

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

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

February 15, 2017

Dear Attorney General Schneiderman:

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.

Judicial dissolution of a corporation should not be undertaken lightly. But this is not an ordinary case. 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. Its history, and that of its namesake, give every reason to expect that illegal activities will *increase*, not decrease, the longer that President Trump remains in the White House.

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.

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 725 Fifth Ave, 26th floor, New York, New York.<sup>1</sup>

**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.

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

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<sup>1</sup>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* 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, 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.

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.**

The conflicts of interest and potential for corruption deriving from the Trump Organization's ongoing operation during the Trump presidency are breathtaking. Broadly speaking, there are three distinct categories of risk:

- (1) That Trump will pursue his private interest at the expense of the public interest by . . . altering foreign policy or regulatory policy in exchange for favorable business deals from foreign governments or private actors, respectively;
- (2) that Trump and his family members will unjustly enrich themselves; and
- (3) that even the extensive *appearance* of corruption will spread corruption, which is a corrosive force.

Michael C. Dorf, *Trump is Going to Cash in on the Presidency*, Newsweek, Dec. 2, 2016, <http://bit.ly/2hwFIQ1>.<sup>2</sup> Yet it does not stop there. The ongoing activities of the Trump Organization while Mr. Trump is President violate two distinct provisions of the United States Constitution: the Foreign Emoluments Clause and the Domestic Emoluments Clause.

*1. The continued operation of the Trump Organization violates the Foreign Emoluments Clause.*

The Constitution's Foreign Emoluments Clause provides: "[N]o Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." U.S.

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<sup>2</sup> This letter focuses on the Trump Organization. However, the activities described herein appear to be part of a wider pattern in which the businesses of President Trump's family members are intertwined with his presidency. See, e.g., Richard Pérez-Peña & Rachel Abrams, *Trump Assails Nordstrom for "Unfairly" Dropping His Daughter Ivanka's Line*, N.Y. Times, Feb. 8, 2017, <https://nyti.ms/2kOTVJ9>; Richard Pérez-Peña, *In Libel Suit, Melania Trump Cites Loss of Chance to Make Millions*, N.Y. Times, Feb. 7, 2017, <https://nyti.ms/2kJOjif>; Susanne Craig & Maggie Haberman, *Jared Kushner Will Sell Many of His Assets, but Ethics Lawyers Worry*, N.Y. Times, Jan. 9, 2017, <https://nyti.ms/2kCJbdw>.

Const., art. I, § 9, cl. 8.<sup>3</sup> The Trump Organization’s extensive business dealings with foreign governments, businesses owned by foreign governments, and other foreign leaders fall squarely within this ban. As three leading scholars and presidential ethics lawyers concluded in a legal analysis of this foreign payments ban and its applicability to Mr. Trump:

While holding office, Mr. Trump will receive—by virtue of his continued interest in the Trump Organization and his stake in hundreds of other entities—a steady stream of monetary and other benefits from foreign powers and their agents. Applied to Mr. Trump’s diverse dealings, the text and purpose of the [Foreign] Emoluments Clause speak as one: this cannot be allowed.

Norman L. Eisen, Richard Painter, & Laurence H. Tribe, Brookings Governance Studies, *The Emoluments Clause: Its Text, Meaning, and Application to Donald J. Trump*, <http://brook.gs/2ili3Ht> (Dec. 16, 2016), at 2; see also Joshua Matz & Laurence H. Tribe, *President Trump Has No Defense Under the Foreign Emoluments Clause*, Am. Constitution Soc’y, Jan. 24, 2017, <http://bit.ly/2lIZFlc>; Richard W. Painter et al., *Emoluments: Trump’s Coming Ethics Trouble*, The Atlantic, Jan. 18, 2017, <http://theatlntc/2jwtnr>.<sup>4</sup>

The expected range of Foreign Emoluments Clause violations stemming from the Trump Organization’s business dealings is vast. A Washington Post analysis of Mr. Trump’s financial filings found that at least 111 Trump companies do or have done business in 18 countries and territories around the world.<sup>5</sup> That creates the appearance that foreign governments can gain favorable treatment from the United States by doing business with the Trump Organization. For example, shortly after the election, “[a]bout 100 foreign diplomats, from Brazil to Turkey, gathered at the Trump International Hotel [in Washington, D.C.] to sip Trump-branded champagne,

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<sup>3</sup> This foreign payments ban is located within a clause addressing both titles of nobility and foreign payments, and is variously called the Titles of Nobility Clause, the Foreign Corruption Clause, or the Foreign Emoluments Clause.

<sup>4</sup> Additionally, when a foreign state directs its custom to the business of the President, as opposed to his competitors, that may constitute a “present.”

<sup>5</sup> Drew Harwell & Anu Narayanswamy, *A scramble to assess the dangers of President-elect Donald Trump’s global business empire*, Wash. Post, Nov. 20, 2016, <http://wpo.st/KCmP2>.

dine on sliders and hear a sales pitch about the U.S. president-elect's newest hotel."<sup>6</sup> The motivation was not hard to discern:

In interviews with a dozen diplomats, many of whom declined to be named because they were not authorized to speak about anything related to the next U.S. president, some said spending money at Trump's hotel is an easy, friendly gesture to the new president.

"Why wouldn't I stay at his hotel blocks from the White House, so I can tell the new president, 'I love your new hotel!' Isn't it rude to come to his city and say, 'I am staying at your competitor?'" said one Asian diplomat.<sup>7</sup>

Indeed, according to one report, at least one foreign embassy was actively pressured to change an existing reservation by the Trump Organization:

The Embassy of Kuwait allegedly cancelled a contract with a Washington, D.C. hotel days after the presidential election, citing political pressure to hold its National Day celebration at the Trump International Hotel instead. . . . [The embassy] abruptly canceled its reservation after members of the Trump Organization pressured the ambassador to hold the event at the hotel owned by the president-elect.<sup>8</sup>

Foreign governments also provide prohibited foreign emoluments via payments to Trump's buildings, such as Trump Tower, the skyscraper at 725 Fifth Avenue in Manhattan, where The Trump Organization, Inc. and the vast majority of other Trump business entities are headquartered. At least two foreign government-controlled entities pay rent at Trump Tower. First, the state-controlled Industrial and Commercial Bank of China is the one of the building's largest tenants; it leases the 20th floor, and its lease will expire

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<sup>6</sup> Jonathan O'Connell & Mary Jordan, *For foreign diplomats, Trump hotel is place to be*, Wash. Post, Nov. 18, 2016, <http://wpo.st/VemN2>.

<sup>7</sup> *Id.*

<sup>8</sup> Judd Legum & Kira Lerner, *Under political pressure, Kuwait cancels major event at Four Seasons, switches to Trump's D.C. hotel*, Think Progress, Dec. 19, 2016, <http://thkpr.gs/1f204315d513>. The Kuwaiti ambassador later gave a different reason for moving the event. According to the ambassador, "[n]obody pressured" him; rather, "There is a new hotel in town, and we thought we would give it a try." Jonathan O'Connell, *Kuwaiti Embassy is latest to book Trump D.C. hotel, but ambassador says he felt "no pressure"*, Wash. Post, Dec. 20, 2016, <http://wapo.st/2kGKh8D>.



in October 2019.<sup>9</sup> And the Abu Dhabi Tourism & Culture Authority, an agency of the Emirate of Abu Dhabi, rents space on the 22d floor, just four floors below Trump Organization headquarters.<sup>10</sup> At another Trump building in Manhattan, Trump World Tower (845 United Nations Plaza), the Kingdom of Saudi Arabia owns the 45th floor (which it uses for the Saudi mission to the United Nations) and pays annual building amenity charges that exceeded \$85,000 per year in 2001,<sup>11</sup> and may be considerably higher now.

Other forms of foreign emoluments include extensions of credit from banks owned or controlled by foreign governments. For example, the state-owned Bank of China—not to be confused with the Industrial and Commercial Bank of China, the major tenant in Trump Tower—holds part of a \$950 million loan on 1290 Sixth Avenue in Manhattan, in which the Trump Organization holds a 30 percent ownership stake.<sup>12</sup> This ongoing foreign government loan benefiting the Trump Organization is also a foreign emolument.

Finally, many Trump Organization projects abroad require foreign government permits and approvals, a non-cash but substantial financial benefit that also constitutes a foreign present or emolument. While the Trump Organization’s tax lawyer announced before the inauguration that “[n]o new foreign deals will be made whatsoever during the duration of President Trump’s presidency,”<sup>13</sup> the Trump Organization later explained that “[i]mplementing future phasing of existing properties does not constitute a new transaction,” and thus the Trump Organization will continue to expand existing properties.<sup>14</sup> Whatever the Trump Organization means by “deal” and

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<sup>9</sup> Michael Keller et al., *Tracking Trump’s Web of Conflicts*, Bloomberg, Dec. 13, 2016, <http://bloom.bg/2jamDUu>; Steve Cuzzo, *China Bank for Trump*, N.Y. Post, Sept. 16, 2008, <http://nyp.st/2kGuHKg>. The Industrial and Commercial Bank of China should not be confused with the separate, but also state-controlled, Bank of China, which is *also* a source of foreign emoluments through the Trump Organization. See *infra* note 12 and accompanying text.

<sup>10</sup> See Abu Dhabi Tourism & Culture Auth., *Our Offices*, <http://tcaabudhabi.ae/en/who.we.are/our.offices.aspx> (visited Jan. 30, 2017).

<sup>11</sup> Stephen Rex Brown, *EXCLUSIVE: Donald Trump made millions from Saudi Arabia, but trashes Hillary Clinton for Saudi donations to Clinton Foundation*, N.Y. Daily News, Sept. 4, 2016, <http://nydn.us/2kHfjxi>.

<sup>12</sup> Keller et al., *supra*, <http://bloom.bg/2jamDUu>; Susanne Craig, *Trump’s Empire: A Maze of Debts and Opaque Ties*, N.Y. Times, Aug. 20, 2016, <http://nyti.ms/2kpFwRc>.

<sup>13</sup> *Donald Trump’s News Conference: Full Transcript and Video*, N.Y. Times, Jan. 11, 2017, <http://nyti.ms/2kHSolf>.

<sup>14</sup> Severin Carrell, *Trump’s Scotland golf resort proceeds with expansion despite business pledge*, The Guardian, Jan. 14, 2017, <http://bit.ly/2kkIYOL>.

“transaction,” additional foreign government permits and approvals are expected to be required for many projects, including:

1. **India:** The Trump Organization reportedly has five projects in India, including a Trump Tower, an apartment project in Mumbai, and an apartment block; Mr. Trump has leased his name to each of the projects.<sup>15</sup> Shortly after the U.S. elections, Mr. Trump met with three Indian business partners involved with the apartment block project.<sup>16</sup>
2. **Indonesia:** The Trump Organization plans to open two new luxury hotels in Indonesia.<sup>17</sup> Although construction has not yet begun, Mr. Trump received up to \$5 million in royalties for each property in 2015.<sup>18</sup> And he has reportedly “forged relationships with powerful political figures in Indonesia, where such connections are crucial to pushing through big projects.”<sup>19</sup>
3. **Philippines:** The Trump Organization has a business interest in a Trump Tower in the Philippines that is on the verge of completion.<sup>20</sup> Jose E. B. Antonio, a real estate developer who partnered with Mr. Trump on the \$150 million tower, was recently named the country’s special envoy to the United States.<sup>21</sup>
4. **Turkey:** The Trump Organization has licensing deals with two Trump Towers in Istanbul, and has received up to \$10 million from developers since 2014.<sup>22</sup> Shares in Trump’s Turkish partner on the project surged almost 11 percent after the U.S. elections.<sup>23</sup> Trump admitted recently that “I have a little conflict of interest, because I have a major, major building in Istanbul.”<sup>24</sup>

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<sup>15</sup> Kalish Babar, *Donald Trump meets Indian partners, hails PM Modi’s work*, Economic Times, Nov. 17, 2016, <http://ecoti.in/owmzxa>.

<sup>16</sup> Eric Lipton & Ellen Barry, *Donald Trump Meeting Suggests He Is Keeping Up His Business Ties*, N.Y. Times, Nov. 19, 2016, <http://nyti.ms/2ffzXnn>.

<sup>17</sup> Richard C. Paddock & Eric Lipton, *Trump’s Indonesia Projects, Still Moving Ahead, Create Potential Conflicts*, N.Y. Times, Dec. 31, 2016, <http://nyti.ms/2kHiVz5>; Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>18</sup> Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>19</sup> Paddock & Lipton, *supra*, <http://nyti.ms/2kHiVz5>.

<sup>20</sup> Kurt Eichenwald, *How Donald Trump’s Business Ties Are Already Jeopardizing U.S. Interests*, Newsweek, Dec. 13, <http://bit.ly/2hooq7c>;

Paddock & Lipton, *supra*, <http://nyti.ms/2kHiVz5>.

<sup>21</sup> Paddock & Lipton, *supra*, <http://nyti.ms/2kHiVz5>.

<sup>22</sup> Drew Harwell & Anu Narayanswamy, *A scramble to assess the dangers of President-elect Donald Trump’s global business empire*, Wash. Post, Nov. 20, 2016, <http://wpo.st/KCmP2>; Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>23</sup> Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>24</sup> *Id.*



5. **United Arab Emirates:** The Trump Organization has a licensing and management deal in Dubai for luxury villas and a golf course. Another Trump-branded golf course, Trump International Golf Club, is set to open this month, and be managed by Trump Organization employees.<sup>25</sup> All services for the golf club, including electricity, water, and roads, “come at the discretion of the government,” and the club’s bar needs “government approvals to serve alcohol, not to mention other regulatory issues.”<sup>26</sup>
6. **United Kingdom:** The Trump Organization has business interests in two golf courses in Scotland, each with a hotel: Trump Turnberry (which the Trump Organization bought in 2014), and Trump International Golf Links Scotland (which it built) in Aberdeenshire, Scotland.<sup>27</sup> The Trump Organization plans to extend the Aberdeenshire course by “extending its boutique hotel and building a second 18-hole golf course.”<sup>28</sup> Mr. Trump told the New York Times that he “might have” mentioned an offshore wind farm near the Aberdeenshire course with Nigel Farage, the former leader of the U.K. Independence Party, whom Mr. Trump has recommended as an ambassador to the United States.<sup>29</sup> Mr. Trump allegedly believes the wind farm may spoil the view from the golf course.<sup>30</sup>

2. *The continued operation of the Trump Organization violates the Domestic Emoluments Clause.*

The Constitution’s Domestic Emoluments Clause provides: “The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period *any other Emolument from the United States, or any of them.*” U.S. Const., art. II, § 1, cl. 7 (emphasis added).<sup>31</sup> This provision, which is not waivable by Congress, protects against Congress itself, or any state, unduly influencing the

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<sup>25</sup> Jon Gambrell, *Trump’s New Dubai Golf Club Shows Pitfalls of His Presidency*, AP, Jan. 3, 2017, <http://apne.ws/2kH94cH>.

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

<sup>27</sup> Carrell, *supra*, <http://bit.ly/2kkIYOL>; Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>28</sup> Carrell, *supra*, <http://bit.ly/2kkIYOL>.

<sup>29</sup> Greg Sargent, *Trump may have just flatly and openly admitted to a conflict of interest*, Wash. Post, Nov. 22, 2016, <http://wpo.st/FRdX2>; Danny Hakim & Eric Lipton, *With a Meeting, Trump Renewed a British Wind Farm Fight*, N.Y. Times, Nov. 21, 2016, <https://nyti.ms/2jMoGgN>; Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>30</sup> Nelson, *supra*, <http://bit.ly/2gJbaXa>.

<sup>31</sup> Also known as the Presidential Compensation Clause.

President through additional payments, and it protects against the President unjustly enriching himself by directing government funds toward his own profit. See generally Brianna J. Gorod, *On Trump Conflicts, Don't Forget About the Other Emoluments Clause*, Huffington Post, Dec. 19, 2016, <http://huff.to/2gTypNq>.

The existence of *state* emoluments is troubling enough. For example, since 1980, Mr. Trump and his business have “reaped at least \$885 million in tax breaks, grants and other subsidies for luxury apartments, hotels and office buildings in New York.”<sup>32</sup> But the range of unjust enrichment from the *federal* treasury is truly breathtaking. For example, the Trump Organization reportedly charged the U.S. Secret Service between \$1.6 and \$8.5 million to fly on Mr. Trump’s aircraft during the 2016 election cycle.<sup>33</sup> Similarly, the U.S. Department of Defense “is seeking to rent space in President Trump’s New York skyscraper, Trump Tower, a move that could directly funnel government money into the president’s business interests.”<sup>34</sup>

The Trump Organization’s Mar-A-Lago Club in Palm Beach, Florida provides a striking example. Mar-A-Lago is one of the jewels of the Trump Organization’s real estate portfolio,<sup>35</sup> and is now promoted by the White House itself as the “Winter White House.”<sup>36</sup> It also reportedly doubled its initiation fee from \$100,000 to \$200,000 as of January 1, 2017.<sup>37</sup> This past weekend, President Trump hosted an official Japanese government delegation, led by Prime Minister Shinzo Abe, at Mar-A-Lago. While President Trump reportedly personally covered the *Prime Minister’s* stay,<sup>38</sup> payments made to the resort by U.S. government staff (e.g., from the White

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<sup>32</sup> Charles V. Bagli, *A Trump Empire Built on Inside Connections and \$885 Million in Tax Breaks*, N.Y. Times, Sept. 17, 2016, <http://nyti.ms/2cXa60i>.

<sup>33</sup> Keller et al., *supra*, <http://bloom.bg/2jamDUu>.

<sup>34</sup> Drew Harwell, *Department of Defense looks to rent space in Trump Tower*, Wash. Post, Feb. 7, 2017, <http://wpo.st/z-6a2>.

<sup>35</sup> See generally Trump Organization, *Mar-A-Lago Club*, <http://www.trump.com/real-estate-portfolio/florida/trump-mar-a-lago/> (last visited Feb. 13, 2017).

<sup>36</sup> Office of the Press Sec’y, The White House, *Press Briefing by Press Secretary Sean Spicer, 2/3/2017, #8*, Feb. 3, 2017, <https://www.whitehouse.gov/the-press-office/2017/02/03/press-briefing-press-secretary-sean-spicer-232017-8>.

<sup>37</sup> Robert Frank, *Mar-a-Lago membership fee doubles to \$200,000*, CNBC, Jan. 25, 2017, <http://cnb.cx/2jq9hm9>.

<sup>38</sup> Dave Boyer, *Donald Trump to pay for Japanese leader Shinzo Abe’s stay at Mar-a-Lago as a “gift,”* Wash. Times, Feb. 9, 2017, <http://bit.ly/2l7W42S>.

House, the State Department, or the Secret Service) for lodging or food while on official travel redound to President Trump's personal financial benefit.<sup>39</sup>

3. *Political corruption and violations of the United States Constitution 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. 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.<sup>40</sup> To this end, the state has enacted numerous prohibitions designed to prevent public

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<sup>39</sup> That is not the only means by which President Trump may be profiting from the Japanese delegation's visit to Mar-A-Lago. As reported, President Trump led Prime Minister Abe to a wedding reception at Mar-A-Lago to greet the newlyweds, explaining “They've been members of this club for a long time. . . . They've paid me a fortune.” The President's use of a foreign leader's visit to reward his customers with a dignitary meet-and-greet opportunity illustrates his use of the trappings of office for self-enrichment through the Trump Organization. See Kevin Liptak, *At Mar-a-Lago, Trump tackles crisis diplomacy at close range*, CNN, Feb. 13, 2017, <http://cnn.it/2lE53FA>.

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 notes:

[S]hould Trump use the presidency to enrich himself, that would reflect very badly on his character but would not necessarily do much damage to the rest of the country. The real harm would be the cultural shift that corruption at the top could catalyze.

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.

Michael C. Dorf, *Why—and How—President-Elect Trump’s Conflicts of Interest Matter*, Verdict, Nov. 30, 2016, <http://bit.ly/2gtbnNd>. New York State 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 would be harmed by increasing corruption emanating from a corporation deriving its powers from a grant by the state.

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<sup>40</sup> 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)).

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").

4. *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."<sup>41</sup> The nearly ten-week transition period between the 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>42</sup> He could have liquidated the business and invested the proceeds in a diversified mutual fund or a true blind trust;<sup>43</sup> 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 Mr. 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 Mr. Trump's sons and a senior executive, without removing Mr. Trump's *ownership* stake.<sup>44</sup> Instead, Mr. Trump has apparently

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<sup>41</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>.

<sup>42</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>43</sup> *See* Norman Eisen, Richard W. Painter & Laurence H. Tribe, *5 Ways You'll Know if Trump Is Playing by the Rules*, Politico, Jan. 10, 2017, <http://politi.co/2iCgLj2>.

<sup>44</sup> *See Donald Trump's News Conference: Full Transcript and Video*, N.Y. Times, Jan. 11, 2017, <http://nyti.ms/2kHSolf>.

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 Trump Organization’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>45</sup>

This is not a “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 own son and longtime chief financial officer. And he can revoke the trust at any time.<sup>46</sup> This arrangement does not diminish Mr. 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, President 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.<sup>47</sup>

President 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.”<sup>48</sup> But the Foreign Emoluments Clause does not provide an exception for receiving foreign emoluments, deducting operating costs, and then donating the “profits” to the United States, and even assuming that it did, the plan does not remedy the serious constitutional and ethical violations that go beyond the “profits” at one particular hotel. *See* Painter et al., *supra*, <http://theatlntc/2jwtnr>.

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<sup>45</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>46</sup> *See* Craig & Lipton, *supra*, <https://nyti.ms/2kytJIP>.

<sup>47</sup> *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).

<sup>48</sup> *Donald Trump’s News Conference: Full Transcript and Video*, *supra*, <http://nyti.ms/2kHSolf>.



**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 Trump Organization has been implicated in a broad range of alleged illegal, fraudulent, or abusive conduct over the past three decades. By one count, Mr. Trump and his businesses, including the Trump Organization, have been defendants in at least 1,450 legal actions over the last three decades.<sup>49</sup> These include violations of gambling regulations,<sup>50</sup> environmental law,<sup>51</sup> and many others. And this is not simply a normal cost of doing business for large companies in Trump’s lines of business. A USA Today analysis compared this volume of litigation to the businesses of five top real-estate business executives and concluded that “Trump has been involved in more legal skirmishes than all five of the others — combined.”<sup>52</sup>

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

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<sup>49</sup> Nick Penzenstadler & Susan Page, *Exclusive: Trump’s 3,500 lawsuits unprecedented for a presidential nominee*, USA Today, June 1, 2016, <http://usat.ly/2hWJG14>; Nick Penzenstadler et al., *Donald Trump: Three decades, 4,095 lawsuits*, USA Today, <http://usat.ly/2iBlpAm> (last viewed Feb. 13, 2017); Philip Mattera, Corporate Research Project, *Trump Organization: Corporate Rap Sheet*, <http://bit.ly/2iFaCFz> (last updated Feb. 5, 2017).

<sup>50</sup> See, e.g., Henry Stern, *Casino Fined \$200,000 for Moving Black and Female Dealers for High Roller*, AP, June 5, 1991, <http://bit.ly/2iFaZ32>; David Enscoe, *N.J. officials fine Trump Plaza \$40,000*, UPI, July 18, 1990, <http://upi.com/4979005t> (hiring unlicensed accountants and falsifying paperwork).

<sup>51</sup> See U.S. Env’t Prot. Agency, *Detailed Facility Report: Trump International Hotel and Tower*, <http://go.usa.gov/x92Bs> (last viewed Feb. 13, 2017) (noting 2012 fine of \$46,000 for violations of federal Clean Water Act).

<sup>52</sup> Penzenstadler & Page, *supra*, <http://usat.ly/2hWJG14>.

staff of “no more than a few dozen employees.”<sup>53</sup> And as you have noted, the Trump Organization often closely directs the businesses and decisions of the nominally separate entities. For example, in your complaint 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), you stated:

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 Trump Organization also directly administered many of the other business functions of Trump University, often in minute detail, including its insurance policies, 401k retirement accounts, Internet domain names, e-mail addresses and systems, information technology “help desk” support for individual Trump University employees, and purchasing and maintaining individual licenses and contracts for Blackberry devices for Trump University employees. In fact, Trump University’s instructors and speakers routinely told audiences that they and their colleagues were appearing “on behalf of the Trump [Organization,” or that they were “hand selected by the Trump Organization,” and that students would be taught by, work with, and receive “support from the Trump [O]rganization.” The in-house lawyers at The Trump Organization also made decisions for Trump University when legal and regulatory issues arose such as the decision to cease operations in Texas after the Texas Attorney General commenced an investigation into Trump University.

*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).

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<sup>53</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>.

This illustrates how the Trump Organization controls and directs individual business ventures under its umbrella, and does not appear atypical. For example, a recent 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.<sup>54</sup> 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.”<sup>55</sup>

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.<sup>56</sup> Examples of alleged illegal, fraudulent, or abusive conduct by the Trump Organization and business ventures under its umbrella include:

1. *Racial discrimination in housing*

Trump Management Inc.—the legal entity that preceded the Trump Organization—first came to public attention in 1973, when the U.S. Department of Justice accused it of violating the Fair Housing Act.<sup>57</sup> The DOJ alleged that, in more than half a dozen cases, black “testers” sent to Trump buildings were denied apartments while white testers were offered apartments in the same buildings.<sup>58</sup> The case was ultimately settled in 1975 with a consent decree and without an admission of wrongdoing, though Trump Management was required to send weekly lists of vacancies to a local

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<sup>54</sup> See Graham Kates, “Unusual” accounting: Inside a Trump business audit, CBS Moneywatch, Aug. 8, 2016, <http://cbsn.ws/2kkqKgo>.

<sup>55</sup> *Id.*

<sup>56</sup> See *supra* note 49.

<sup>57</sup> Michael Kranish & Robert O’Harrow, Jr., *Inside the government’s racial bias case against Donald Trump’s company, and how he fought it*, Wash. Post, Jan. 23, 2016, <http://wpo.st/73kP2>; Morris Kaplan, *Major landlord accused of antiblack bias in city*, N.Y. Times, Oct. 16, 1973, <http://nyti.ms/28MnlB2>.

<sup>58</sup> See Gideon Resnick, *DOJ: Trump’s Early Businesses Blocked Blacks*, Daily Beast, Dec. 15, 2015, <http://thebea.st/1YgQkMQ>; David W. Dunlap, *1973: Meet Donald Trump*, N.Y. Times, July 30, 2015, <http://nyti.ms/2kgNJHf>.

civil rights organization, and allow it to present qualified candidates for vacancies in buildings overwhelmingly occupied by whites.<sup>59</sup>

In 1978, the DOJ alleged that Trump Management was not complying with the decree, claiming that “racially discriminatory conduct by Trump agents has occurred with such frequency that it has created a substantial impediment to the full enjoyment of equal opportunity.”<sup>60</sup> In 1984, Trump Management settled a separate class action suit alleging a pattern of discrimination against people of color seeking apartments in predominantly white areas.<sup>61</sup>

## 2. *Fraud against customers and investors*

In 2013, the State of New York filed a complaint against the Trump Entrepreneur Initiative (formerly known as Trump University) seeking civil penalties and restitution for fraud and other violations.<sup>62</sup> The complaint alleged that Trump University had operated an “unlicensed, illegal educational institution” that was “not chartered as a university as required by New York law,” even after it had been notified by the New York State Education Department as early as 2005 that “use of the word ‘university’ violated New York law.”<sup>63</sup> Critically, the complaint alleged that the day-to-day operations of Trump University were directly managed by the Trump Organization—a relationship so close that Trump University’s LLC regularly ignored the formalities of a separate corporate entity.<sup>64</sup> The New York suit and two California suits filed by former Trump University students were

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<sup>59</sup> Dunlap, *supra*, <http://nyti.ms/2kgNJHf>; Joseph P. Fried, *Trump Promises to End Race Bias*, N.Y. Times, Jun. 11, 1975, <http://bit.ly/2kgHX8w>; see also Marcus Baram, *Donald Trump Was Once Sued By Justice Department For Not Renting To Blacks*, Huffington Post, June 29, 2011, <http://huff.to/2iBgEaj>.

<sup>60</sup> Wayne Barrett & Jon Campbell, *How a Young Donald Trump Forced His Way From Avenue Z to Manhattan*, Village Voice, July 20, 2015, <http://bit.ly/1gM5bQU>.

<sup>61</sup> *Landlords Settle in Race Bias Suit*, N.Y. Times, Oct. 25, 1984, <http://nyti.ms/2j878Z3>.

<sup>62</sup> *People v. The Trump Entrepreneur Initiative LLC*, No. 451463/13 (complaint filed Aug. 24, 2013), at 1 ¶ 1, <http://on.wsj.com/2hR5Kcp>.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 30-32 ¶¶ 149-60. See also *Cohen v. Trump*, No. 13-CV-2519-GPC-WVG, 2016 WL 4098221, at \*9 (S.D. Cal. Aug. 2, 2016) (in related litigation, finding “a genuine issue of material fact as to whether [Mr. Trump himself] knowingly participated in the scheme to defraud”).

ultimately settled for \$25 million in November 2016.<sup>65</sup> Along the way, in 2015 Trump University was ordered to pay nearly \$800,000 in legal fees to the lawyers of former Trump University student Tarla Makaeff, who was sued for defamation by Trump University after sharing her classroom experiences with the Better Business Bureau and over the Internet.<sup>66</sup>

In 2010, a group of buyers who had purchased condos at Trump SoHo, a New York City luxury hotel and condo building managed by the Trump Organization, sued the Trump Organization for fraud.<sup>67</sup> The buyers alleged that they were defrauded into purchasing properties by Trump SoHo representatives who had exaggerated the building's sales and inflated its potential for success.<sup>68</sup> According to the New York Times, the Manhattan district attorney also opened a criminal investigation into the fraud allegations.<sup>69</sup> Without admitting any wrongdoing, the Trump Organization settled in 2011, agreeing to refund 90 percent of the \$3.16 million in deposits from the buyers.<sup>70</sup> The criminal case was also closed after the buyers notified city prosecutors, as part of their lawsuit settlement, that they no longer wished to help in the investigation.<sup>71</sup>

### 3. Labor law

In 1980, the Trump Organization was accused of participating in the employment of undocumented immigrants at a New York City demolition site.<sup>72</sup> After the union working on the site brought suit, the U.S. District Court for the Southern District of New York held that the Trump Organization had participated in breaching the fiduciary duty imposed by

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<sup>65</sup> See Rosalind S. Helderman, *Trump Agrees to \$25 million settlement in Trump University fraud cases*, Wash. Post, Nov. 18, 2016, <http://wpo.st/5bmN2>.

<sup>66</sup> See *Makaeff v. Trump Univ., LLC*, No. 10-CV-0940, 2015 WL 1579000, at \*1 (S.D. Cal. Apr. 9, 2015); see also *Makaeff v. Trump Univ., LLC*, 715 F.3d 254 (9th Cir. 2013).

<sup>67</sup> Hannah Levintova, *This Is What It's Like to Try to Sue Donald Trump*, Mother Jones, Mar. 28, 2015, <http://bit.ly/2dncVMY>.

<sup>68</sup> *Id.*

<sup>69</sup> Mike McIntire, *Donald Trump Settled a Real Estate Lawsuit, and a Criminal Case Was Closed*, N.Y. Times, Apr. 5, 2016, <http://nyti.ms/205VH3U>.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> See *Diduck v. Kaszycki & Sons Contractors, Inc.*, 774 F. Supp. 802 (S.D.N.Y. 1991), *aff'd in part*, 974 F.2d 270 (2d Cir. 1992), *abrogated on other grounds*, *Gerosa v. Savasta & Co.*, 329 F.3d 317 (2d Cir. 2003).

section 404 of the Employee Retirement Income Security Act of 1974.<sup>73</sup> The court found “strong evidence of tacit agreement by the parties ([including The Trump Organization, Inc.] . . . to employ the Polish workers and to deprive them of the benefits ordinarily accorded to non-union workers on a union job, including contributions to the funds based on their wages.”<sup>74</sup> After an appeal, the Trump Organization settled in 1999.<sup>75</sup>

More recently, in 2015, the Culinary Workers Union filed charges with the National Labor Relations Board alleging that the Trump International Hotel Las Vegas violated the rights of workers to participate in union activities, and engaged in incidents of physical assault, verbal abuse, intimidation, and threats by management.<sup>76</sup> The NLRB concluded that the company violated the National Labor Relations Act by refusing to recognize and bargain with the union, and ordered the company to bargain with the workers, cease and desist from interfering with, restraining, or coercing employees exercising their organizing rights, and post notices to employees about the violation.<sup>77</sup>

#### 4. Campaign finance law

The most recent new category of alleged illegal activity derives from the Trump Organization’s corporate involvement in the Trump presidential campaign. For example, in December 2015, a Republican attorney working on behalf of groups that supported Jeb Bush for president filed a complaint with the Federal Election Commission arguing that the Trump Organization’s use of its in-house legal team for Mr. Trump’s campaign violated federal laws prohibiting the “acceptance of corporate contributions and resources” in connection with a presidential campaign.<sup>78</sup>

But campaign finance violations more broadly are not new for Trump Organization business lines. In 2000, Trump Hotels and Casino Resorts agreed to pay \$50,000 in fines after it allegedly failed to disclose to the New York Temporary State Commission on Lobbying that Mr. Trump and his associates had “secretly financed” newspaper advertisements opposing casino

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<sup>73</sup> *Id.* at 813.

<sup>74</sup> *Id.*

<sup>75</sup> Shawn Tully & Roger Parloff, *Business the Trump Way*, Fortune, Apr. 21, 2016, <http://for.tn/2446QVc>.

<sup>76</sup> See Michelle Chen, *No Surprise: Trump Is a Union Buster at His Own Hotel*, The Nation, Aug. 21, 2015, <http://bit.ly/2cyixSt>.

<sup>77</sup> See Cogan Schneier, *Labor board: Trump hotel violated labor law*, Politico, Nov. 3, 2016, <http://politi.co/2fkadoT>; *In re Trump Ruffin Commercial, LLC*, No. 28-CA-181475 (NLRB Nov. 3, 2016), available at <http://go.usa.gov/x9HZz>.

<sup>78</sup> Jonathan Easley, *GOP lawyer files FEC complaint against Trump*, The Hill, Dec. 9, 2015, <http://bit.ly/1mbSp0R>.



gambling in the Catskill Mountains, believing the new casino could compete with his properties in Atlantic City, New Jersey.<sup>79</sup>

**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). Over the years, 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).<sup>80</sup>

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

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<sup>79</sup> Charles V. Bagli, *Trump and Others Accept Fines For Ads in Opposition to Casinos*, N.Y. Times, Oct. 6, 2000, <http://nyti.ms/1PrZ1k5>; *see also* Settlement Agreement, <http://wapo.st/2hUQYRR> (Nov. 13, 2000).

<sup>80</sup> *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.”).

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).<sup>81</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 *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.<sup>82</sup>

#### **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.

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. The state of New York should not permit a corporation created by a grant of legal authority under New York laws to facilitate these violations.<sup>83</sup> Furthermore, as noted above and separate from the issues pertaining to Mr. Trump’s Presidency, the Trump Organization has a 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.

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<sup>81</sup> *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.

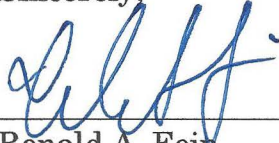
<sup>82</sup> Indeed, in *Int’l Workers Order*, the Appellate Division acknowledged that “there may not be sufficient evidence to establish that particular individuals have violated” federal or state law, even as it affirmed revocation of the corporation’s charter. 113 N.Y.S.2d at 761.

<sup>83</sup> See also 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).

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 under Section 11 of the Business Corporation Law. 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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