

# Faherty Affirmation

Exhibit 516



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

July 27, 2021

Lawrence S. Rosen  
LaRocca Hornik Rosen & Greenberg LLP  
The Trump Building  
40 Wall Street, 32nd Floor  
New York, NY 10005

RE: Responses to the December 27, 2019 Subpoenas to the Trump Organization

Dear Larry,

We write further to our now months-long exchange regarding the Trump Organization's deficiencies in responding to the December 27, 2019 subpoena from the Office of the Attorney General ("OAG"). The record we have gathered to date – from our own analysis of the productions by the Trump Organization, to a review of the "audit documents" we requested on March 19, 2021, to the recently completed testimony from Eric Brunnett and Alan Garten – demonstrates a number of serious failures in the Trump Organization's subpoena responses.

Among other things, the Trump Organization: (i) failed to take reasonable steps to preserve electronic and hard copy documents relevant to the OAG's investigation; (ii) failed to adequately collect and search electronic data from key custodians including backup email data, work computers, cellphone data and text messages; (iii) failed to conduct a reasonable review of the data sources it did collect and has withheld relevant and responsive documents as a result; (iv) appears to have produced almost no hard copy documents; and finally, (v) appears to have produced only three custodial documents for Donald J. Trump, and these only in the last week.

Each of these failures occurred in violation of long-established standards for conducting electronic discovery. Indeed, the Trump Organization has been sanctioned repeatedly for just these sorts of discovery failures. We address the outstanding issues in some additional detail below; but in the interest of avoiding protracted litigation of these issues and in the interest of accelerating the conclusion of this investigation, we propose the following resolution:

First, by August 2, 2021, the Trump Organization will execute the attached tolling agreement we have been discussing tolling the statute of limitations until November 5, 2021. (Tab A) This agreement includes the date and principal terms from the draft you circulated on June 16, 2021 but which has not yet been executed.

Second, the Trump Organization will retain an independent third-party vendor to manage the collection and processing of electronic and hard copy data. The Trump Organization will assist the third-party vendor in identifying and collecting all sources of electronic and hard copy data, including by conducting and documenting interviews with current and former employees.

Lawrence Rosen

July 27, 2021

Page 2

The Trump Organization will, working with that third-party vendor, ensure that any backup of Trump Organization data that occurred before or after the 2016 migration is restored to a standalone system where it may be searched.

Third, the third-party vendor will conduct electronic searches on the collected data using terms provided by the OAG. The Trump Organization will have two weeks to identify any potentially privileged documents contained in the search results, but will not otherwise conduct a separate responsiveness review.

All of these steps shall be completed at least 30 days before the end of the November 5, 2021 tolling period. To ensure the integrity and timeliness of this process, the parties will agree to a stipulated order, a draft of which is attached. (Tab B)

We would like to discuss this proposal later this week in hope of bringing this protracted process of subpoena compliance to a close. If we cannot reach agreement in short order, we are prepared to seek court intervention and the appointment of a special master to take control of the data collection and production. But we remain convinced that this proposed agreement, with a stipulated court order as a backstop, presents the best path forward to bring this process to a swift conclusion.

#### **1. The Trump Organization Has Failed to Take Basic, Reasonable Steps to Preserve Documents**

While we appreciate the repeated assurances that the Trump Organization has been cooperating with our investigation and proceeding in good faith, the record to date clearly demonstrates basic failures in the Trump Organization's preservation and collection of documents. Like every other subpoena recipient, the Trump Organization and its counsel are required to secure, review, and produce responsive documents from its records. "A party's discovery obligations do not end with the implementation of a 'litigation hold' —to the contrary, that's only the beginning. Counsel must oversee compliance with the litigation hold, monitoring the party's efforts to retain and produce relevant documents." *915 Broadway Associates LLC v. Paul, Hastings, Janofsky & Walker, LLP*, 34 Misc 3d 1229, 2012 NY Slip Op 50285,\*9-10 (Sup. Ct. N.Y. Cty. 2012). "To do this, counsel must become fully familiar with her client's document retention policies, as well as the client's data retention architecture. This will invariably involve speaking with information technology personnel, who can explain system-wide backup procedures and the actual (as opposed to theoretical) implementation of the firm's recycling policy." *Zubulake v. UBS Warburg LLC*, 229 FRD 422, 432 (S.D.N.Y. 2004). In addition, counsel must preserve, search, and select relevant document themselves, rather than relying on the "honor system" for employees or allowing the employees "to search and select what the employee deems relevant without the guidance and supervision of counsel." *VOOM HD Holdings LLC v. Echo Star Satellite LLC*, 93 AD3d 33, 41-42 (1st Dep't 2012).

A company like the Trump Organization that purports to be a billion-dollar enterprise that is involved in near-constant litigation, should be well-familiar with these principles. But the process of responding to the subpoenas in this investigation has fallen well short of any

Lawrence Rosen

July 27, 2021

Page 3

reasonable expectation. The preservation process, such as it was, appears to have been limited to asking employees where they kept electronic documents.<sup>1</sup>

But even if an interview alone were sufficient, there is no way to verify what was conveyed by the custodians. The Trump Organization created no written records of the interviews, or any other contemporaneous records, to establish that it conducted a reasonable and diligent search. Indeed, Mr. Garten admitted that the Trump Organization failed to maintain basic recordkeeping to document their preservation methods: counsel did not create or maintain *any* records documenting either the questions asked of each employee regarding potential data sources, or the answers given by each employee. *See Simons v. Petrarch*, 2017 NY Slip Op 30457(U), \*13 (Sup. Ct. N.Y. Cty. 2017) (allowing forensic examinations of email where “counsel has been unable to produce a written litigation hold letter and evidently was unable to affirmatively take steps to monitor plaintiff’s compliance with preserving evidence”). Rather than conduct a thorough search through electronic databases and take independent steps to image or preserve that data, the Trump Organization has instead relied on automated functions like “litigation hold” in Office 365 and “Undelete” in Google since 2017 to ensure that certain electronic files are not deleted. But that effort seems to have been done independently by IT, not in coordination with counsel, and thus cannot possibly substitute for meaningful efforts to preserve, collect, and produce relevant materials.<sup>2</sup>

## **2. The Trump Organization Has Failed to Collect a Complete Set of Relevant Electronic Evidence**

As a result of these process failures, there are significant gaps in the collection and preservation process. The Trump Organization failed to identify migration issues that led to the failure to collect hundreds of relevant and responsive emails from at least one employee – Jill Martin. That failure only came to light when this Office highlighted the gaps in productions of Ms. Martin’s files, and has resulted in a wholesale and ongoing process of re-migrating numerous employees’ emails from an old server to a Google cloud-based system—a process that could have been completed at the beginning of last year had the Trump Organization appropriately assessed its previous email migrations upon receipt of the OAG’s December 27, 2019 subpoena. And to date, more than three months after we first identified this issue, we still

---

<sup>1</sup> For example, the Trump Organization’s General Counsel Alan Garten testified that he asked employees whether responsive files existed on their computers, but acknowledged that nobody audited whether any such documents existed for any of those computers. Mr. Garten also testified that, even when custodians’ answers in interviews proved to be incorrect, the Trump Organization still relied on interviews—and the honor system—with the same custodians in assuring itself it had collected and preserved all relevant documents.

<sup>2</sup> On behalf of the Trump Organization, Mr. Garten also testified that the preservation efforts undertaken in response to the subpoena were “narrowed through the Matthew Colangelo chart we’ve been discussing.” The table Mr. Colangelo emailed on January 12, 2020 explicitly stated that it did “not amount to withdrawal or revision of any of the requests as set out in the subpoenas, and are without prejudice to NYAG’s right to seek full compliance with each request as described in the subpoenas.” The table was “a way to make progress on producing responsive records without delay” and did not narrow the scope of the inquiry. So while the table narrowed the preliminary production burden on the Trump Organization, it did not affect the obligation of the Trump Organization to preserve records. Moreover, the scope of production outlined in that initial table was expanded repeatedly in further correspondence.

Lawrence Rosen

July 27, 2021

Page 4

do not have confirmation from you that all documents for Ms. Martin have been produced, or the full scope of the impact of the migration issue. We expect that there will need to be similar supplemental productions from most custodians, but again, lack any kind of formal report from the Trump Organization concerning the scope of the problem or a reasonable timeline to complete production.

And the collection issues go well beyond the emails lost in the migration process. The Trump Organization has failed to image and search *any* work computers used by any employees, claiming that no custodians stored any documents on their hard drives. Indeed, the scope of this problem includes more than just individual computers, and even includes calendars, voicemails, and company-issued cell phones, as well as personal devices. For example, the Office of the Attorney General was able to determine that Trump Organization employees utilized text messages to communicate about relevant events and transactions in the scope of their employment, but, according to the Organization's corporate representative testimony, no steps were taken to preserve and collect text messages until earlier this month. All of this despite the fact that Mr. Garten admitted that he was aware that Eric Trump "sends texts for Trump business" and that he had personally texted with at least 10 of the 24 custodians about Trump Organization business. *See Carey v. Shakhnazarian* 68 Misc. 3d 1221, 2020 NY Slip Op 41040, \* 4 (Sup. Ct. N.Y. Cty. 2020) (holding that there was spoliation when a party discarded a cellphone "without making any effort to preserve the documents and communications that [it] contained"). And we still lack any clarity on the scope and process for the collection of those materials.

Mr. Brunnett testified that searches of shared drives only began "a couple of months" before his testimony (so, presumably, March 2021) and we still do not have clearly identified productions from those searches. Calendar entries were not separately searched. Backup files were not searched. Appraisals stored in the Time Matters system were not searched. And *to this day* Mr. Garten is still uncertain of whether older voicemails have been retained or deleted, and cannot say whether any current voicemails have been reviewed for production.

All of these sources should have been accounted for, preserved, collected and searched when the subpoena was first received more 18 months ago.

### **3. The Trump Organization Has Failed to Conduct a Reasonable Review of the Limited Evidence it Has Collected**

The Trump Organization's response to the OAG subpoena has—to date—resulted in the production of fewer than 17,000 documents in total. More than half of those documents were produced in the last several weeks, and only after we identified the ongoing production deficiencies this past March. And that total is still a mere fraction of the volume of documents produced by third parties that corresponded with the Trump Organization. Moreover, a review of the productions by those third parties indicates that employees of the Trump Organization were participating in email exchanges that should have hit on the search term inquiries that you were running. To be clear, we have found emails that are responsive to our subpoena, include the search terms we have agreed upon and are produced by third parties, but have not been produced by the Trump Organization. This was readily apparent from the examples we sent you regarding

Lawrence Rosen  
July 27, 2021  
Page 5

Jill Martin and the additional responsive documents in her emails files that have now been identified by the Trump Organization.

But the issue goes well beyond the emails from Ms. Martin that were improperly migrated to the company's new email system. A review of the emails produced as part of the "audit documents" provides dozens of examples of documents that should have been produced.<sup>3</sup> Just by way of example: Attached at Tab C is an email chain from April 2015 between Jeffrey McConney and Deutsche Bank concerning the submission of financial statements for Mr. Trump and compliance certificates for 401 North Wabash (referring to the entity on the bank's loan regarding the Trump International Hotel and Tower Chicago). Attached at Tab D is an email chain from May 2015 between individuals at the Trump Organization and Ladder Capital and Cushman & Wakefield concerning the loan (and valuation) of 40 Wall Street. Attached at Tab E is an email chain from June 2015 between Mr. McConney and multiple people at Cushman & Wakefield concerning the appraisal for 40 Wall Street. All of these documents are facially responsive to the December 2019 subpoena but were not produced based on the document review undertaken by the Trump Organization.<sup>4</sup>

#### **4. The Trump Organization Has Failed to Make an Adequate Production of Hard Copy Documents**

The Trump Organization has also failed to make an adequate production of hard copy documents. During his testimony, Mr. Garten claimed that counsel interviewed all relevant custodians and collected relevant hard copy documents in addition to searching other centralized locations; what he described as his own "diligence and research." But Mr. Garten also acknowledged that the Trump Organization has no policy requiring the retention of hard copy documents and that he was surprised when Mr. Birney testified that he had not been asked about retention and production of his notes. In sum, the precise scope of the hard copy document collection is unclear. And the Trump Organization declined to provide detailed answers in response to the written questions posed in our May 3, 2021 subpoena.

A review of the productions from the Trump Organization to date appears to demonstrate that less than four hundred hard copy documents have been produced in total. In large part these appear to be contracts and other finalized documents, not the files of individual custodians. Indeed, none of the metadata related to hard-copy documents produced to date reflects any individual custodian. There appears to be almost no individual notes or other records. When coupled with the other production failures by the Trump Organization, it does not appear that the process for collecting, reviewing and producing hard copy documents has been in any way adequate.

---

<sup>3</sup> The "audit documents" refers to the production of "all non-privileged documents meeting the first through fourth tranche search terms from January 1, 2015 to June 30, 2015," that our Office requested in the March 19, 2021 letter. We asked for this production because we were "concerned by these [production] omissions" and asked the Trump Organization to provide a "set of documents to determine the effectiveness of its review."

<sup>4</sup> Notably each of these documents would also be responsive to the initial set of search terms set forth in the January 12, 2020 table sent by Mr. Colangelo.

Lawrence Rosen

July 27, 2021

Page 6

## 5. The Trump Organization Produced Only Three Custodial Documents for Donald J. Trump

For more than 18 months, the Trump Organization failed to produce a single document held by its owner and former president Donald J. Trump – despite the fact that the focus of the subpoena, and the investigation, is Mr. Trump’s statement of financial condition. Mr. Trump personally executed documents central to the issues under investigation, like certifications of his statement of financial condition and conservation easements. Moreover, the statements on their face purport to contain valuations based on his evaluation. Mr. Garten testified that there were file cabinets at the Trump Organization holding Mr. Trump’s files, that Mr. Trump had assistants who maintained files on his behalf, that he received and maintained hard copy documents, and that he used Post-It Notes to communicate with employees. It is impossible to take at face value the Trump Organization’s conclusion that there was no reason to believe Mr. Trump was in possession of responsive information about his own personal financial statements, or that his custodial files lacked such information.

And that conclusion was proven false based on the July 22, 2021 production by the Trump Organization. Three documents in that production are flagged as being from the custodial files of Donald J. Trump.<sup>5</sup> Each of the three documents is a personal letter from Mr. Trump to an executive of a financial institution expressly discussing and touting his statement of financial condition. For example, attached at Tab F is a letter from Mr. Trump to Richard Byrne, the CEO of Deutsche Bank Securities, dated November 2011 and enclosing his financial statement (“hopefully, you will be impressed!”), touting the prospects of the Doral property and enclosing a separate letter that “establishes my brand value, which is not included in my net worth statement.” This document, as well as any other similar documents from Mr. Trump’s individual files are of obvious relevance to the investigation and were plainly called for in the original subpoena.

\* \* \* \* \*

Given the scale of these discovery failures, court-ordered remedies to effectuate a full and complete response to OAG subpoenas plainly would be warranted. New York trial courts “possess broad discretion to provide proportionate relief to a party deprived of lost or destroyed evidence.” *Pegasus Aviation I, Inc., v. Varig Logistica S.A.*, 26 N.Y.3d 543, 551 (2015) (quoting *Ortega v. City of New York*, 9 N.Y.3d 69, 76 (2007)). Even where a party testifies that she has produced all responsive documentation, collection and search irregularities can warrant collection of data and use of search terms to ascertain whether additional responsive information is available. *Simons v. Petrarch*, 2017 NY Slip Op 30457, \*13. Indeed, New York courts frequently order a forensic examination of the devices at issue, using a third-party, to determine the extent to which additional relevant documents are still outstanding or have been destroyed.

---

<sup>5</sup> We note that the cover email for the July 22, 2021 production stated that it contained the documents of, among others, Rhona Graff, Mr. Trump’s long-serving executive assistant. The cover email did not identify Donald J. Trump as a custodian. None of the metadata in the productions, however, showed a document from Ms. Graff, suggesting that she has been holding documents on behalf of Mr. Trump.

Lawrence Rosen

July 27, 2021

Page 7

*Carey* 2020 NY Slip Op 41040, \*6 (ordering defendant to pay for a forensic examination).<sup>6</sup> The retention of private forensic examiners is regularly ordered by courts in similar circumstances. For example, in *Encore v. Kabcenell*, the court directed a party to turn his entire computer over to a “computer forensic expert” because earlier “searches may not have been sufficient (quite possibly because he does not have technical expertise) as demonstrated by his repeatedly finding more responsive email after conducting more searches.” No. 157490/12, 2016 WL 6680456, at \*2 (Sup. Ct. N.Y. Cty. Nov. 4, 2016). Likewise, in *Frat Star Movie v. Tebele*, the court directed a party to turn over an entire phone and iCloud account to a forensic examiner in light of a “pattern of defendants’ representing that they have turned over all their responsive documents only then to turn over more responsive documents shortly after.” No. 651496/2017, 2018 WL 3995974, at \*2 (Sup. Ct. N.Y. Cty. Aug. 20, 2018); *see also Matter of Nunz*, 52 Misc. 3d 1216(A), 43 N.Y.S.3d 768 (N.Y. Sur. 2016).

But in the interest of accelerating the resolution of these subpoena-compliance issues and the completion of this investigation, we propose the enclosed negotiated resolution that could be completed quickly. Please review the attached order with your client and let us know this week if you have a proposal for vendors who could serve as the independent third-party examiner.

Sincerely,

/s/ Colleen K. Faherty  
Colleen K. Faherty

---

<sup>6</sup> *See also Ahroner v. Israel Discount Bank of New York*, 2009 NY Slip Op 31526(U) (discussing a forensic expert’s inspection and examination of the hard drive of defendant’s computer), *aff’d*, 79 A.D.3d 481 (1st Dep’t 2010); *AJ Holdings Group LLC v. IP Holdings LLC*, 2011 WL 12850569, \*3 (Sup. Ct. N.Y. Cty. Feb. 7, 2011) (granting motion seeking discovery and/or inspection of plaintiff’s desktop computers, laptops, and handheld devices by defendants’ forensic expert); *Brummer v. Wey*, 2021 NY Slip Op 31665(U), (Sup. Ct. N.Y. County 2021) (discussing a forensic expert’s inspection, and examination of “computer devices including, inter alia, desktop computers, laptops, tablets, smartphones, and plug-in devices”)



# TAB A

**TOLLING AGREEMENT REGARDING POTENTIAL VIOLATIONS OF THE NEW YORK FALSE CLAIMS ACT AND EXECUTIVE LAW SECTION 63(12)**

This agreement (“Tolling Agreement”) is entered into by the Attorney General of the State of New York (“OAG”) with the Trump Organization<sup>1</sup> (together, the “Parties”).

OAG is conducting an investigation of conduct of the Trump Organization and related parties, including their agents and employees, for potential statutory and common-law violations in connection with statements regarding Donald J. Trump’s financial condition, representations regarding the value of assets, and potential underpayment of federal, state, and local taxes. Such potential violations include, but are not limited to, violations of the New York False Claims Act and Executive Law section 63(12). (The State’s potential civil claims arising out of this investigation will be referred to collectively as “Potential Civil Claims.”)

The Parties believe it is in their mutual benefit and interest to enter into this Agreement in order to permit the OAG to pursue its investigation and to determine whether to commence any legal action or proceeding concerning the Potential Civil Claims.

Accordingly, the Parties agree as follows:

1. In any action commenced by OAG asserting any Potential Civil Claim, the applicable limitations period shall be tolled as to such Potential Claim for the period (a) beginning on November 5, 2020, and (b) continuing to and including November 4, 2021 (the “Tolling Period”).
2. In the event that OAG asserts any Potential Civil Claim, the Trump Organization agrees not to assert or rely on the Tolling Period as a legal, equitable, or other defense to such Potential Civil Claim.
3. This Tolling Agreement does not constitute an admission or acknowledgment that any particular statute of limitations is applicable to any particular Potential Civil Claim.
4. Nothing in this Tolling Agreement shall be construed as precluding the Trump Organization from asserting a defense, response, or claim of untimeliness as to any Potential Civil Claim brought by OAG; provided that the Trump Organization shall not, in asserting such a defense, response, or claim, rely on the passage of time comprising the Tolling Period. Further, the execution of this Agreement shall not prejudice any party’s position with respect to any other

---

<sup>1</sup> As noted in the December 27, 2019 subpoena issued in this investigation to the Trump Organization, the “Trump Organization” as used herein includes The Trump Organization, Inc.; DJT Holdings LLC; DJT Holdings Managing Member LLC; and any predecessors, successors, present or former parents, subsidiaries, and affiliates, whether direct or indirect; and all directors, officers, partners, employees, agents, contractors, consultants, representatives, and attorneys of the foregoing, and any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing.

defense, response, or claim.

5. In the event a notice or other paper shall be necessary, such service shall be made by first class mail and e-mail to the undersigned.

6. This Agreement may not be extended, modified, or altered except in writing signed by the Parties. This Agreement may be executed in counterparts.

7. The Trump Organization agrees that it is entering into this Agreement knowingly and voluntarily and in express reliance on the advice of counsel.

8. This Agreement shall be governed by the law of the State of New York, without regard to any conflict of laws principles.

9. This Agreement shall not be modified except by a writing signed by the Parties hereto.

10. This Agreement and any execution or modification thereof may be signed in counterparts all of which together constitute the Agreement, and photocopies, electronic, or facsimile copies may be used as originals.

11. Nothing herein is intended to modify, diminish, or supersede any tolling period effected by Executive Order 202.8, issued by Governor Andrew Cuomo on March 20, 2020, and its subsequent extensions, including the extension in Executive Order 202.72. The Parties shall retain any arguments regarding any such tolling period that existed as of November 5, 2020.

12. OAG reserves its right to in the future seek a judicial (equitable) toll of the statute of limitations retroactive to whatever date it chooses.

13. The Trump Organization reserves any right to oppose such judicial (equitable) tolling on the merits, but agree that they will not assert laches, estoppel, waiver or any other equitable defenses that OAG sat on its rights by not filing any motion, proceeding, or action between today's date and the date of filing.

14. Each of the undersigned representatives of the Parties certifies that he or she is fully authorized to enter into this Tolling Agreement and to execute and bind such Party to this document.

15. The terms, meaning, and legal effect of this Tolling Agreement shall be interpreted under the laws of New York State.

**THE STATE** consents to this Tolling Agreement by its duly authorized representative on this \_\_\_ day of \_\_\_\_\_, 2021.

FOR THE STATE OF NEW YORK

LETITIA JAMES  
Attorney General of the State of New York

By: \_\_\_\_\_  
KEVIN WALLACE  
Senior Enforcement Counsel  
Economic Justice Division  
28 Liberty St.  
New York, NY 10005  
212-416-6376

**THE TRUMP ORGANIZATION** consents to this Tolling Agreement by its duly authorized representative on this \_\_\_ day of \_\_\_\_\_, 2021.

SIGNATURE: \_\_\_\_\_

NAME (print): \_\_\_\_\_

TITLE: \_\_\_\_\_

# TAB B

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW  
YORK, by LETITIA JAMES,  
Attorney General of the State of New  
York,

Petitioner,

-against-

THE TRUMP ORGANIZATION,  
INC.; DJT HOLDINGS LLC; DJT  
HOLDINGS MANAGING  
MEMBER LLC; SEVEN SPRINGS  
LLC; ERIC TRUMP; CHARLES  
MARTABANO; MORGAN, LEWIS  
& BOCKIUS, LLP; and SHERI  
DILLON,

Respondents.

Index No. 451685/2020

**[PROPOSED] STIPULATED  
ORDER**

WHEREAS, petitioner, the People of the State of New York, by Letitia James, Attorney General of the State of New York, (“OAG”), and respondent the Trump Organization<sup>1</sup> on by and through undersigned counsel, have met and conferred regarding the responses to subpoenas issued by OAG on December 27, 2019; November 9, 2020; November 25, 2020; and December 18, 2020 to the Trump Organization, and on December 27, 2019 to Seven Springs LLC (the “Subpoenas”), the Parties, by and through undersigned counsel, enter into this Stipulation and agree that the following provisions of this Stipulation shall govern the ongoing production of documents and information in response to the Subpoenas:

---

<sup>1</sup> The Trump Organization as used herein refers to the Trump Organization, Inc., DJT Holdings LLC; and DJT Holdings Managing Member LLC (collectively with OAG, the “Parties”).

1. The Parties shall agree on [an independent third-party e-discovery firm] (the “eDiscovery Firm”) to oversee the identification, collection, and review of electronically stored information (“ESI”) responsive to OAG’s subpoenas;
2. The Trump Organization shall provide a log of all devices issued to each custodian listed in Exhibit A from January 1, 2011 to December 18, 2020, including, for each custodian, the type of device, a unique identifier for the device (e.g., serial number, inventory tag number), the date issued, the date returned (if applicable), and the current location of the device.
3. The Trump Organization shall provide access to all custodians listed in Exhibit A below who are Trump Organization employees or officers to assist to the eDiscovery Firm in identifying all sources of ESI, including but not limited to desktop computers, laptop computers, external storage, digital media, servers, Internet-based or cloud-based storage locations, email systems, voicemail systems, and text message or instant messaging platforms (e.g., mobile phone texts, Apple iMessages, Signal, Facebook Messenger, WhatsApp, Slack) that could contain information potentially responsive to OAG’s subpoenas, including personal devices or accounts used to conduct Trump Organization business (“ESI Sources”), and that the Trump Organization and its employees, executives, officers, and beneficiaries, shall provide or give full access to all such sources within the Trump Organization’s possession, custody, or control to the eDiscovery Firm for purposes of collecting potentially responsive ESI;
4. The eDiscovery Firm shall apply the search protocol contained in Exhibit B to all records from the ESI Sources from 2011 to the present, and, after deduplicating the responsive records, shall provide them to the Trump Organization so that it may review the records for privilege;

5. The Trump Organization shall make any privilege assertions within [two weeks of receiving such documents] and shall furnish OAG with a privilege log identifying all documents over which it asserts privilege with a specific basis for its assertion within one week of making any such assertion;

6. The eDiscovery Firm shall promptly produce any documents over which the Trump Organization has not asserted privilege to OAG; and it is

7. The eDiscovery Firm shall issue weekly reports to this Court and the Parties to this motion articulating its protocol for carrying out this Order and its progress in carrying out the protocol, identifying any source of potentially responsive material to which it has not been provided access; and laying out the basis for its fees and costs;

8. The Trump Organization shall bear the cost of eDiscovery Firm’s identification, collection, and examination of ESI in connection with this Order.

Dated: New York, New York  
August \_\_, 2021

STIPULATED AND AGREED:

LETITIA JAMES  
Attorney General of the State of New York

By: \_\_\_\_\_

Colleen Faherty  
28 Liberty Street  
New York, New York 10005  
(212) 416-6046

*Counsel for the People of the State of New York*



LAROCCA HORNIK ROSEN & GREENBERG LLP

By: \_\_\_\_\_

Lawrence S. Rosen  
40 Wall Street, 32nd Floor  
New York, NY 10005  
(212) 530-4822

*Counsel for the Trump Organization*

**SO ORDERED:**

\_\_\_\_\_  
Hon. Arthur Engoron, J.S.C.

## Exhibit A: Custodians

1. Patrick Birney
2. Troy Bonjavanni
3. Matthew Calamari
4. Alex Cannon
5. David Cohen
6. Alan Garten
7. Hal Goldman
8. Jaclyn Maraynes
9. Jill Martin
10. Jeff McConney
11. Heidi Mitchell
12. Rhona Graff
13. Jason Greenblatt
14. Donna Kidder
15. Ron Lieberman
16. David Orowitz
17. Adam Rosen
18. Owen Reidy
19. Joshua Seidner
20. Debe Stellio
21. Donald J. Trump
22. Donald Trump Jr.
23. Eric Trump
24. Ivanka Trump
25. Allen H. Weisselberg

Exhibit B: Search Terms

# TAB C

## Message

**From:** Daniel Eisenberg [daniel.eisenberg@db.com]  
**Sent:** 4/20/2015 5:06:40 PM  
**To:** Jeff McConney [jmccconney@trumporg.com]  
**Subject:** Compliance Certificates / Financial Statements  
**Attachments:** db\_trump\_chicago\_Amended and Restated Hotel Compliance Certificate.docx; db\_doral\_trump\_endeavor\_loan Compliance Certificate.docx

Jeff,

It was a pleasure to speak with you last week. You were correct, Mr. Trump only signed the Trump Endeavor compliance certificate. Allen Weisselberg signed for the hotel portion of 401 N Wabash.

Here are Word versions per your request, please return the signed versions along with the financial statements (when completed)

Thank you for your assistance in this matter, and if there is anything else I can provide, please let me know.

Kind regards,  
Daniel Eisenberg



**Daniel Eisenberg**  
Director

Deutsche Bank Trust Company Americas  
Deutsche Asset & Wealth Management  
345 Park Avenue, 10154-0004  
New York, NY, USA  
Tel. +1 (212) 454-1003  
Fax +1 (646) 867-1748  
Mobile +1 (917) 804-9621  
Email [daniel.eisenberg@db.com](mailto:daniel.eisenberg@db.com)

*Passion to Perform*

Securities offered through Deutsche Bank Securities Inc.

---

This communication may contain confidential and/or privileged information. If you are not the intended recipient (or have received this communication in error) please notify the sender immediately and destroy this communication. Any unauthorized copying, disclosure or distribution of the material in this communication is strictly forbidden.

Deutsche Bank does not render legal or tax advice, and the information contained in this communication should not be regarded as such.

# TAB D

## Message

---

**From:** Donna Kidder [/O=TRUMP ORG/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DKIDDER]  
**Sent:** 5/18/2015 6:50:46 PM  
**To:** Jae H. Cho [jcho@trumporg.com]; 'Douglas.Larson@cushwake.com' [Douglas.Larson@cushwake.com]  
**CC:** Jack Weisselberg [Jack.Weisselberg@laddercapital.com]; Jeff McConney [jmcconney@trumporg.com]; Michael Bette [Michael.Bette@laddercapital.com]  
**Subject:** RE: access to 40 wall leases and abstracts

Thanks Jae

---

**From:** Jae H. Cho  
**Sent:** Monday, May 18, 2015 12:19 PM  
**To:** Donna Kidder; 'Douglas.Larson@cushwake.com'  
**Subject:** RE: access to 40 wall leases and abstracts

File has been sent via fileshare service.

**T R U M P**

THE TRUMP ORGANIZATION

**Jae H. Cho**  
Director of Information Technology  
725 Fifth Avenue | New York, NY | 10022  
p. 212.836.3258 | f. 212.688.8619  
[jcho@trumporg.com](mailto:jcho@trumporg.com) | [trump.com](http://trump.com)

---

**From:** Donna Kidder  
**Sent:** Monday, May 18, 2015 11:53 AM  
**To:** Douglas Larson; Jae H. Cho  
**Cc:** Jeff McConney; Michael Bette; Jack Weisselberg; Michael Papagianopoulos; Kurt Clauss; Steve Lafiosca  
**Subject:** RE: access to 40 wall leases and abstracts

Doug,

Review everything I just sent and everything Ladder has given you and let me know what is still missing. As pending leases sign I will send that also. Camacho just signed so I will add that to the rent roll and resend later this afternoon. The other lease still out is Balducci.

d

---

**From:** Douglas Larson [<mailto:Douglas.Larson@cushwake.com>]  
**Sent:** Monday, May 18, 2015 11:50 AM  
**To:** Donna Kidder; Jae H. Cho  
**Cc:** Jeff McConney; Michael Bette; Jack Weisselberg; Michael Papagianopoulos; Kurt Clauss  
**Subject:** RE: access to 40 wall leases and abstracts

Thanks

**Douglas H. Larson**  
Executive Director  
Valuation & Advisory

T +1 (212) 841 5051  
M +1 (917) 365 0054  
F +1 (212) 479 1838

[douglas.larson@cushwake.com](mailto:douglas.larson@cushwake.com) | [view my online profile](#)



Cushman & Wakefield Inc.  
1290 Avenue of the Americas, Suite 900, New York, NY 10104, USA



[Driven! C&W's 2011/2012 Annual Review: now available online](#)

---

**From:** Donna Kidder [<mailto:dkidder@trumporg.com>]  
**Sent:** Monday, May 18, 2015 11:48 AM  
**To:** Jae H. Cho  
**Cc:** Douglas Larson; Jeff McConney; Michael Bette; Jack Weisselberg  
**Subject:** access to 40 wall leases and abstracts

Can we get Doug Larson access to the same information as Michael Bette and Jack?

tx

---

**From:** Donna Kidder  
**Sent:** Tuesday, May 05, 2015 2:35 PM  
**To:** 'Michael Bette'  
**Cc:** Jack Weisselberg  
**Subject:** FW: g drive

Michael,

The abstracts are as below  
Tenant TI / reimb are part of the capex schedule/there is a tab. You will also notice notes on the RR.

I will break out remaining Free Rent and / Security and send that to you shortly.

I am following up on the status of the other items. (property management and Legal).

d

---

**From:** Cammie Artusa  
**Sent:** Tuesday, May 05, 2015 2:30 PM  
**To:** Donna Kidder  
**Subject:** RE: g drive

Yes....G:\40 Wall\

Each abstract is saved under Tenant name in the 40 Wall folder in the G: drive.

For eg., G:\40 Wall\Rosabianca Associates – Portion of 30<sup>th</sup> Floor – 40 Wall – Revised Resume



The lease abstract is renamed "revised resume" after the supplementary agreement is executed.

# TRUMP

THE TRUMP ORGANIZATION

**Cammie Artusa**  
Leasing Coordinator  
Executive Assistant to  
George H. Ross, EVP &  
Senior Counsel  
725 Fifth Avenue | New  
York, NY | 10022  
p. 212.715.7216 | f.  
212.935.0141  
[cartusa@trumporg.com](mailto:cartusa@trumporg.com)  
| [Trump.com](http://Trump.com)

---

**From:** Donna Kidder  
**Sent:** Tuesday, May 05, 2015 2:27 PM  
**To:** Cammie Artusa  
**Subject:** g drive

The abstracts are on the g drive too right?

# TRUMP

THE TRUMP ORGANIZATION

**Donna Kidder**  
Assistant Controller  
725 Fifth Avenue | New  
York, NY | 10022  
p. 212.715.7225 | f.  
212.832.5396  
[dkidder@trumporg.com](mailto:dkidder@trumporg.com)  
| [trump.com](http://trump.com)

This e-mail message, and any attachments to it, are for the sole use of the intended recipients, and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this email message or its attachments is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, while the company uses virus protection, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. The information contained in this communication is confidential, may be privileged and is intended for the exclusive use of the above named addressee(s). If you are not the intended recipient(s), you are expressly prohibited from copying, distributing, disseminating, or in any other way using any information contained within this communication. If you have received this communication in error please contact the sender by telephone or by response via mail. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses.

# T A B E

## Message

**From:** Donna Kidder [/O=TRUMP ORG/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DKIDDER]  
**Sent:** 6/15/2015 7:11:15 PM  
**To:** Michael Papagianopoulos [Michael.Papagianopoulos@cushwake.com]; Jeff McConney [jmcconney@trumporg.com]  
**CC:** Douglas Larson [Douglas.Larson@cushwake.com]; Kurt Clauss [Kurt.Clauss@cushwake.com]  
**Subject:** RE: 40 Wall Street Property Tour  
**Attachments:** 201506151508.pdf

Michael I have the ground floor 18,092 and the mezz at 5,218. It is not split in the lease and I don't see the sq. ft on the floor plans that are part of the lease, however I had a term sheet that I attached for reference.

Please let me know if this is okay.

tx

---

**From:** Michael Papagianopoulos [mailto:Michael.Papagianopoulos@cushwake.com]  
**Sent:** Monday, June 15, 2015 2:51 PM  
**To:** Donna Kidder; Jeff McConney  
**Cc:** Douglas Larson; Kurt Clauss  
**Subject:** RE: 40 Wall Street Property Tour

Donna,

Thank you for the call. Once we have the break out of Duane Reade we can wrap up the appraisal. We are trying to deliver today.

Thank you for your help with this matter,

*Mike*

**Naoum M. Papagianopoulos, MAI**  
Senior Director  
Valuation & Advisory

T +1 (212) 841 7694  
F +1 (212) 479 1887  
[michael.papagianopoulos@cushwake.com](mailto:michael.papagianopoulos@cushwake.com)



Cushman & Wakefield Inc.  
1290 Avenue of the Americas, 9th Floor  
New York, New York 10104

---

**From:** Donna Kidder [mailto:dkidder@trumporg.com]  
**Sent:** Monday, June 15, 2015 2:38 PM  
**To:** Jeff McConney; Michael Papagianopoulos  
**Cc:** Douglas Larson; Kurt Clauss  
**Subject:** RE: 40 Wall Street Property Tour

Ok. I just left you a message Michael.

Are you matching the floor plans that are in the current leases or prior?

I just left you a message. Please just call at your convenience.

---

**From:** Jeff McConney  
**Sent:** Monday, June 15, 2015 2:23 PM  
**To:** Michael Papagianopoulos; Donna Kidder  
**Cc:** Douglas Larson; Kurt Clauss  
**Subject:** RE: 40 Wall Street Property Tour

Donna,

Can you please call Michael.

Thanks  
Jeff

---

**From:** Michael Papagianopoulos [<mailto:Michael.Papagianopoulos@cushwake.com>]  
**Sent:** Monday, June 15, 2015 2:21 PM  
**To:** Jeff McConney  
**Cc:** Douglas Larson; Kurt Clauss  
**Subject:** RE: 40 Wall Street Property Tour  
**Importance:** High

Jeff,

We have a question regarding the retail. The rent roll and floor plans provided to us do not match. Can you please give us a call.

Thank you

*Mike*

**Naoum M. Papagianopoulos, MAI**  
Senior Director  
Valuation & Advisory

T +1 (212) 841 7694  
F +1 (212) 479 1887  
[michael.papagianopoulos@cushwake.com](mailto:michael.papagianopoulos@cushwake.com)



Cushman & Wakefield Inc.  
1290 Avenue of the Americas, 9th Floor  
New York, New York 10104

---

**From:** Jeff McConney [<mailto:jmccconney@trumporg.com>]  
**Sent:** Thursday, June 04, 2015 10:06 AM  
**To:** Kurt Clauss; Steve Lafiosca  
**Cc:** Douglas Larson; Michael Papagianopoulos; Matthew Calamari; Diana Taddoni  
**Subject:** RE: 40 Wall Street Property Tour

Kurt,

Please contact Steve Lafiosca, copied on this email, he will be able to help you with the property inspection.

Thanks

Jeff

---

**From:** Kurt Clauss [<mailto:Kurt.Clauss@cushwake.com>]

**Sent:** Thursday, June 04, 2015 10:04 AM

**To:** Jeff McConney

**Cc:** Douglas Larson; Michael Papagianopoulos

**Subject:** 40 Wall Street Property Tour

Jeff,

We were given your information by Michael at Ladder Capital as we were engaged by them to appraise 40 Wall and we were hoping to schedule a property tour as soon as possible. We are available tomorrow or early next week. Please let us know when works best or if we should be speaking to someone else.

Thank you.

**Kurt A. Clauss**

Associate Appraiser— New York, NY  
Valuation & Advisory

T +1 (212) 713 6711

F +1 (212) 729 2509

[kurt.clauss@cushwake.com](mailto:kurt.clauss@cushwake.com)



Cushman & Wakefield Inc.  
1290 Avenue of the Americas, 9th floor, New York, NY 10104, USA



[Driven! C&W's 2011/2012 Annual Review: now available online](#)

The information contained in this communication is confidential, may be privileged and is intended for the exclusive use of the above named addressee(s). If you are not the intended recipient(s), you are expressly prohibited from copying, distributing, disseminating, or in any other way using any information contained within this communication. If you have received this communication in error please contact the sender by telephone or by response via mail. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses.

This e-mail message, and any attachments to it, are for the sole use of the intended recipients, and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this email message or its attachments is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, while the company uses virus protection, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.

# TAB F



November 15, 2011

**CONFIDENTIAL**

Mr. Richard Byrne  
CEO  
Deutsche Bank Securities Inc.  
60 Wall Street  
2nd Floor  
New York, NY 10005

Dear Richard,

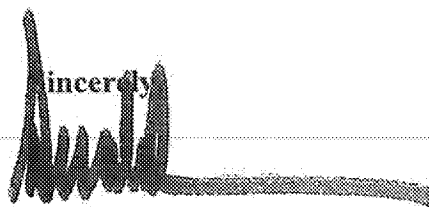
As per our conversation, I am pleased to enclose the recently completed financial statement of Donald J. Trump (hopefully, you will be impressed!).

I think Doral will go down as one of my most successful projects and I am looking forward to bringing it to the highest level. In the end, it is a vast amount of acreage smack in the middle of Miami that, despite the fact that it has been terribly managed by Wall Street financial "geniuses" for the last ten years, continues to have an amazing reputation.

I am also enclosing a letter that establishes my brand value, which is not included in my net worth statement, from Predictiv, the most respected branding valuation company in the country. Among the companies they represent are Major League Baseball, Southwest Airlines, Pfizer, Petrobras, General Motors, UPS, Visa, BASF, and United Technologies.

Please feel free to share this information with Jonathan, and thank him for his time and effort.

With best wishes,

Sincerely,  


Donald J. Trump

cc: Ivanka Trump