

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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In the Matter of the Application of : Index No. 4134/14

DONALD J. TRUMP, individually and on behalf of :
THE TRUMP ORGANIZATION, : **AFFIRMATION IN FURTHER**
Petitioner, : **SUPPORT OF PETITIONER'S**
 : **ARTICLE 78 PROCEEDING**
For a Judgment Under Article 78 of the CPLR, : **AND IN OPPOSITION TO**
 : **RESPONDENT'S MOTION**
 : **TO DISMISS**

NEW YORK STATE JOINT COMMISSION ON :
PUBLIC ETHICS, :
Respondent. :
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ALAN G. GARTEN, an attorney licensed to practice before the courts of this State, hereby affirms the following under penalty of perjury:

1. I am Executive Vice President and General Counsel for petitioner Donald J. Trump (“**Mr. Trump**”), individually and on behalf of The Trump Organization (together the “**Trump Parties**”). As such, I am fully familiar with the facts and circumstances set forth below.

2. I respectfully submits this Affirmation in further support of this proceeding brought pursuant to New York Civil Practice Law and Rules Article 78 (this “**Article 78 Proceeding**”) and in opposition to the motion by the New York State Joint Commission on Public Ethics to dismiss the Trump Parties’ petition (the “**Petition**”).

3. The facts in this case are undisputed. On December 3, 2013, the Trump Parties, in accordance with Executive Law § 94(9)(g), filed an ethics complaint (the “**Ethics Complaint**”) with JCOPE requesting that it commence an investigation into the misconduct of New York State Attorney General Eric T. Schneiderman. A copy of the Ethics Complaint is

attached to the Petition as Exhibit A. Among other unlawful conduct, the Trump Parties alleged in the Ethics Complaint that Mr. Schneiderman had violated the Public Officers Law by soliciting campaign contributions and other fundraising endorsements from the Trump Parties and their executives during an active two year investigation by the Office of the Attorney General (the “OAG”) into Trump Entrepreneurial Initiative LLC f/k/a Trump University LLC (“TEI”), an affiliate of the Trump Parties.¹

4. In support of those claims, the Ethics Complaint chronicled, in painstaking detail, supported by several sworn affidavits, countless instances of Mr. Schneiderman and leaders of his campaign fundraising team actively soliciting the Trump Parties, their executives and family members for:

- financial support in the form of contributions to Mr. Schneiderman’s reelection campaign, as well as contributions to other causes and political candidates Mr. Schneiderman either supports or is affiliated with;
- political endorsements, including prevailing upon members of the Trump family, to host a meet-and-greet breakfast to introduce Mr. Schneiderman to their personal friends, colleagues and other young, successful and wealthy business people, whom Mr. Schneiderman deemed the “the next generation of influential New Yorkers”; and
- the aid of their influence and celebrity status to secure other favors and preferential treatment in furtherance of Mr. Schneiderman’s political aspirations.

5. While enthusiastically soliciting campaign contributions and other support and special favors, the Ethic Complaint also alleged that Mr. Schneiderman, on his own

¹ The Ethics Complaint also alleged that the Attorney General accepted campaign contributions from a law firm representing former students who had brought suit against TEI.

initiative, repeatedly approached the Trump Parties at different fundraising and social events to assure them, unsolicited, that the investigation into TEI was not something they needed to worry about and that it would eventually go away on its own.

6. Pursuant to Executive Law §94(13)(a), JCOPE was required to vote on whether to commence an investigation into the Attorney General's misconduct within 45 calendar days of receiving the Ethics Complaint. Indeed, the language of the Exec. Law could not be any clearer: "[t]he commission shall, within forty-five calendar days after a complaint ... is received ... vote on whether to commence a full investigation of the matter." The Commission received the Ethics Complaint on December 3, 2013. As such, the Commission was required to vote on whether or not to pursue the Ethics Complaint no later than January 17, 2014. Upon information and belief, that deadline came and went without the Commission voting.

7. In response, on or about August 12, 2014, the Trump Parties filed this Article 78 Proceeding seeking a judgment directing the Commission to (i) act in accordance with Executive Law § 94, (ii) vote on whether to commence an investigation into the Attorney General's alleged misconduct and (iii) formally notify the Trump Parties of its decision. At the time the Trump Parties filed this Article 78 Proceeding, more than 250 days had elapsed since the filing of the Ethics Complaint. Upon information and belief, as of the filing of this Article 78 Proceeding, the Commission had still not voted and no vote is believed to have taken place since.

8. For all of these reasons, the Trump Parties respectfully request a judgment compelling JCOPE to (i) act in accordance with New York State Executive Law § 94, (ii) vote on whether to commence an investigation into the alleged misconduct by the Attorney General as described in the ethics complaint, and (iii) formally notify the Trump Parties of its decision.

Dated: New York, New York
November 21, 2014



ALAN G. GARTEN