

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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In the Matter of the Application of :

DONALD J. TRUMP, individually and on behalf of :
THE TRUMP ORGANIZATION, :

Petitioners, :

For a Judgment Under Article 78 of the CPLR, :

v. :

NEW YORK STATE JOINT COMMISSION ON :
PUBLIC ETHICS, :

Respondent. :

PETITION

Index No.: 4134-14

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petition of Donald J. Trump ("Mr. Trump"), individually and on behalf of The Trump Organization (together the "Trump Parties"), respectfully alleges:

THE PARTIES

1. Petitioner Donald J. Trump resides at 725 Fifth Avenue, New York, New York 10022.
2. Petitioner The Trump Organization (aka Trump Organization LLC) is a limited liability company duly organized under the laws of the State of New York, with its principal office at 725 Fifth Avenue, New York, New York 10022.
3. The New York State Joint Commission on Public Ethics (the "Commission") is a government agency created by the New York State Legislature, with its principal office at 540 Broadway, Albany, New York 12207.

THE COMMISSION

4. The New York State Joint Commission on Public Ethics was established in 2011¹ for the purpose of restoring and maintaining public faith in government and its elected officials. Established as part of the Public Integrity Reform Act of 2011, the Commission has oversight over both the Executive and Legislative Branches and is charged with investigating possible violations of Public Officers Law Section 74 on the part of the four statewide elected officials (*i.e.*, Governor, Lieutenant Governor, Comptroller and Attorney General) as well as candidates for statewide elected office. *See* Exec. Law §94(13)(a).

5. Public Officers Law Section 74 prohibits a state officer or statewide elected official from possessing interests or engaging in activities that are in conflict with the proper discharge of his or her duties in the public interest. *See* Pub. Off. Law §74(2). Section 74 dictates “standards of conduct which address actual as well as apparent conflicts of interest” on the part of state officers and statewide elected officials. *See* N.Y. Ethics Comm’n Adv. Op. 98-12 (Oct. 20, 1998), at p. 1. Among other prohibited conduct, Section 74 provides:

No officer or employee of a state agency...should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others....

Id. at §74(3)(d).

An officer or employee of a state agency...should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the

¹ Pursuant to the Public Employee Ethics Reform Act of 2007, the New York State Ethics Commission merged with the New York Temporary State Commission on Lobbying to form a new entity, the Joint Commission on Public Integrity. Under the Public Integrity Reform Act of 2011, the Joint Commission on Public Integrity was replaced by the Joint Commission on Public Ethics. The Public Integrity Reform Act of 2011 explicitly provides that the advisory opinions issued by the New York State Ethics Commission and the Joint Commission on Public Integrity are not revoked or rescinded. *See* Exec. Law §94(1).

performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

Id. at §74(3)(f).

An officer or employee of a state agency...should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

Id. at §74(3)(h).

6. According to an official Advisory Opinion, “these provisions address not only actual conflicts of interests, but also conduct that gives the impression that a conflict exists. The law is intended to enhance the public’s trust and confidence in the government through the prevention of corruption, favoritism, undue influence and abuse of official position.” *See Ad. Op. 98-12, at p. 2.*

7. Upon receipt of a sworn complaint, “the commission shall, within forty-five calendar days . . . vote on whether to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude that a violation of law has occurred.” *See Exec. Law §94(13)(a).* In discharging its mandate, the Commission is granted broad authority to subpoena witnesses and compel their attendance, administer oaths or affirmations and demand the production of books and records relevant or material to its investigation. *See Exec. Law. §94(17)(c).*

8. Upon a finding that a state official has knowingly and intentionally violated Section 74, in addition to any other penalty provided by law, the Commission is authorized to fine the offending officer, or suspend or remove from him from public office. *See Pub. Off. Law §74(4).* Moreover, where the Commission determines that a state officer has used or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others in

violation of Section 74(3)(d), the Commission is authorized to assess certain civil penalties. *Id.* at §74(4).

THE TRUMP PARTIES' COMPLAINT

9. On December 3, 2013, the Trump Parties, in accordance with Executive Law § 94(9)(g), filed a complaint (the "Complaint") with the Commission requesting that it commence an investigation into the misconduct of New York State Attorney General Eric T. Schneiderman. A copy of the Complaint, with proof of delivery, is attached as Exhibit A.

10. Among other unlawful conduct, the Trump Parties alleged in the 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 the entirety of 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.

11. In support of those claims, the Complaint chronicled, in pain staking 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.

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

THE COMMISSION'S FAILURE TO ACT

13. Pursuant to Exec. Law §94(13)(a), the Commission was required to vote on whether to commence an investigation based on the Complaint within 45 calendar days of receiving the Complaint.

14. Here, the Commission received the Complaint from the Trump Parties on December 3, 2013. As such, the Commission was required to vote on whether or not to pursue the Complaint no later than January 17, 2014.

15. More than 240 days have now elapsed since the Trump Parties filed the Complaint with the Commission.

16. Notwithstanding the foregoing, upon information and belief, as of the date hereof, the Commission has never even voted on the Complaint. Indeed, as of the date hereof, the Commission has never even confirmed in writing to the Trump Parties that it received the Complaint, though it is undisputed that the Commission did.

17. The failure and/or refusal of the Commission to act on the Complaint is contrary to the stated purpose of the Commission, namely, enhancing the public's trust and confidence in government and its elected officials through the prevention of corruption, favoritism, undue influence and abuse of official position.

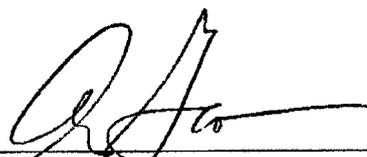
18. For all the foregoing reasons, the Trump Parties respectfully request an order

from this Court directing the Commission to act in accordance with Exec. Law §94(13)(a) and formally notify the Trump Parties of its decision.

19. No previous application for the relief herein requested has been made.

WHEREFORE, the Trump Parties respectfully request that a judgment be entered pursuant to New York Civil Practice Law and Rules Article 78 (a) directing the Commission to (i) act in accordance with New York State Executive Law § 94, (ii) vote on whether to commence an investigation into alleged misconduct by New York State Attorney General Eric T. Schneiderman, as described in the Complaint, (iii) formally notify the Trump Parties of its decision, and (b) for such other and further relief as may be just, proper and equitable.

Dated: New York, New York
August 7, 2014

By: 
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