

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,

Plaintiff,

-against-

DONALD J. TRUMP, *et al.*,

Defendants.

Index No. 452564/2022

Motion Seq. No. 034

**AFFIRMATION OF SHERIEF
GABER IN OPPOSITION TO
IVANKA TRUMP'S
MOTION TO QUASH**

SHERIEF GABER, an attorney admitted to practice before the Courts of the State of New York, hereby affirms under CPLR 2106 as follows:

1. I am an attorney in the Office of the New York State Attorney General ("OAG"), who appears on behalf of the People of the State of New York in this enforcement action.
2. On September 21, OAG commenced the instant action by filing a summons and complaint in New York Supreme Court, New York County, alleging multiple counts of fraud in the conduct of business, pursuant to New York's Executive Law section 63(12). (NYSCEF Doc. No. 1).
3. Ivanka Trump served as Executive VP for Development and Acquisitions at the Trump Organization until 2017. As a senior executive, she along with others participated in the three Deutsche Bank loan transactions that were used to fund the purchase or development of Mr. Trump's respective properties located at the Doral resort, Trump International Hotel and Tower in Chicago, and the Old Post Office in Washington, D.C., transactions that are at issue in this action. It is an undisputed fact that Ms. Trump was a primary point of contact and negotiator with Deutsche Bank in these loan transactions. *See, e.g.*, NYSCEF No. 1293 (Defs.' Response to Pl.'s

Rule 202.8-g Statement of Material Facts) ¶¶ 441, 454, 459, 463-66, 468-70, 472, 538-41, 544, 546-47.

4. Ivanka Trump was named as one of the defendants in this action and, accordingly, OAG effected proper service of the summons and complaint on September 21, 2022. (NYSCEF No. 36).

5. Ms. Trump actively participated in the proceedings. She appeared by counsel, filing a motion to dismiss (NYSCEF No 224), and subsequently filed an answer (NYSCEF No. 469) and, additionally, she amended her answer, following this Court's direction (NYSCEF No. 500).

6. At no point in any of these three pleadings did Ms. Trump raise a personal jurisdiction defense or seek dismissal for lack of personal jurisdiction.

7. Ms. Trump was dismissed as a Defendant from this action following a decision of the Appellate Division entered June 27, 2023. (Index No. 2023-00717, Doc. No. 31)

8. Seeking her testimony at trial in this action, OAG issued three trial subpoenas in early September of 2023.

9. The first was to Ivanka Trump and Ivanka OPO LLC, care of the Trump Organization, at 725 Fifth Avenue, New York, NY 10022. After an OAG investigator attempted service of the subpoena but was rejected at Trump Tower, OAG mailed a copy of the same subpoena to Ivanka OPO, LLC's New York address on September 25, 2023. *See* NYSCEF No. 1570.

10. The second was to Ivanka Trump and TTT Consulting LLC, served on its authorized agent for service in New York, Corporation Service Company, 80 State Street, Albany, NY 12207. *See* NYSCEF No. 1568

11. The third was to Ivanka Trump and 502 Park Project LLC, personally delivered by service on its authorized agent for service, National Registered Agents, Inc., 28 Liberty Street, New York NY. *See* NYSCEF No. 1569

12. OAG further reached out to Ms. Trump's last counsel of record in this action and the appeal, forwarding them copies of all three subpoenas.

13. Ms. Trump personally profited from the Old Post Office project, which she owned in part through Ivanka OPO LLC (an entity which was a Member of Defendant Trump Old Post Office LLC). *See* NYSCEF 1293 ¶570, Exhibit 1

14. Moreover, Ms. Trump personally signed a guaranty concerning the Old Post Office loan—a guaranty countersigned by Eric Trump and Donald Trump, Jr. (Exhibit 2, the “OPO Guarantee”) wherein Ms. Trump guaranteed—to her father—a portion of the Old Post Office loan that *he* guaranteed.

15. As contained within the four corners of the OPO Guarantee, Ms. Trump expressly consented to the application of New York law and the jurisdiction of New York courts. *Id.*

16. Attached as Exhibit 3 is a copy of an Assignment of Interest between Donald J. Trump and Ivanka OPO, LLC, which includes the Operating Agreement for Ivanka OPO, LLC.

17. On information and belief, during her time in federal government, Ms. Trump had resigned her managerial status and participating interest in a number of Trump Organization entities—including TTT Consulting, LLC, TTTT Venture, LLC and Trump International Realty—in favor of fixed payments. However, through amended agreements effective January 2021 she has resumed her participating interest status in these business entities, all of which operate out of Trump Tower in New York City.

18. Attached as Exhibit 4 is an email from David Cohen to the Trump Organization's tax accountant, Elizabeth Pettijohn, dated April 27, 2022, which attaches fully executed documents that together restore the participation interest of Ms. Trump, through her Revocable Trust, in (i) TTTT Venture LLC, (ii) Trump International Realty, and (iii) TTT Consulting, LLC.

19. Ms. Trump's interest in TTT Consulting affords her further economic interests in other Trump Organization deals. Attached as Exhibit 5 and Exhibit 6 are organizational charts for DT Bali Golf Member Entities and DT Lido Golf Manager Entities, respectively, showing Ms. Trump's ownership interest in the entities through TTT Consulting).

20. The Ivanka Trump Revocable Trust is named as an additional insured, along with many entities she owns or controls, on the Trump Organization's most recently produced insurance policy. (See, e.g. excerpt of 2021-2022 Directors and Officers Liability Policy Declarations, Exhibit 7 at 0068157, 0068159.)

21. Various documents produced by Ms. Trump and by defendants in this action similarly confirm Ms. Trump's location (and her businesses' locations) in New York. For example, a tax paper from 2020 provides that her own revocable trust's address is at 725 5th Avenue *See* Exhibit 8; a 2021 tax form, though it has a Florida address for her trust, shows that trust with an interest in a business (Trump Old Post Office LLC) based in New York. *See* Exhibit 9.

22. Records produced by Ms. Trump further provide that the entity she used, Ivanka OPO LLC, for her ownership interest in the Old Post Office project, was also based in New York—at Trump Tower—and filed New York State tax returns. Exhibit 10.

23. Ms. Trump further maintains at least two personal residences in New York, at Trump Park Avenue.

24. Ms. Trump purchased 502 Park Avenue, Unit 6G, in 2004 (https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2016051600273001).

25. Ms. Trump transferred her ownership in 2015 to a wholly owned and controlled LLC (502 6G LLC) https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2016010401239001 .https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2016010401239001; a Power of Attorney on behalf of 502 6G LCC to the condominium board is signed by Ms. Trump https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=2016051600273001

26. Ms. Trump rents out apartment 6G as an income-generating property currently, and relies on Trump Organization staff and employees to handle the leasing and management of the property on her behalf. *See* Exhibit 11

27. Ms. Trump also holds a lease on a personal residence – PH 20 at Trump Park Avenue – through 2031, with the option to purchase. *See* Second Amended Lease, Exhibit 12. Although the lease was assigned, documents confirm that Ms. Trump has obtained insurance for that unit for herself through the Trump Organization. Exhibit 13.

28. Ms. Trump continues to avail herself of New York for professional and social activities. For example, Ms. Trump posted on Instagram on August 9, 2023 about her participation in a pre-game warmup with members of the New York Mets. *See* <https://www.instagram.com/p/CvuZy8ht5kd/> (last visited Oct. 23, 2023).

29. On information and belief, the Trump Organization has recently provided worker's compensation for Ms. Trump's household staff. *See* Exhibit 14

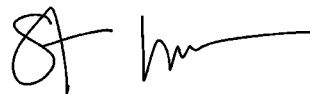
30. According to campaign finance data publicly available on the Federal Election Commission website, Save America PAC disbursed funds to Ms. Trump's counsel (Kellogg, Hansen, Todd, Figel & Frederick PLLC) during the same period of time when Save America PAC was making payments to the law firms representing the other Defendants in this action (Continental PLLC; Habba Madaio & Associates LLP; Morian Law PLLC; and Robert & Robert, PLLC). *See* Federal Election Commission, Disbursement Data for Save America, available at https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00762591&two_year_transaction_period=2024&min_date=01%2F01%2F2023&max_date=12%2F31%2F2024 (last visited Oct. 19, 2023).

31. A true and correct copy of an affidavit of Brian Metz, dated September 7, 2023, is attached as Exhibit 15.

32. According to correspondence between Trump Organization and Kushner Company personnel, (attached as Exhibit 16), 502 Park Project LLC was formed for the benefit of Ivanka Trump and Jared Kushner to support ongoing renovations of apartment PH20.

33. Attached as Exhibit 17 is a true and correct copy of an e-mail from Eric Trump, dated May 11, 2022 regarding the sale of the OPO property.

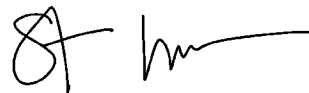
Dated: New York, NY
October 25, 2023



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CERTIFICATION OF COMPLIANCE
WITH UNIFORM CIVIL RULE 202.8-b

I certify that the foregoing document, excluding the caption, table of contents, table of authorities, and signature block, contains 1405 words. I further certify that I relied on the word count of the word-processing system used to prepare the document.



SHERIEF GABER