

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 59

PART 59 NOV 15 2023

THE PEOPLE OF THE STATE OF NEW YORK

-against-

DONALD J. TRUMP,

Defendant.

AFFIRMATION IN SUPPORT OF
PEOPLE'S OPPOSITION TO
DEFENDANT'S OMNIBUS
MOTIONS

Ind. No. 71543-23

Christopher Conroy, an attorney admitted to practice before the Courts of this State, affirms under penalty of perjury that:

1. I am an Assistant District Attorney in the office of Alvin L. Bragg, Jr., District Attorney of the County of New York. I am one of the assistants assigned to the prosecution of the above-captioned case ("the DJT Indictment") and am authorized to make this affirmation. I have been assigned to the investigation which led to, among other things, the DJT Indictment since the investigation began in August 2018.

2. I have been employed by the District Attorney's Office ("the Office") since 1996. Among other positions, I served as Deputy Chief of the Homicide Investigation Unit from 2006 to 2011; Deputy Chief and Principal Deputy Chief of the Major Economic Crimes Bureau from 2011 to 2015; Chief of the Major Economic Crimes Bureau from 2015 to 2020; and Executive Assistant District Attorney and Chief of the Investigation Division from 2020 to 2022. Since February 2022, I have served as an Executive Assistant District Attorney and Senior Advisor to the Investigation Division.

3. I make this affirmation on information and belief, the sources of which are my involvement in the investigation, a review of documents within the files of the Office, conversations with knowledgeable individuals, and other sources as noted herein. Dates and times

in this affirmation are approximate, unless stated otherwise. Statements attributed to individuals are summaries of portions of such statements unless otherwise indicated. This affirmation does not set forth every fact learned in the course of the investigation.

I. This Investigation.

4. I have spent the last 23 years involved in long-term investigations of both white-collar and violent street crime. In white-collar investigations, it is not unusual for an investigation to span multiple years. Among the factors that can impact the length of an investigation are: (i) the nature of the allegations of potential wrongdoing; (ii) the nature and complexity of any entities being investigated; (iii) the level of cooperation the Office receives from the targets of the investigation and relevant third parties; (iv) the relationships between and among the individuals and entities being investigated; and (v) whether the entities have a robust independent governing group. The Office's white-collar investigations were impacted across the board by the coronavirus pandemic during the period from March 2020 until at least late 2021, as travel and in-person meetings were difficult or impossible to convene, and as prosecutors, investigators, witnesses, and their counsel took precautions to avoid getting sick.

5. Investigations are referred to the Office in a number of ways, including through public reporting.

A. Initiation of the Investigation.

6. On August 21, 2018, Michael Cohen pleaded guilty to various crimes in the United States District Court for the Southern District of New York. That day, the federal government's Information and Cohen's plea and allocution were made public and reported on by various news outlets. *See* Information, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Aug. 21, 2018) (PX-1); Hearing Tr., *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Aug. 21, 2018) (PX-2).

7. Cohen pleaded guilty to, among other crimes, two counts of making unlawful campaign contributions in violation of federal campaign finance laws; and he admitted in his plea allocution that he did so “in coordination with, and at the direction of, a candidate for federal office” later identified as Donald J. Trump “for the principal purpose of influencing the election.” Hearing Tr. 23-24, 27-28, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Aug. 21, 2018) (PX-2).

8. The federal government’s Information further alleged that Cohen committed one of the campaign finance violations by making a payment through a shell corporation funded with his personal funds; that Cohen sent invoices for reimbursement to Trump through executives at the headquarters of the Trump Organization; and that Trump reimbursed Cohen a total of \$420,000 through a series of monthly payments that were falsely accounted for in various business records created and maintained in the Trump Organization’s New York offices. *See* Information ¶¶ 32-35, 37-40, 43-44, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Aug. 21, 2018) (PX-1).

9. On August 21, 2018—the same day as Cohen’s guilty plea, and in response to the New York-based conduct described in the Information, the facts admitted at Cohen’s plea allocution, and public reporting on the plea—the Office opened its initial inquiry into the circumstances surrounding the facts to which Michael Cohen pleaded guilty, including whether Trump’s reimbursement payments to Cohen implicated the New York State criminal prohibition on falsifying business records of the Trump Organization.

B. The Active Federal Investigation.

10. Shortly after opening this investigation in late August 2018, and prior to taking any overt investigative steps, the Office decided in or around September 2018 to pause the investigation into the conduct for which Cohen pleaded guilty in order to avoid any risk of interfering with an ongoing federal investigation.

11. In my experience in the Office, where there are facts that indicate potential criminal liability under both state and federal law, it is not unusual—absent exigent circumstances or a public safety emergency—for the Office to defer to an active federal investigation where that investigation is more advanced. *See also* Government’s Opp’n to Mot. to Unseal Certain Search Warrant Materials 1-3, 8-9, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Oct. 25, 2018) (noting that the federal government’s investigation was active and continuing, and that it was already a “months-long investigation” as of April 2018) (PX-3).

12. In this interim period while the federal investigation was active, there was additional public reporting that identified other instances of possible criminal conduct occurring in New York County by entities and individuals associated with Trump and the Trump Organization. That publicly-available information included Michael Cohen’s congressional testimony in February 2019 that Trump and the Trump Organization improperly inflated the value of Trump’s assets on annual financial statements in order to secure loans and obtain economic and tax benefits.

13. In or around the middle of July 2019, approximately ten months after the Office paused its investigation to avoid interfering with an ongoing federal investigation, the Office learned from public reporting and a public court filing that the federal government had concluded its investigation into the conduct for which Cohen pled guilty. *See* Government’s Letter 1 n.1, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. July 18, 2019) (“The Government has effectively concluded its investigation of . . . who, besides Michael Cohen, was involved in and may be criminally liable for the two campaign finance violations to which Cohen pled guilty”) (PX-4).

14. Very shortly after learning that the federal investigation concluded, the Office resumed its own investigation into potential New York State law violations by Trump and the Trump Organization, including an investigation into the additional allegations of criminal activity that had been publicly reported.

15. Specifically, beginning in early August 2019 and through the end of 2019, the Office [REDACTED] as part of the investigation. [REDACTED]

16. In my experience, the Office conducts holistic investigations in complex white-collar investigations where there are numerous allegations of potential fraud by multiple individuals and/or affiliated corporate entities. That is particularly true where—as here—public reporting and initial investigative steps identify wide-ranging allegations of potential individual and corporate criminal conduct, and where those allegations may implicate overlapping witnesses and pertinent financial records.

C. Trump’s Litigation to Block Subpoena Enforcement.

17. On August 29, 2019, the Office issued a subpoena to Mazars USA LLP, which was then the accounting firm for Trump and the Trump Organization (“the Mazars Subpoena”), seeking Trump’s tax records in connection with the investigation. On September 19, 2019, Trump sued the District Attorney in federal court in an effort to block enforcement of the subpoena. *See* Complaint, *Trump v. Vance*, No. 1:19-cv-8694 (S.D.N.Y. Sept. 19, 2019).

18. The subsequent litigation regarding the enforceability of the Mazars Subpoena delayed Mazars’ compliance with the Mazars Subpoena by more than seventeen months. Every court that considered Trump’s challenges ruled against him and in favor of the People, but Trump’s

litigation over the Mazars Subpoena required an extraordinary commitment of resources by the investigative team. The Office continued to investigate the various allegations of criminal conduct during that time period.

19. In August 2019 and the months that followed, the People made efforts to conduct [REDACTED]. Those individuals declined to cooperate voluntarily with the Office’s investigation, and the People then [REDACTED] [REDACTED] in November 2019 in an effort to gather relevant facts. In my experience in the Office, it is sometimes necessary to use compelled process before an investigative grand jury relatively early in an investigation to develop the facts, particularly where—as here—efforts to conduct voluntary witness interviews are unsuccessful.¹

20. In 2020, while continuing to litigate the Mazars Subpoena, the People also conducted [REDACTED] and [REDACTED] related to the investigations.

21. Meanwhile, on November 2, 2020, *Bloomberg* reported that Trump Organization Chief Financial Officer Allen Weisselberg, his son Barry, and perhaps other employees received housing and other forms of non-cash compensation from the Trump Organization in New York, and that the non-cash compensation may not have been appropriately treated for tax purposes by entities and individuals associated with the Trump Organization. *See* Caleb Melby, *Trump Perks*

¹ Defendant’s Memorandum of Law in support of his Omnibus Motions refers to March 2019 interview notes involving [REDACTED], which defendant incorrectly describes as a meeting with “members of DANY.” DB: 5. This Office first interviewed [REDACTED] in August 2019. Defendant appears to be referencing an interview conducted by a different law enforcement agency that was conducted in February 2019 and memorialized in a report dated March 19, 2019.

for Weisselbergs Included Free Rent, Bloomberg (Nov. 2, 2020), <https://www.bloomberg.com/news/articles/2020-11-02/trump-perks-for-weisselbergs-included-free-rent-tax-preparer>.

22. In response to that report of potential criminal conduct, the Office began investigating the allegations of unreported income. The team already investigating potential criminal conduct by individuals and entities associated with Trump and the Trump Organization began investigating these allegations as well.

23. On February 22, 2021, the U.S. Supreme Court rejected Trump's final attempt to block enforcement of the Mazars Subpoena, and Mazars turned over the tax records that the Office had requested nearly a year and a half earlier. *See* Order Denying Appl. for a Stay, *Trump v. Vance*, 141 S. Ct. 1364 (2021).

D. Defendant Was the Sitting President.

24. While all of these investigative steps were taking place, Trump was the sitting President of the United States, and remained in office until January 20, 2021. Although the Office took steps to investigate potential criminal conduct by Trump, his associates, and his corporate entities during this time period, the Office deferred a decision on indicting Trump during his presidential term because of open constitutional questions regarding whether a sitting President can be subject to indictment and criminal prosecution. *See* Brief of Respondent at 24-25, *Trump v. Vance*, 140 S. Ct. 2412 (2020) (No. 19-635) (noting that the question whether a sitting President may be indicted by a state or local grand jury for unofficial conduct is unresolved, but acknowledging that “a criminal trial and incarceration would infringe Article II”); U.S. Dep’t of Justice, Office of Legal Counsel, *A Sitting President’s Amenability to Indictment and Criminal Prosecution*, 24 Op. OLC 222, 255 (2000); U.S. Dep’t of Justice, Office of Legal Counsel, *Amenability of the President, Vice President and other Civil Officers to Federal Criminal Prosecution While in Office* (Sept. 24, 1973); *see also* Brief for the United States as Amicus Curiae

Supporting Petitioner at 11, *Trump v. Vance*, 140 S. Ct. 2412 (2020) (No. 19-635) (“[T]he Department of Justice has long understood that a President is absolutely immune from arrest, indictment, and criminal prosecution while he remains in office.”).

E. The Trump Corporation Tax Case.

25. On May 6, 2021, the People began presenting evidence to a New York County grand jury in connection with the investigation of unreported income.

26. In the course of preparing for and conducting that grand jury presentation, the People served numerous grand jury subpoenas to secure documents and testimony. In the same time period, the People communicated with numerous lawyers who represented multiple grand jury witnesses to schedule witness interviews and grand jury testimony. This included multiple communications with counsel for the Trump Organization and various Trump Organization employees, including Jeff McConney—then the Comptroller of the Trump Organization—who gave grand jury testimony on May 17 and May 24, 2021. (The grand jury secrecy requirements of CPL § 190.25(4)(a) and Penal Law § 215.70 do not apply to these subpoena recipients, witnesses, or their counsel, including the Trump Organization employees and their counsel who the People were in contact with in May 2021 as part of the grand jury presentation that led to the Trump Corporation Indictment.)

27. On June 30, 2021, the grand jury returned Indictment Number 1473/2021, charging Allen Weisselberg, the Trump Corporation, and the Trump Payroll Corp. with numerous crimes including scheme to defraud, grand larceny, and criminal tax fraud (“the Trump Corporation Indictment”).

28. On August 18, 2022, Weisselberg pleaded guilty to fifteen felony counts of scheme to defraud, conspiracy, grand larceny, criminal tax fraud, offering a false instrument for filing, and falsifying business records.

29. The Trump Corporation and the Trump Payroll Corp. (the “Corporate Defendants”) went to trial, which began in October 2022 and concluded on December 6, 2022 with guilty verdicts for both Corporate Defendants on seventeen felony counts of scheme to defraud, conspiracy, criminal tax fraud, and falsifying business records.

30. Although the prosecution of the Trump Corporation case took significant resources throughout this time period in 2021 and 2022, the People continued to take steps to advance the other aspects of the investigation, including the conduct that was ultimately charged in the DJT Indictment.

31. In 2021, the People conducted [REDACTED] and [REDACTED] [REDACTED] related to the investigations. Those [REDACTED] and [REDACTED] included inquiry into [REDACTED] [REDACTED]. The People also [REDACTED] on various dates between September 2021 and January 2022, including [REDACTED] [REDACTED] in September 2021. (The grand jury secrecy requirements of CPL § 190.25(4)(a) and Penal Law § 215.70 do not apply to these [REDACTED], or their counsel, including the [REDACTED] and their counsel, who the People were in contact with between September 2021 and November 2021 as part of the People’s ongoing investigative efforts.)

32. All aspects of the various ongoing investigations included at least partial overlap in terms of witnesses, entities, and financial records. Accordingly, during this time period, the Office prioritized investigative steps that could be taken without triggering prejudicial pretrial publicity, potentially influencing the jury pool, or otherwise affecting the *Trump Corporation* trial.

F. The DJT Indictment.

33. In the midst of that work, on January 1, 2022, the current District Attorney was sworn in and started his term in the Office. Working with new members of his leadership team, the District Attorney began reviewing a number of complex matters that were then pending in the Office, including the *Trump Corporation* case and the ongoing investigations of possible criminal conduct occurring in New York County by entities and individuals associated with Trump and the Trump Organization.

34. Following that review, in or around July 2022, the investigative team was directed to take steps to prepare for a possible grand jury presentation regarding the conduct that was ultimately charged in the DJT Indictment.

35. In or around late October 2022, the Office began taking steps to impanel an additional grand jury to hear evidence in a number of investigations, one of which related to defendant and involved the facts ultimately charged in the DJT Indictment. The order directing the impaneling of the additional grand jury was signed on December 2, 2022, and that grand jury was impaneled on January 23, 2023.

36. Between approximately December 13, 2022 and January 27, 2023, [REDACTED]
[REDACTED], the People [REDACTED]
[REDACTED]
[REDACTED] In the same time period, the
People communicated with approximately twelve lawyers who represented [REDACTED]
[REDACTED]; and the People also
communicated with three attorneys for the Trump Organization regarding a [REDACTED].
(The grand jury secrecy requirements of CPL § 190.25(4)(a) and Penal Law § 215.70 do not apply
to the [REDACTED] and their counsel, the [REDACTED] and their counsel,

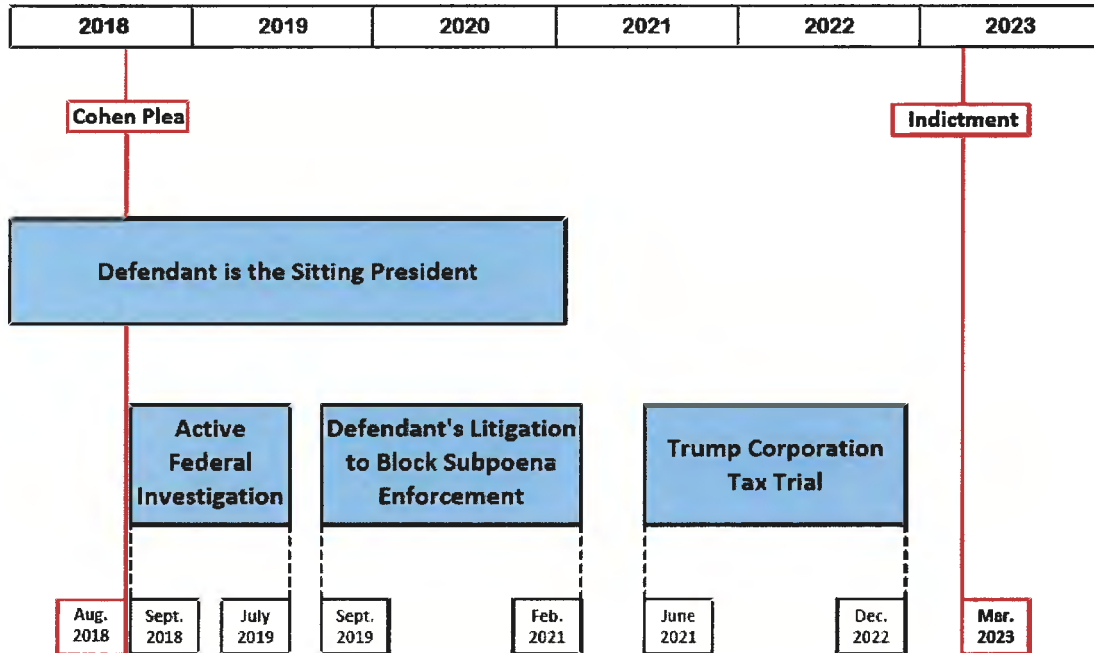
and the three attorneys for the Trump Organization that the People were in contact with in December 2022 and January 2023 [REDACTED].)

37. On February 7, 2023, defendant confirmed a prior request for notice of grand jury action in order to consider whether to appear as a witness in his own behalf. PX-5. In response to that request, and as required by law, the People provided notice pursuant to CPL § 190.50(5)(b) on February 10, 2023. PX-6. Defense counsel responded on March 8, 2023, that defendant had elected not to appear before the grand jury to testify. PX-7. (The grand jury secrecy requirements of CPL § 190.25(4)(a) and Penal Law § 215.70 do not apply to defendant or his counsel.)

38. On March 30, 2023, the grand jury returned Indictment Number 71543/2023, charging defendant with 34 counts of Falsifying Business Records in the First Degree, N.Y. Penal Law § 175.10. PX-8.

39. I am familiar with the meeting schedule of the additional grand jury that voted the DJT Indictment. At no point was the additional grand jury set to break for a month in March or April 2023.

40. The following timeline depicts key developments from the date the investigation was opened to the date of the DJT Indictment:



II. Pertinent Aspects of the People’s Article 245 Discovery in this Case.

41. Defendant was indicted on March 30, 2023 and arraigned on April 4, 2023.
42. On May 8, 2023, this Court entered a protective order governing the appropriate use and dissemination of materials produced in discovery.
43. On June 23, 2023, the Court granted a protective order altering the time periods for discovery and extending to July 24, 2023 the People’s time period to complete its discovery obligations pursuant to CPL § 245.20.
44. The People made initial discovery productions to defendant on May 23, June 8, June 9, June 15, and July 24, 2023. On July 24, the People served on defendant and filed with the Court a certificate of compliance pursuant to CPL § 245.50(1).

45. As required by the People's continuing duty to disclose pursuant to CPL § 245.60, the People made supplemental discovery productions to defendant on July 27, August 3, August 11, August 24, September 22, September 28, October 13, and October 27, 2023. The People served on defendant and filed with the Court a supplemental certificate of compliance and index pursuant to CPL §§ 245.50(1) and 245.50(1-a) following each supplemental discovery production.

46. On May 23, 2023, the Court convened a hearing to confirm on the record that defense counsel had reviewed and discussed with defendant each of his obligations under the protective order, and to confirm that defendant understood that any violation of the court's order could result in sanctions including contempt. PX-9 at 6.

47. At the May 23 hearing, and following the Court's admonition to defendant regarding his obligations under the protective order, the People served defense counsel with the Automatic Discovery Form ("ADF"), an addendum to the ADF, a hard drive containing an initial production of discovery materials, and a cover letter. PX-9 at 9; PX-10.

48. The People's first discovery production on May 23, 2023, included all of the exhibits presented to the grand jury and an index identifying each exhibit by Bates number. PX-11.

49. The ADF noted that Addendum A included "a list of books and other materials in possession of the People, which may include witness statements," and Addendum A identified 30 publicly-available books. PX-10 at 6.

50. The People served a supplemental addendum to the ADF on July 24, 2023 that identified 33 publicly-available books, and advised defense counsel that the changes to the ADF included additional books in the People's possession that may include witness statements. PX-12.

51. The first page of the ADF advised: “*Should counsel for the defendant wish to discover, inspect, copy, photograph, or test any document or item listed below, counsel should contact the undersigned assistant.*” PX-10 at 1 (emphasis in original).

52. As of the date of this Affirmation, defense counsel has not contacted the People with any request to discover, inspect, copy, photograph, or test the books identified on Addendum A and first disclosed on May 23, 2023.

53. Should defense counsel wish to discover, inspect, copy, photograph, or test the publicly-available books in the People’s possession and identified on Addendum A, defense counsel may contact the People at any time to make arrangements to do so.

54. The cover letter accompanying the People’s supplemental discovery production on August 24, 2023, notified defense counsel that “although the People are not required to provide an exhibit list as part of discovery, on May 23, 2023, we provided you with a list of all grand jury exhibits and their identifying Bates numbers, and we produced each of those exhibits in a clearly identified folder in our discovery production for your ease of reference. At present, the grand jury exhibits are the exhibits the People intend to introduce in our case-in-chief at trial. The People have not yet formed an intention as to other exhibits we will introduce in our case-in-chief at trial. We will update you as soon as practicable, subject to the continuing duty to disclose in CPL § 245.60, when we determine any additional exhibits that we will introduce.” PX-13.

55. As of the date of this Affirmation, the grand jury exhibits are the exhibits the People intend to introduce at trial. The People will update the defense as soon as practicable as we identify additional exhibits we intend to introduce as part of our case-in-chief.

III. This Office's Prosecution of First-Degree Falsifying Business Records Offenses.

56. At my direction, employees of the Office reviewed the Office's records to identify cases in which Penal Law § 175.10 charges were included on an accusatory instrument for the period from March 2013 to March 2023.

57. That review identified approximately 437 cases charging violations of Penal Law § 175.10 in New York County which commenced in the ten-year period from March 30, 2013 to March 30, 2023. That is, this Office has charged defendants with first-degree falsifying business records at an average rate of just under once a week for the last decade.

58. My own experience in supervisory positions in the Investigation Division during that entire time period is consistent with these figures. I am aware from my experience that the Office charges first-degree falsifying business records very frequently.

59. It has also been my experience that the Office has on multiple occasions charged first-degree falsifying business records where the defendant intended to commit or conceal a federal crime.

60. In *People v. UniCredit Bank AG*, SCI No. 1237/2019, the People charged falsifying business records in the first degree in violation of Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-14. The defendant pleaded guilty to this charge and paid a total forfeiture and fine amount of \$861.9 million. PX-15.

61. In *People v. Ahmed*, SCI No. 4066/2017, the People charged falsifying business records in the first degree in violation of Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-16. The defendant pleaded guilty to this charge.

62. In *People v. BNP Paribas S.A.*, SCI No. 2925/2014, the People charged falsifying business records in the first degree in violation of Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-17. The defendant pleaded guilty to this charge and paid a total forfeiture and fine amount of \$2.24 billion. PX-18.

63. In *People v. Khalil*, Ind. No. 03765/09, and *People v. Goldstein*, Ind. No. 03765/09, the People charged two defendants with falsifying business records in the first degree based in part on the intent to commit violations of the Bank Secrecy Act. PX-19. Both defendants pleaded guilty to Penal Law § 175.10 violations. PX-20; PX-21.

64. In *People v. Marshall*, Ind. No. 6044/07, the People charged falsifying business records in the first degree based on the intent to commit violations of federal tax law. The trial court charged the jury on the falsifying business records counts that “[w]ith respect to the other crimes you may consider, . . . it is a crime for any person to willfully attempt in any manner to evade or defeat any tax imposed by the Federal Internal Revenue Code.” PX-22. The defendant was acquitted of this charge at trial.

65. The Office has also entered into ten deferred prosecution agreements with nine financial institutions between 2009 and 2019—resulting in combined forfeiture and penalty amounts of nearly \$3.2 billion—where the Office determined that it could institute criminal prosecutions against each financial institution for first-degree falsifying business records based on the intent to commit or conceal a federal crime.

66. On April 8, 2019, the Office entered into a deferred prosecution agreement with Standard Chartered Bank after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the

International Emergency Economic Powers Act. PX-23. Among other relief, Standard Chartered Bank agreed to a penalty of \$292 million in lieu of fines and forfeiture. PX-23.

67. On November 18, 2018, the Office entered into a deferred prosecution agreement with Societe Generale S.A. after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-24. Among other relief, Societe Generale S.A. agreed to a penalty of \$162.8 million in lieu of fines and forfeiture. PX-24.

68. On October 19, 2015, the Office entered into a deferred prosecution agreement with Credit Agricole Corporate and Investment Bank after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-25. Among other relief, Credit Agricole Corporate and Investment Bank agreed to a penalty of \$156 million in lieu of fines and forfeiture. PX-25.

69. On March 11, 2015, the Office entered into a deferred prosecution agreement with Commerzbank AG after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-26. Among other relief, Commerzbank AG agreed to a penalty of \$171 million in lieu of fines and forfeiture. PX-26.

70. On December 11, 2012, the Office entered into a deferred prosecution agreement with HSBC Holdings plc after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-27. Among other relief, HSBC Holdings plc agreed to a penalty of \$375 million in lieu of fines and forfeiture. PX-27.

71. On December 7, 2012, the Office entered into a deferred prosecution agreement with Standard Chartered Bank after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-28. Among other relief, Standard Chartered Bank agreed to a penalty of \$227 million in lieu of fines and forfeiture. PX-28.

72. On June 8, 2012, the Office entered into a deferred prosecution agreement with ING Bank, N.V. after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-29. Among other relief, ING Bank, N.V. agreed to a penalty of \$619 million in lieu of fines and forfeiture. PX-29.

73. On May 16, 2010, the Office entered into a deferred prosecution agreement with Barclays Bank PLC after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-30. Among other relief, Barclays Bank PLC agreed to a penalty of \$298 million in lieu of fines and forfeiture. PX-30.

74. On December 16, 2009, the Office entered into a deferred prosecution agreement with Credit Suisse AG after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the International Emergency Economic Powers Act. PX-31. Among other relief, Credit Suisse AG agreed to a penalty of \$536 million in lieu of fines and forfeiture. PX-31.

75. On January 9, 2009, the Office entered into a deferred prosecution agreement with Lloyds TSB Bank plc after the Office determined that it could institute a criminal prosecution pursuant to Penal Law § 175.10 based on the intent to commit or conceal violations of the

International Emergency Economic Powers Act. PX-32. Among other relief, Lloyds TSB Bank plc agreed to a penalty of \$350 million in lieu of fines and forfeiture. PX-32.

IV. Additional Exhibits.

76. Attached as Exhibit PX-33 is a true and correct copy of the Donald J. Trump for President, Inc. FEC Form 99 dated January 20, 2017, *available at* <https://docquery.fec.gov/pdf/569/201701209041436569/201701209041436569.pdf>.

77. Attached as Exhibit PX-34 is a true and accurate copy of the Judgment of Conviction, *United States v. Cohen*, No. 18-cr-602 (S.D.N.Y. Dec. 12, 2018) (ECF No. 29).

78. Attached as Exhibit PX-35 is a true and correct copy of a document titled Factual & Legal Analysis, *In re A360 Media, LLC f/k/a American Media, Inc., & David J. Pecker*, Federal Election Comm'n Matter Under Review 7324, 7332, & 7366 (Apr. 13, 2021), https://www.fec.gov/files/legal/murs/7324/7324_22.pdf.

79. Attached as Exhibit PX-36 is a true and correct copy of the Letter from Robert Khuzami, Acting United States Attorney for the Southern District of New York, to American Media, Inc. (Sept. 20, 2018), *available at* <https://www.justice.gov/usao-sdny/press-release/file/1119501/download>.

80. Documents that the People obtained through a trial subpoena to the New York State Police and produced to defendant on July 27, 2023 record defendant's travel to and from New York during his presidency. *See, e.g.,* United States Secret Service, *Frequently Asked Questions*, <https://www.secretservice.gov/about/faq/general> ("When the president travels, an advance team of Secret Service agents works with the host city, state and local law enforcement, as well as public safety officials, to jointly implement the necessary security measures."). The People's review of those records shows that defendant was present in New York on approximately 28 days between February 14, 2017 and January 20, 2021. Should the Court wish to review the approximately 1100

pages of New York State Police documents that the People previously produced to defendant, the People will file them as an additional exhibit with the Court.

81. Attached as Exhibit PX-37 is a true and accurate copy of the hearing transcript dated August 12, 2022, in *People v. The Trump Corporation*, Ind. No. 1473/2021 (Sup. Ct. N.Y. Cnty.).

82. Attached as Exhibit PX-38 is a true and accurate copy of a public compilation of defendant's calendar from official sources during his presidency published at <https://factba.se/trump/calendar>, annotated to indicate days on which defendant's calendar indicates that he was outside of New York for the entire day.

83. Attached as Exhibit PX-39 are true and accurate copies of public statements defendant made on social media on March 31, April 2, April 5, April 6, June 14, August 3, and September 2, 2023.

84. Attached as Exhibit PX-40 is a true and accurate copy of the Memorandum & Order Granting Unsealing Requests, *United States v. Cohen*, No. 18 Cr. 602 (S.D.N.Y. July 17, 2019) (ECF No. 47).

85. Attached as Exhibit PX-41 is a true and accurate copy of the Order on Motion to Quash, Preclude, & Recuse, *In re 2 May 2022 Special Purpose Grand Jury*, No. 2022 EX-000024 (Super. Ct. of Fulton Cnty., Ga., July 31, 2023).

86. Attached as Exhibit PX-42 is a true and correct copy of the Conciliation Agreement, *In re American Media, Inc.*, Federal Election Comm'n Matter Under Review 7324, 7332, & 7366 (May 18, 2021), https://www.fec.gov/files/legal/murs/7324/7324_26.pdf.

87. Attached as Exhibit PX-43 is a true and accurate copy of the Order on Motion for Indicative Ruling, *Trump v. Clinton*, No. 22-14102-CV (S.D. Fla. Sept. 15, 2023) (ECF No. 343).

88. Attached as Exhibit PX-44 is a true and accurate copy of the Letter from Leslie B. Dubeck, General Counsel, New York County District Attorney's Office, to Christa D'Alimonte, Executive Vice President & General Counsel, Paramount Global, et al. (Jan. 18, 2023)

WHEREFORE, for the reasons set forth in the accompanying Memorandum of Law, the People respectfully request that the Court deny defendant's omnibus motions.

Dated: November 9, 2023
New York, New York

Respectfully submitted,



Christopher Conroy
Assistant District Attorney
Of Counsel

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

THE PEOPLE OF THE STATE OF NEW YORK

-against-

DONALD J. TRUMP,

Defendant.

**AFFIRMATION IN SUPPORT OF PEOPLE'S OPPOSITION TO
DEFENDANT'S OMNIBUS MOTIONS**

Indictment No. 71543-23

**Alvin L. Bragg, Jr.
District Attorney
New York County
One Hogan Place
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(212) 335-9000**

**Christopher Conroy
Assistant District Attorney
Of Counsel**