump Organization, which agreed to reimburse him the \$130,000 plus \$50,000 in expenses that related to Mr. Trump’s presidential election campaign, \$180,000 as a “gross up” for tax purposes, and \$60,000 as a “bonus,” for a total of \$420,000.<sup>26</sup> Mr. Cohen submitted sham invoices for legal services, and the Trump Organization reimbursed him \$35,000 per month for 12 months. The company accounted this fraudulently as “legal expenses,” even though the company knew the payments were to reimburse hush money and other campaign expenses and that no legal services were performed.<sup>27</sup> Mr. Cohen pleaded guilty to causing an unlawful corporate campaign contribution for his part in this scheme.<sup>28</sup>

Mr. Cohen’s testimony, and the evidence obtained by the Southern District of New York, implicate the Trump Organization in criminal activity. At least one of the \$35,000 checks was signed by the Trump Organization’s Chief Operating Officer, Allen Weisselberg.<sup>29</sup> Furthermore, Mr. Cohen also stated under oath that Mr. Weisselberg, along with two other Trump Organization officials, engaged in insurance fraud, bank fraud and tax fraud by dishonestly inflating and then deflating the valuation of Trump assets to gain insurance, banking and tax advantages.<sup>30</sup> Mr. Weisselberg has been granted immunity by federal prosecutors,<sup>31</sup> but that does not bar New York state from pursuing the civil remedy of dissolving the Trump Organization itself.

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<sup>25</sup> *Id.* at 14-16.

<sup>26</sup> *Id.* at 16.

<sup>27</sup> *See id.* at 16-18.

<sup>28</sup> *See United States v. Cohen*, No. 18-CR-00602, ECF No. 7 (S.D.N.Y. Sept. 14, 2018) (transcript of plea proceedings Aug. 21, 2018), available at <https://cnn.it/2ZSn72K>.

<sup>29</sup> Lindsey Bever & Matt Zapotosky, *Michael Cohen says President Trump was involved in a hush money scheme. He brought checks to Congress to prove it.*, Wash. Post, Feb. 27, 2019, <https://wapo.st/2ZXZnKV>.

<sup>30</sup> Sam Fossom *et al.*, *Michael Cohen named 3 Trump Organization employees who could now face more questions from Congress*, CNN, Feb. 28, 2019, <https://cnn.it/2ZRHygo>.

<sup>31</sup> Michael S. Schmidt & Steve Eder, *Allen Weisselberg, Top Trump Organization Official, Was Granted Immunity for Testimony*, N.Y. Times, Aug. 24, 2018, <https://nyti.ms/2MR2Yaz>.



**B. The Trump Organization’s current entanglement with the President of the United States abuses its state-granted powers contrary to the public policy of New York.**

Separate and apart from this history of unlawful activity, 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. As set forth in detail in our previous letters and as widely reported, the Trump Organization (particularly through its hotel businesses, e.g., the Trump International Hotel in Washington, D.C.) has abused its New York state-granted powers to become a vehicle for corruption of the U.S. presidency, including:

- Unconstitutional foreign emoluments from foreign governments
- Unconstitutional domestic emoluments from federal, state, and local governments
- Corrupt influence seeking peddling from corporations, lobbyists, and others

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.”<sup>32</sup> 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.”<sup>33</sup>

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

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

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<sup>32</sup> *Veazey v. Allen*, 173 N.Y. 359, 368 (1903).

<sup>33</sup> *Id.*

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.<sup>34</sup>

To this end, the state has enacted numerous prohibitions designed to prevent public corruption and conflicts of interest.<sup>35</sup> And while these laws of their own right bind state and local officials, not federal officials, New York courts have inferred public policy from statutory prohibitions and upheld charter revocation when corporate abuse of powers violated that inferred policy.<sup>36</sup> Here, a 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.

Similarly, the Trump Organization's role in violations of the U.S. Constitution's Domestic and Foreign Emoluments Clauses is contrary to the public policy of New York State. As the supreme law of the land, the Constitution is essential to New York public policy, and New York state officeholders must take an oath to support the U.S. Constitution.<sup>37</sup>

The Trump Organization has had more than enough opportunity to remedy these problems, but opted against taking meaningful action. 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.”<sup>38</sup> The nearly ten-week transition period between the

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<sup>34</sup> N.Y. Pub. Officials Law § 74, Decl. of Intent, L. 1954, c. 696, § 1.

<sup>35</sup> 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.”).

<sup>36</sup> See *State v. Saksniit*, 69 Misc. 2d 554, 561, 332 N.Y.S.2d 343 (N.Y. Sup. Ct. 1972).

<sup>37</sup> 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 (state officials’ oath to “support the constitution of the United States”).

<sup>38</sup> 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>.

presidential election and the presidential inauguration gave Mr. Trump sufficient opportunity to sell or otherwise divest all conflict-producing interests in the Trump Organization in numerous ways.<sup>39</sup> 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.<sup>40</sup> But despite every opportunity, neither Mr. Trump nor the Trump Organization has done anything remotely adequate to address these serious concerns. As explained in our previous letters, the Trump Organization and Mr. Trump rejected every viable method for resolving these issues, instead opting for superficial and ultimately meaningless measures designed primarily for public relations.

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

This is not a run-of-the-mill case of corporate misconduct. This is the only time in our nation's history that any business corporation—let alone one with a long history of illegal, fraudulent, or abusive activity—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. The company's illegal, fraudulent, or abusive conduct, by itself, suffices to warrant revocation of the Trump Organization's corporate charter. And by continuing to operate under Trump ownership and family control with Mr. 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, while individual business lines (e.g., specific buildings or golf courses) may operate legitimately, the Trump Organization itself—

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<sup>39</sup> 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>.

<sup>40</sup> See N.Y. Bus. Corp. Law §§ 1001, 1102-03.

the “nerve center”—is not just recalcitrant but irredeemable. Its ongoing operations harm the public welfare far beyond its direct impacts on customers, contractors, and workers. The general public suffers not least because major public policy decisions turn on the length and expense of reservations at Trump Organization hotels.

It is not relevant that some of the Trump Organization’s misconduct violates federal law, not state law. As the court noted in the *International Workers Order* charter revocation case, which turned on a violation of federal law, “[f]ederal law is as much a law of the State as any specific law enacted by the State Legislature.”<sup>41</sup> And New York courts are fully capable of deciding any federal constitutional questions that may arise in the course of a dissolution action.<sup>42</sup> Moreover, the fact that President Trump cannot easily interfere in a state civil investigation into the Trump Organization means that your office has a special responsibility to investigate issues that federal prosecutors may not be permitted to pursue.<sup>43</sup>

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 *International Workers Order*, the court concluded that “[i]t is not necessary nor proper that the Superintendent

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<sup>41</sup> *In re Int’l Workers Order, Inc.*, 106 N.Y.S.2d 953, 985 (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). That case, 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.

<sup>42</sup> See 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).

<sup>43</sup> Jed Handelsman Shugerman, *New York State Should Investigate the Trump Organization*, N.Y. Times, Mar. 11, 2019, <https://nyti.ms/2EROIZ4>. On July 15, 2019, federal prosecutors announced they would not further pursue their investigation into the Trump Organization’s role in illegal hush money payments. See Erica Orden, *Feds end investigation into Trump Org and hush money payments*, CNN, July 17, 2019, <https://cnn.it/2YWyLd1>.

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.”<sup>44</sup> In particular, there is no need for your office to defer to ongoing federal litigation against the president for violating the emoluments clauses.<sup>45</sup> Just as in *International Workers Order*, the existence of separate litigation does not prevent you from taking appropriate action under the Business Corporation Law. Nor is it necessary to wait for yet more violations before considering dissolution—enough is enough already.<sup>46</sup>

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

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<sup>44</sup> 106 N.Y.S.2d at 984-85. The appellate division even 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.

<sup>45</sup> See *In re Trump*, No. 18-2486, 2019 WL 2997909 (4th Cir. July 10, 2019), *rev’g* *Dist. of Columbia v. Trump*, 315 F. Supp. 3d 875 (D. Md. 2018) (denying motion to dismiss complaint by state attorneys general); *Blumenthal et al. v. Trump*, 373 F. Supp. 3d 191 (D.D.C. 2019) (denying motion to dismiss complaint by Senators and Members of Congress). The overlap between this request and these emoluments lawsuits is limited. *In re Trump* was decided on the basis of Article III standing rather than the merits, see 2019 WL 2997909 at \*11, and the case had already been limited by the district court to emoluments accrued at one particular hotel in Washington, D.C., see 315 F. Supp. 3d at 877 & n.4. *Blumenthal* is broader in geography, but only alleges violations of the *Foreign Emoluments Clause*. In contrast, this request pertains to the entire history of illegal, fraudulent, and abusive activity by the Trump Organization, including conduct that predated the Trump presidency. Finally, the federal actions seek 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.

<sup>46</sup> As the Missouri Supreme Court noted when upholding the ouster of a foreign corporation for a single act of bribing a public official, “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? . . . On the contrary, we hold that once is enough (and too much) if the act is a clear inexcusable violation of our criminal laws.” *State ex rel. McKittrick v. Am. Ins. Co.*, 140 S.W.2d 36, 40 (Mo. 1940).

this referral with you at your convenience, and we look forward to hearing from you. Thank you for your consideration.

Sincerely,

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Free Speech For People<sup>47</sup>

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<sup>47</sup> Free Speech For People is a national non-partisan, non-profit 501(c)(3) organization that works to restore republican democracy to the people. Free Speech For People's thousands of supporters around the country, including in New York, engage in education and non-partisan advocacy to encourage and support effective government of, by, and for the American people. Responsible oversight of state-created corporations is an essential obligation of citizenship and self-government, and Free Speech For People works for accountability with respect to the privileges and conditions that apply to corporate charters granted by the people and our states.

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