



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

BARBARA D. UNDERWOOD
SOLICITOR GENERAL
DIVISION OF APPEALS & OPINIONS

October 6, 2023

Honorable Susanna Molina Rojas
Clerk of the Court
Supreme Court of New York
Appellate Division, First Department
27 Madison Avenue
New York, NY 10010

Re: *People v. Trump*, No. 2023-04925

Dear Ms. Rojas:

I write on behalf of plaintiff-respondent People of the State of New York, Letitia James, Attorney General of the State of New York (OAG), in opposition to defendants-appellants' emergency application for an interim stay of both (i) a highly public, ongoing trial in this Executive Law § 63(12) enforcement action that began this past Monday, October 2, 2023, and (ii) injunctive relief issued in a September 26, 2023 Order of Supreme Court, New York County (Engoron, J.), while this Court adjudicates defendants' underlying motion for a full stay pending appeal from that order. Among other things, the September 26 Order denied defendants' motion for summary judgment on OAG's § 63(12) fraud and illegality claims, granted in part OAG's partial motion for summary judgment on its fraud claim, and set forth the remaining issues (the illegality claims and remedial issues) that are the subject of the trial. Ex. A, Sept. 26 Order.¹ OAG submits this response solely to defendants' emergency application for an interim stay and is ready to present oral argument on that application for interim relief. OAG plans to file a separate response to defendants' underlying motion for a full stay pending appeal, addressing that distinct request for relief, under a schedule set by the Court.

¹ Lettered exhibits refer to exhibits attached to Clifford Robert's affirmation in support of defendants' motion. Numbered exhibits refer to exhibits to this letter.

Significantly, this Court denied defendants' prior motion for a stay of trial just *eight days ago*, a motion they made before the start of trial in a separate C.P.L.R. article 78 proceeding filed in this Court. *See Ex. J, Order, Trump v. Engoron*, No. 2023-04580 (1st Dep't Sept. 28, 2023). But defendants then stipulated to discontinue their article 78 proceeding yesterday and now seek to use this interlocutory appeal to obtain a second bite at disrupting the trial—despite the Court having already denied that relief.

A stay is a drastic remedy in all cases, but defendants cannot come close to demonstrating that the equities or the merits favor the truly extraordinary relief of upending an ongoing trial midstream, particularly when this trial requires extensive court planning and resources for security; special arrangements to provide access to the public and press; and extensive preparation by not just counsel but also witnesses who have already arranged their schedules to be available to testify. *See Da Silva v. Musso*, 76 N.Y.2d 436, 443 n.4 (1990); *Pirraglia v. Jofsen, Inc.*, 148 A.D.3d 648, 649 (1st Dep't 2017). There is also no need for defendants to burden the Court with a request for an interim stay of the injunctive relief contained in the September 26 Order, when OAG has informed defendants of its willingness to discuss staying enforcement of portions of that relief pending trial and entry of final judgment, provided that the trial continues to move forward. Finally, as OAG is prepared to discuss at oral argument, defendants are unlikely to prevail on the merits of their appeal.

A. This Court Should Not Upend a Highly Public, Ongoing Trial to Which Supreme Court, Witnesses, and Parties Have Already Committed Extensive Time And Resources.

In their current application for an interim stay, defendants seek to sow chaos by disrupting an ongoing trial that has now been going for a week. Yet defendants fail to point to *any* purported irreparable harm from proceeding with a trial that has already begun (*see* Memo. of Law in Supp. of a Stay Pending Appeal (Memo.) at 10). Rather, all of their purported harms stem from the injunctive relief issued in the September 26 Order (*see* Memo. at 6-11), which OAG has already offered to discuss and which provide no basis for upending trial. An interim stay of trial pending the Court's adjudication of defendants' underlying stay motion would severely undermine the fair and orderly administration of justice, both in this action and in other actions against defendant Donald J. Trump that are pending in other federal and state courts within and without the State. Multiple equitable factors each weigh decisively against upending the ongoing trial.

First, this Court already rejected defendants' prior request to stay trial eight days ago. Defendants are now rehashing the same arguments that this Court already rejected. But defendants are not entitled to a second bite at the apple, and this Court's prior decision denying a stay of trial should end the matter.

Second, defendants delay also weighs dispositively against the extraordinary relief of upending a trial that has *already started*. As it had represented it would do, Supreme Court issued its summary-judgment ruling on September 26, before the trial was scheduled to begin on October 2—thereby making sure that the parties understood the scope of issues to be tried. But defendants failed to file their notice of appeal and seek relief before trial began. Indeed, they waited until trial began to even file a notice of appeal. And they waited until nearly a week of trial had elapsed—including the completion of opening statements and testimony by multiple witnesses—before asking this Court to stay the trial pending this interlocutory appeal. And tellingly, they waited until after Mr. Trump decided to stop attending the trial. Defendants have thus sought to interrupt trial midcourse in a highly disruptive manner, and this Court should deny an interim stay on that basis alone.

Third, an interim stay of an ongoing trial would derail the tremendous work and resources that Supreme Court, the Office of Court Administration, the parties, and dozens of witnesses have already committed to the trial. Arranging for this trial to happen as scheduled has required significant public resources, such as special security arrangements outside and inside the courthouse, many additional security and other court personnel to conduct those security arrangements, and special arrangements to ensure access for the press and public (such as use of the ceremonial courtroom, with a closed-circuit video feed to at least one additional overflow room). These arrangements are in place and staying trial now would be highly disruptive.

Witnesses have also arranged their schedules and preparations in reliance on attending trial in the upcoming days and weeks. Indeed, one witness is testifying this morning and may need to continue that testimony. Another witness will soon be out of the country for three months and needs to testify before then. And other witnesses have already prepared to testify next week. Abruptly halting trial now and forcing witnesses to try to rearrange their schedules would impose substantial and unnecessary hardships on them. Moreover, OAG has devoted enormous time and resources to prepare for trial. Disrupting trial midcourse would waste public resources and prejudice OAG's ability to marshal witnesses to fully present its case.

Fourth, even a short disruption of this ongoing trial would likely create a cascade of delays in not only this case but also other litigation involving Mr. Trump. Mr. Trump is a defendant in several other matters heading to trial between January and May 2024, including:

- a January 15, 2024 civil trial in *Carroll v. Trump*, No. 20-cv-7311 (S.D.N.Y. June 15, 2023), ECF No. 170;
- a March 4, 2024 criminal trial in *United States v. Trump*, No. 23-cr-257 (D.D.C. Aug. 28, 2023), ECF No. 39;

- a March 25, 2024 criminal trial in *People v. Trump*, Ind. No. 71543-23 (Sup. Ct. N.Y. County); and
- a May 20, 2024 criminal trial in *United States v. Trump*, No. 23-cr-80101 (M.D. Fla. July 21, 2023), ECF No. 83.

If the trial here is delayed at all, there is a significant risk that defendants will request further delays of trial based on the deadlines in these other cases. Indeed, defendants already appear to be attempting to play one court against the other. They previously sought to delay the trial in this proceeding in a manner that would directly conflict with the trial schedule in a different action against Mr. Trump that is pending in federal court. *See* Ex. 1, Letter from Roberta A. Kaplan to Hon. Arthur F. Engoron (Mar. 8, 2023). And Mr. Trump sought and then obtained an order rescheduling his deposition in yet another action based on his need to attend trial in this proceeding. *See Trump v. Cohen*, No. 23-cv-21377 (S.D. Fla. Sept. 29, 2023), ECF No. 75.

Fifth, defendants will suffer no irreparable harm from continuing with a trial that they have already prepared for and that has already begun. It is settled that “[m]ere litigation expense, even substantial and unrecoupable cost, does not constitute irreparable injury.” *Founders Ins. Co. Ltd. v. Everest Natl. Ins. Co.*, 41 A.D.3d 350, 351 (1st Dep’t 2007) (quoting *Federal Trade Comm’n v. Standard Oil Co.*, 449 U.S. 232, 244 (1980)). And to the extent defendants complain that Supreme Court’s September 26 Order was issued shortly before trial started (*see* Memo. at 10), that resulted from a summary-judgment schedule that defendants themselves requested and that defendants represented “will not result in a delay of the trial.” Ex. 2, Letter from Clifford S. Robert to Hon. Arthur F. Engoron (June 2, 2023). Indeed, the summary-judgment motions were previously scheduled to be submitted a month before and argued over three weeks before the October 2 start date, but defendants requested to delay that schedule over OAG’s objection. *See id.*

Finally, any interim stay of the ongoing trial would be inequitable when defendants’ arguments on appeal do not obviate the need for trial. A stay of proceedings is “appropriate only where the decision in one [action] will determine all of the questions in the other.” *Eisner v. Goldberger*, 28 A.D.3d 354, 354 (1st Dep’t 2006) (quotation marks omitted). For instance, defendants focus on various statute-of-limitations issues (Memo. at 21-22, 24-34), such as when OAG’s claims accrued and which defendants are bound by a corporate tolling agreement. But even under defendants’ (incorrect) arguments, various entity defendants are indisputably bound by the tolling agreement and at least some of OAG’s claims against them are indisputably timely. *See* Sept. 26 Order at 14; *see also* Memo. at 32-34. A trial is thus needed no matter the outcome of this Court’s review of those statute-of-limitations issues, and there are no equitable reasons for halting the trial. Rather, disrupting an ongoing trial would “only promote delay, not efficiency,” and is altogether unwarranted. *Mt. McKinley Ins. Co. v. Corning, Inc.*, 33 A.D.3d 51, 59 (1st Dep’t 2006); *see Otto v. Otto*,

110 A.D.3d 620, 621 (1st Dep't 2013) (finding “no basis for a stay of the action” where a decision “will not determine all of the questions” in the action).

B. This Court Should Not Stay the Injunctive Relief Granted in Supreme Court’s September 26 Order.

This Court should also deny defendants’ application for an interim stay of the injunctive relief issued in Supreme Court’s September 26 Order. To be clear, any stay of the September 26 Order would only stay “proceedings to enforce the judgment or order appeal from pending the appeal.” C.P.L.R. 5519(c). A stay would not “extend to matters that are the ‘sequelae’ of granting or denying relief” on summary judgment, such as the parties’ obligation to proceed with trial. *See Tax Equity Now NY LLC v. City of New York*, 173 A.D.3d 464, 465 (1st Dep’t 2019).

Here, the September 26 Order’s injunctive relief principally directs the parties to begin the process of dissolving various Trump Organization entities. An interim stay of that injunctive relief is unwarranted because, as OAG has communicated to defendants, OAG has been and continues to be willing to discuss with defendants a stay of enforcement of portions of the injunctive relief pending completion of trial and entry of final judgment, so long as the trial moves forward as scheduled and the already existing independent monitor continues to serve. *See Ex. 3, Email Chain* (Oct. 5, 2023). Defendants have not yet agreed to engage in those discussions, however. There should be no resort to the emergency powers of this Court when the parties have not even had an opportunity to determine if they can reach an agreement. And an agreement that stays certain of the injunctive relief while proceeding to final judgment would permit the fair and orderly resolution of this action by both avoiding the chaos of upending an ongoing trial and permitting this Court to review all aspects of this significant matter in a single appellate proceeding on a full record following final judgment. *See C.P.L.R. 5501(a)(1)*.

Even without an agreement on this front, there is no reason for an interim stay of the injunctive relief, especially because OAG has been willing to accommodate certain of defendants’ concerns with the injunctive relief. The September 26 Order, after finding liability on OAG’s § 63(12) fraud claim, entered injunctive relief canceling the General Business Law § 130 certificates of certain Trump Organization entities. Supreme Court has subsequently supplemented the order to permit defendants to provide additional information on which entities would be affected. *See Sept. 26 Order; Ex. Q, Oct. 5 Order at 2*. The September 26 Order further starts a dissolution process that involves first recommending and appointing an independent receiver, and the deadline for recommending a receiver has been extended to October 26. *See Sept. 26 Order at 35; Oct. 4 Order at 2*. But these steps are preparatory and do not impose any immediate financial consequences. Indeed, no Trump Organization entities have yet been placed into receivership. Rather, Supreme Court will need to consider the parties’ recommendations for an independent receiver and select an independent receiver, all before it determines the scope of the receivership. As in other actions that

resulted in receivers, that further relief involves a process during which defendants will have opportunities to raise objections in the ordinary course of litigation leading up to a final order of receivership that defendants may then challenge on appeal. *E.g.*, Ex. 4, Final Order Appointing Receiver, *People v. Allen*, No. 452378/2019 (Sup. Ct. N.Y. County June 2, 2022).

C. Defendants Are Also Unlikely to Succeed on the Merits of Their Interlocutory Appeal, Which Will Be Overtaken by a Final Judgment in Any Event.

Last, defendants are not likely to succeed on their appeal of the September 26 Order. OAG received defendants' papers only this morning, and will be prepared to discuss the underlying lack of merit to their appeal during any oral argument on the interim stay request and in their opposition to defendants' motion for a stay. But to provide a brief overview, Supreme Court properly found that defendants repeatedly and misleadingly inflated the value of numerous assets listed in Mr. Trump's statements of financial condition, and used those misleading statements in the course of business in New York. As Supreme Court observed, defendants' misleading strategies included, but were not limited to, valuing properties as if "rent regulated apartments are worth the same as unregulated apartments; restricted land is worth the same as unrestricted land; restrictions can evaporate into thin air;" and square footage is subjective. Sept. 26 Order at 10; *see id.* at 19-32; Ex. 5, OAG's Summ. J. Presentation at 10-49 (Sept. 22, 2023). These misstatements falsely and misleadingly inflated Mr. Trump's net worth by "between \$812 million and \$2.2 billion" each year. Sept. 26 Order at 19. Defendants' arguments on summary judgment largely reiterated arguments that the Court of Appeals and this Court have already rejected. *See id.* at 4-8. And though defendants now focus on timeliness issues (Memo at 21-22, 24-34), defendants' statute-of-limitations and accrual arguments fail for the reasons explained by Supreme Court and by OAG in its opposition to defendants' first motion for a stay of trial in the article 78 proceeding. *See id.* at 14-18; OAG Article 78 Affirm. As Supreme Court and OAG have explained, by its plain terms, Executive Law § 63(12) claims accrue with each instance of repeated or persistent fraudulent or illegal acts in the carrying on, conducting, or transaction of business in New York. Here, a § 63(12) claim accrued anew each time defendants prepared, certified as true, and submitted one of the many different misleading statements to lenders or insurance companies, or made other misleading representations in the course of business.

* * *

In sum, there is no basis for this Court to grant defendants' application for an interim stay of a highly public, ongoing trial, eight days after the Court just denied a stay of trial and one week into that trial. With respect to defendants' application for an interim stay of injunctive relief contained in Supreme Court's September 26 Order, there is no basis to resort to this Court's emergency powers when OAG has offered to discuss potential resolutions that would obviate the need to burden this Court.

Dated: New York, New York
October 6, 2023

LETITIA JAMES
Attorney General
State of New York
Attorney for Respondent

By: 

DENNIS FAN
Senior Assistant Solicitor General

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EXHIBIT 1

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March 8, 2023

VIA NYSCEF

The Honorable Arthur F. Engoron
New York Supreme Court, New York County
60 Centre Street
New York, New York 10007

Re: People of the State of New York v. Donald J. Trump, et al., No. 452564/2022

Dear Justice Engoron:

We write on behalf of the Plaintiffs and the putative classes in *Catherine McKoy, et al. v. The Trump Corporation, et al.*, No. 18 Civ. 9936 (LGS) (SLC) (S.D.N.Y.), which is scheduled to proceed to trial before the Honorable Lorna G. Schofield on January 29, 2024 (ECF Dkt. 507). We wish to respectfully bring to Your Honor's attention a letter that we submitted to Judge Schofield earlier today in connection with defendants' recent filings in this action seeking to vacate Your Honor's fact and expert discovery deadlines, and delay trial until late 2023 or early 2024. *See* NYSCEF 495, 514, 517, 543. The letter to Judge Schofield is attached hereto.

We are available if the Court has any questions or requires further information.

Respectfully submitted,



Roberta A. Kaplan

cc: All parties (*via NYSCEF*)

ATTACHMENT

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March 8, 2023

The Honorable Lorna G. Schofield
United States District Court for the Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: Catherine McKoy, et al. v. The Trump Corporation, et al., 18-cv-09936 (LGS) (SLC)

Dear Judge Schofield,

We write with respect to the Court’s December 13, 2022 Order, ECF 507, which set a “firm” trial date of January 29, 2024 in this action, to bring to the Court’s attention recent filings by Defendants in *People of the State of New York v. Donald J. Trump, et al.*, Index No. 452564/2022 (Sup. Ct. N.Y. Cnty.) (the “NYAG Case”), that not only seek to delay the trial in that case, but also propose a new schedule that (believe it or not) would appear to conflict with the firm trial date set by this Court, a date that was set based on Defendants’ representations and assurances—indeed, at their request.

* * *

As Your Honor will recall, following the announcement by Defendant Donald J. Trump that he intends to run for President in the 2024 election, Plaintiffs sought a late 2023 trial date in this case. ECF 499 at 1; ECF 500. We anticipated that, should the case schedule run into 2024, “Mr. Trump will begin to argue that his campaign obligations must take precedence over his participation in this case, including at trial.” *Id.* at 2. This was not mere speculation: Donald Trump has a history of leveraging his presidential-campaign activities to delay and avoid judicial proceedings, as he did, for example, in *Low v. Trump University, LLC*, No. 10 Civ. 940 (S.D. Cal.)—another consumer fraud class action—where he successfully requested that trial be delayed until after the 2016 election. *See* Conference Tr., *Low*, No. 10 Civ. 940, at 10-19, ECF 481.

Defendants opposed our request on the basis that a late 2023 trial date was “simply not workable” because it would coincide with trial in the NYAG Case, then scheduled to begin on October 2, 2023. ECF 503 at 3. Defendants’ counsel Mr. Robert noted that he would be participating in that trial on behalf of Donald J. Trump, Jr. and Eric Trump (who are both Individual Defendants here), and that he anticipated trial in the NYAG Case would last “longer” than the Attorney General’s estimate of six to eight weeks. *Id.*

The Court directed the parties to state “their availability for trial from October 2023 to June 2024, so that a trial date may be set,” ECF 504 at 2, and Mr. Robert requested that “trial in this matter begin no earlier than February 2024” because Justice Engoron, who is presiding over the NYAG Case “has ordered the trial [in that case] to begin on October 2, 2023,” and, consequently, Mr. Robert and his partner “will be actively engaged in [the NYAG Case] starting on October 2, 2023 until likely December 2023,” ECF 505 at 1. The Court accommodated counsel’s request, and scheduled a “firm” trial date for the end of January 2024. ECF 507 at 1.

Now, however, consistent with the pattern of delay we identified in our filings, Defendants are seeking to postpone trial in the NYAG Case to December 2023 and early 2024. Last week, on March 3, on behalf of the defendants in the NYAG Case—including all of the Individual Defendants in this action—Mr. Robert moved to vacate the case management schedule in the NYAG Case and substitute a new schedule that, he admitted, would “ultimately impact[] the trial date.” Defs.’ Mem. of Law in Supp. of Mot. to Vacate and Modify Prelim. Conference Order, *New York v. Trump*, Index No. 452564/2022, at 9 n.8, NYSCEF 517. The defendants went so far as to propose a schedule in which the trial in the NYAG case would not begin—at the earliest—until mid-December 2023. *Id.* at 20. Based on Mr. Roberts’s prior estimate that trial in that case will take longer than eight weeks, the delay that the Individual Defendants are now seeking in the NYAG Case would almost inevitably risk interfering with the January 29, 2024 trial date the Court has set for this case. And yet in their submission in that case, the Individual Defendants made no mention at all of their obligations here (nor did they alert us to their filing). It is beyond our understanding how the Individual Defendants could make such a proposal in the face of this Court’s prior Order not only accommodating their request, but making clear the resulting January 29, 2024 trial date was “firm.” *See* ECF 507 at 1.

Justice Engoron has ordered the New York Attorney General to respond to Defendants’ scheduling motion by March 15 and has scheduled argument for March 21. *See* Order to Show Cause, *New York v. Trump*, Index No. 452564/2022, at 2, NYSCEF 542.

In order to avoid inconsistency or delay, Plaintiffs are sending a copy of this letter to Justice Engoron as well, and are filing a copy of it on the docket in the NYAG case. We are happy to make ourselves available if this Court or Justice Engoron have any questions or would like to discuss.

Respectfully submitted,



Roberta A. Kaplan

cc: Justice Engoron (*via NYSCEF*)
Counsel of Record (*via ECF*)

EXHIBIT 2

Fan, Dennis

From: Faherty, Colleen
Sent: Friday, June 2, 2023 11:51 AM
To: Hon. Arthur Engoron; Clifford Robert
Cc: Allison R. Greenfield; Wallace, Kevin; Amer, Andrew; Gaber, Sherief; chris@ckise.net; Christopher Kise; ahabba@habbalaw.com; mmadaio@habbalaw.com; jsuarez@continentalpllc.com; lfields@continentalpllc.com; Garth A. Johnston; armenmorian@morianlaw.com; Moskowitz, Bennet J.; Michael Farina; Viktoriya Liberchuk; jhernandez@continentalpllc.com; iferis@continentalpllc.com
Subject: RE: People v. Trump, Index No. 452564/2022
Attachments: 2023.06.02 - Letter.pdf

Justice Engoron,

As directed by the Court, enclosed please find the AG's response concerning defendants' request to extend discovery and seek a conference. We thank the Court for the opportunity to address these issues.

Respectfully submitted,
Colleen K. Faherty

Colleen K. Faherty | Assistant Attorney General
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From: Hon. Arthur Engoron <aengoron@nycourts.gov>
Sent: Thursday, June 1, 2023 5:25 PM
To: Clifford Robert <crobert@robertlaw.com>
Cc: Allison R. Greenfield <argreenf@nycourts.gov>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Gaber, Sherief <Sherief.Gaber@ag.ny.gov>; chris@ckise.net; Christopher Kise <ckise@continentalpllc.com>; ahabba@habbalaw.com; mmadaio@habbalaw.com; jsuarez@continentalpllc.com; lfields@continentalpllc.com; Garth A. Johnston <GAJOHNST@nycourts.gov>; armenmorian@morianlaw.com; Moskowitz, Bennet J. <Bennet.Moskowitz@troutman.com>; Michael Farina <mfarina@robertlaw.com>; Viktoriya Liberchuk <VLiberchuk@robertlaw.com>; jhernandez@continentalpllc.com; iferis@continentalpllc.com
Subject: Re: People v. Trump, Index No. 452564/2022

[EXTERNAL]

Dear Counselors,

As is my wont, I will give plaintiff until noon tomorrow (Friday) to respond before deciding anything.

Also, I would like, by that same time, defendants to suggest a revised pretrial schedule that still allows for the trial to commence on October 2, 2023.

Justice Engoron

Art Engoron
646-872-4833

Sent from my iPhone

On Jun 1, 2023, at 4:53 PM, Clifford Robert <crobert@robertlaw.com> wrote:

Dear Justice Engoron:

Please see the attached correspondence.

Thank you.

Respectfully submitted,

Clifford S. Robert
Robert & Robert PLLC

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<Letter to Judge Engoron with Exhibits A-B.pdf>

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June 1, 2023

VIA EMAIL

Hon. Arthur F. Engoron
New York State Supreme Court
County of New York
60 Centre Street, Room 418
New York, New York 10007

Re: *People of the State of New York, et al. v. Donald J. Trump, et al.*,
Index No. 452564/2022 (Sup. Ct. New York County)

Dear Justice Engoron:

This firm represents Defendants Donald Trump, Jr. and Eric Trump in the above-referenced matter. We write on behalf of all Defendants to respectfully request that the Court grant a two-week extension of time for the parties to identify rebuttal experts (from June 5, 2023 until June 19, 2023) and produce rebuttal expert reports (from June 16, 2023 until June 30, 2023). We also respectfully request that the Court schedule a conference to address the remaining discovery deadlines established under the operative scheduling orders, dated March 24, 2023 (NYSCEF Doc. No. 598) and May 1, 2023 (NYSCEF Doc. No. 628) (collectively the “Scheduling Orders”).

Pursuant to the Scheduling Orders, the parties exchanged their expert reports late last Friday evening, on May 26, 2023. The Defendants served eight expert reports and the Attorney General served five expert reports. The Attorney General’s expert reports opine on complex issues involving banking, accounting, insurance, real estate, golf courses, valuations and damages. These reports contain dozens of calculations and hundreds of pages of analysis. The reports themselves establish the complicated nature of this litigation and the complexity of the transactions at issue.

Under the Scheduling Orders, the parties must identify rebuttal experts by June 5, 2023, prepare and exchange rebuttal reports by June 16, 2023, and conduct 13 (and likely more than 15) expert depositions by July 14, 2023. Under this highly-compressed schedule, the parties must also complete all other disclosure, including trial depositions by July 14, 2023.

The original Preliminary Conference Order (NYSCEF Doc. No. 228) allotted the parties three weeks to submit rebuttal expert reports following the exchange of initial expert reports. During the March 21, 2023 oral argument before Your Honor, Defendants’ counsel explained that three weeks is not sufficient time to adequately review and analyze these expert reports and prepare

LAW OFFICES
ROBERT & ROBERT PLLC

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June 1, 2023
Page 2

rebuttal reports.¹ During oral argument, Defendants’ counsel specifically requested five weeks for all parties to submit rebuttal expert reports so that they could “meaningfully review and respond” to the expert reports (A copy of the March 21, 2023 oral argument transcript is attached as Exhibit A).

Following the March 21, 2023 oral argument, the court issued a revised scheduling order (NYSCEF Doc. No. 598), with which the Attorney General’s office agreed, extending the deadline for parties to submit expert witness reports to May 12, 2023 and rebuttal expert reports to June 16, 2023. Under this revised schedule, the parties had **five** weeks to prepare rebuttal reports.² By letter dated, April 25, 2023 (NYSCEF Doc. No. 623), the Attorney General’s office requested jointly with Defendants’ counsel a one-week extension—until May 19, 2023—to submit expert witness reports. Instead, the Court *sua sponte* granted the parties a two-week extension to submit these initial expert reports. The deadline for rebuttal reports, however, remained unaffected. Accordingly, the parties are now left with *only* three weeks to review, analyze, and respond to these expert reports containing complex calculations and valuations of various properties – which is less than the time provided for in the March 27, 2023 Order (NYSCEF Doc. No. 598).

Unfortunately, given the complexities of this lawsuit and the fact that Defendants’ counsel could not begin to rebut Plaintiff’s expert reports until they were received (the Attorney General served her expert reports after 11:30 p.m. on the Friday night before the Memorial Day Weekend), this timeline is not feasible. Although Defendants’ counsel is now in the process of diligently reviewing, digesting, analyzing, and discussing with Defendants’ experts the contents of the expert reports, the June 16, 2023 deadline for the exchange of rebuttal expert reports is not realistic.³

¹ Under Commercial Division Rule 13, expert disclosure “shall be completed no later than four months after the completion of fact discovery.” Here, the deadline for the completion of document discovery and depositions was May 12, 2023. Thus, under Commercial Division Rule 13, the parties potentially would have until September 2023 to complete expert disclosure.

² Indeed, in other matters involving the Attorney General’s office, the parties have at least five weeks— and often more—between the submission of expert witness reports and the rebuttal expert reports. *See, e.g., People v. Credit Suisse Securities (USA) LLC, et al.*, Index No. 451802/2012 (Sup. Ct., New York County) (scheduling order granted the parties more than six months following the submission of expert reports to submit rebuttal reports).

³ The discretion of the Court to control its calendar and the proceedings is limited by the due process implications of its exercise upon the parties to a litigation. *See Lipson v. Dime Sav. Bank of N.Y., FSB*, 203 A.D.2d 161, 162 (1st Dep’t 1994) (“no matter how pressing the need for expedition of cases, the court may not deprive the parties of the fundamental rights to which they are entitled[.]”); *Kellogg v. All Saints Hous. Dev. Fund Co.*, 146 A.D.3d 615, 616 (1st Dep’t 2017) (“The motion court erred in not granting the motion [to] extend [] time to move for summary judgment where [the litigant] demonstrated that it would otherwise be deprived of a reasonable opportunity to complete discovery”).

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New York State Supreme Court
June 1, 2023
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As such, on Wednesday, May 31, 2023, we advised the Attorney General of our scheduling concerns and requested a call to discuss amending the schedule as it relates to expert discovery. The Attorney General refused to meet and confer with us by phone, stating: “No need for a call. We are a hard no on moving the expert rebuttal date or the close of expert discovery” (A copy of the above referenced email exchange is attached as Exhibit B).

The two-week extension for all parties to identify rebuttal experts and to produce rebuttal expert reports is both reasonable and necessary and will not result in a delay in this litigation. Thus, we respectfully request a conference with the Court at its earliest convenience. While reserving and maintaining all our rights as set forth on the record on March 21, 2023, we believe that we can extend the operative dates and maintain the Court’s current trial date of October 2, 2023. However, because of the Attorney General’s unwillingness to cooperate, we respectfully request the Court’s intervention.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

ROBERT & ROBERT PLLC

Clifford S. Robert

CLIFFORD S. ROBERT

cc: All Counsel of Record



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
28 LIBERTY STREET
NEW YORK, NY 10005

June 2, 2023

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:

The Office of the Attorney General (“OAG”) writes in opposition to Defendants’ letter request seeking to: (i) extend the time to identify rebuttal experts by two weeks; (ii) extend the time to produce rebuttal expert reports by two weeks; and (iii) extend the close of discovery in this action by an indeterminate amount time. OAG opposes an extension of expert discovery because it is unnecessary and would only serve to delay and disrupt this proceeding. And while Defendants have not yet provided the revised pre-trial schedule requested by the Court, OAG opposes any change to the date for the note of issue and the subsequent events that follow-on from that filing.

The proposed extension is unnecessary because the parties have had and will have sufficient time to prepare reports and conduct examinations. Both parties have had months to retain and prepare experts. The “complex issues” identified by Defendants – “involving banking, accounting, insurance, real estate, golf courses, valuations and damages” – are self-evident from the face of the Complaint. Indeed the subjects are so self-evident that Defendants retained their own eight experts to cover those subjects.¹ And the OAG reports are straightforward; they largely quantify the scope of the fraud alleged in the Complaint and they rely extensively on documents that come from Defendants’ own files. OAG for its part is prepared to submit whatever written rebuttal is necessary in response to the eight experts identified by Defendants by the current deadline of June 16, 2023, and take testimony from the eight or possibly ten experts Defendants are anticipating by July 14, 2023.

Extending expert discovery at the expense of other phases of this litigation makes no sense. While expert opinions may be helpful to the Court, this is primarily a documents case that

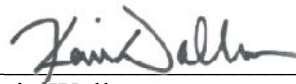
¹ Defendants have disclosed two accounting experts, one banking expert, one insurance expert, three experts on real estate covering topics including valuation and economics (two of whom discuss golf course valuation), and an expert on government contracting. Six of the experts are affiliated with firms that have been doing work for the Trump Organization since before this action was filed in September 2022: the valuation firm Ankura Consulting Group, LLC and the insurance broker Lockton Companies.

turns on whether the Statements of Financial Condition are supported by the underlying records of the Trump Organization. Many of the allegations in the Complaint are beyond dispute. As a result it is more important for the parties, and the Court, to have sufficient time to brief and decide summary judgment so as to resolve or potentially narrow issues for trial. Under the current schedule, oral argument on summary judgment is set for September 8, 2023, less than a month before trial. Extending that period any further would undermine the ability of the parties and the Court to efficiently prepare for trial. As a result, OAG objects to any alteration to the schedule that would move the note of issue date.

It is difficult to credit Defendants' most recent claim that due process requires an extension, or that the time provided is insufficient to meet the needs of the parties. Defendants have made it a routine practice to fritter away time and contend that deadlines are "not feasible" or "not realistic." For example, in March, Defendants sought a delay of (at least) six months in the date of trial, telling the Court that they needed more time to conduct discovery. Mr. Kise told the Court that he had a list of "30 specifically identifiable individuals that we think are highly relevant to be deposed." Mar. 21, 2023 Hearing Transcript, Def. Letter, Ex. A at 36. The Court granted Defendants an additional ten depositions beyond the ten provided for by the rules, for twenty depositions in total. But defendants never used that allocation. Indeed Defendants only took nine depositions in total, not even utilizing the ten they had as of right. Those nine depositions took place over eleven weeks.² The pre-trial schedule set by the Court in November provided more than enough time to conduct nine depositions if Defendants had been diligent in pursuing discovery.³ So too here, three weeks is more than enough time for the parties to prepare rebuttal expert reports.

Defendants have sought to delay virtually every deadline in this proceeding. If expert discovery is delayed, we fully expect that Defendants will next tell us that there is not enough time for summary judgment, or witness lists, or deposition designations and eventually trial. There is no reason expert discovery cannot be completed on the timeline provided for in the current schedule, and so there is no reason to insert delay at this phase of the litigation.

Respectfully submitted,



Kevin Wallace
Senior Enforcement Counsel
Division of Economic Justice

² Notably, despite the list of 30 names Mr. Kise had at the hearing, Defendants did not notice another deposition until April 10, 2023, almost three weeks after the hearing.

³ Defendants have also been dilatory in responding to discovery as well. OAG is still awaiting verifications on Defendants' revised interrogatories which were produced on April 21, 2023. Defendants have assured us they will be forthcoming on June 13, 2023.

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June 2, 2023

VIA EMAIL

Hon. Arthur F. Engoron
New York State Supreme Court
County of New York
60 Centre Street, Room 418
New York, New York 10007

Re: *People of the State of New York, et al. v. Donald J. Trump, et al.*,
Index No. 452564/2022 (Sup. Ct. New York County)

Dear Justice Engoron:

This firm represents Defendants Donald Trump, Jr. and Eric Trump in the above-referenced matter. On behalf of all Defendants, further to our letter to the Court, dated June 1, 2023, and in response to Your Honor's request, we write to provide the Court with the following proposed scheduling order, which we respectfully submit is both reasonable and necessary and will not result in a delay of the trial:

<u>Relevant Event</u>	<u>Current Scheduling Order</u>	<u>Proposed Dates</u>
Rebuttal Expert Identification	June 5	June 19
Rebuttal Expert Reports Due	June 16	June 30
Expert Discovery Completed/ Trial Deps Completed	July 14	July 28
Note of Issue	July 17	July 31
Dispositive Motions Due (MSJ)	July 21	August 4
Opposition To Dispositive Motions Due	August 18	September 1
Reply to Dispositive Motions Due	September 1	September 15
Final Witness Lists, Exhibit List, Deposition Designations, and Proposed Facts Due	August 25	September 8
Pre-Trial Motions and Oral Argument on Dispositive Motions	September 8	September 22
Final Pre-Trial Conference	September 18	September 27
Trial	October 2	October 2

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Additionally, this modified schedule will not result in any prejudice to the Attorney General. The Attorney General has had over three years to investigate, prepare, and submit her expert reports but now wants to only provide the Defendants with three weeks to prepare and submit rebuttal reports. This disparity is not just patently unfair but substantially impedes the Defendants' ability to prepare and present an adequate defense in this action.

For the reasons set forth in our June 1, 2023 letter, and subject to our reservation of rights and remedies, including those set forth on the record on March 21, 2023, we respectfully request that the Court grant Defendants' request for an extension of the current discovery schedule.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

ROBERT & ROBERT PLLC

Clifford S. Robert

CLIFFORD S. ROBERT

cc: All Counsel of Record

EXHIBIT 3

Fan, Dennis

From: Vale, Judith
Sent: Thursday, October 5, 2023 9:30 PM
To: chris kise
Cc: Michael Farina; Fan, Dennis; Wallace, Kevin; Faherty, Colleen; Amer, Andrew; Christopher Kise; Clifford Robert; Michael Madaio; Magy, Daniel
Subject: RE: People v. Trump, et al., Index No. 452564/2022

Now that we have the stipulation on the article 78 mostly ironed out

The SJ order issued injunctive relief – the cancelation of certificates, the parties taking steps to recommend receivers to manage dissolution, and the continuation of the already existing independent monitor. When you say that you are seeking a stay, I presume that you are seeking a stay of enforcement of that injunctive relief. If you agree to not seek to stay the trial, we are willing to discuss staying enforcement of the injunctive relief regarding the cancelation of certificates and the receiver pending the end of trial and issuance of final judgment. I said “portions” before because the already existing monitor should continue so we will not agree to stay enforcement of that injunctive relief.

Perhaps discussing on the phone would be helpful, which I am happy to do this evening.

Thanks,
Judy

From: chris kise <chris@ckise.net>
Sent: Thursday, October 5, 2023 6:13 PM
To: Vale, Judith <Judith.Vale@ag.ny.gov>
Cc: Michael Farina <mfarina@robertlaw.com>; Fan, Dennis <Dennis.Fan@ag.ny.gov>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio <mmadaio@habbalaw.com>
Subject: Re: People v. Trump, et al., Index No. 452564/2022

OK going to send you the draft stipulation.

also, what do you have in mind re staying portions of the injunctive relief?
please let me know.

thanks.

best

Sent from my iPad

On Oct 5, 2023, at 2:58 PM, Vale, Judith <Judith.Vale@ag.ny.gov> wrote:

Hi Chris,

Thank you for clarifying. In my experience, there is nothing irregular about discussing a potential stay request in the trial court. In fact, litigants often first see if they can work something out with each other

and the trial court about staying enforcement of injunctive relief pending an appeal so as to avoid burdening the appellate court with motion practice and, apparently, more emergency interim relief requests. (And as I am sure you know, in federal court, litigants seeking a stay pending appeal are required to raise it to the trial court first.)

In any event, now that you have clarified, we obviously will not agree to disrupt the ongoing trial proceedings. But if you want to discuss staying portions of the injunctive relief ordered in the SJ decision, my offer stands to discuss this evening. Please let me know.

Thank you,
Judy

From: chris kise <chris@ckise.net>
Sent: Thursday, October 5, 2023 2:35 PM
To: Vale, Judith <Judith.Vale@ag.ny.gov>
Cc: Michael Farina <mfarina@robertlaw.com>; Fan, Dennis <Dennis.Fan@ag.ny.gov>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio <mmadaio@habbalaw.com>
Subject: Re: People v. Trump, et al., Index No. 452564/2022

ok sorry for any confusion but our notice was sufficient in any event.

to respond to your question we are seeking both as you detail below. and it is a stay of msj order and trial.

and we just had a discussion in the trial court (irregular in my experience).

thanks

Sent from my iPhone

On Oct 5, 2023, at 2:22 PM, Vale, Judith <Judith.Vale@ag.ny.gov> wrote:

Hi Chris,

They are not the same thing under NY appellate practice. There is a motion for a stay pending appeal – that motion goes to a panel of the Court. Separately, interim relief is if you are *additionally* seeking interim relief pending the adjudication of your motion. The interim relief is separate from the underlying motion for a stay and goes to a single justice. Hope this helps explain the difference, please confirm whether you are seeking BOTH a stay pending appeal and interim relief pending adjudication of your motion for a stay.

Happy to chat tonight – please let me know what time works for you and I will send around a dial-in. To have a productive discussion, it would help if you could clarify the scope of your stay request as we are still unclear on whether you are seeking to stay only enforcement of the injunctive relief in the SJ order or also to disrupt the ongoing trial proceedings.

Thanks,
Judy

From: chris kise <chris@ckise.net>
Sent: Thursday, October 5, 2023 1:58 PM
To: Vale, Judith <Judith.Vale@ag.ny.gov>; Michael Farina <mfarina@robertlaw.com>; Fan, Dennis <Dennis.Fan@ag.ny.gov>
Cc: Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio <mmadaio@habbalaw.com>
Subject: Re: People v. Trump, et al., Index No. 452564/2022

judith

sorry for delayed response but as you know we are in the trial.
at all events, not sure i understand the difference between interim relief and a stay.
i am no expert on this but seems they are the same.
so yes we are seeking interim relief/a stay.

as to having a discussion, since we are in trial would have to be tonight.
but not sure what it is that can be worked out given the MSJ order.

hope this helps.

will do my best to follow up but we will be going back in shortly.

thanks.

best

From: Vale, Judith <Judith.Vale@ag.ny.gov>
Date: Thursday, October 5, 2023 at 1:23 PM
To: Michael Farina <mfarina@robertlaw.com>, Fan, Dennis <Dennis.Fan@ag.ny.gov>
Cc: Wallace, Kevin <Kevin.Wallace@ag.ny.gov>, Faherty, Colleen <Colleen.Faherty@ag.ny.gov>, Amer, Andrew <Andrew.Amer@ag.ny.gov>, chris kise <chris@ckise.net>, Christopher Kise <ckise@continentalpllc.com>, Clifford Robert <crobert@robertlaw.com>, Michael Madaio <mmadaio@habbalaw.com>
Subject: RE: People v. Trump, et al., Index No. 452564/2022

Michael, your email does not say whether or not you are seeking interim relief. Please provide us with notice of whether or not you are seeking interim relief.

Your email also does not actually explain what relief you are seeking, as required. Are you seeking a stay of only the injunctive relief ordered in the SJ order, or are you also seeking to disrupt the ongoing trial.

If you provide us with proper notice, we could have a professional discussion before you burden the Appellate Division and counsel with another stay application.

Thank you,
Judy

From: Michael Farina <mfarina@robertlaw.com>
Sent: Thursday, October 5, 2023 1:13 PM
To: Fan, Dennis <Dennis.Fan@ag.ny.gov>
Cc: Vale, Judith <Judith.Vale@ag.ny.gov>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; chris@ckise.net; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio <mmadaio@habbalaw.com>
Subject: Re: People v. Trump, et al., Index No. 452564/2022

Dennis:

22 N.Y.C.R.R. 1250.4(b)(2) requires only that “[t]he party seeking relief as provided in this subdivision shall give reasonable notice to his or her adversary of the day and time when, and the location where, the application or order to show cause will be presented and the relief (including interim relief) being requested.” Our prior email complies with N.Y.C.R.R. 1250.4(b)(2).

Defendants will seek a stay pending appeal pursuant to the Notice of Appeal filed on Wednesday. A copy of the papers will be served on the Office of the Attorney General tomorrow.

Thanks.

Mike

Michael Farina | Partner

Robert & Robert PLLC

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[Uniondale, NY 11556](#)
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On Oct 5, 2023, at 12:16 PM, Fan, Dennis <Dennis.Fan@ag.ny.gov> wrote:

Dear Mike:

We wanted to offer your team another opportunity to provide us with proper notice, as you have not responded to Judy’s email below or returned my calls. We are entitled “reasonable notice” of “the relief (including interim relief) being requested.” 22 NYCRR 1250.4(b)(2). That “relief” refers to “the specific relief sought” in your stay motion—not just the “nature of the motion,” which is a stay motion. 22 NYCRR 1250.4(b)(1)(i), (ii). Would you please let us know as soon as possible:

1. what relief your forthcoming stay motion is requesting (including whether it is requesting a stay of trial); and
2. whether you are requesting any interim relief, and what interim relief you are requesting?

We have now tried your office twice to discuss this. On a 10:30am call, I was told by the front desk that you would be on another call for “another half an hour or more,” but that you would call back, so I left my number. You did not return the call. On an 11:30am call, I was told that you were on another call and asked to be placed on hold; after ten minutes, your office had an associate pick up the phone to say that you were unavailable and heading to court, but that you would return my call. You have not returned the call. And Chris’s emails regarding the article 78 petition have not supplied answers to the two questions above.

Thank you for your cooperation here, and please give me a call back at the number below or respond by email as soon as possible to comply with your obligation to provide reasonable prior to filing a stay motion.

Best,
Dennis

Dennis Fan
Senior Assistant Solicitor General
New York State Office of the Attorney General
(212) 416-8921

From: Vale, Judith <Judith.Vale@ag.ny.gov>
Sent: Thursday, October 5, 2023 9:55 AM
To: Michael Farina <mfarina@robertlaw.com>; Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Fan, Dennis <Dennis.Fan@ag.ny.gov>; chris@ckise.net; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio <mmadaio@habbalaw.com>
Subject: RE: People v. Trump, et al., Index No. 452564/2022

Mike,

Please provide us with proper notice of what you will be seeking to stay – a stay of enforcement of the injunctive relief ordered in the Sept 26 decision?

Thank you,
Judy

From: Michael Farina <mfarina@robertlaw.com>
Sent: Thursday, October 5, 2023 9:48 AM
To: Wallace, Kevin <Kevin.Wallace@ag.ny.gov>; Faherty, Colleen <Colleen.Faherty@ag.ny.gov>; Amer, Andrew <Andrew.Amer@ag.ny.gov>; Vale, Judith <Judith.Vale@ag.ny.gov>; Fan, Dennis <Dennis.Fan@ag.ny.gov>; chris@ckise.net; Christopher Kise <ckise@continentalpllc.com>; Clifford Robert <crobert@robertlaw.com>; Michael Madaio

<mmadaio@habbalaw.com>

Subject: People v. Trump, et al., Index No. 452564/2022

[EXTERNAL]

Counsel:

Pursuant to 22 N.Y.C.R.R. 1250.4(b)(2), please be advised that Defendants Donald J. Trump; Donald Trump, Jr.; Eric Trump; Allen Weisselberg; Jeffrey McConney; The Donald J. Trump Revocable Trust; The Trump Organization, Inc.; The Trump Organization LLC; DJT Holdings LLC; DJT Holdings Managing Member; Trump Endeavor 12 LLC; 401 North Wabash Venture LLC; Trump Old Post Office LLC, 40 Wall Street LLC, and Seven Springs LLC will be presenting an order to show cause tomorrow, October 6, 2023, at 10:00 a.m. to the Appellate Division, First Department seeking a stay.

Thanks.

Mike

Michael Farina | Partner
Robert & Robert PLLC

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Manhattan Office
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[New York, New York 10165](#)
Tel: [212-858-9270](#)

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EXHIBIT 4

WHEREAS the Cyganowski Proposal set forth that if appointed receiver, Judge Cyganowski's approach as receiver would be to prioritize stakeholders over professionals, minimize administrative expenses, and efficiently liquidate assets and make distributions to investors, while at the same time being mindful of the potential "return" on each hour "invested" by her team on a particular asset, see Cyganowski Proposal, 1, 3;

WHEREAS on February 4, 2021, the Court entered its *Decision After Trial* [Dkt. No. 538], and on February 26, 2021, the Court entered its *Amended Decision & Order After Trial* [Dkt. No. 559], finding the Defendants committed securities fraud in violation of the Martin Act §§ 352 et seq., and Executive Law § 63(12), and (i) ordering a permanent injunction against the Defendants and Relief Defendants, (ii) ordering the Defendants to disgorge certain monies, and (iii) appointing the Hon. Melanie L. Cyganowski (Ret.) as provisional receiver (the "Receiver") in accordance with the Amended Decision & Order After Trial;

WHEREAS the *Amended Decision & Order After Trial* provides that the receiver shall (a) liquidate the remaining ACP X, LP assets, and (b) allocate liquidated ACP X, LP assets and disgorged funds equitably among the ACP X, LP limited partners, subject to the Court's approval;

WHEREAS on February 26, 2021, the Court entered an Order [Dkt. No. 560] (the "February 26 Order") confirming the provisional appointment of the Receiver and of Otterbourg P.C. ("Otterbourg") as her counsel, subject to the Court's entry of a long-form order of appointment;

WHEREAS the February 26 Order afforded the Defendants 30 days to engage in a meet and confer process with the Receiver, her counsel, and the OAG over the terms of a long-form order of appointment;

WHEREAS the parties were unable to reach agreement over the terms of a long-form order, and on April 8, 2021, the Court entered an Order (the “April 8 Order”) directing, in relevant part, that the Defendants produce to the OAG, the Receiver, and Court, by April 15, 2021, records sufficient to ascertain all cash, marketable securities, and warrants held for the benefit of the ACP X limited partners [Dkt. No. 598];

WHEREAS after a conference held on April 29, 2021, the Court afforded the Defendants an additional 10 days to provide documents to the Receiver and the OAG;

WHEREAS over the course of approximately two months following the Court’s April 29, 2021 directive, the Defendants produced documentation to the Receiver and negotiations between the parties continued, until June 30, 2021, when the parties reached an impasse and the Receiver filed an Order to Show Cause seeking the entry of a long-form order of appointment;

WHEREAS on June 30, 2021, the Court entered an order declining to sign the Receiver’s Order to Show Cause without prejudice [Dkt. No. 668] (the “June 30 Order”), and directing the parties to further meet and confer;

WHEREAS the June 30 Order also provided that, following the additional meet and confer process, the Court would sign a long-form order of appointment that included an increased cap of \$400,000 on the Receiver’s fees and expenses, up from an original cap of \$75,000, as a result of “a significant portion of the past and future fees and expenses arising from the failure of the parties to meet and confer in good faith,” June 30 Order, 2;

WHEREAS the parties reached another impasse in their negotiations and, on August 4, 2021, the Receiver submitted via letter a proposed order of appointment (the “August 4 Proposed Order”);

WHEREAS during the parties’ meet and confer process, on or about March 3, 2021, the

Defendants appealed from the *Amended Decision & Order After Trial*, among other orders of the Court (the “Appeals”), and moved for a stay of enforcement pending hearing and determination of the appeals;

WHEREAS on or about May 20, 2021, the Appellate Division, First Department (the “Appellate Division”), entered an order granting a “stay of the liquidation of the defendant entities” pending hearing and determination of the Appeals (the “First Stay Order”);

WHEREAS on or about August 5, 2021, the Appellate Division entered an order, among other things, “directing that the defendant-entities be returned to their status as of May 20, 2021,” and clarifying that the First Stay Order “included a stay of the liquidation of the funds and/or the assets held by defendant entities” pending determination of the Appeals (the “Second Stay Order,” and with the First Stay Order, the “Stay Orders”);

WHEREAS upon entry of the Second Stay Order, the Receiver withdrew the August 4 Proposed Order, which the Court acknowledged in a notice entered August 12, 2021 [Dkt. No. 700];

WHEREAS on October 21, 2021, the Appellate Division entered an order affirming this Court’s *Amended Decision & Order After Trial* (the “October 21 Order”);

WHEREAS the Defendants sought leave to appeal the October 21, 2021 Order to the Court of Appeals (the “Appeal”);

WHEREAS on April 26, 2022, the Court of Appeals entered an Order denying the Defendants’ request for leave to appeal and dismissed the appeal, without costs, on the grounds that the order appealed from did not finally determine the action within the meaning of the New York Constitution (the “Constitution”), and notice of the April 26 Order was given on the same day [Dkt. No. 707];

WHEREAS, on April 26, 2022, the Court of Appeals granted the motion made by *amicus* party, Royal Asset Capital Group ("RACG"), for leave to appear as *amicus curiae* on the Appeal and motion for leave to appeal was granted and RACG's *amicus* brief was accepted as filed;

WHEREAS, on April 26, 2022, the Court of Appeals granted the motion made by *amicus* party, Professor Geeta Tewari of Delaware Law School – Widener ("UD"), for leave to appear as *amicus curiae* on the Appeal and motion for leave to appeal was granted and UD's *amicus* brief was accepted as filed;

WHEREAS, the within order constitutes a final order appointing a receiver delineating the scope of the receiver's authority and appointing the receiver and granting the receiver all requisite powers necessary to perform her duties (the "Order");

WHEREAS based on the record in these proceedings, and with the intent to minimize administrative expenses while maximizing the value of the estate, the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of ACP X, LP (the "Receivership Entity") and to conduct an orderly wind-down of the Receivership Entity, including a responsible liquidation of assets and orderly and fair distribution of those assets and disgorged funds to investors to the extent not currently precluded by the Stay Order (the "Receivership");

WHEREAS the Receivership shall be administered for the purposes of distributing the most funds to limited partners of the Receivership Entity in the most efficient and cost-effective way possible taking into account the appointment of a receiver; and

WHEREAS the Court has subject matter jurisdiction over this action and personal jurisdiction over the Receivership Entity, and venue properly lies in this county.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

A. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the Receivership Entity. This Order disposes of all of the issues in this Action and finally determines the Action in accordance with the Constitution. Notwithstanding the foregoing, the finality of this Order shall not abrogate, abridge, alter, and/or in anyway serve as a defense to, or excuse for, failure by any individual, entity or party who may subject to the terms of this Order, to comply with the terms hereunder, and further in no way limits the Receiver's ability to implement the authority vested in her by this Order.

B. Hon. Melanie L. Cyganowski (Ret.) is hereby appointed to serve without bond as Receiver for the receivership estate of the Receivership Entity (the "Receivership Estate") and possess the authority of a receiver at equity, and all powers conferred upon a receiver by the laws of the State of New York, including G.B.L. § 353-a, C.P.L.R. § 5106, and § 121-803 of the Revised Limited Partner Act.

C. The Defendants and Relief Defendants (collectively, "Defendants"), and all officers, directors, general and limited partners of the Receivership Entity, are hereby dismissed from any and all positions of management of the Receivership Entity, and shall have no authority with respect to the Receivership Estate, Receivership Entity or their assets, except to the extent the Court or the Receiver expressly grant such authority.

In addition to the specific powers of receivership granted herein, the Receiver shall possess and exercise all of the rights, powers, privileges and duties held under applicable law by the officers, directors, managers, and general and limited partners, or senior-most executive or control party, of the Receivership Entity under applicable state and federal law, by the governing charters, by-laws, partnership agreements, articles and/or agreements.

D. Except as provided herein, the Receiver shall not commence any activities pursuant to this Order until the earlier of forty-five (45) days from the date that the parties become aware that the Court has signed this Order, or until the Appeal is fully determined by the Court of Appeals (the “Stay”). Nothing herein shall alter any parties’ rights to seek appellate or other relief to which they may be entitled under the New York Civil Practice Law and Rules (the “CPLR”).

I. General Powers and Duties of Receiver

1. The Receiver shall have the following general powers and duties:
 - A. To use reasonable efforts to determine the nature, location, and value of all property interests of the Receivership Entity, of whatever kind and wherever situated, which the Receivership Entity owns, possesses, has a beneficial interest in, or controls directly or indirectly (“Receivership Property”);
 - B. To collect, take custody, control, and possession of all Receivership Property and records from the Receivership Entity, Defendants, or third parties;
 - C. To manage, control, operate, maintain, and wind-down the Receivership Entity;
 - D. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property, and pursue and preserve all of the Receivership Entity’s claims and defenses;
 - E. To use reasonable efforts to efficiently liquidate the Receivership Entity and then make one or more distributions to the limited partners of the Receivership Entity, after the Receiver’s reasonable diligence into the outstanding liabilities of the Receivership Entity; and
 - F. To take such other action as may be approved by this Court, or is within the

Receiver's business judgment and discretion, made in good faith and with reasonable diligence, and necessary and proper to administer the Receivership Estate in accordance with this Order.

2. Subject to applicable law and any Orders of this Court or other court of competent jurisdiction, the Receiver shall be deemed a party in interest with a right to be heard on all matters arising in, or related to, this case, including any currently pending or subsequently filed appeals therefrom.

II. Access to Information

3. The Receivership Entity and the Receivership Entity's past and/or present officers, directors, managers, general and limited partners, agents, attorneys, accountants, and employees, and persons receiving notice of this Order by personal service, facsimile, electronic mail, or otherwise, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Entity and/or all Receivership Property; such information shall include but not be limited to any of the following documents: books, records, documents, accounts, and all other instruments and papers, as well as any and all digital source data for the foregoing. All persons receiving notice of this Order by personal service, facsimile, electronic mail, or otherwise, shall cooperate with the Receiver as may be required by the Receiver regarding the administration of the Receivership Estate or the collection of Receivership Property.

4. Within 14 days of the entry of this Order, each of the Defendants shall serve upon the Receiver and the OAG a sworn statement (the "Sworn Statement"), listing: (a) all employees (and job titles thereof), other personnel, persons in control, attorneys, accountants, investment advisors, fund administrators, custodians, auditors, directors and any other agents or contractors

of the Receivership Entity as of the date of the entry of this Order; (b) the names, addresses, and amounts of investments of all known investors and limited partners of the Receivership Entity and their proposed percentage of distribution; (c) all accounts of the Receivership Entity; (d) all assets and property of the Receivership Entity, and locations of such assets and property; (e) all liabilities of the Receivership Entity, including but not limited to, tax or governmental liabilities, secured liabilities, contingent liabilities, and liabilities to any Defendant, affiliate, or entity controlled or managed, directly or indirectly, by a Defendant; (f) all current litigation, arbitration or other dispute resolution proceedings of any kind in which the Receivership Entity is a party, a party-in-interest, is otherwise involved, or for which the Receivership Entity has retained counsel; and (g) all threatened, anticipated, planned, and/or expected litigation, arbitration or dispute resolution proceeding of any kind to which the Receivership Entity may be a party, a party-in-interest, otherwise may be involved in, or for which the Receivership Entity has retained counsel. Irrespective of the foregoing deadline to produce the Sworn Statement, Defendants shall make a good-faith effort to provide the same as soon as possible.

5. Within 14 days of the entry of this Order, each of the Defendants shall provide to the Receiver and the OAG copies of all of the Receivership Entity's federal and state income tax returns for the past six years with all underlying documentation (the "Defendant Documents"). Irrespective of the foregoing deadline to produce the Defendant Documents, Defendants shall make a good-faith effort to provide the same as soon as possible.

6. Irrespective of the Stay, the Receiver and the Retained Personnel (as defined herein) may conduct a reasonable review of the Sworn Statement and the Defendant Documents, so that the Receiver and the Retained Personnel may begin to fulfill their obligations under this Order promptly upon expiration of the Stay.

7. In addition to the Sworn Statement and the Defendant Documents, contemporaneously with the submission of this Order to the Court for approval, Defendants shall produce to the Receiver and/or her designated representatives, copies of any documents produced or otherwise provided to, any governmental authority and/or regulator, and/or any self-regulating organization in the twelve (12) months prior to the submission of this Order.

8. For the avoidance of any doubt, this is a final order appointing a receiver which is not provisional.

III. Access to Books, Records and Accounts

9. The Receiver is authorized to take immediate possession and control of all assets, bank accounts, or other financial accounts, books and records, and all other documents or instruments relating to the Receivership Entity, and the Receiver shall be the sole authorized signatory for all accounts of the Receivership Entity, including all accounts at any bank, title company, escrow agent, transfer agent, financial institution or brokerage firm which has possession, custody, or control of any assets or funds of the Receivership Entity, or which maintains accounts over which the Receivership Entity, and/or any of its employees or agents have signatory authority.

10. All banks, brokerage firms, financial institutions, transfer agents, and other persons or entities which have possession, custody, or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, the Receivership Entity that receive actual notice of this Order by personal service, facsimile transmission, electronic mail, or otherwise shall:

- A. Not liquidate, transfer, sell, convey, encumber or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Entity, except upon instructions from the Receiver;

- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court; and
- C. Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver, upon the Receiver's written request.

IV. Access to Real and Personal Property

11. The Receiver is authorized to have immediate access and possession of all Receivership Property, wherever located. No accounts and assets, however, shall be seized to the extent doing so will violate laws against asset seizure or restriction of assets, including but not limited to those laws governing restrictions on or seizures of trust accounts and retirement accounts under New York law and the federal Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. 1001 et seq. All persons and entities having control, custody, or possession of any Receivership Property are hereby directed to turn such property over to the Receiver. For the avoidance of doubt, this includes direct access to, and control of, the Receivership Entity's information technology systems. The Receiver is authorized to take immediate possession of all real property of the Receivership Estate, wherever located, including but not limited to all ownership and leasehold interests and fixtures. For the avoidance of doubt, the Receiver shall be provided with access to, and possession of, the Receivership Entity's offices.

12. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Entity that is directed to the Receivership Entity, and to inspect all mail opened directed to the Receivership Entity prior to the entry of this Order. Subject to these protections and limitations, the Receiver is authorized to instruct the United States

Postmaster, or any other delivery, courier, mailbox, depository, business or storage service, to hold and/or reroute mail, either physical or electronic, which is related, directly or indirectly, to the business, operations or activities of the Receivership Entity, including all mail, physical or electronic, addressed to, or for the benefit of, the Receivership Entity.

V. Notice to Third Parties

13. The Receiver shall promptly give notice in writing, which may be given electronically, of the Receiver's appointment to all known past and present officers, directors, managers, general and limited partners, agents, attorneys, accountants, administrators and employees of the Receivership Entity, as the Receiver deems necessary or advisable to effectuate the administration of the Receivership Estate.

14. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to the Receivership Entity shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Entity had received such payment.

15. The Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity, or government office that she deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estate. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the Attorney General.

VI. Injunction Against Interference with Receiver

16. The Receivership Entity and all persons receiving notice of this Order by personal service, facsimile, or electronic mail or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property, including but not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct, or otherwise interfere with the Receiver in the performance of the Receiver's duties; such prohibited actions include but are not limited to, concealing, destroying, or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include, but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property, enforcing judgments, assessments, or claims against any Receivership Property or the Receivership Entity, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement, or other agreement executed by the Receivership Entity or which otherwise affects any Receivership Property; or
- D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive

jurisdiction of this Court over the Receivership Estate.

17. The Receiver shall promptly notify the Court and Attorney General, by letter or motion, of any failure of any person or entity to comply in any way with the terms of this Order.

VII. Managing Assets

18. The Receiver may, without notice or further Order of this Court, sell, transfer, compromise, or otherwise dispose of any such Receivership Property in the Ordinary Course of Business (as defined herein) on terms and in the manner the Receiver deems most beneficial to the Receivership Estate. A transaction involving the Receivership Estate is in the “Ordinary Course of Business” unless the transaction involves (i) the expenditure of Receivership Property in excess of \$500,000 or (ii) the disposition of the Receivership Estate’s interest in the Receivership Property in exchange for cash or property in value in excess of \$500,000.

19. Any transactions not in the Ordinary Course of Business (as defined above) shall be on three (3) days’ notice to the Defendants and the OAG. Notice according to this Paragraph shall be provided by the Receiver via e-mail to counsel of record. If a party objects to a proposed transactions outside of the Ordinary Course of Business, such party shall file an order to show cause with the Court setting forth the basis for its objection to the transaction prior to the expiration of the three (3) day notice period. In the event that the Receiver determines in her business judgment that insufficient time exists to provide notice of a transaction outside the Ordinary Course of Business as set forth in this Paragraph, notice may be provided to the Defendants and the OAG as is reasonably practicable under the circumstances.

20. The Receiver is authorized to take actions, including engaging a broker, to assess and, as deemed appropriate in her business judgment, cause the potential sale or lease of

Receivership Property, either at public or private sale, on terms and in the manner the Receiver deems to be most beneficial to the Receivership Estate.

21. Subject to any further Order of this Court and such procedures as may be required by this Court and other authority, the Receiver will be authorized to sell, and transfer clear title to, all property in the Receivership Entity.

22. The Receiver is authorized to take all actions deemed necessary in her business judgment to manage, maintain, and/or wind-down business operations of the Receivership Estate, including making legally required payments to creditors, employees, and agents of the Receivership Estate and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

VIII. Investigate and Prosecute Claims

23. The Receiver is authorized, pursuant to Paragraph 34 herein, with the assistance of a forensic accountant or other advisors, to investigate the manner in which the financial and business affairs of the Receivership Entity were conducted including transactions by and among the Receivership Entity, Defendants, and any other persons or entity, as the Receiver deems necessary and appropriate.

24. The Receiver is authorized, after obtaining leave of this Court, except in exigent circumstances where seeking leave is not reasonably practicable, in which such case the Receiver shall notify the Court as soon as practicable, to institute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions and legal proceeding of any kind, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate.

25. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by the Receivership Entity.

IX. Liability of Receiver

26. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, the Receiver's Retained Personnel (as defined herein), and the Receivership Estate.

27. The Receiver owes a fiduciary duty to the Receivership Entity.

28. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with the Receiver's fiduciary obligations in this matter. The Receiver and the Receiver's agents, acting within scope of such agency ("Retained Personnel")¹ are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel.

29. The Receiver and the Retained Personnel shall be and hereby are indemnified and entitled to advancement by the Receivership Estate, except for gross negligence, willful misconduct, fraud, or breach of fiduciary duty determined by a final order no longer subject to appeal, including for all judgments, costs, reasonable expenses, including legal fees (which shall be paid under the indemnity after court approval as they arise), arising from or related to any and all claims of whatsoever type brought against any of them, or any liabilities incurred, in their capacities as Receiver or Retained Personnel, including actions taken pursuant to this Order; further provided that, nothing herein shall limit the immunity of the Receiver or the Retained Personnel allowed by law or deprive the Receiver or the Retained Personnel of indemnity for any act or omission for which they have immunity.

¹ For the avoidance of doubt, the definition of "Retained Personnel" shall include Otterbourg (as defined herein) and Stout (as defined herein).

30. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

31. In the event the Receiver decides to resign, the Receiver shall first give written notice to the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

X. Recommendations and Reports

32. The Receiver is authorized and directed to develop a written plan for the fair, reasonable, and cost-efficient recovery, liquidation, and distribution of all remaining, recovered, and recoverable Receivership Property (the "Liquidation and Distribution Plan"). The Receiver shall submit in writing the Liquidation and Distribution Plan to the Court for approval on thirty (30) days' notice to all parties with an opportunity to be heard.

33. The distributions of Receivership Property to the limited partners of the Receivership Entity shall not count toward, or be attributed in any way to, the disgorged funds ordered by the Court in the *Amended Decision & Order After Trial*.

34. Within thirty (30) days after the end of each calendar quarter, starting with the first full quarter after entry of this Order, the Receiver shall file and serve a written report and accounting of the Receivership Estate (the "Quarterly Status Report"), reflecting (to the best of the Receiver's knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those reasonably claimed to exist by others and those the Receiver reasonably believes to be legal obligations of the Receivership Estate.

35. The Quarterly Status Report shall contain the following:

A. A summary of the operations of the Receiver;

- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the Receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
- F. A summary of the status of the Receiver's investigation of the transactions concerning the Receivership Entity;
- G. A list of all known investors and creditors and the amount of their investments and claims, as applicable, redacted to exclude personally identifiable information;
- H. The status of investor and creditor claims proceedings, if any, after such proceedings have been commenced; and,
- I. The Receiver's recommendations for a continuation or discontinuation of the Receivership and the reasons for the recommendations.

36. The Receiver may in her discretion provide the Attorney General with any documentation or information concerning the Receiver's work or the Receivership Entity that the Attorney General requests.

XI. Fees, Expenses and Accountings

37. The Receiver is authorized, to the extent the Receiver, in her business judgment, deems necessary to carry out the duties and responsibilities described in this Order, to solicit persons and entities to assist the Receiver as Retained Personnel, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, brokers, traders, or auctioneers. All Retained Personnel and their hourly rates must be disclosed to the Court in writing and approved by the Court.

38. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate. Such compensation shall be disclosed in writing and require the prior approval of the Court.

39. The Receiver will be compensated at an hourly billable rate of \$1,470 per hour subject to a 20% public interest accommodation.

40. The Receiver is authorized to employ Otterbourg P.C. ("Otterbourg"), effective as of February 16, 2021, and Otterbourg shall be compensated for such services, and the reasonable expenses and costs it incurs in providing such services, in accordance with this Order. Otterbourg attorneys and paralegals will be compensated at the following hourly billable rates:

A. Attorneys (blended rate): \$600.00

B. Paralegals: \$345.00

41. The Receiver is authorized to employ Stout Risius Ross, LLC ("Stout"), effective as of the date of February 16, 2021, as financial advisor and, consistent with the Stay Order, to

effect certain transactions involving securities on behalf of the Receiver. Stout shall be compensated for such services, and the reasonable expenses and costs it incurs in providing such services, in accordance with this Order. Stout's professionals will be compensated for services at their traditional hourly billable rates, which range from \$100.00 to \$750.00

42. Within 45 days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estate (the "Quarterly Fee Applications"). The first Quarterly Fee Applications for the Receiver, Otterbourg, and Stout may be omnibus applications covering any requests for fees and expenses for the period from February 16, 2021 through June 30, 2022; such applications shall be filed no later than August 14, 2022.

43. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the Receivership. At the close of the Receivership, the Receiver and the Retained Personnel shall file final fee applications, describing in detail the costs and benefits associated with the administration of the Receivership Estate.

44. Quarterly Fee Applications must be approved by the Court before any fees are paid to the Receiver or any party or individual working for or retained by the Receiver.

45. Each Quarterly Fee Application shall contain representations that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) the Receiver has not entered into any agreement with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

46. At the close of the Receivership, the Receiver shall submit a final accounting in writing, as well as the Receiver's final application for compensation and expense reimbursement.

47. The Court retains jurisdiction to resolve any disputes arising out of this Order, or to modify the terms of the Receiver's authority as set forth in this Order *sua sponte* or on application by the parties.

SO ORDERED.

Dated: May __, 2022, New York, New York

_____ Jun __, 2022



BARRY R. OSTRAGER, J.S.C.

EXHIBIT 5



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

EXECUTIVE DIVISION
212.416.6046

September 25, 2023

Filed via NYSCEF

The Honorable Arthur Engoron
Supreme Court of the State of New York
New York County
60 Centre Street, Room 418
New York, NY 10007

Re: *PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York v. DONALD J. TRUMP, et al*, Index No. 452564/2022 (Sup. Ct. N.Y. Cnty.) – Summary Judgment Power Point presentation

Dear Justice Engoron:

The Office of the Attorney General submits as an attachment to this letter the power point presentation used during arguments on Friday September 22, 2023. This submission is consistent with the Court's direction to file copies of the parties' respective presentations on the docket.

Very truly yours,

Colleen K. Faherty

Colleen K. Faherty
Assistant Attorney General
Executive Division
28 Liberty Street
New York, NY 10005
Colleen.Faherty@ag.ny.gov

SUPREME COURT OF THE STATE OF NEW YORK

*People of the State of New York, by Letitia James,
Attorney General of the State of New York*

v.

Donald J. Trump, et al.

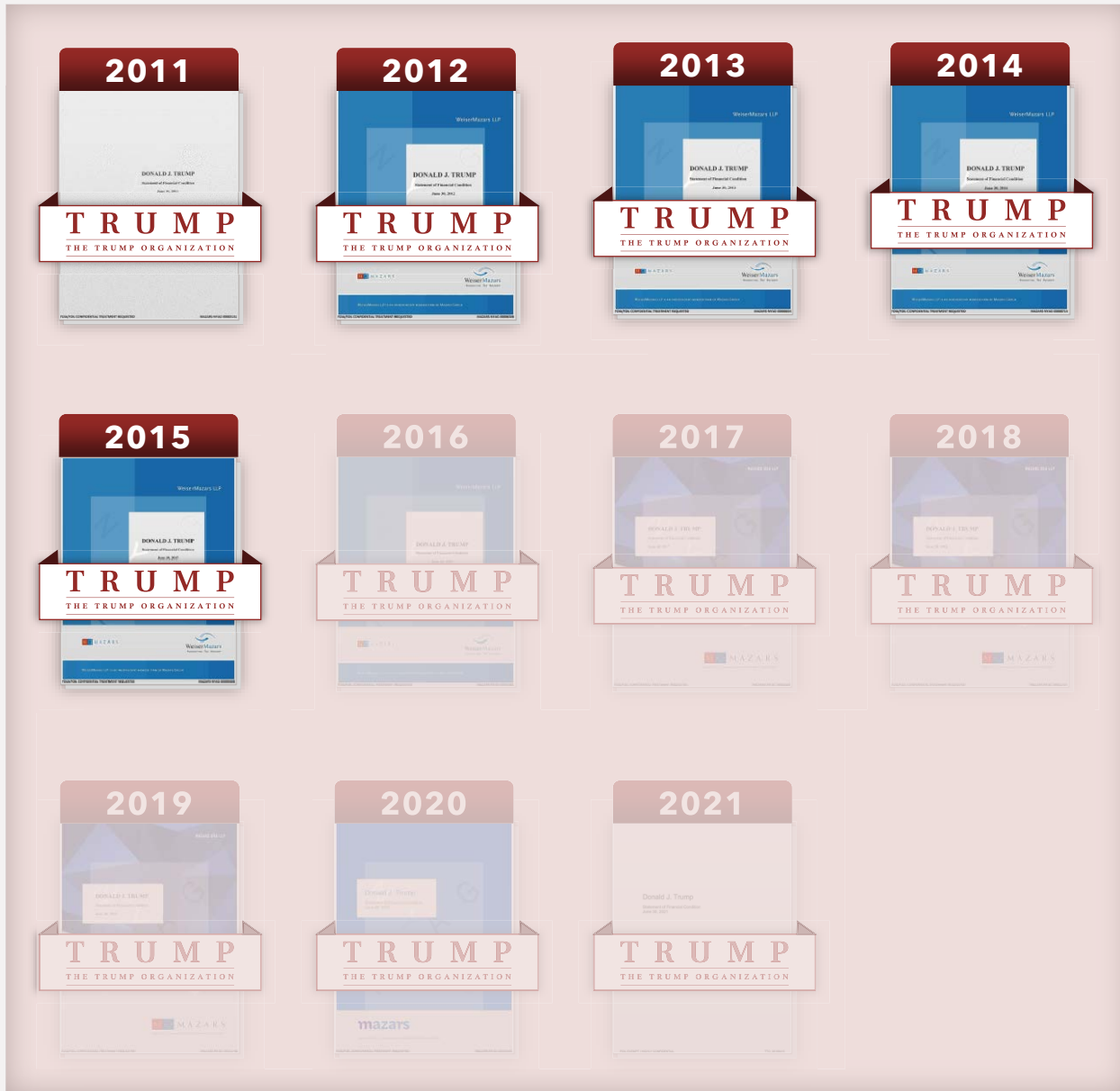


Motion for Partial Summary Judgment

Plaintiff's Presentation

September 22, 2023

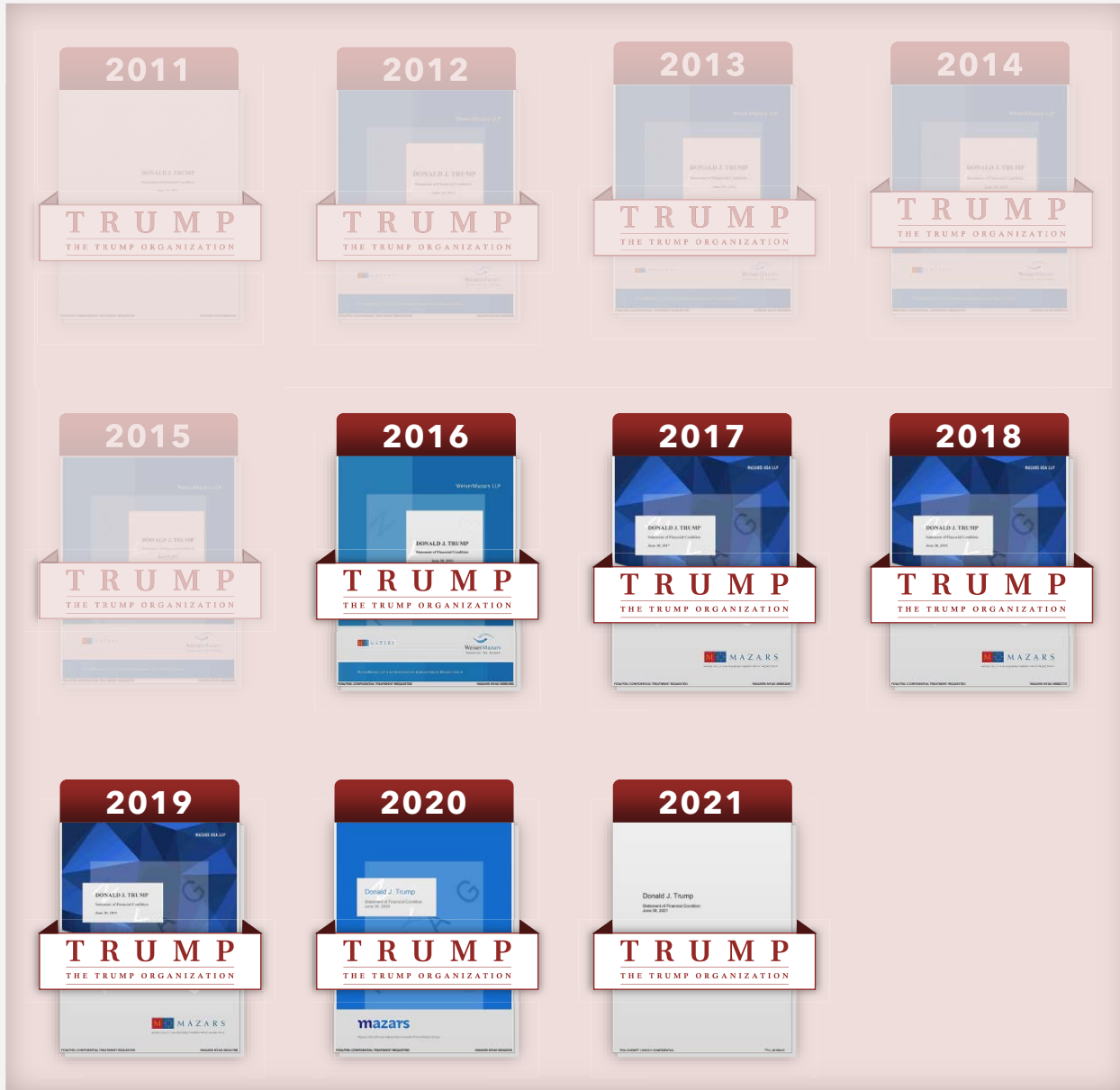
Donald J. Trump's 2011 – 2015 SFCs



“Donald J. Trump is responsible for the preparation and fair presentation of the financial statement in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statement.”

Ex. 1 at -132; Ex. 2 at -309; Ex. 3 at -035; Ex. 4 at -715; Ex. 5 at -689

Donald J. Trump's 2016 – 2021 SFCs



"The Trustees of The Donald J. Trump Revocable Trust dated April 7, 2014, as amended, on behalf of Donald J. Trump are responsible for the accompanying" [SFC] . . . "in accordance with accounting principles generally accepted in the United States of America."



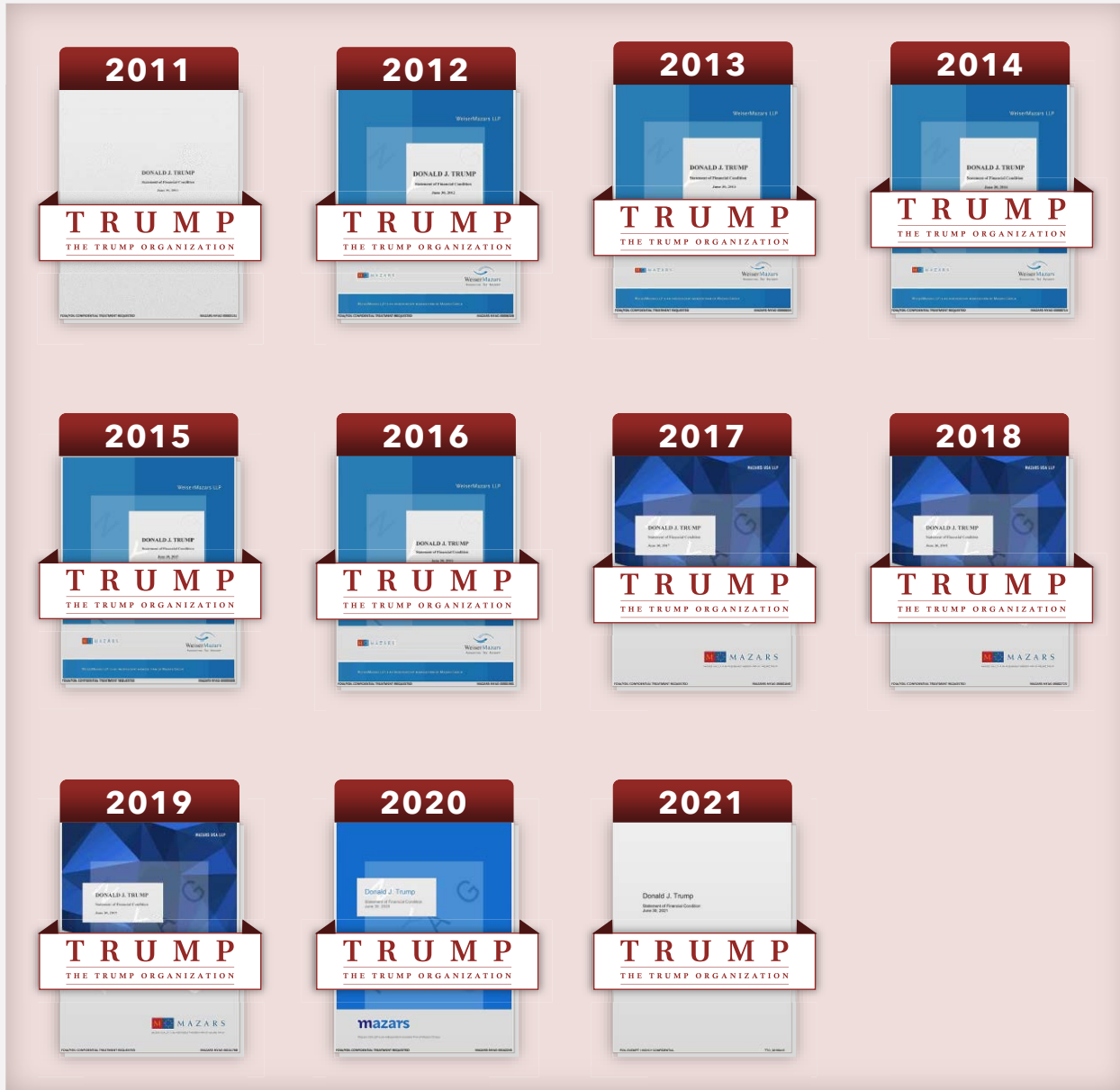
Donald Trump Jr.



Allen Weisselberg

Ex. 6 at -1981; Ex. 7 at -1841; Ex. 8 at -2724; Ex. 9 at -789

Donald J. Trump's 2011 – 2021 SFCs



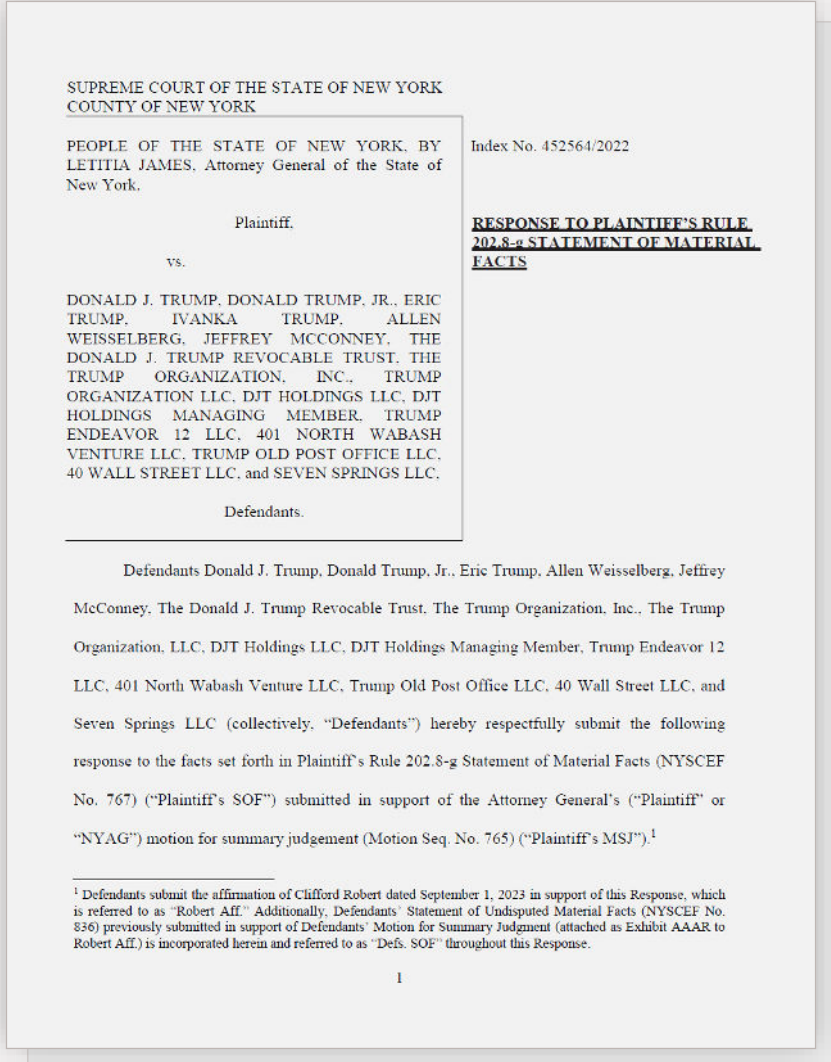
"Basis of Presentation"

"Assets are stated at their estimated current values"

Ex. 1 at -133; Ex. 2 at -310; Ex. 3 at -036; Ex. 4 at -716; Ex. 5 at -690; Ex. 6 at -1985; Ex. 7 at -1844; Ex. 8 at -2727; Ex. 9 at -792; Ex. 10 at -250; Ex. 11 at -420

Assets Are Stated at “Estimated Current Value”

Defendants’ 202.8-g Response



30. ASC 274 requires asset values reported in personal financial statements to be based on “Estimated Current Value.” (Ex. 46)

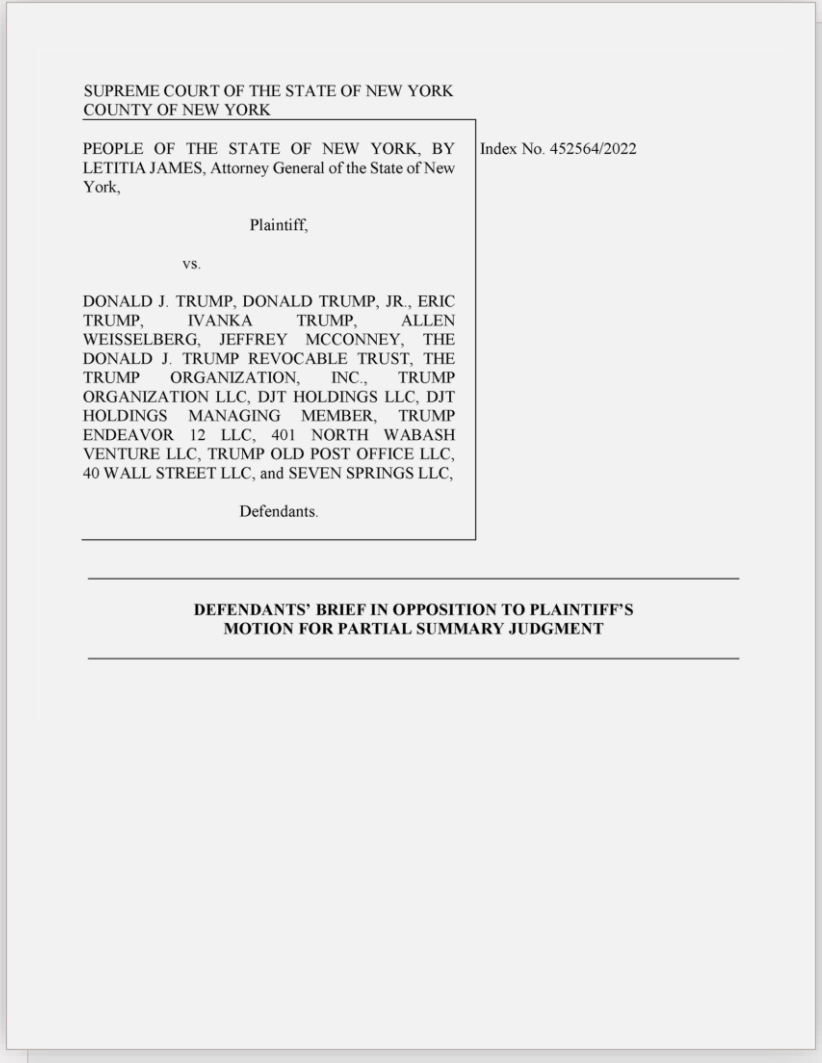
RESPONSE: Undisputed.

31. GAAP defines Estimated Current Value as “the amount at which the item could be exchanged between a buyer and seller, each of whom is well informed and willing, and neither of whom is compelled to buy or sell.” (Ex. 219)

RESPONSE: Undisputed.

"As If" Defense

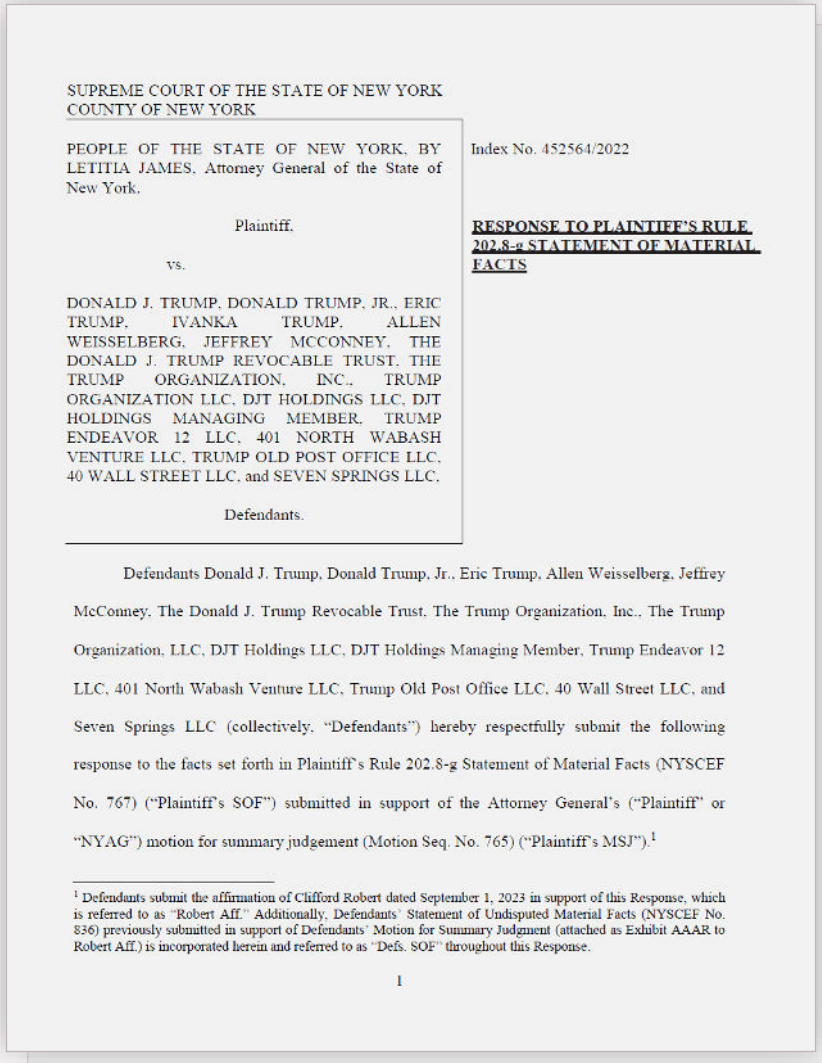
September 1, 2023



Assets are valued “[f]rom Mr. Trump’s perspective—the perspective of a creative and visionary real estate developer who sees the potential and value of properties that others do not, not on a year to year time horizon but often decades ahead”

"As If" Defense

Defendants' 202.8-g Response



38. In reality, the Triplex was 10,996 square feet. (Ex. 47; Ex. 48; Ex. 49 at 507:5-9; Ex. 50 at 216:24-219:5; Ex. 51 at ¶ 28 (can neither admit nor deny that trump's triplex apartment in Trump Tower "never exceeded 11,000 square feet in size"))

RESPONSE: Disputed. Defendants object insofar as the calculation of square footage is a subjective process that could lead to differing results or opinions based on the method employed to conduct the calculation.

Estimated Current Value = Market Value ≠ "As If" Value

Steven Laposo | Defendants' Expert



Q. ... Let me go back and make sure we're clear. Is estimated current value the same as market value?

A. **Yes.**

* * *

Q. ... "The concepts of investment value and market value are fundamentally different." Do you agree with that statement?

[objection]












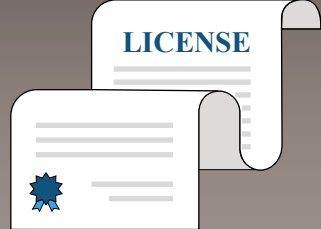
A. **Yes.**

7/19/2023 Dep. Tr. 90:12-16; 76:14-19 (Ex. AAC)

The Court Should Assess the SFCs Through the Lens of “Estimated Current Value”



Inflated Assets

<p>The Triplex</p> 	<p>Seven Springs</p> 	<p>40 Wall Street</p> 	<p>Mar-a-Lago</p> 	<p>TIGC - Aberdeen</p> 	<p>1290 Avenue of the Americas (Vornado)</p> 
<p>US Golf Clubs</p> 	<p>Trump Park Ave</p> 	<p>Trump Tower</p> 	<p>Cash</p> 	<p>Escrow</p> 	<p>Licensing Developments</p> 

DECEPTIVE PRACTICES

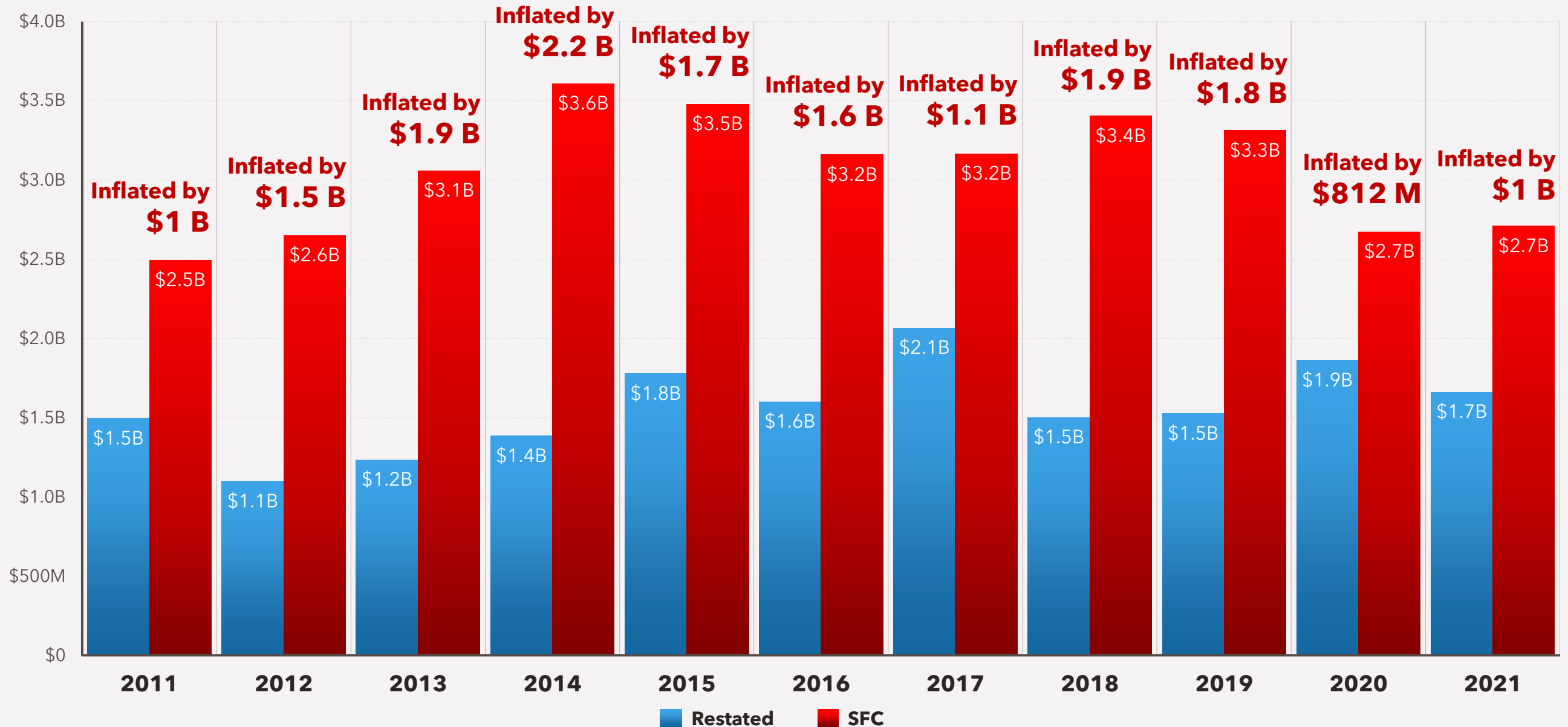
Disregarding appraisals

Disregarding legal restrictions

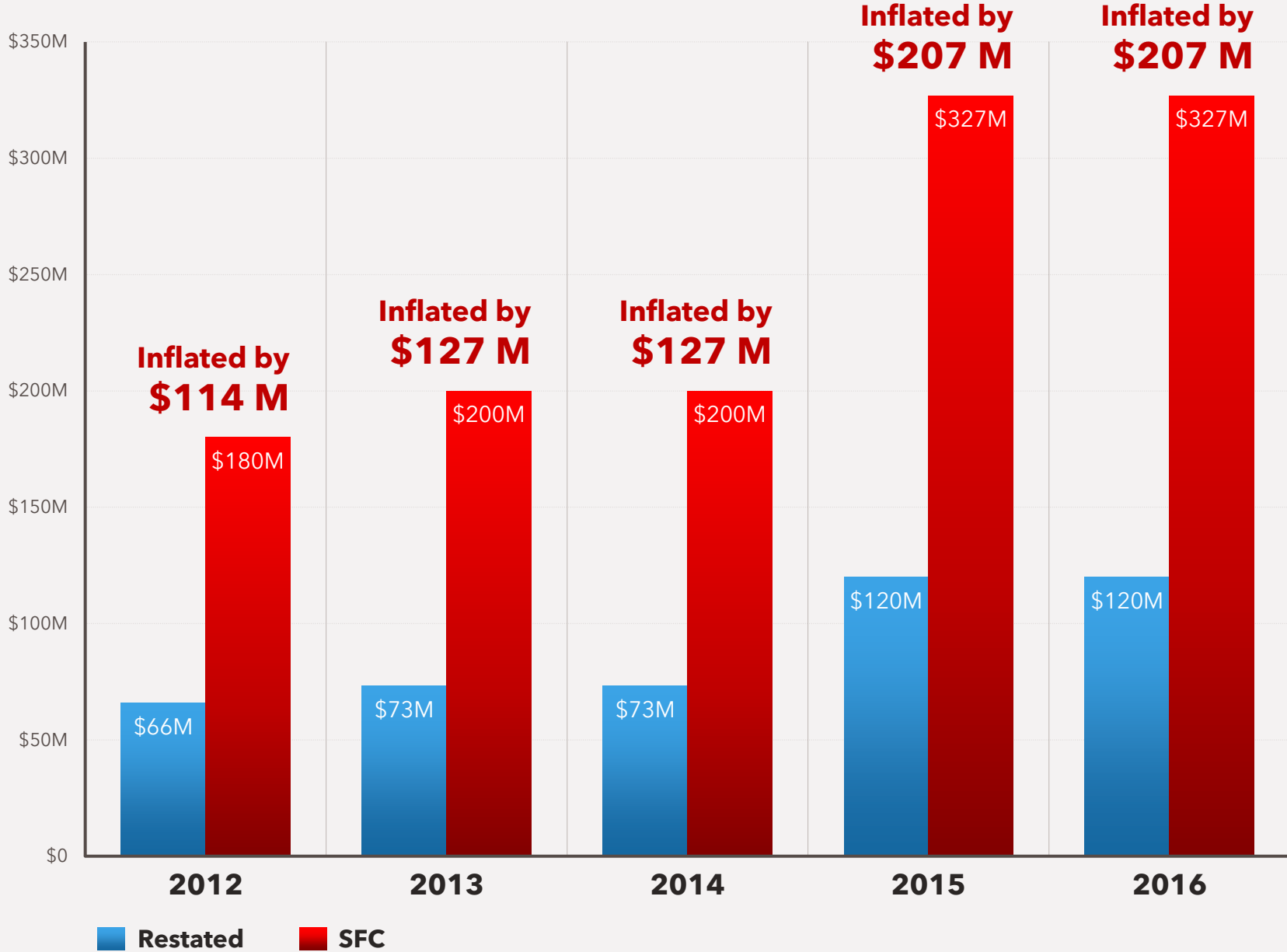
Using erroneous data as input

Using methods that contradict SFC representation

Inflated Net Worth from 2011 to 2021 Based on Undisputed Evidence



The Triplex | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input**
- Using methods that contradict SFC representation

The Triplex | Inflated Amount

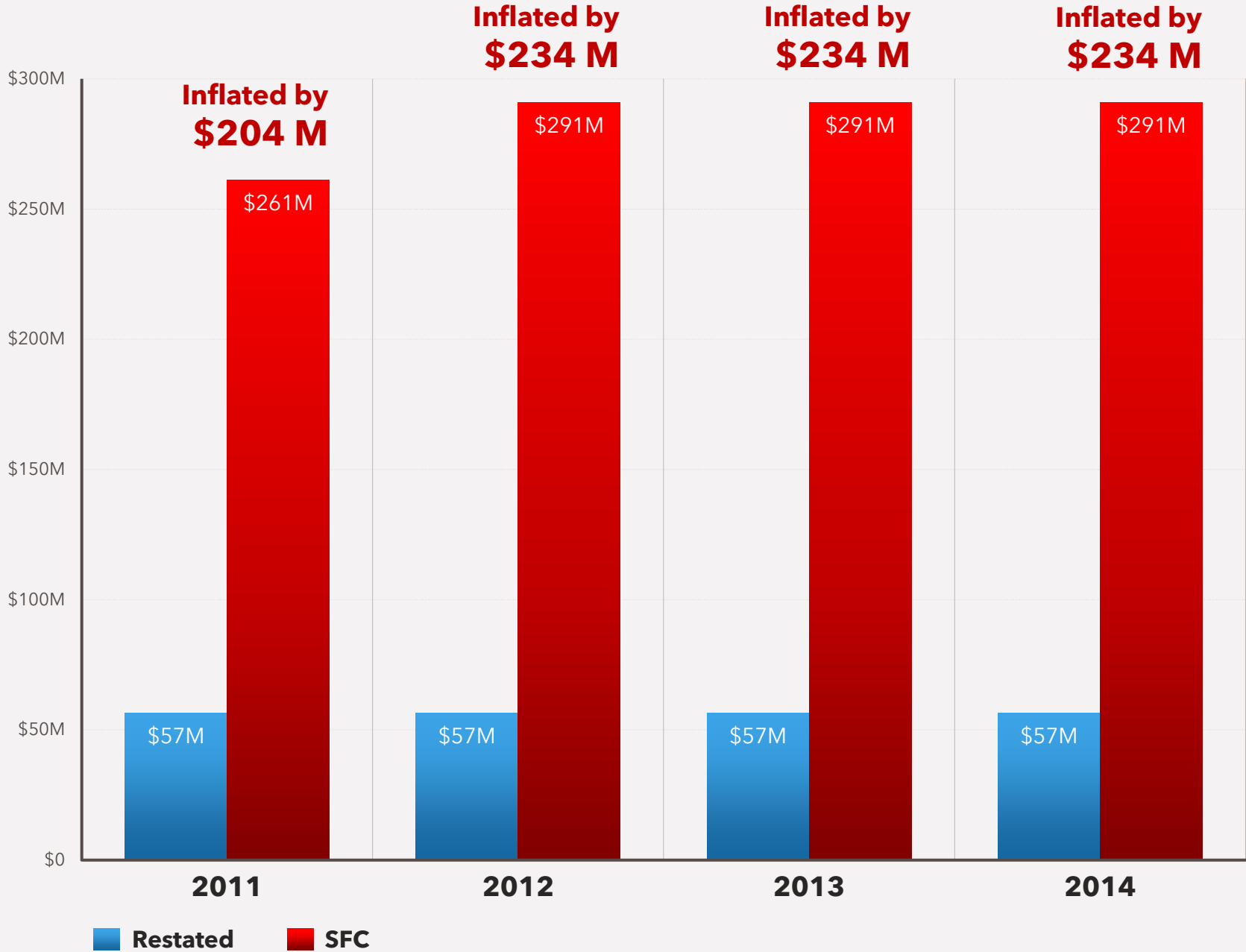
Allen Weisselberg | Defendant



Q. I think we agreed that 30,000 feet is a mistake and that the actual size of the triplex is 10,996 square feet, is that right?

A. That is correct.

Seven Springs | Inflated Amount




DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input
- Using methods that contradict SFC representation

Cushman 2015 Appraisal

December 1, 2015



advisory


valuation

APPRAISAL OF REAL PROPERTY


Seven Springs Estate
Oregon Avenue
North Castle/Bedford/New Castle, Westchester County, NY

IN AN APPRAISAL REPORT
As of December 01, 2015

Prepared For:
Seven Springs, LLC
725 Fifth Avenue
New York, New York 10022



Prepared By:
Cushman & Wakefield, Inc.
Valuation & Advisory
1290 Avenue of the Americas, 9th Floor
New York, NY 10104-6178
C&W File ID: 15-12002-901763

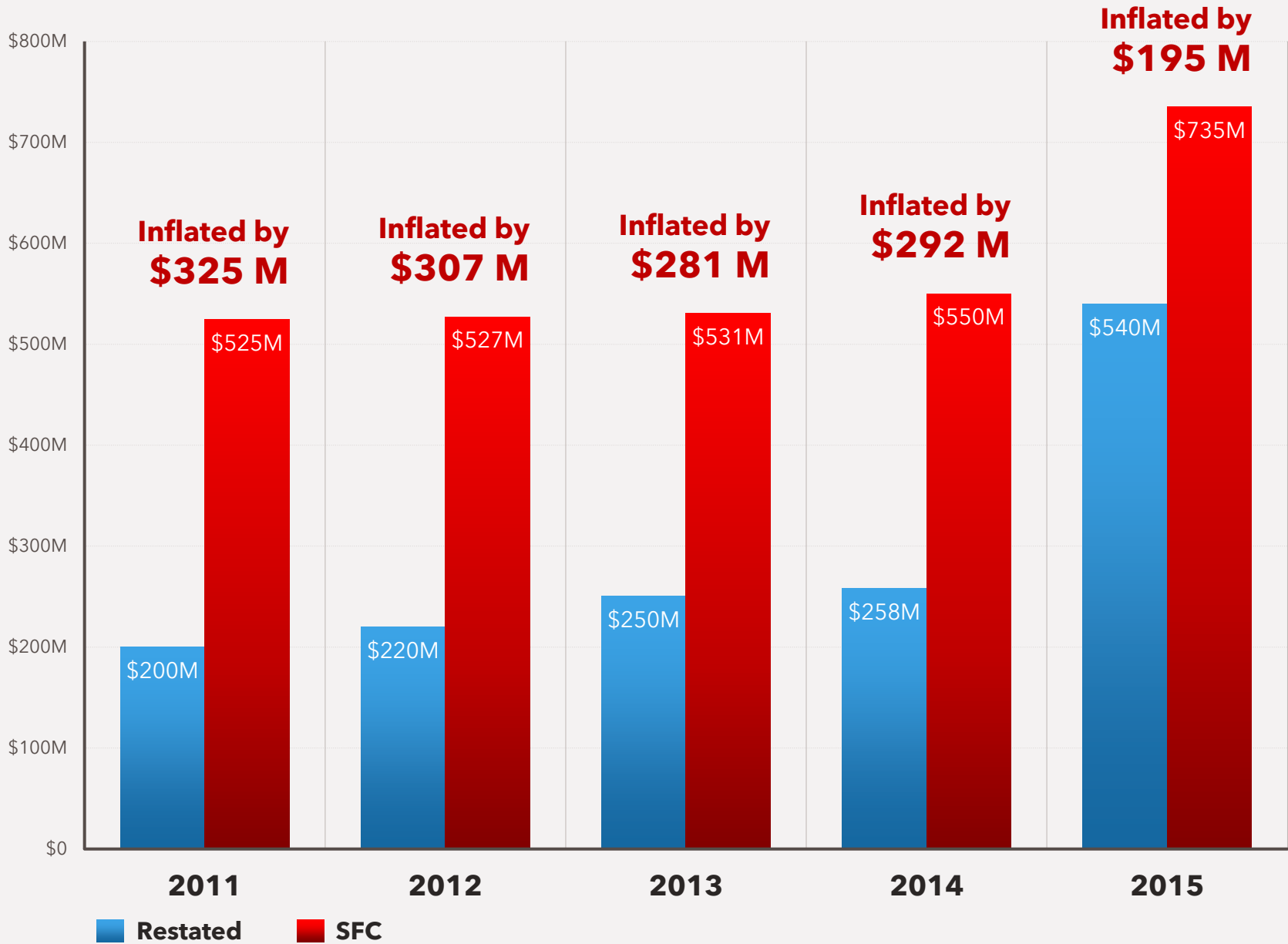


FOIL Exempt | HIGHLY CONFIDENTIAL

MLB_EM00009121

VALUATION INDICES	Scenario 1	Scenario 2	Indicated Value of the Easement
VALUE DATE	12/1/2015	12/1/2015	12/1/2015
FINAL VALUE CONCLUSION			
Real Property Interest:	Fee Simple	Fee Simple	Fee Simple
Concluded Value:	\$56,500,000	\$35,400,000	\$21,100,000
EXPOSURE AND MARKETING TIME			
Exposure Time:	12 Months		
Marketing Time:	12 Months		

40 Wall Street | Inflated Amount



DECEPTIVE PRACTICES

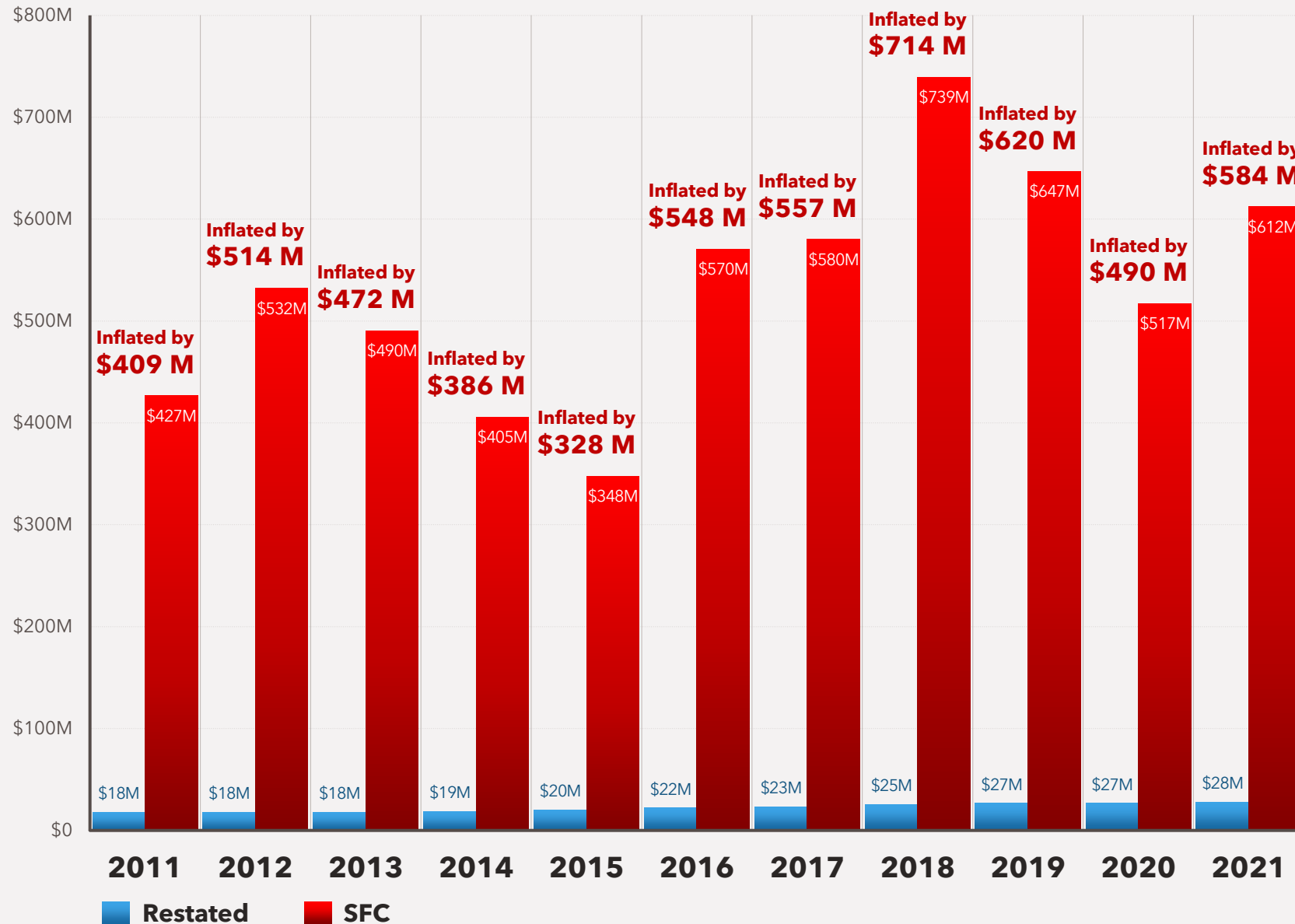
- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input
- Using methods that contradict SFC representation

40 Wall Street | Inflated Amount



Year	SFC Value	Appraised Value	Inflated Amount	Exhibits
2011	\$524,700,000	\$200,000,000	\$324,700,000	Ex. 73
2012	\$527,200,000	\$220,000,000	\$307,200,000	Ex. 74
2013	\$530,700,000	\$250,489,000	\$280,211,000	Ex. 76
2014	\$550,100,000	\$257,729,000	\$292,371,000	Ex. 78
2015	\$735,400,000	\$540,000,000	\$195,400,000	Ex. 79

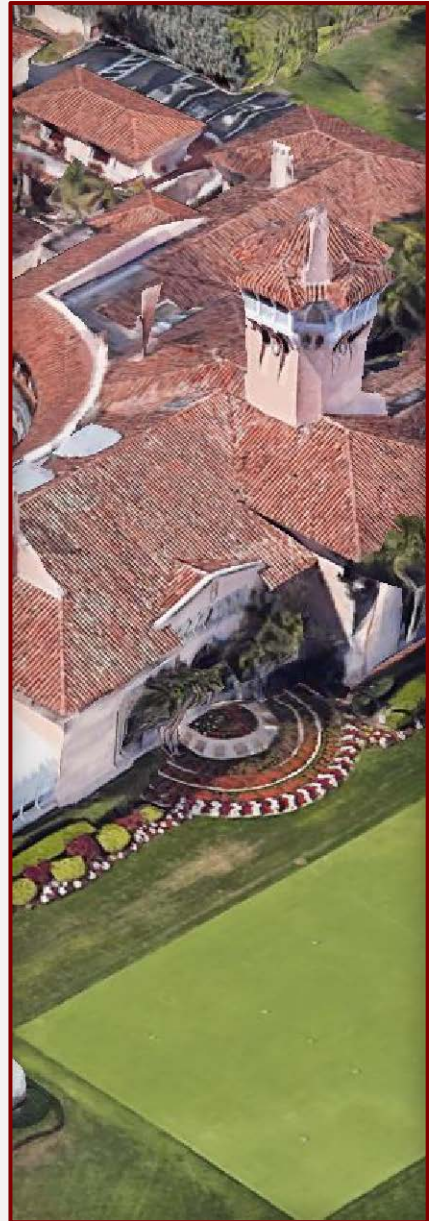
Mar-a-Lago | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input
- Using methods that contradict SFC representation

Mar-a-Lago | Inflated Amount



Year	SFC Value	County Appraised Value	Inflated Amount
2011	\$426,529,614	\$18,000,000	\$408,529,614
2012	\$531,902,903	\$18,000,000	\$513,902,903
2013	\$490,149,221	\$18,000,000	\$472,149,221
2014	\$405,362,123	\$18,000,000	\$386,710,813
2015	\$347,761,431	\$18,651,310	\$327,451,915
2016	\$570,373,061	\$21,013,331	\$549,359,730
2017	\$580,028,373	\$23,100,000	\$556,928,373
2018	\$739,452,519	\$25,400,000	\$714,052,519
2019	\$647,118,780	\$26,600,000	\$620,518,780
2020	\$517,004,874	\$26,600,000	\$490,404,874
2021	\$612,110,496	\$27,600,000	\$584,510,496

Ex. 97; 202.8-g at ¶ 200

Palm Beach County Appraisals Show "Market Value"

January 1, 2021

VALUE INFORMATION

Market (also called "Just") value is the most probable sale price for your property in a competitive, open market on Jan 1, 2021. It is based on a willing buyer and a willing seller.

If you feel that the market value of your property is inaccurate or does not reflect fair market value, or you are entitled to an exemption or classification that is not reflected on this notice, **contact your County Property Appraiser at the numbers listed on the included insert.**

If the Property Appraiser's office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the County Property Appraiser's office. Your petition must be filed with the Clerk of Value Adjustment Board on or before 5:00 PM September 13, 2021 at 301 N Olive Ave, West Palm Beach, FL 33401.

Market Value	
Last Year (2020)	This Year (2021)
26,600,000	27,600,000

Taxing Authority	Assessed Value		Exemptions		Taxable Value	
	Last Year	This Year	Last Year	This Year	Last Year	This Year
County Operating	26,600,000	27,600,000	0	0	26,600,000	27,600,000
County Debt	26,600,000	27,600,000	0	0	26,600,000	27,600,000
Public Schools	26,600,000	27,600,000	0	0	26,600,000	27,600,000
Municipality Operating	26,600,000	27,600,000	0	0	26,600,000	27,600,000
Independent Special Dist	26,600,000	27,600,000	0	0	26,600,000	27,600,000

Assessed Value is the market value minus any assessment reductions.

Exemptions are specific dollar or percentage amounts that reduce your assessed value.

Taxable Value is the value used to calculate the tax due on your property (Assessed Value minus Exemptions).

Assessment Reductions	Applies To	Value

Properties can receive an assessment reduction for a number of reasons including the Successor Incentive Benefit and the 1% non-homesteaded property limitation.

Exemptions Applied	Applies To	Exempt Value

Visit the Palm Beach County Property Appraiser's website for more information: www.pbcgov.org/PAPA

FOIL EXEMPT | HIGHLY CONFIDENTIAL

TTO_06300986

Market Value	
Last Year (2020)	This Year (2021)
26,600,000	27,600,000

Market (also called "Just") value is the most probable sale price for your property in a competitive, open market on Jan 1, 2021. It is based on a willing buyer and a willing seller.

2002 National Trust Deed

October 17, 2002

Prepared by and after
recording return to:
Paul Ruppell, Esq.
50 Coconut Row, Suite 220
Palm Beach, FL 33480

10/17/2002 12:07:53
DR BK 14280 PG 0404
PALM BEACH COUNTY, FL
AMT 10.00
Doc Stamp 0.70

DEED OF DEVELOPMENT RIGHTS

WHEREAS, Mar-a-Lago Club, L.L.C., L.C., a Delaware Limited Liability Company, as successor in interest to The Mar-a-Lago Club, Inc., a Florida corporation, (the "Club") is the owner of real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property");

WHEREAS, Donald J. Trump, his successor and assigns, ("Trump") is the holder of a contingent reversionary interest in the Property;

WHEREAS, the Club and Trump intend to forever extinguish their right to develop or use the Property for any purpose other than club use;

WHEREAS, the National Trust for Historic Preservation in the United States (the "National Trust") is the grantee of a Deed of Conservation and Preservation Easement recorded on April 6, 1995 in Official Record Book 8691, Page 764 of the Public Records of Palm Beach County, Florida (the "Preservation Easement");

WHEREAS, the Preservation Easement limits changes to the Property including, without limitation, the division or subdivision of the Property for any purpose, including use as a single family home, the interior renovation of the building, which may be necessary and desirable for the sale of the Property as a single family residential estate, the construction of new buildings and the obstruction of open vistas;

WHEREAS, the Preservation Easement requires the approval of changes that would be necessary for any change in use and therefore confines the use of the Property to club usage without the express written approval of the National Trust; and

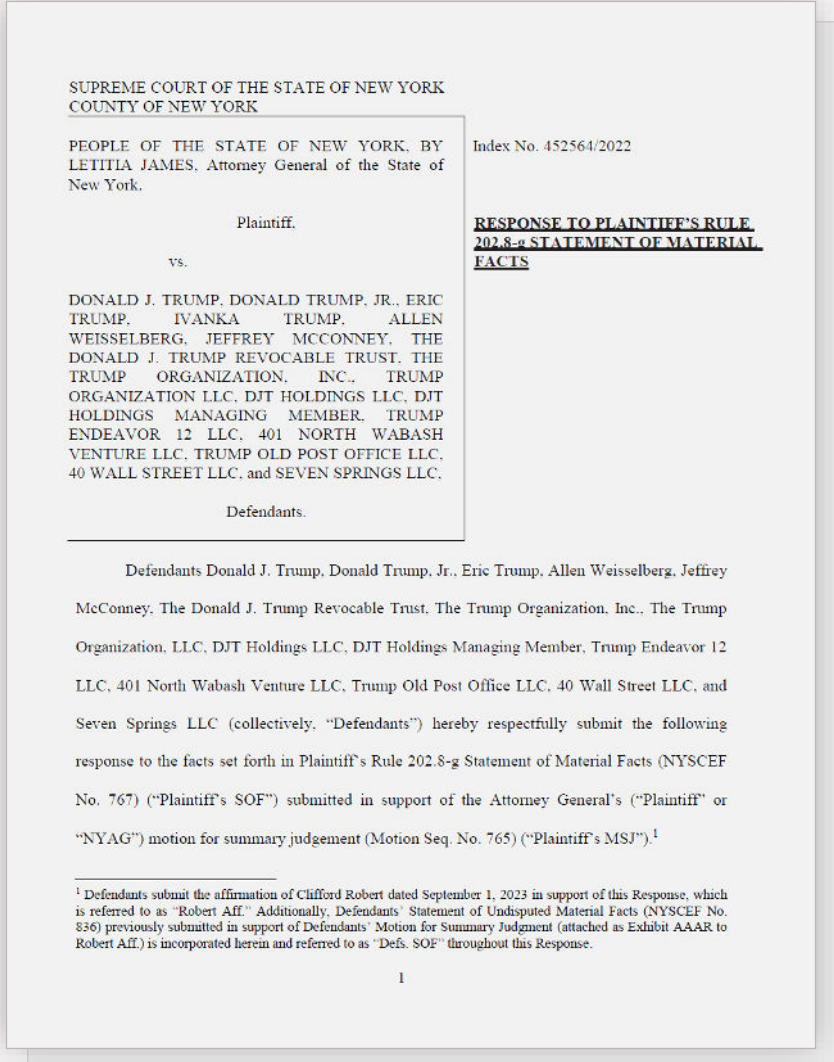
WHEREAS, the Club and Trump intend to establish as explicitly as possible that the Preservation Easement perpetuates the club usage of the Property, consistent with the other limitations set forth in that Easement,

WITNESSETH

The Club and Trump, for good and valuable consideration the receipt and sufficiency of which is acknowledged, by these presents do hereby transfer, grant, bargain, sell, alien, remise, release, convey and confirm unto the National Trust, to the extent that such rights have not already been transferred through the Deed of Conservation and Preservation Easement, any and all of their rights to develop the Property for any usage other than club usage.

Social Club Only

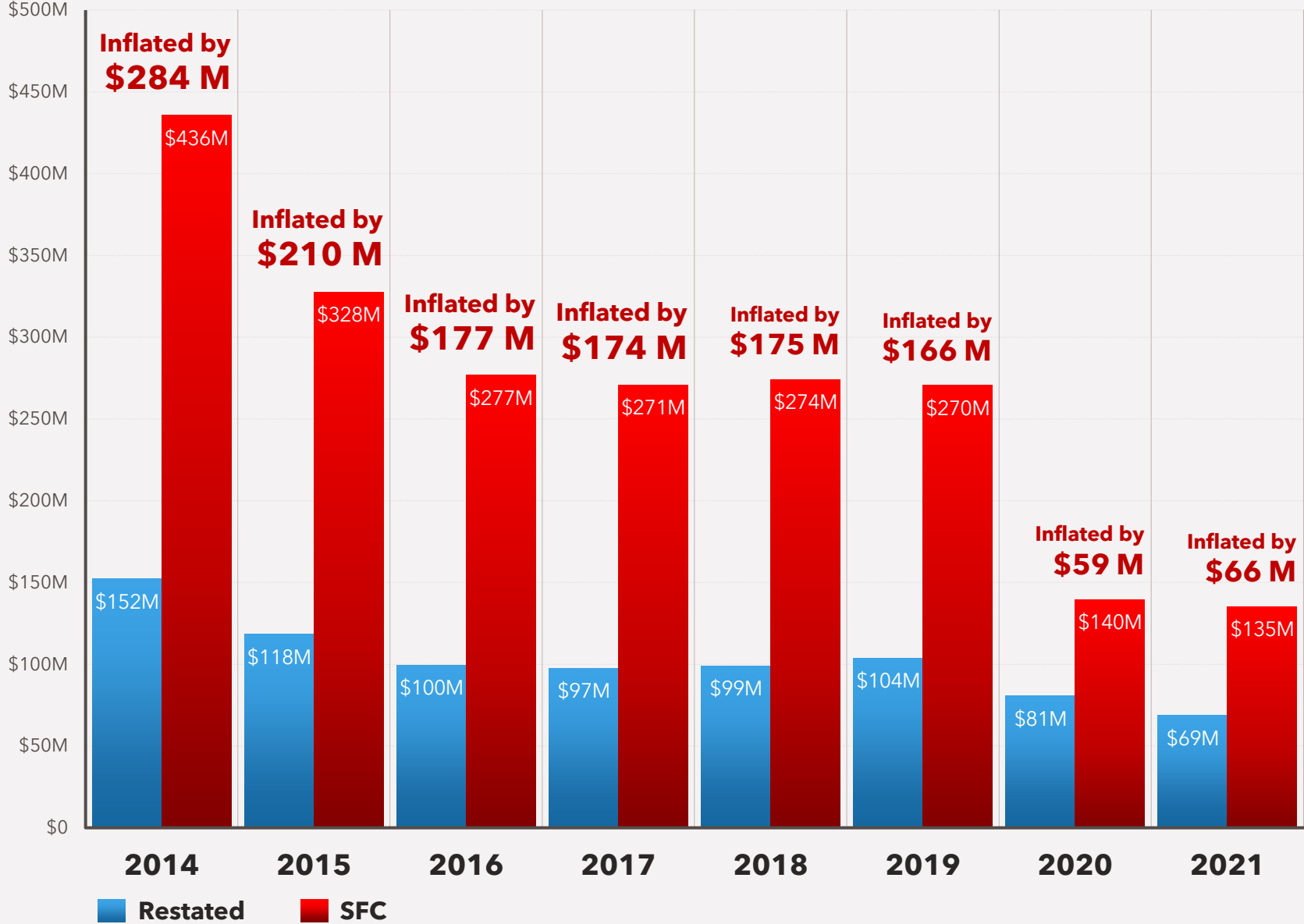
Defendants' 202.8-g Response



158. The 2012 SFC describes Mar-a-Lago as “an exclusive private club which consists of 117 rooms. Formerly known as the Marjorie Merriweather Post Estate, it features a 20,000 square foot Louis XIV style ballroom, world class dining, tennis courts, spa, cabanas and guest cottages.” (Ex. 2 at -6317) There is no discussion of the use of Mar-a-Lago as a private home, or of a residential component to the property in the 2012 SFC.

RESPONSE: Undisputed.

TIGC - Aberdeen | Inflated Amount

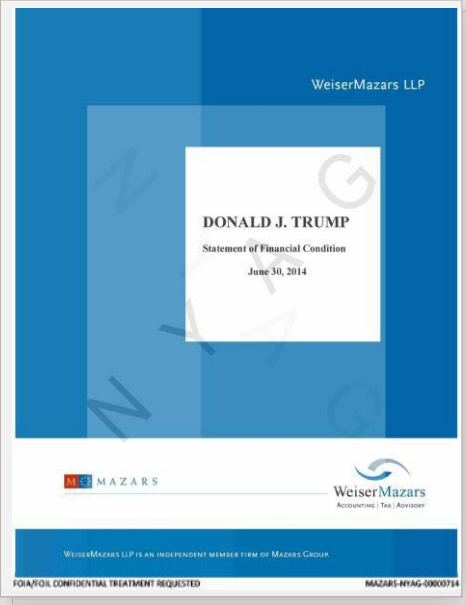


DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions**
- Using erroneous data as input
- Using methods that contradict SFC representation

SFC Represents 500 Homes Approved - Valuation Based on "2,500"

June 30, 2014



The development received outline planning permission in December 2008 for . . . 500 single family residences

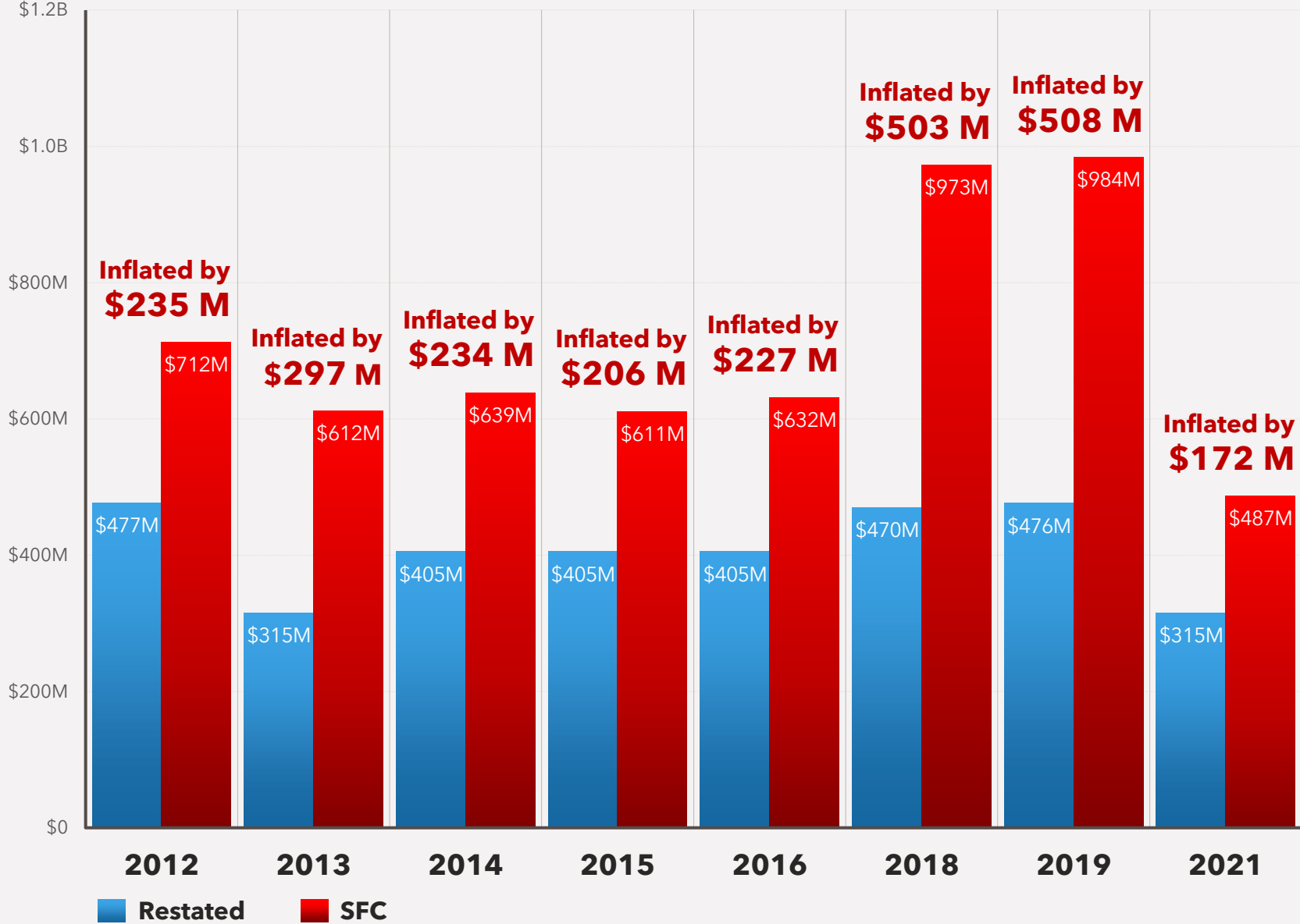
Ex. 4 at p. 14

	6/30/2013	6/30/2014
CASH AND MARKETABLE SECURITIES		
Cash and Marketable Securities-See schedule	339,879,214	303,329,307
Per financials	339,108,008	302,300,000
ESCROW AND RESERVE DEPOSITS		
See schedule	15,218,482	40,054,452
	15,218,008	40,000,000
REAL AND OPERATING PROPERTIES		
Trump Tower	6/30/2013	6/30/2014
Income (based on 2013 budget which approximates fully stabilized)		51,443,000
Income (based on 2014 actual vs. Actual and Budget Dept. - Dec. which approximates fully stabilized)		32,843,000
Rental income for space used by T Corp (not to be)		2746,800
25th and 25th floors 27,468 SF x \$100/SF		709,500
10th floor 8,300 SF x \$165/SF		277,300
22nd floor 3,088 x \$100/SF		101,000
2013 rent income for space used by T Restaurant		30,573,800

Residential Parcel	
Purchase of land by Persimmons, Hopecroft, Bucksburn-price per home	£83,164
Number of homes to build	2,500
	£207,910,000

Ex. 16 at rows 519-522

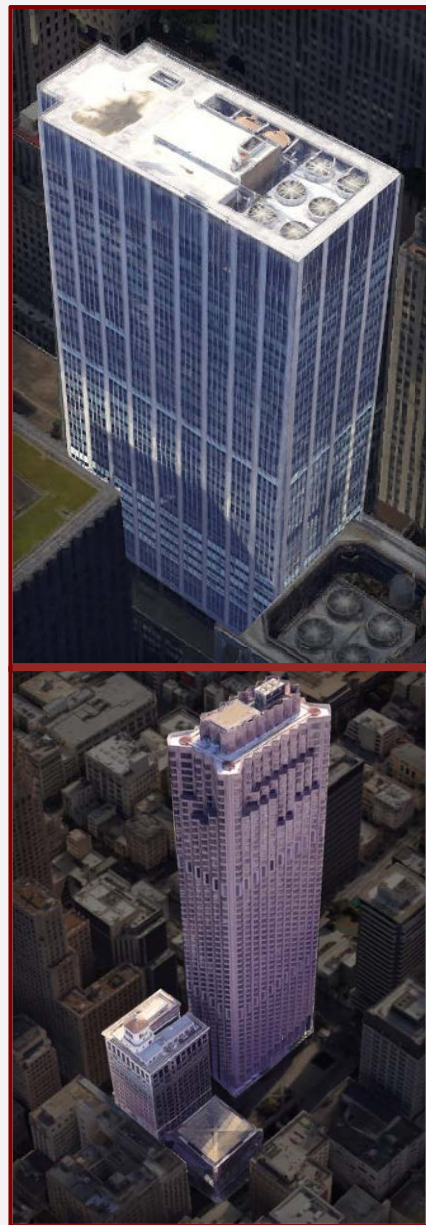
Vornado Properties | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input**
- Using methods that contradict SFC representation

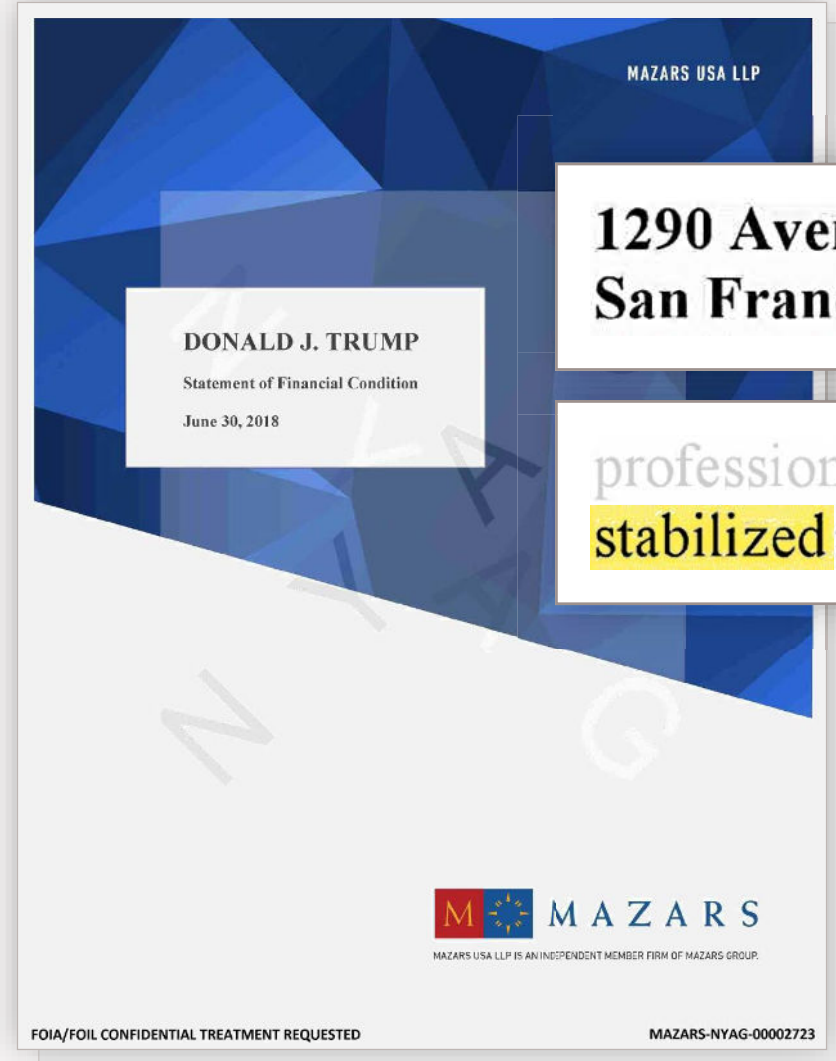
Vornado Properties



Year	SFC Value	Appraised Value	Difference (100%)	30% Interest	Exhibits
2012	\$2,785,000,000	\$2.0B as of 11/1/12	\$785,000,000	\$235,000,000	Ex. 111
2013	\$2,989,000,000	\$2.0B as of 11/1/12	\$989,000,000	\$297,000,000	Ex. 111
2014	\$3,078,000,000	\$2.3B as of 11/1/16	\$778,000,000	\$234,000,000	Ex. 111
2015	\$2,986,000,000	\$2.3B as of 11/1/16	\$686,000,000	\$206,000,000	Ex. 111
2016	\$3,055,000,000	\$2.3B as of 11/1/16	\$755,000,000	\$227,000,000	Ex. 111
2021	\$2,575,000,000	\$2.0B as of 8/24/21	\$575,000,000	\$172,000,000	Ex. 139

Failed to Use Stabilized Cap Rate

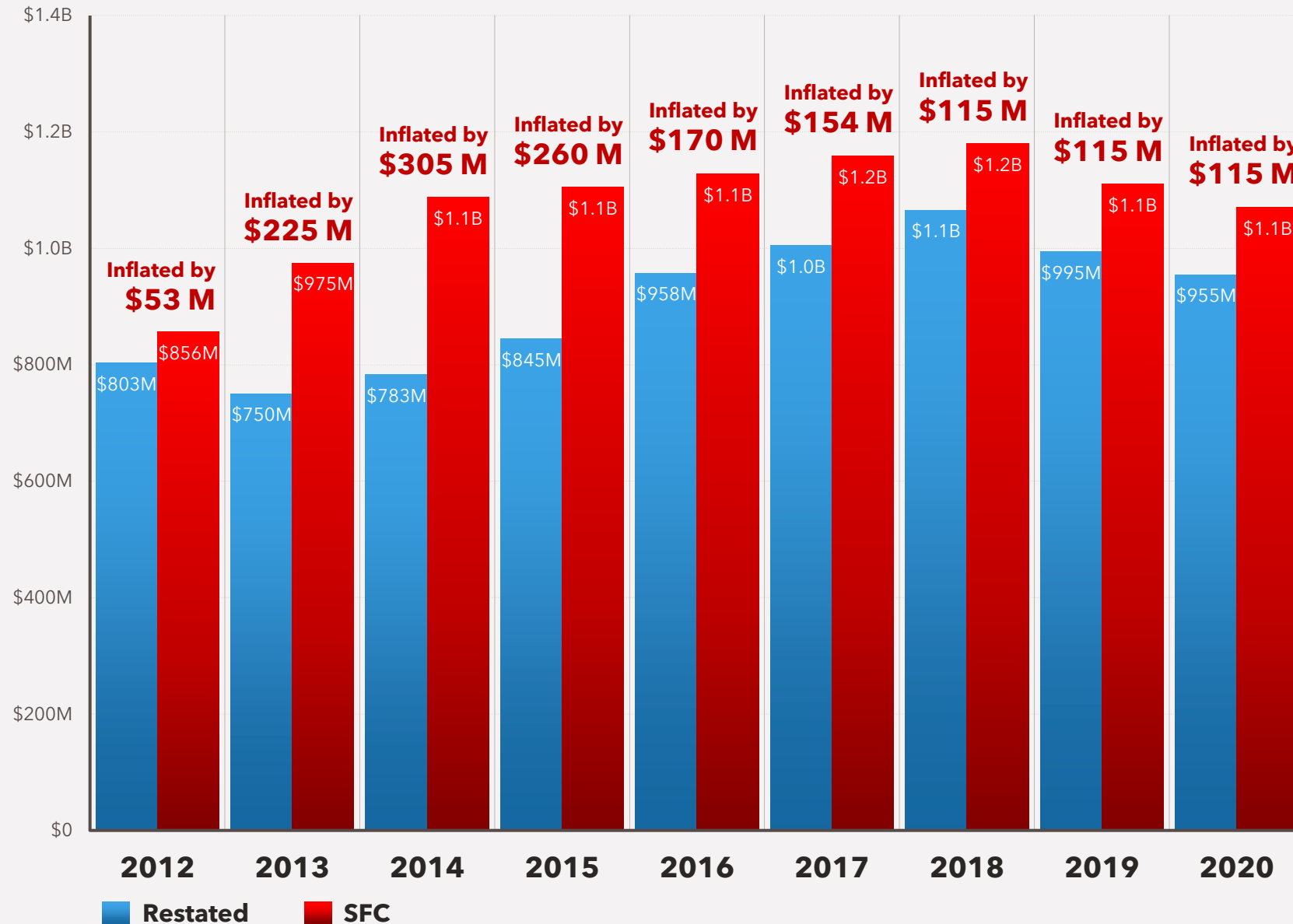
June 30, 2018 SFC



1290 Avenue of the Americas in New York, New York and 555 California Street in San Francisco, California

professionals. This valuation was arrived at by applying a capitalization rate to the **stabilized** net operating income and taking into consideration any debt.

US Golf Clubs | Inflated Amount

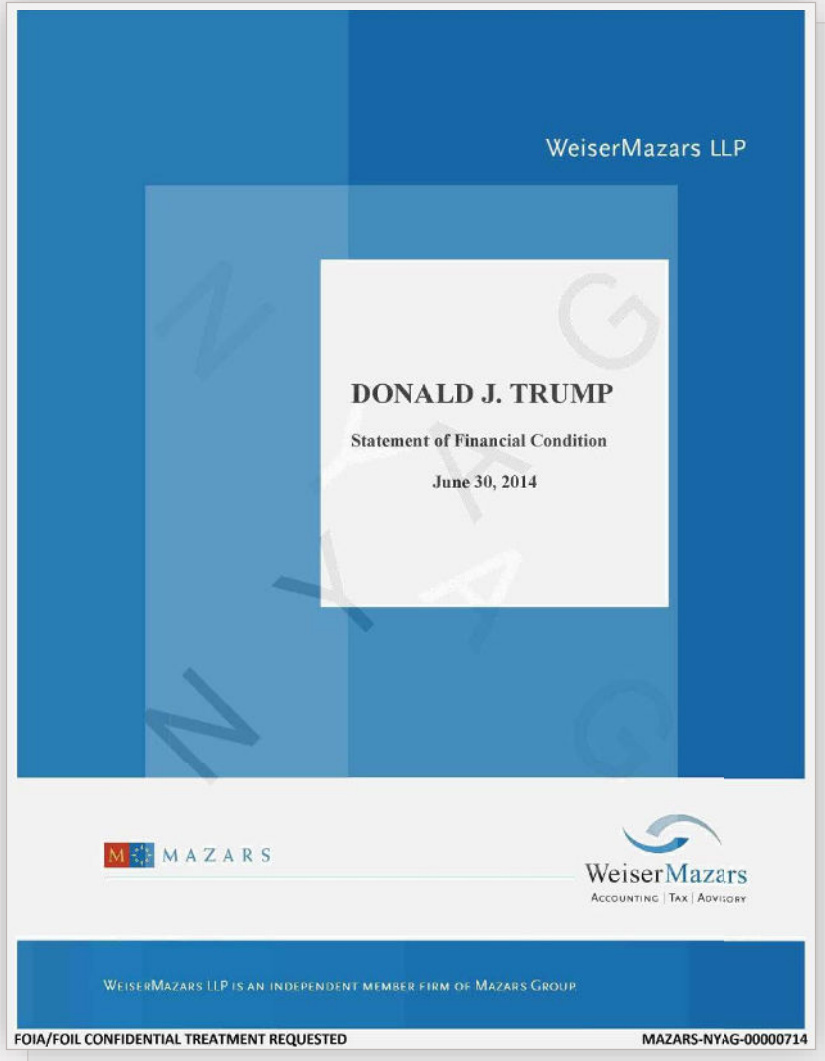


DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input
- Using methods that contradict SFC representation

SFC Represents “goodwill” From “Trump name” Is Not Included

June 30, 2014



Pursuant to GAAP, this financial statement does not reflect the value of Donald J. Trump's worldwide reputation . . . The goodwill attached to the Trump name has significant financial value that **has not** been reflected in the preparation of this financial statement.

Brand Premium Added

June 30, 2014

	A	B	C	D	E	F	G	H	I
			Donald J Trump						
			Statement of Financial Condition						
			As of June 30, 2014						
							6/30/2013	6/30/2014	
			CASH AND MARKETABLE SECURITIES						
			Cash and Marketable Securities-See schedule				339,070,214	302,325,307	
			Per financials				339,100,000	302,300,000	302,300,000
			ESCROW AND RESERVE DEPOSITS						
			See schedule				15,219,480	40,055,452	
							15,210,000	40,000,000	40,000,000
			REAL AND OPERATING PROPERTIES						
			Trump Tower				6/30/2013	6/30/2014	
			Income (based on 2013 budget which approximates fully stabilized)				31,443,000		
			Income (based on 2014 actual thru August and budget Sept - Dec which approximates fully stabilized)					32,843,000	4800.01
			Rental Income for space used by T Corp (not billed)						
			26th and 25th floors 27,466SF x \$100/SF					2,746,600	
			16th floor 8,300SF x \$85/SF					705,500	
			22nd floor 3,086 x \$90/SF					277,740	
			2013 rent Income for space used by T Restaurant					101,000	
								36,673,840	11

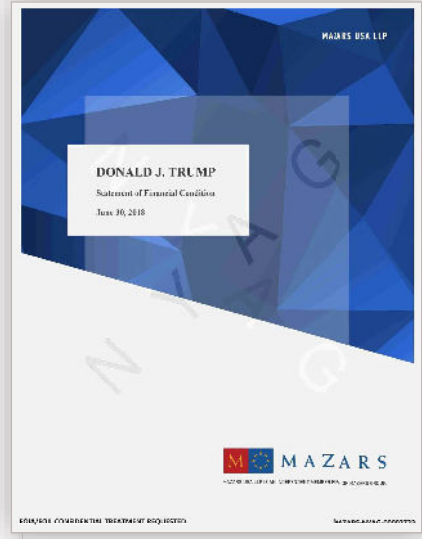
Trump National Golf Club - Jupiter FL

Value of Fixed Assets

Premium for fully operational branded facility @ 30%

Membership Deposit Liabilities Not "At Zero"

June 30, 2018



Trump National Golf Club in Jupiter, Florida

certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led the Trustees to value this liability at zero, and not its present value.

	A	B	C
1	Jupiter Golf Club LLC		
2	Allocation of Purchase Price		
3			
4			
5	Cash		5,000,000.00
6	Member deposits liability assumed		41,128,800.00
7	Closing Costs		43,700.52
8	Total purchase price		46,172,500.52

	A	B	C	D	E
1	Jupiter Golf Club LLC				
2	Allocation of Purchase Price				
3					
4					
5	Cash		5,000,000.00		
6	Member deposits liability assumed		41,128,800.00		
7	Closing Costs		43,700.52		
8	Total purchase price		46,172,500.52		
9				DR	CR
10					
11	Building (\$45,324,518.09 x 4.2%)	00-1515	19,298,735.11		
12	Building Improvements (\$45,324,518.09 x 1.7%)	00-1515	7,705,048.48		
13	FF&E (\$45,324,518.09 x 14.7%)	00-1525	6,767,139.42		
14	Land (\$45,324,518.09 x 5.7%)	00-1500	2,583,233.94		
15	Land Improvements (\$45,324,518.09 x 22.5%)	00-1500	10,197,811.82		
16	Deposit on Purchase			1,000,000.00	
17	Deposit on Purchase			1,000,000.00	
18	Deposit on Purchase			2,807,213.86	
19	Deposit on Purchase			43,700.52	
20	Refundable member deposits payable	00-2610		41,128,800.00	
21	Real Property tax expense	90-9080	22,501.10		
22	Intangible tax expense	90-9090	1,044.80		
23	Bad debt expense	50-7960	5,152.72		
24	Equipment lease exp - fitness	20-7200	6,490.04		
25	Closing Costs		43,700.52		
26	Golf pro shop inventory-handgoods	00-1240	133,320.97		
27	Golf pro shop inventory-softgoods	00-1240			
28	Wine & beer inventory	00-1260	86,176.44		
29	Food inventory	00-1200	23,485.35		
30	Liquor inventory	00-1210			
31	Meat inventory	00-1210	11,199.35		
32	Meat inventory	00-1210	846.60		
33	CCM (contractors) fee expense	20-7215	29,268.12		
34	Puts revenue	10-4000		338,454.41	
35	Net revenue	80-4500		24,193.39	
36	Net revenue	50-7960		2,500.00	
37	Net revenue	80-4500		1,948.80	
38	Net revenue	80-4500		3,208.11	
39	Membership initiation fees - nonrefundable	10-4010		96,897.22	
40	Golf certificates - golf and spa	00-2610		1,498.50	
41	Bankrupt event deposits	00-2500		2,250.00	
42	Interest income	80-4100		385.43	
43	Golf packages	25-4140		4,891.85	
44			46,236,958.20	46,441,242.11	(204,283.91)

Ex. 8 at p. 12; Ex. 125 Tab "10-Journal Entry" rows 1-8

Golf Club Appraisals Disregarded

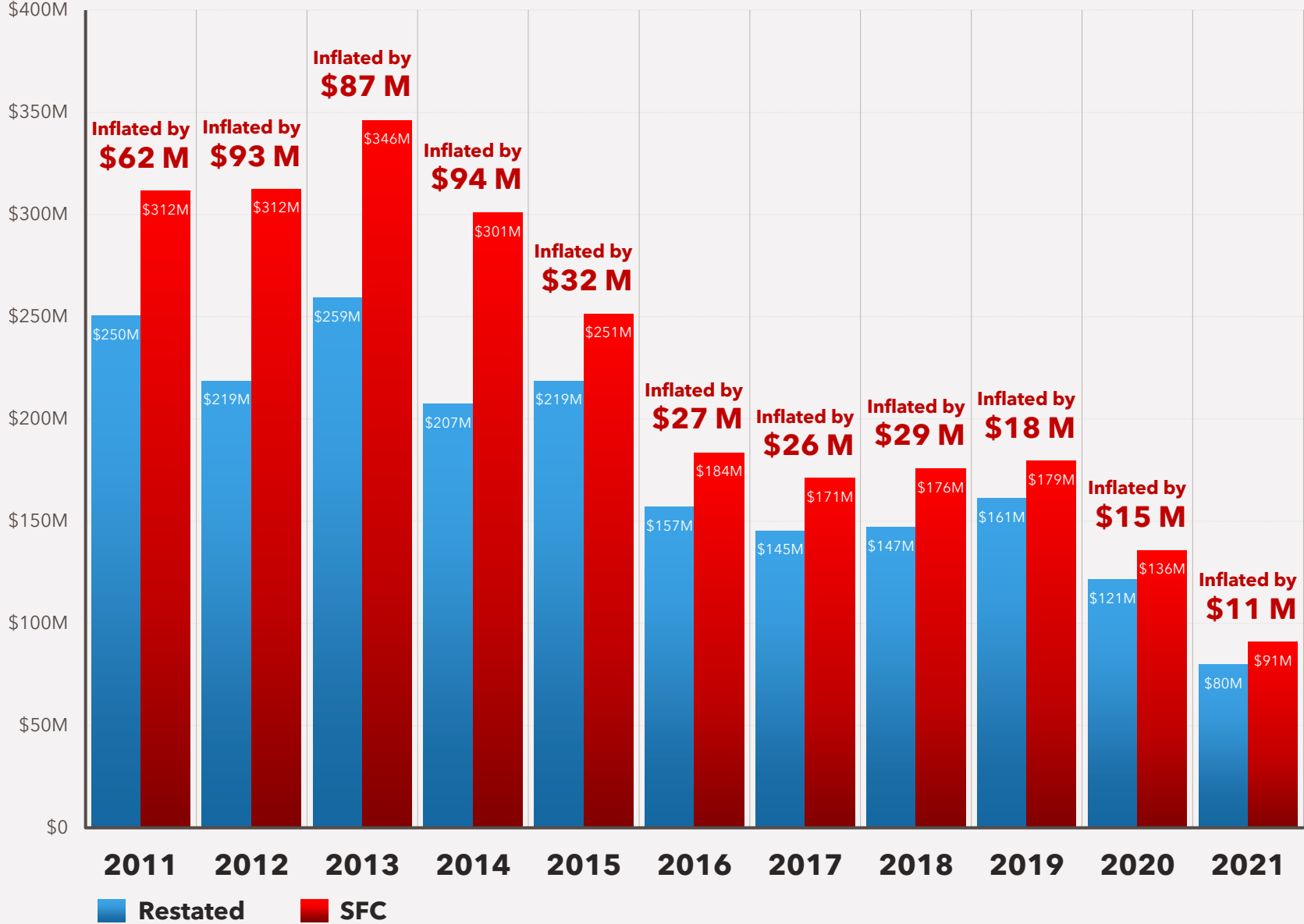
Golf Course Appraisals

Year	Property	SFC Value	Appraised Value	Difference
2014	TNGC Briarcliff	\$73,130,987	\$16,500,000	\$56,630,987
2014	TNGC LA	\$74,300,642	\$16,000,000	\$58,300,642
2015	TNGC Briarcliff	\$73,430,217	\$16,500,000	\$56,930,217
2015	TNGC LA	\$56,615,895	\$16,000,000	\$40,615,895

Undeveloped Land Appraisals

Year	Property	SFC Value	Appraised Value	Difference
2012	TNGC LA	\$72,000,000	\$19,000,000	\$53,000,000
2013	TNGC Briarcliff	\$101,748,600	\$45,000,000	\$56,748,600
2013	TNGC LA	\$40,000,000	\$19,000,000	\$21,000,000
2014	TNGC Briarcliff	\$101,748,600	\$43,200,000	\$58,448,600
2014	TNGC LA	\$40,000,000	\$25,000,000	\$15,000,000
2015	TNGC Briarcliff	\$101,748,600	\$45,200,000	\$56,548,600
2016	TNGC Briarcliff	\$101,748,600	\$45,200,000	\$56,548,600

Trump Park Avenue | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions**
- Using erroneous data as input**
- Using methods that contradict SFC representation

2010 Oxford Group Appraisal

2010

The Sales Comparison Approach

CALCULATION OF RENT STABILIZED UNITS' VALUE

The client has requested a sum of gross sellout value for the subject units. However, 12 of the subject property's 23 residential units are currently subject rent stabilization. As a result, they cannot be marketed as individual units as current tenants cannot be forced to leave. Therefore, we will consider the value of units 4A, 6B, 7A, 7B, 7D, 7E, 7G, 8E, 8H, 10E, 12E, and 15A as a bulk unit size. We were unable to find any sales of bulk condominiums. Therefore, we have considered the value of the condominium units based on their income.

As discussed in the income capitalization section, we have accepted the rent stabilized contract rental amounts for the subject property's 12 rent stabilized units. Next, we estimated stabilized expenses for the 12 units. We have applied actual taxes for each of the 12 condominium lots as well as all the expenses maintaining consistency with the expenses of the entire subject building (discussed in more detail in the income approach).

We utilized the same capitalization rate of 6.50%. This is lower than the capitalization rate applied to the entire subject property, due to the upside potential in rent once the current tenants vacate.

The calculation of the value of the 12 rent-stabilized condominium lots is presented on the following page:

The Oxford Group
APPRAISAL & CONSULTATION, INC.

80

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TTO 234022

STABILIZED OPERATING STATEMENT

502 Park Ave, Units 4A, 6B, 7A, 7B, 7D, 7E, 7G, 8E, 8H, 10E, 12E, 15A

14,759 Floor area SF

		\$ / Year
Potential Gross Income		
Potential Gross Income	\$22.75	\$ 335,772.40
Effective Gross Income	\$22.75	\$335,772

		\$/SF
Operating Expenses		
Taxes	\$11.31	\$ 166,933.26
Supplies	\$0.75	\$11,069
Payroll	\$2.00	\$29,518
Common Area Utilities	\$0.50	\$7,380
Fuel	\$1.50	\$22,139
Water and Sewer	\$0.50	\$7,380
Insurance	\$1.00	\$14,759
Repairs and Maintenance	\$0.50	\$7,380
Reserves	\$0.25	\$3,690
Management	5.0%	\$1.14
		\$16,789
Total Expenses:	-\$19.45	(\$287,035)

Net Operating Income \$48,738

Capitalization Rate	6.50%	
Capitalized Value		\$749,808

STABILIZED VALUE Rounded \$51 /SF \$750,000

$$\$750,000 \div 12 \text{ units} = \$62,500 \text{ per unit}$$

SFC Values Based on "Offering Plan Price" Not "Current Market Value"

September 21, 2012

Trump Sponsor Unit Inventory Valuation
September 21, 2012

Unit	Offering Plan Price	Current Market Value
3B	\$19,358,750	\$11,500,000
4A	\$4,021,500	\$2,400,000
6B	\$5,733,000	\$3,275,000
7A/B	\$8,239,000	\$4,700,000
7D	\$5,411,000	\$3,100,000
7E	\$2,782,500	\$1,600,000
7G	\$5,011,500	\$3,100,000
8E	\$3,051,000	\$2,100,000
8H	\$2,037,000	\$1,400,000
10E	\$2,430,000	\$1,600,000
12E	\$2,451,000	\$1,650,000
12J	\$2,079,000	\$1,400,000
15AB	\$8,428,000	\$4,800,000
19A	\$14,449,500	\$11,500,000
PH20	\$35,000,000	\$30,000,000
PH21	\$35,000,000	\$30,000,000
PH23	\$33,000,000	\$25,000,000
PH24	\$32,000,000	\$24,000,000
PH27	\$20,820,000	\$16,650,000
PH28	\$20,820,000	\$16,650,000
PH31/32	\$31,000,000	\$40,000,000
Total:	\$293,122,750	\$236,425,000

Note: PH 31/32 reduced from \$51mil to \$31mil

502 Park Avenue

Unit	Offering Plan Price:	Current Market Value:
3B	\$19,358,750	\$11,500,000
4A	\$4,021,500	\$2,400,000
6B	\$5,733,000	\$3,275,000
7A/B	\$8,239,000	\$4,700,000
7D	\$5,411,000	\$3,100,000
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PH27	\$20,820,000	\$16,650,000
PH28	\$20,820,000	\$16,650,000
PH31/32	\$31,000,000	\$40,000,000
Total:	\$293,122,750	\$236,425,000

June 30, 2012

Donald J Trump
Statement of Financial Condition
As of June 30, 2012

CASH AND MARKETABLE SECURITIES
Cash and Marketable Securities-See schedule
Per financials

ESCROW AND RESERVE DEPOSITS
See schedule
Per financials

REAL AND OPERATING PROPERTIES
Trump Tower
Based on Trump Tower Commercial LLC 12/31/2011 Financial Statements
Income
Expenses
NOI
Cap Rate
Value
Per financials

Trump Park Avenue

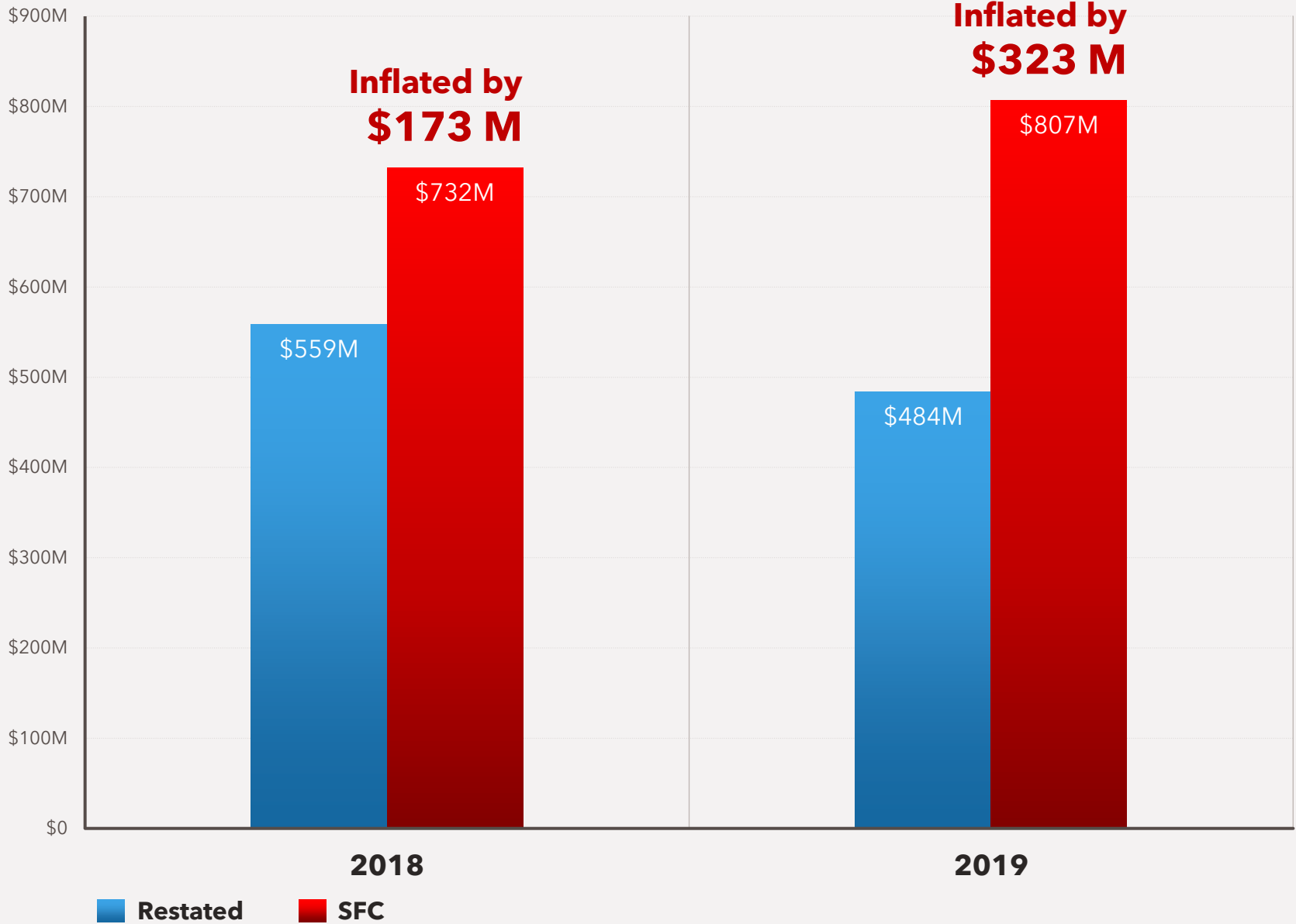
Valuation is based on the anticipated selling price of unsold residential units and the selling price or the rental income stream to be derived from the commercial space.

Unsold units

	6/30/2011	6/30/2012
Unsold units	293,122,750	293,122,750

Ex. 169 rows 7-29, Ex. 14 rows 161-166

Trump Tower | Inflated Amount

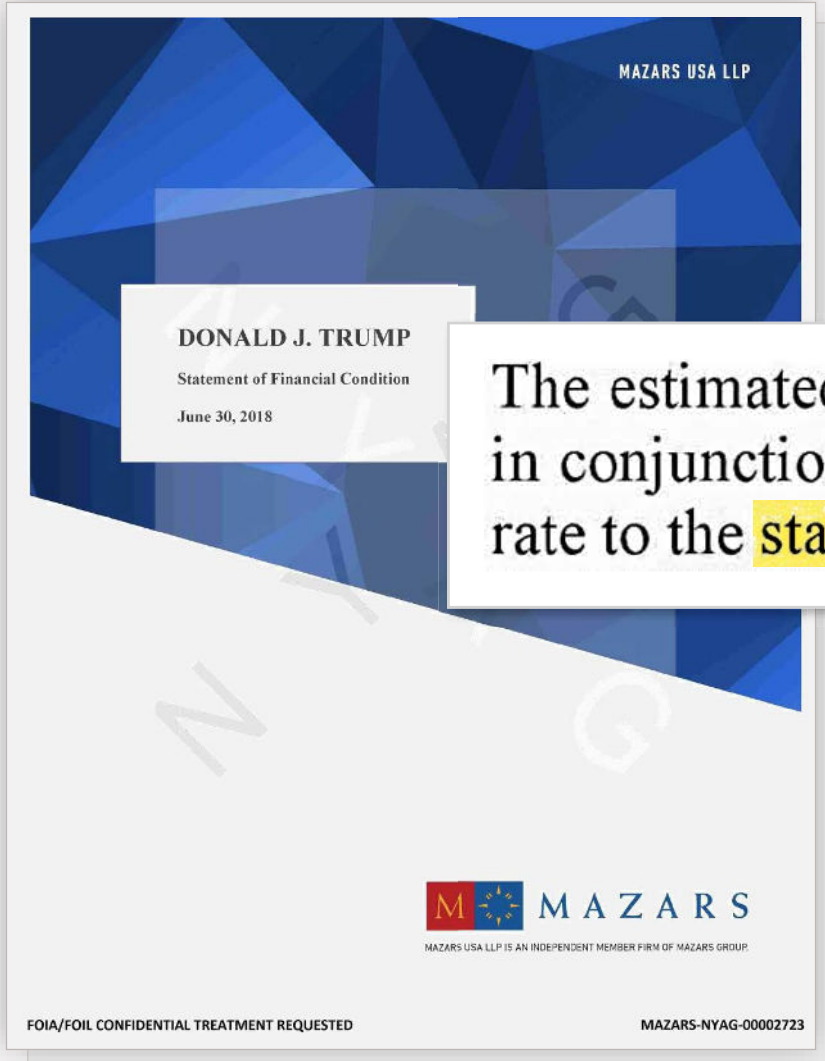


DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input**
- Using methods that contradict SFC representation

Failed to Use Stabilized Cap Rate

2018 SFC

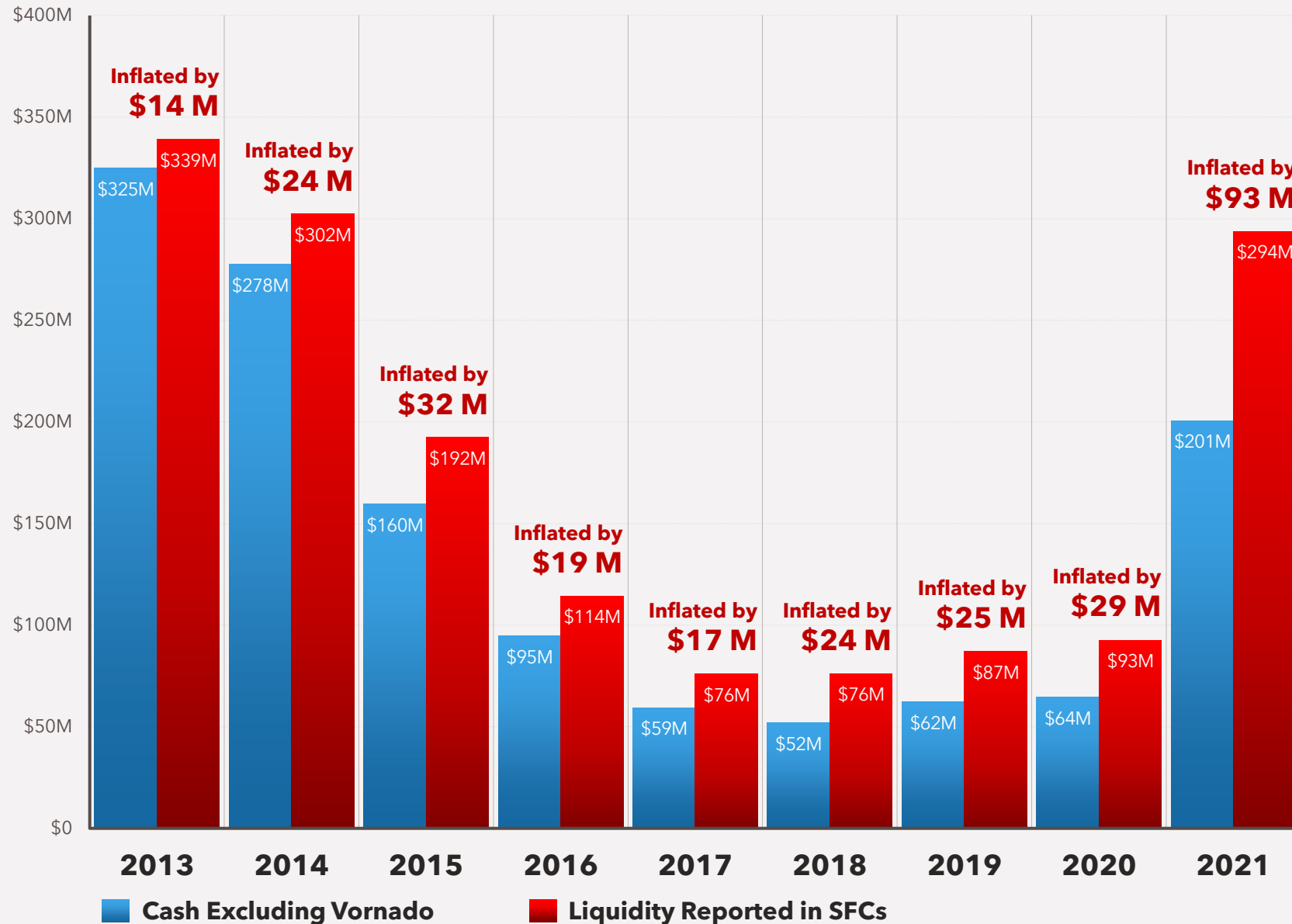


Trump Tower (Continued)

The estimated current value of \$732,300,000 is based on an evaluation by the Trustees in conjunction with their associates and outside professionals, applying a capitalization rate to the **stabilized** net operating income.

Ex. 8 at pp. 4, 5

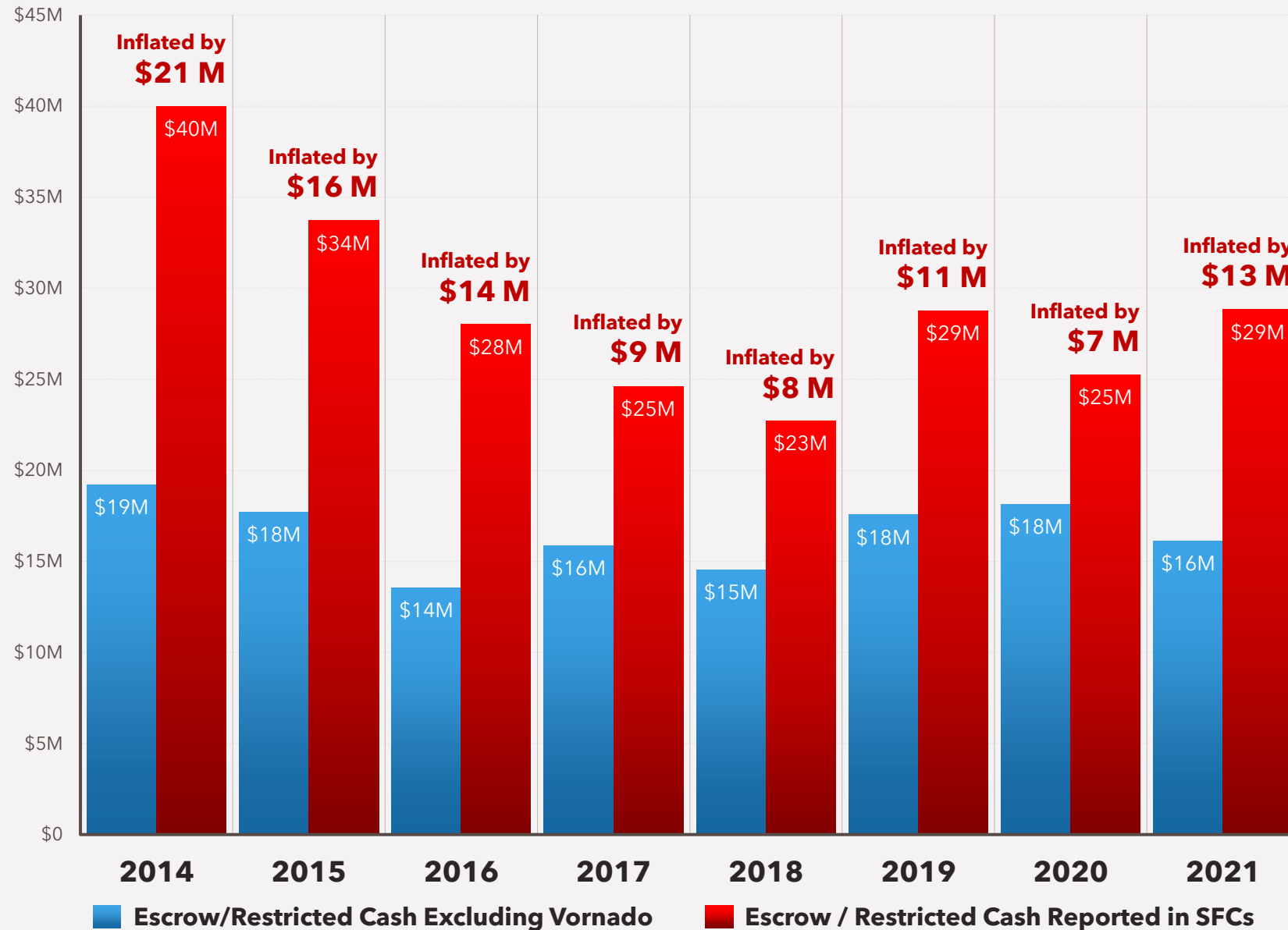
Cash | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions**
- Using erroneous data as input
- Using methods that contradict SFC representation**

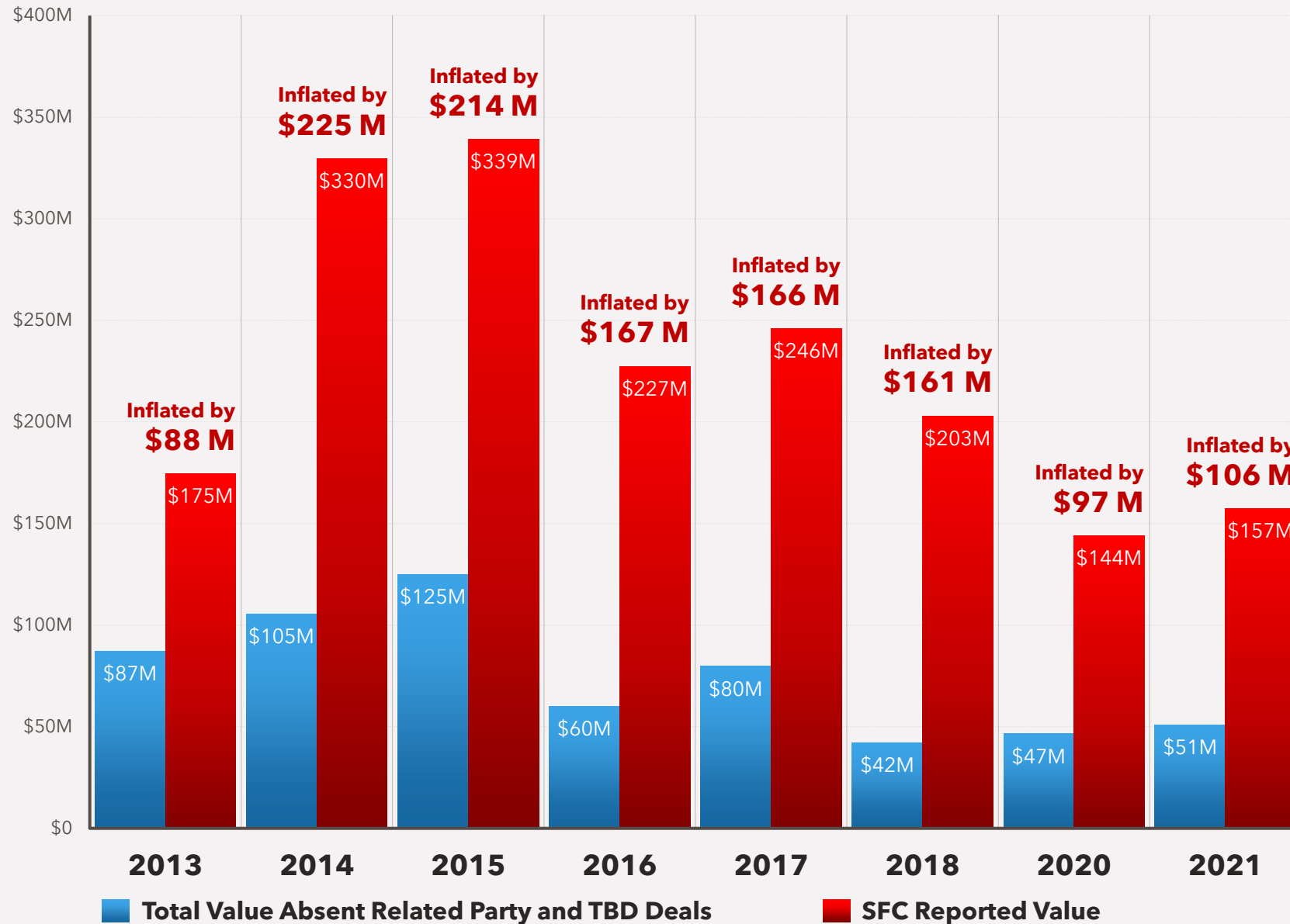
Escrow | Inflated Amount



DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions**
- Using erroneous data as input
- Using methods that contradict SFC representation**

Licensing Developments | Inflated Amount

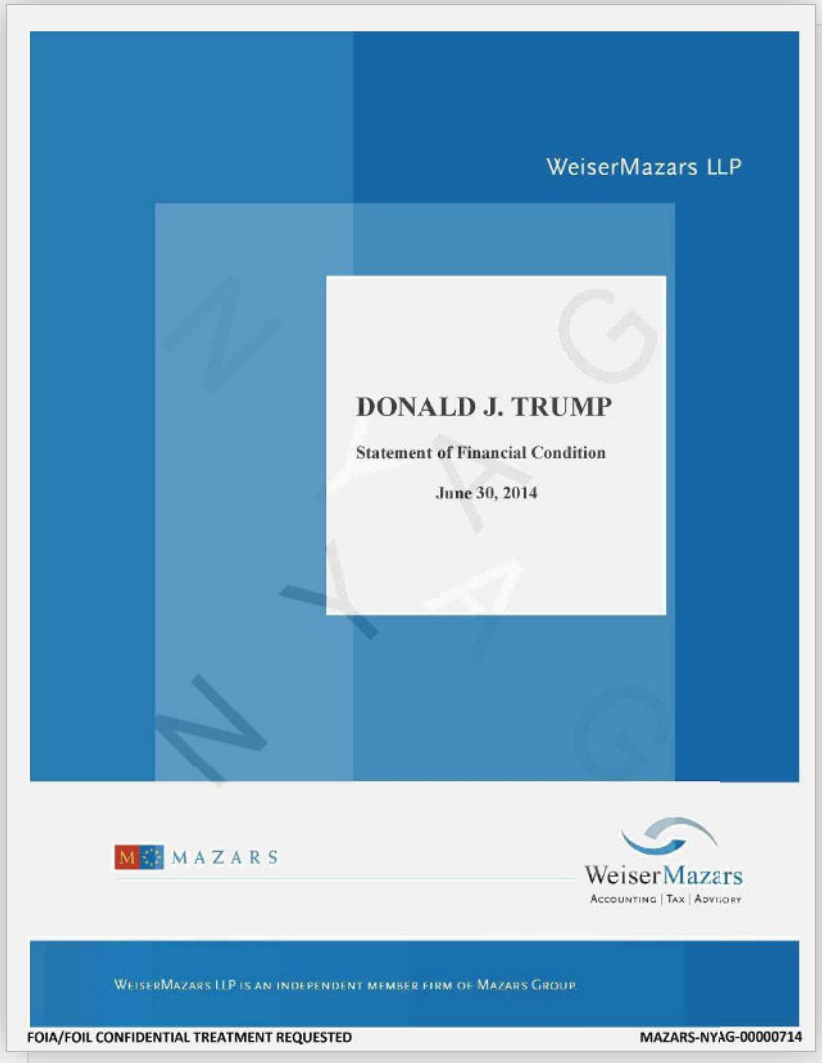


DECEPTIVE PRACTICES

- Disregarding appraisals
- Disregarding legal restrictions
- Using erroneous data as input
- Using methods that contradict SFC representation**

SFCs Include TBD Deals and Intra-Company Management Contracts

June 30, 2014



Mr. Trump has formed numerous associations **with others** for the purpose of developing and managing properties... In preparing that assessment, Mr. Trump and his management considered only situations **which have evolved to the point where signed arrangements with the other parties exist** and fees and other compensation which he will earn **are reasonably quantifiable.**

Ex. 4 at p. 21

Fraudulent Transactions Were Completed Within The Limitations Period

First Department Decision

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Webber, J.P., Singh, Kennedy, Scarpulla, Pitt-Burke, JJ.

553 PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, ATTORNEY GENERAL OF THE STATE OF NEW YORK, Index No. 452564/22 Case No. 2023-00717
Plaintiff-Respondent,

-against-

DONALD J. TRUMP et al.,
Defendants-Appellants.

Habba Madaio & Associates, New York (Alina Habba of counsel), and Continental PLLC, Tallahassee, FL (Christopher M. Kise of the bar of the State of Florida, admitted pro hac vice, of counsel), for Donald J. Trump, Allen Weisselberg, Jeffrey McConney, Donald Trump, Jr., Eric Trump, The Trump Organization, Inc., Trump Organization LLC, The Donald J. Trump Revocable Trust, DJT Holdings LLC, DJT Holdings Managing Member LLC, Trump Endeavour 12 LLC, 401 North Wabash Venture LLC, Trump Old Post Office LLC, 40 Wall Street LLC and Seven Springs LLC, appellants.

Troutman Pepper Hamilton Sanders LLP, New York (Bennet J. Moskowitz of counsel), for Ivanka Trump, appellant.

Letitia James, Attorney General, New York (Judith N. Vale of counsel), for respondent.

Order, Supreme Court, New York County (Arthur F. Engoron, J.), entered January 9, 2023, which denied defendants' respective motions to dismiss the complaint, unanimously modified, on the law, to dismiss, as time-barred, the claims against defendant Ivanka Trump and the claims against the remaining defendants to the extent they accrued prior to July 2014 (with respect to those defendants subject to the August 2021 tolling agreement) and February 2016 (with respect to those defendants not subject to the August 2021 tolling agreement), and to modify the caption to reflect that

“claims are time barred if they accrued – that is, the transactions were completed – before” either February 6, 2016 or July 13, 2014 depending on whether a Defendant is bound by the Tolling Agreement.

Certification Is a Fraudulent Transaction

May 10, 2016

Donald J. Trump
725 Fifth Avenue
New York, NY 10022

May 10, 2016

LENDER: Deutsche Bank Trust Company Americas
GUARANTOR: Donald J. Trump
BORROWER: Trump Endeavor 12 LLC, a Delaware limited liability company
401 North Wabash Venture LLC, a Delaware limited liability company
Trump Old Post Office LLC, a Delaware limited liability company

This certificate is delivered under the Guaranty (as same may be amended, supplemented, renewed, extended, replaced, or restated from time to time, together with all attachments hereto, the "Guaranty"), dated as of June 11, 2015, and given by Guarantor to Lender as required under the Guaranty. Capitalized terms not defined herein shall have the meanings assigned to such terms in the Credit Agreement and the Guaranty, as the case may be.

The undersigned Guarantor hereby certifies to Lender as of the date hereof that as of June 30, 2015 (the "Reporting Date"):

1. Financial Information. As applicable (please check applicable box below and insert the applicable date below):

- [X] Attached hereto is Guarantor's Statement of Financial Condition as of June 30, 2015 (Section 11(A) of the Guaranty).
- [] Attached hereto is Guarantor's Schedule of Contingent Liabilities as of June 30, 2015 (Section 11(B) of the Guaranty).
- [] Attached hereto is Guarantor's Excess Revenue over Disbursement Schedule for the twelve (12)-month period ended June 30, 2015 (Section 11(C) of the Guaranty).

The foregoing presents fairly in all material respects the financial condition of Guarantor at the period presented.

2. Unencumbered Liquid Assets of Guarantor. In respect of Section 10(j) of the Guaranty, Guarantor's Unencumbered Liquid Assets at all times was, and as of the last day of the semi-annual period ending on June 30, 2015 is not less than (x) Fifty Million Dollars (\$50,000,000) times (y) the applicable Step-Down Percentage on the date hereof.

3. Debt. In respect of Section 10(i) of the Guaranty, Guarantor's Debt does not exceed the requirements thereof.

FOIL CONFIDENTIAL TREATMENT REQUESTED DB-NYAG-260865

May 10, 2016

* * *

BORROWER: Trump Endeavor 12 LLC, a Delaware limited liability company
401 North Wabash Venture LLC, a Delaware limited liability company
Trump Old Post Office LLC, a Delaware limited liability company

* * *

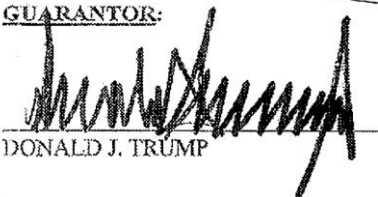
1. Financial Information. As applicable (please check applicable box below and insert the applicable date below):

- [X] Attached hereto is Guarantor's Statement of Financial Condition as of June 30, 2015 (Section 11(A) of the Guaranty).

* * *

The foregoing presents fairly in all material respects the financial condition of Guarantor at the period presented.

* * *

GUARANTOR:

DONALD J. TRUMP

Doral Loan

July 13, 2014

February 6, 2016

June 11, 2012

Deutsche Bank loan to Trump
Endeavor 12 LLC closes
(Ex. 254; NYSCEF No. 501
(Donald Trump Answer) ¶ 587)

November 11, 2014

Donald Trump certifies
accuracy of the 2014 SFC
(Ex. 256)

May 10, 2016

Donald Trump certifies
accuracy of the 2015 SFC
(Ex. 257)

March 13, 2017

Donald Trump, by Donald Trump, Jr.
as attorney in fact, certifies
accuracy of the 2016 SFC
(Ex. 258)

October 13, 2017

Donald Trump, by Donald Trump, Jr.
as attorney in fact, certifies accuracy
of the 2017 SFC
(Ex. 259)

October 31, 2019

Donald Trump, by Donald Trump, Jr.
as attorney in fact, certifies
accuracy of the 2019 SFC
(Ex. 261)

October 25, 2018

Donald Trump, by Donald Trump, Jr.
as attorney in fact, certifies
accuracy of the 2018 SFC
(Ex. 260 at -59826-27)

October 28, 2020

Donald Trump, by Eric Trump as
attorney in fact, certifies the 2020 SFC
"shall be submitted to Lender
no later than December 31, 2020"
(Ex. 262)

October 28, 2021

Donald Trump, by Eric Trump
as attorney in fact, certifies
accuracy of the 2021 SFC
(Ex. 263)

2012 2013 2014 2015 2016 2017 2018 2019 2020 2021

Limitations Period for Defendants bound by Tolling Agreement (per 1AD Decision)

July 13, 2014

Limitations Period for Defendants not bound by Tolling Agreement (per 1AD Decision)

February 6, 2016

Chicago Loan

July 13, 2014

February 6, 2016

November 9, 2012

Deutsche Bank loan to 401 North Wabash Venture LLC closes (Ex. 276; Ex. 277; NYSCEF No. 501 (Donald Trump Answer) ¶ 606)

June 2, 2014

Amended and restated term loan to 401 North Wabash Venture LLC closes (Ex. 280 at -3709, -3711; Ex. 281 at -3204; NYSCEF No. 501 (Donald Trump Answer) ¶ 618) and includes an amended and restated guaranty (Ex. 281)

May 10, 2016

Donald Trump certifies accuracy of the 2015 SFC (Ex. 257)

October 28, 2021

Donald Trump, by Eric Trump as attorney in fact, certifies accuracy of the 2021 SFC (Ex. 285)

October 28, 2020

Donald Trump, by Eric Trump as attorney in fact, certifies the 2020 SFC "shall be submitted to Lender no later than December 31, 2020" (Ex. 284)

October 31, 2019

Donald Trump, by Donald Trump, Jr. as attorney in fact, certifies accuracy of the 2019 SFC (Ex. 283)

October 25, 2018

Donald Trump, by Donald Trump, Jr. as attorney in fact, certifies accuracy of the 2018 SFC (Ex. 260 at -59828-29)

2012

2013

2014

2015

2016

2017

2018

2019

2020

2021

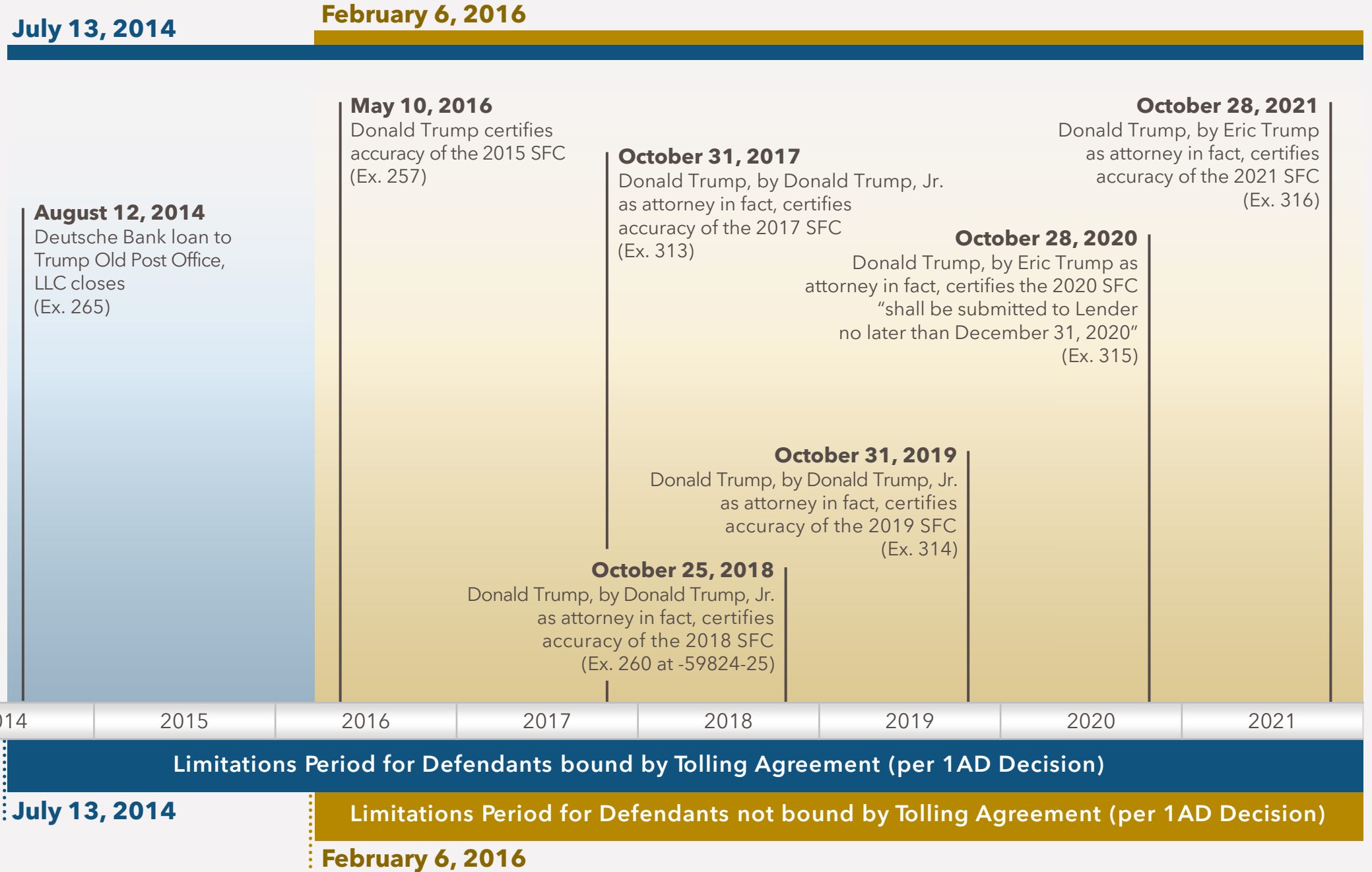
Limitations Period for Defendants bound by Tolling Agreement (per 1AD Decision)

July 13, 2014

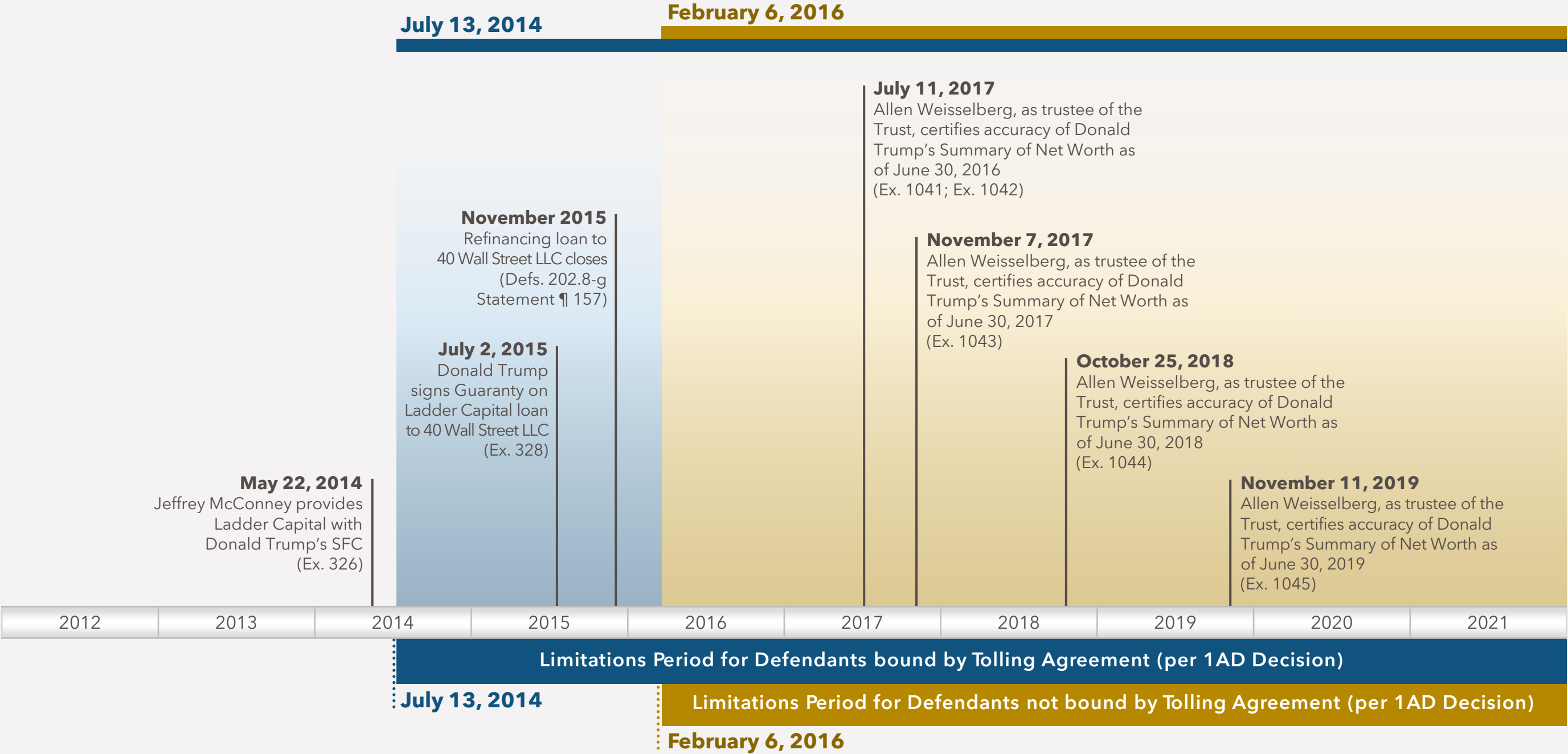
Limitations Period for Defendants not bound by Tolling Agreement (per 1AD Decision)

February 6, 2016

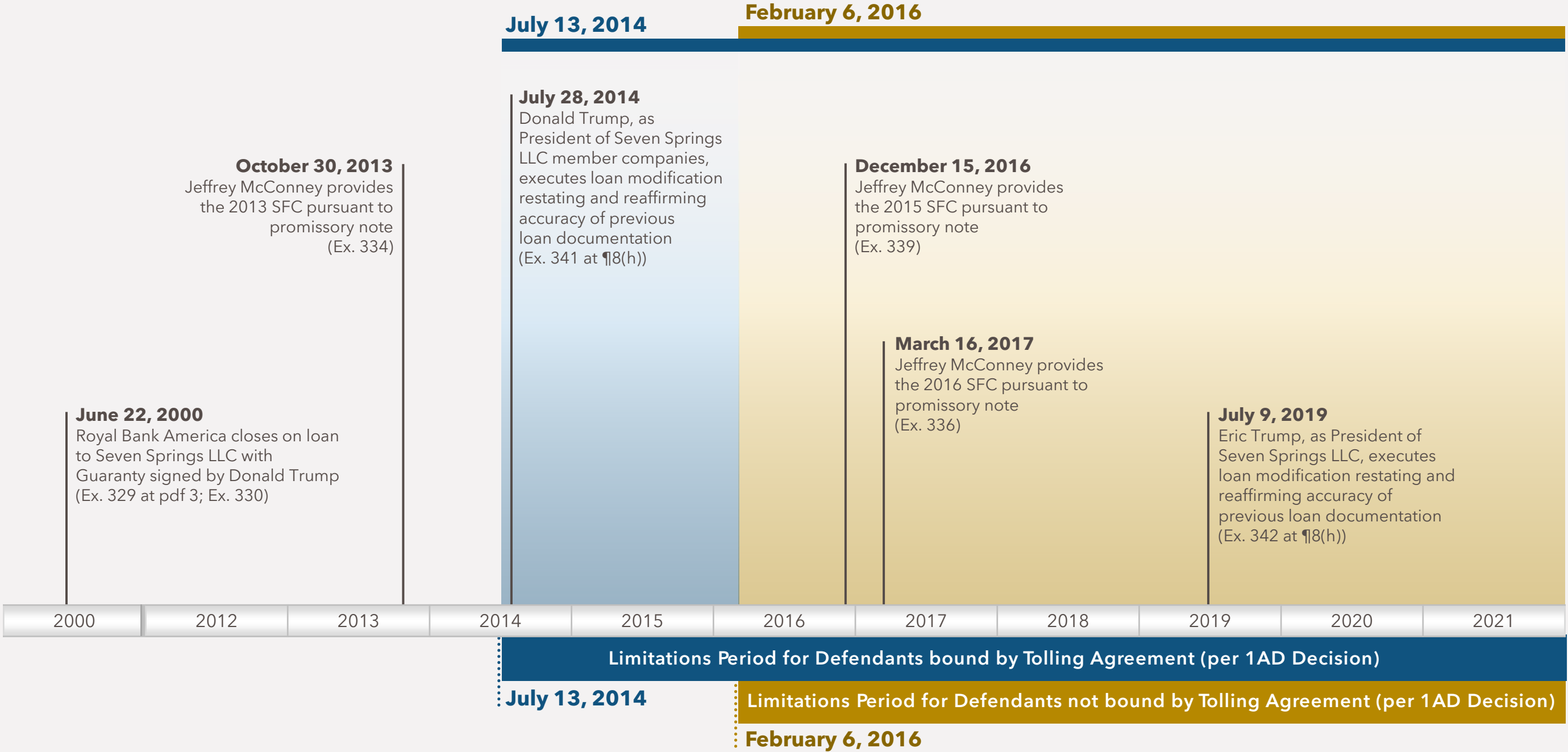
OPO Loan



40 Wall Street Loan



Seven Springs Loan



Relief Requested and Issues for Trial

- ▶ Judgment in the People's favor on the first cause of action for fraud
- ▶ Findings of fact pursuant to CPLR 3212(g) – listed in Point IV of Plaintiff's Reply Brief
- ▶ Streamlined trial
 - Evidence on disgorgement
 - Evidence of intent to defraud (for illegality claims)
 - Evidence required to support other equitable relief

