STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
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NEW YORK, NY 10005

April 9, 2024

Hon. Arthur Engoron
Supreme Court, New York County
60 Centre Street
New York, NY 10007

RE: *People v. Trump*, et al., No. 452564/2022

Dear Justice Engoron:

On behalf of the Office of the Attorney General ("OAG"), we write to very briefly respond to the letter submitted last night by Defendants. Spanning more than ten single-spaced pages, Defendants' argument boils down to the proposition that the Court is powerless to determine if a fraud was committed upon it during the course of two separate proceedings because discovery is now closed. In essence, Defendants contend that once a note of issue is filed it is improper to examine the course of discovery; even when a named Defendant admits to having committed perjury during the discovery process and subsequent trial.

That is manifestly not the case. The Court has inherent authority over any actions that would undermine the integrity of its proceedings. "The judiciary, and the Chief Judge at its head, has the 'inherent power to address actions which are meant to undermine the truth seeking function of the judicial system and place in question the integrity of the courts and our system of justice.'" *Soares v. State*, 68 Misc. 3d 249, 282 (Sup. Ct. Albany Cty. 2020), *quoting CDR Creances S.A.S. v. Cohen*, 23 N.Y.3d 307, 318 (2014), *also citing Moxham v. Hannigan*, 89 A.D.2d 300, 302, (4th Dep't 1982) ("it cannot be disputed that a Judge [including the Chief Judge] has the overriding duty to preserve the integrity and honor of the judicial system").

That inherent authority extends beyond the completion of discovery and is broader than merely ensuring compliance with the ethical canons. The Court has broad authority over the actions of counsel in the conduct of matters before it. As the First Department has noted:

> The principle that attorneys are subject in the first instance to the power and control of the courts is also firmly embedded in New York jurisprudence, as an inherent power recognized by our Constitution as well as a statutory power reflected in the regulations by which attorneys are disciplined. The language in Judiciary Law § 90(2) stating, "The supreme court shall have the power and control over attorneys and counselors-at-law", broadly establishes judicial governance over the conduct of attorneys. Notably, this judicial role was stated in like terms as far back as the New York State Constitution of 1777 (*see, People ex rel. Karlin v. Culkin*, 248 N.Y. 465, 162 N.E. 487 [1928]).

> Moreover, . . . there is explicit authority in this Court's Rules to support a determination that we retain the inherent authority to discipline attorneys for misconduct independent of any violations of New York's Code of Professional Responsibility ("NY Code"), which focuses exclusively on prohibitions applicable to a "lawyer." Section 603.1(c) of the First Department Rules (22 NYCRR 603.1[c]) provides in part:
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>> Neither the conduct of proceedings nor the imposition of discipline pursuant to this Part shall preclude the imposition of any further or additional sanctions prescribed or authorized by law, and nothing herein contained shall be construed to deny to any other court or agency such powers as are necessary for that court or agency to maintain control over proceedings conducted before it.

In re Wong, 275 A.D.2d 1, 5–6 (1st Dep't 2000). That authority continues not just after the close of discovery, but even after the close of the case. *See, e.g., 13 E. 124 LLC v. J&M Realty Servs. Corp.,* 222 A.D.3d 446 (1st Dep't 2023) ("Voluntary discontinuance did not divest the court of jurisdiction to impose sanctions for pre-discontinuance conduct.").

Mr. Weisselberg has admitted that he perjured himself during discovery and the trial in this action.[1] The Court is well within its authority to determine if Defendants and their counsel facilitated that perjury by withholding of incriminating documents. The Monitor has already been tasked with assessing Defendants' internal controls, compliance functions and record-keeping. The potential failure to properly produce documents in a legal proceeding relevant to the valuation of Mr. Trump's triplex plainly falls within the ambit of her authority, and certainly within the power of this Court to safeguard the integrity of its own proceedings.[2] And even if Defendants' myriad complaints had merit as to the Court's ability to modify the Monitor's duties or advance an inquiry after trial, the investigative matter remains open and the Court has the authority to appoint a special referee to conduct the inquiry. *See* *In re Opioids Litig.*, No. 400000/2017, NYSCEF No. 9247 at 5 (Sup. Ct. Suffolk Cty. May 25, 2022).

Respectfully submitted,

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Division of Economic Justice

[1] Of course, Defendants fail to even acknowledge this basic fact. Instead, counsel for Defendants, including counsel for Mr. Weisselberg, argue they "have no 'knowledge' that Mr. Weisselberg made false statements during the trial; to the contrary, many believe that Mr. Weisselberg only made such admissions because he was being threatened with life in prison." NYSCEF No. 1711 at 3 n.2. It is clear that Defendants and their counsel are completely incapable of independently disclosing any impropriety and outside certification is the only means to get to the truth.

[2] It also goes without saying that modifying the Monitorship Order would not require a modification of the Judgment as Defendants contend.