



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

April 18, 2024

The Honorable Christopher Wray  
Director, Federal Bureau of Investigation  
U.S. Department of Justice  
935 Pennsylvania Ave., NW  
Washington, D.C. 20535-0001

Corey Amundson  
Chief, Public Integrity Section  
U.S. Department of Justice  
1301 New York Ave., 10th Floor  
Washington, D.C. 20005

Re: False Statement Disclosures about Non-Existent Liabilities on Former President Donald J. Trump's Public Financial Disclosure Reports

Dear Director Wray and Mr. Amundson,

Citizens for Responsibility and Ethics in Washington ("CREW") respectfully requests that the Federal Bureau of Investigation and the Public Integrity Section investigate whether former President Donald J. Trump knowingly and willfully made material false statements in violation of 18 U.S.C. § 1001(a)(2) by reporting more than \$50 million owed to one of his own companies, Chicago Unit Acquisition LLC ("Chicago Loan"), as a liability on all nine public financial disclosure reports ("PFDs") he filed with the Federal Election Commission ("FEC") and the Office of Government Ethics ("OGE") between 2015 and 2023, even though the loan appears to have never existed. If the Chicago Loan never existed, as was recently disclosed by a court-appointed monitor, then Mr. Trump may have made false statements in violation of 18 U.S.C. § 1001(a)(2) each time he listed it as a liability on one of his PFDs.

The Chicago Loan appears to have evolved out of a debt restructuring deal undertaken by Mr. Trump in 2012 when he made a discounted prepayment on debt owed to one of his lenders on his Chicago hotel project.<sup>1</sup> It is not clear why Mr. Trump

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<sup>1</sup> Dan Alexander, *The Ultimate Donald Trump Mystery That Couldn't Be Solved Before Election Day*, Forbes, Nov. 3, 2020, <https://www.forbes.com/sites/danalexander/2020/11/03/the-ultimate-donald-trump-mystery-that-couldnt-be-solved-before-election-day/?sh=63b451c554ae> [hereinafter Alexander]. The Chicago Loan stemmed originally from a \$130 million note held by Fortress Investment Group for Trump's Chicago

would have reported a non-existent loan as a liability owed to one of his own companies, but some reporting suggests that the deal could be part of a tax-avoidance scheme, known as debt parking, that has been used by taxpayers to purchase debt and then leave it in a separately-owned entity rather than incur tax liability on debt which has been forgiven, while others theorize that the loan may be owed to a secret third party.<sup>2</sup> If it was part of a debt-parking scheme, Mr. Trump's treatment of the Chicago Loan on his PFDs would reinforce the perception that Mr. Trump continued to owe debt on the Chicago project.<sup>3</sup> Without weighing in on the legality and tax consequences of these types of deals, this perception would be undermined if the Chicago Loan was indeed non-existent.

### **Background**

Mr. Trump has filed nine PFDs in total since 2015.<sup>4</sup> Mr. Trump reported the Chicago Loan as a liability on all nine PFDs he filed either as a candidate or as president, including four candidate reports filed with the FEC in 2015, 2016, April 2023, and August 2023; four annual reports filed with OGE between 2017 and 2020 while serving as president; and his termination report filed with OGE in 2021.<sup>5</sup> Mr. Trump reported the Chicago Loan as a liability by listing Chicago Unit Acquisition LLC as the creditor for a "springing" loan incurred in 2012 for "TIHT Chicago" with a value of "over \$50,000,000" and at an interest rate of "Prime +5%."<sup>6</sup> It is not known

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hotel project (known as "TIHT Chicago"). Trump apparently purchased back the Fortress debt for \$48 million in March 2012 when Fortress agreed to accept a discounted prepayment on a Mezzanine Loan, forgiving more than \$100 million.

<sup>2</sup> *Id.*; Roger Sollenberger, *Trump's \$50 million Mystery Debt Looks Like "Tax Evasion,"* Daily Beast, Jan. 28, 2024,

<https://www.thedailybeast.com/trumps-dollar50-million-mystery-debt-looks-like-tax-evasion?ref=home> [hereinafter Sollenberger]; Russ Choma, *Donald Trump Has Never Explained a Mysterious \$50 Million Loan. Is It Evidence of Tax Fraud?*, Mother Jones, Nov./Dec. 2019 Issue, <https://www.motherjones.com/politics/2019/09/donald-trump-has-never-explained-a-mysterious-50-million-chicago-unit-acquisition-loan-is-it-evidence-of-tax-fraud/> [hereinafter Choma].

<sup>3</sup> Ordinarily, a taxpayer who has debt canceled for an amount less than the full amount owed must include the amount of canceled debt in their income. See 26 U.S.C. § 61(a)(11); I.R.S. Publ'n 4681, *Canceled Debts, Foreclosures, Repossessions and Abandonments*, Jan. 3, 2024, <https://www.irs.gov/pub/irs-pdf/p4681.pdf>. However, by purchasing the loan as part of a debt restructuring and parking it in a separately-owned entity, some taxpayers apparently have attempted to avoid tax liability. Sollenberger, *supra* note 2; Choma, *supra* note 2.

<sup>4</sup> See attached list of PFDs filed by Trump between 2015 and August, 2023 (Attachment A).

<sup>5</sup> *Id.*

<sup>6</sup> 2015 PFD - August, 2023 PFD, at part 8. See David Enrich, Russ Buettner, Mike McIntire and Susanne Craig, *How Trump Maneuvered His Way Out of Trouble in Chicago*, New York Times, Oct. 27, 2021, <https://www.nytimes.com/2020/10/27/business/trump-chicago-taxes.html> (The "springing" loan reported on Mr. Trump's PFDs appears to derive from a \$130 million loan owed to Fortress Investment Group, a hedge fund and private equity company. The Fortress debt obligation was a "so-called mezzanine loan, which meant that it would be repaid only after the Deutsche Bank debt had been satisfied. Because of the greater risk, the Fortress loan came with a double-digit interest rate. The agreement with Fortress also required Mr. Trump's 401 Mezz Venture to pay a \$49 million 'exit fee' when it repaid the loan.")

what terms and conditions underlie the “springing” nature of the Chicago Loan. However, reporting indicates that this type of loan is made to “borrowers who are viewed as credit risks,” but it is not the type of loan that “someone is likely to impose on himself” since it allows the “lender to impose harsh repayment terms if certain criteria aren’t met.”<sup>7</sup>

When running as a candidate for federal office, filers are required to file their PFDs with the FEC, but once they are elected and sworn in, presidents are required to file their PFDs with OGE.<sup>8</sup> When he signed each of his nine PFDs, Mr. Trump, like other filers, certified that the “statements I have made in this report are true, complete and correct to the best of my knowledge.”<sup>9</sup>

There is now credible evidence, however, that Mr. Trump’s statements regarding the Chicago Loan were not true. In a January 26, 2024 report, a court-appointed monitor, former federal district court judge Barbara Jones, revealed that she was told by the Trump Organization that the Chicago Loan “never existed.”<sup>10</sup> Judge Jones served for 16 years as a U.S. District Court Judge for the Southern District of New York before leaving for private practice in 2013 to focus on corporate monitorships, compliance issues, internal investigations and arbitrations and mediations.<sup>11</sup> Judge Jones was appointed by New York Supreme Court Justice Arthur F. Engoron in November 2022 to monitor Trump financial statements and financial disclosures after he found preliminarily that Mr. Trump and his co-defendants had a “propensity to engage in persistent fraud by submitting false and misleading Statements of Financial Condition.”<sup>12</sup> Her appointment was subsequently extended

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<sup>7</sup> Choma, *supra* note 2.

<sup>8</sup> 5 U.S.C. §§ 13103(c)-(f), 13105(b)-(e).

<sup>9</sup> 2015 PFD - August, 2023 PFD, at cover page.

<sup>10</sup> Letter from Court-Appointed Monitor Barbara Jones to New York Supreme Court Justice Arthur F. Engoron, January 26, 2024, *People v. Donald J. Trump, et al.*, Index No. 452564/2022. (p. 8, fn 6), <https://www.documentcloud.org/documents/24388438-barbara-jones-trump-lette> [hereinafter January 26, 2024 Letter.]

<sup>11</sup> See Barbara S. Jones, Partner, Bracewell LLP website (last visited Feb. 29, 2024) <https://bracewell.com/people/barbara-s-jones>.

<sup>12</sup> [Supplemental Monitorship Order](https://perma.cc/T52A-2B9D) at 1, *People v. Donald J. Trump, et al.*, Index No. 452564/2022 (Nov. 17, 2022), <https://perma.cc/T52A-2B9D> (“[T]he duties of the Monitor shall include, but not be limited to, monitoring of: (1) the submission of financial information to any accounting firm compiling a 2022 Statement of Financial Condition (‘SFC’) for Donald J. Trump; (2) the submission of all financial disclosures to any persons or entities, including, without limitation, lenders, insurers, and taxing authorities; and (3) any corporate restructuring, disposition or dissipation of any significant assets.”); [Decision and Order](https://perma.cc/5ANV-74WX) at 88, *People v. Donald J. Trump, et al.*, Index No. 452564/2022 (Feb. 16, 2024), <https://perma.cc/5ANV-74WX> (“The Court hereby concludes and orders that Judge Jones shall continue in her role as Independent Monitor for a period of no less than three years. However, Judge Jones’s role and duties shall be enhanced from those operative during the preliminary injunction, as her observations over the past 14 months indicate that still more oversight is required. In particular, the Trump Organization shall be required to obtain prior approval—not, as things are now, subsequent review—from Judge Jones before submitting any financial disclosure to a third party, so that such disclosure may be reviewed beforehand for material misrepresentations.”).

for at least three years and her monitoring authority enhanced when Justice Engoron later entered a final judgment against Mr. Trump and his co-defendants finding them liable for civil fraud.<sup>13</sup>

In her status report to Justice Engoron, Judge Jones disclosed that she had “several” discussions with representatives of the Trump Organization and was told there were “no loan agreements that memorialize the [Chicago] loan.”<sup>14</sup> Initially, Judge Jones was also told that “it was a loan that was believed to be between Donald J. Trump, individually, and Chicago Unit Acquisition for \$48 million.”<sup>15</sup> But, in later discussions, she was told by the Trump Organization that “*it has determined that this [Chicago] loan never existed*” and it “would be removed from any upcoming forms submitted to the Office of Government Ethics.”<sup>16</sup>

In response to the monitor’s report, Mr. Trump’s lawyers accused her of “falsehoods” and “deliberate mischaracterizations,” and denied that she was told that the loan “never existed.”<sup>17</sup> Mr. Trump’s defense lawyers produced as part of a court filing a copy of an “internal memorandum,” dated December 4, 2023, which they said had been provided to the monitor.<sup>18</sup> That memorandum, however, does not evidence the loan’s prior existence. It merely represents that as of December 4, 2023, “no amounts are due or payable” and “no liabilities or obligations are outstanding” for the “Trump International Hotel & Tower Chicago - \$48,000,000 Springing Loan from Chicago Unit Acquisition LLC to 401 Mezz Venture LLC.”<sup>19</sup>

Not only has the Trump Organization never publicly produced a loan agreement or other documentation setting forth its terms and conditions,<sup>20</sup> but there are several other factors that would indicate that the Chicago Loan never constituted a *bona fide* debt obligation. There is no public record of the loan, which is contrary to how most real estate loans of that magnitude are handled.<sup>21</sup> Further, Mr. Trump’s own comments from 2016 seemed to discount the loan’s legitimacy: Mr.

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<sup>13</sup> Decision and Order, *supra* note 12, at 88.

<sup>14</sup> January 26, 2024 Letter, *supra* note 10.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Letter from Trump’s Lawyers to Justice Engoron, January 29, 2024, at 5 [hereinafter January 29, 2024 Letter],

[https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=rOkPFBkpiRoTmPJ\\_PLUS\\_cUP43Q==&system=prodhttp://ny.us/fbem/DocumentDisplayServlet?documentId=rOkPFBkpiRoTmPJ\\_PLUS\\_cUP43Q==&system=prod](https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=rOkPFBkpiRoTmPJ_PLUS_cUP43Q==&system=prodhttp://ny.us/fbem/DocumentDisplayServlet?documentId=rOkPFBkpiRoTmPJ_PLUS_cUP43Q==&system=prod).

<sup>18</sup> Exhibit G to January 29, 2024 Letter, *supra* note 17 [hereinafter December 4 Memorandum].

<sup>19</sup> *Id.*

<sup>20</sup> January 26, 2024 Letter, *supra* note 10.

<sup>21</sup> See Choma, *supra* note 2 (“Most loans are documented in public records, but Mother Jones could locate no documentation of a loan owned by Chicago Unit Acquisition. The Cook County Recorder of Deeds has records concerning the original Deutsche Bank loan for the Chicago project; the Deutsche Bank loan that replaced it; and the Fortress loan. But the Recorder of Deeds has no filings related to Chicago Unit Acquisition.”).

Trump told the *New York Times*, “[w]e don’t assess any value to [the loan] because we don’t care... I have the mortgage. That is all there is. Very simple. I am the bank.”<sup>22</sup>

Reporting a liability owed to yourself on a PFD is highly unusual. In this case, Mr. Trump was not listed personally as the creditor. Rather, he listed the creditor as “Chicago Acquisition Unit LLC,” an entity owned entirely by Mr. Trump as part of the Trump Organization.<sup>23</sup> As the holder of that debt, there are several reporting irregularities that pertain to Mr. Trump’s Chicago Loan. If the Chicago Loan had been a *bona fide* debt obligation worth more than \$50 million, Mr. Trump would have had a corresponding obligation to report it as a “receivable” or similar asset with a comparable value on part 2 of his PFDs as required by the Ethics in Government Act (“EIGA”).<sup>24</sup> However, between 2015 and April 2023, Mr. Trump failed repeatedly to report the loan as a \$50 million plus receivable asset held by Chicago Unit Acquisition LLC on part 2 of his PFDs. Although the company was included on part 2 of his April 2023 PFD, he reported that it had no value, income or underlying assets.<sup>25</sup> Prior to the April 2023 disclosure, he listed Chicago Unit Acquisition LLC as an asset on part 2 only once before, when Mr. Trump disclosed on his 2015 PFD that the LLC consisted of “residential real estate,” which he valued at “\$1,001 - \$15,000.”<sup>26</sup> His treatment of the Chicago Unit Acquisition LLC in those instances never made sense since an asset value of between \$1,001 to \$15,000 or less does not comport with the \$50 million plus value he reported as a liability owed to the LLC. As the *New York Times* reported, the LLC was “valued on Mr. Trump’s financial statements as practically worthless despite holding a multimillion-dollar loan.”<sup>27</sup> Nor did Mr.

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<sup>22</sup> Susanne Craig, *Trump Boasts of Rapport With Wall St., but the Feeling Is Not Quite Mutual*, *New York Times*, May 23, 2016,

<https://www.nytimes.com/2016/05/24/business/dealbook/donald-trump-relationship-bankers.html>.

<sup>23</sup> August, 2023, PFD, part 2, Schedule 1, items 29, 29.1, 40, and 41 (reporting a 100% ownership interest of Chicago Unit Acquisition LLC by DJT Holdings LLC, which in turn is 99% owned by The Donald J. Trump Revocable Trust, dated April 7, 2014, and 1% owned by DJT Holdings Managing Member LLC, which in turn is 100% owned by The Donald J. Trump Revocable Trust, dated April 7, 2014); Decision and Order, *People v. Donald J. Trump, et al.* (Donald J. Trump is the “sole beneficiary of the Donald J. Trump Revocable Trust, [dated April 7, 2014], under which all Trump Organization assets are held”).

<sup>24</sup> 5 U.S.C. §§ 13103-13104 (filers both as candidates and incumbents are required to disclose “the identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse or by a parent, brother, sister, or child of the reporting individual or of the reporting individual’s spouse”); 5 C.F.R. § 2634.301(a)-(d). *See also* Alexander *supra* note 1 (“Since the value of the debt was listed at over \$50 million, it would make sense if Chicago Unit Acquisition LLC, the creditor on the liability, was in turn worth more than \$50 million. But instead, Trump listed the value of the asset at just \$1,001 to \$15,000. Every year since, the president has recorded the value on his financial disclosures as nothing at all. ‘There should be an offsetting entry somewhere,’ said Harvard real estate professor Richard Peiser. ‘I can’t explain that.’”)

<sup>25</sup> Apr. 14, 2023 PFD, part 2, item 30 (reporting the underlying asset as “N/A”, the value as “None (or less than \$1,001),” and income as “None (or less than \$201)”).

<sup>26</sup> 2015 PFD, part 2, item 9.

<sup>27</sup> Craig, *supra* note 22.

Trump report Chicago Acquisition Unit LLC on part 2 of his PFDs filed between 2016 and 2021. Rather, he listed it on an attachment to those PFDs as part of his “ownership structure,” explaining that the reason the LLC was not disclosed on part 2 is that it had “no independent value or income.”<sup>28</sup> Not until August 2023 did Mr. Trump report on part 2 for the first time that the Chicago Unit Acquisition LLC had a \$50 million plus underlying asset that held an “intercompany receivable from filer (neither entity has booked any interest income or expense).”<sup>29</sup> But that single disclosure does not negate his repeated failure to recognize the loan and its value as a *bona fide* receivable asset on the eight previously filed PFDs nor does it comport with the more recent disclosures made to Judge Jones that the Chicago Loan “never existed.”

### **Potential Violations**

To maintain public confidence in the integrity of the federal government, the Ethics in Government Act of 1978 requires public filers such as Mr. Trump, as a candidate and as president,<sup>30</sup> to report the “identity and category of value of the total liabilities owed to any creditor . . . which exceed \$10,000 at any time during the preceding calendar year.”<sup>31</sup> The implementing regulations require that each financial disclosure report “identify and include a brief description of the filer’s liabilities exceeding \$10,000 owed to any creditor at any time during the reporting period, and the name of the creditors to whom such liabilities are owed.”<sup>32</sup> Public filers similarly must report assets they hold that exceed \$1,000 and income received in excess of \$200.<sup>33</sup> The purpose of requiring public financial disclosure by high-level government officials is to “prevent conflicts of interest,” ensure “confidence in the integrity of the Federal Government” and demonstrate officials can serve “without compromising the public trust.”<sup>34</sup>

Failure to fully and accurately report information on PFDs filed with the executive branch can result in civil penalties and criminal prosecution. EIGA provides for civil penalties of up to \$50,000, and imprisonment of up to one year for

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<sup>28</sup> 2016 PFD, Schedule (Exhibit A), item 28; 2017 PFD, Schedule (Exhibit A), item 28; 2018 PFD, Schedule (Exhibit A), item 28; 2019 PFD, Schedule (Exhibit A), item 28; 2020 PFD, Schedule (Exhibit A), item 28; 2021 PFD, Schedule (Exhibit A), item 28 (the heading on Schedule (Exhibit A) and explanatory note that corresponds to Chicago Acquisition Unit LLC indicates that the “reason” for not disclosing the LLC on Part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”)

<sup>29</sup> August, 2023, PFD, part 2, Schedule 1, item 29.1 (reporting the underlying asset value as “Over \$50,000,000” and income as “None”).

<sup>30</sup> 5 U.S.C. § 13103(c)-(f).

<sup>31</sup> 5 U.S.C. § 13104(a)(4).

<sup>32</sup> 5 C.F.R. § 2634.305. The reporting period for liabilities for candidate reports is the preceding calendar year and the current year within 31 days of the day of filing. 5 C.F.R. § 2634.310(b)(3). The reporting period for liabilities for annual reports is the preceding calendar year. 5 C.F.R. § 2634.310(a).

<sup>33</sup> 5 U.S.C. § 13104(a)(1) and (3).

<sup>34</sup> 5 C.F.R. § 2634.104(a)-(b).

knowingly and willfully falsifying any information required to be reported.<sup>35</sup> Federal law further prohibits anyone from knowingly and willfully making “any materially false, fictitious, or fraudulent statement or representation” in any matter within the jurisdiction of the executive, legislative or judicial branch, with violations punishable by up to five years imprisonment.<sup>36</sup> Because the statute of limitations for 18 U.S.C. § 1001 violations is five years, however, only PFDs filed in the past five years that contained a material false statement would be subject to potential prosecution.<sup>37</sup>

The court monitor’s January 26, 2024 report disclosing that the Chicago Loan “never existed” constitutes credible evidence that Mr. Trump made a false statement when he represented on his PFDs that he owed more than \$50 million to the Trump-owned Chicago Unit Acquisition LLC for the Chicago project. The Chicago Loan was one of several loans that the court monitor focused on as part of her ongoing review of Mr. Trump’s financial statements and disclosures.<sup>38</sup> The court monitor observed that the Chicago Loan was one of five “intercompany loans,” each totaling more than \$5 million, that was included on listings of assets and liabilities provided to OGE and other financial statements and balance sheets, but which lacked any documentation establishing terms and conditions.<sup>39</sup> In her report, she relayed that she had discussed the Chicago Loan with the Trump Organization “several times” and in her “recent discussions with the Trump Organization, it indicated that *it has determined that this loan never existed.*”<sup>40</sup>

There is no question that Judge Jones is a credible witness, having served for 16 years as a U.S. District Court Judge for the Southern District of New York before leaving for private practice to focus on corporate monitorships and other compliance issues.<sup>41</sup> Based on her extensive legal experience and expertise, Justice Engoron appointed her to monitor the Trump Organization’s financial statements and financial disclosures.<sup>42</sup> Even though Mr. Trump’s lawyers now accuse Judge Jones of “falsehoods” and “deliberate mischaracterizations,” in his February 16, 2024 final decision, Justice Engoron noted that “the Court did not appoint Judge Jones randomly or arbitrarily or by happenstance. Rather, she was the only one of the three candidates that both sides proposed for the position of independent monitor.”<sup>43</sup>

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<sup>35</sup> 5 U.S.C. § 13106(a)(1)-(2).

<sup>36</sup> 18 U.S.C. § 1001(a)(2).

<sup>37</sup> 18 U.S.C. § 3282.

<sup>38</sup> January 26, 2024 Letter, *supra* note 10, at 8.

<sup>39</sup> *Id.*

<sup>40</sup> January 26, 2024 Letter, *supra* note 10, at 8, n. 6 (emphasis added).

<sup>41</sup> See Barbara S. Jones, Partner, Bracewell LLP website.

<sup>42</sup> Lukas Alpert, *Meet the former organized-crime prosecutor now overseeing the Trump Organization*, The Morning Star, Feb. 17 2024.

<https://www.morningstar.com/news/marketwatch/20240217247/meet-the-former-organized-crime-prosecutor-now-overseeing-the-trump-organization>; Nov. 17, 2022 Supplemental Monitorship Order and Decision and Order, *People v. Donald J. Trump, et al.*

<sup>43</sup> Feb. 16, 2024 Decision and Order, at fn. 56.

Thus, Judge Jones was appointed because both sides recognized her experience, expertise and independence.

Nor does the “internal memorandum” produced in defense of Mr. Trump constitute sufficient proof of the Chicago Loan’s prior existence. That memorandum only serves to confirm that there were no liabilities or obligations owed on the purported loan as of December 2023, which is effectively meaningless. That nothing was owed at the end of 2023 does not establish that something was owed at some prior point. They have produced no loan agreements or similar documentation that memorialized the loan’s terms and conditions to prove its prior existence during the reporting periods covered by his PFDs. Nor does the “internal memorandum” address other factors that undermine the Chicago Loan’s legitimacy, such as Mr. Trump’s repeated failure to recognize it as a receivable asset with a comparable value on part 2 of the eight PFDs filed prior to August 2023 or his 2016 admission to the *New York Times* that the loan had no value.

Mr. Trump’s false statements regarding the Chicago Loan are likely “material” for purposes of 18 U.S.C. § 1001(a). Under section 1001(a), a false statement is “material” when it is “reasonably likely to influence” a government official “in making a determination required to be made.”<sup>44</sup> Government ethics officials necessarily rely on PFD filers to accurately report assets, income and liabilities as part of the public financial disclosure process.<sup>45</sup> When asset, income or liability information is falsely reported by a president, a candidate for president or other filer, it directly influences government ethics officials in assessing whether the filer is in compliance with applicable laws and regulations. This is the very determination ethics officials are statutorily mandated to make as part of the public financial disclosure process.<sup>46</sup> Furthermore, materially false statements undermine the integrity of the disclosure system, and the federal government more broadly, because they erode the public’s faith in ethics officials’ ability to detect potential conflicts of interest and verify our elected officials’ capacity to serve the public good.

Violation of 18 U.S.C. § 1001 also requires that the defendant either knew of the falsehood, “acted with a conscious purpose to avoid learning the truth,” or “acted ‘with reckless disregard of whether the statement was true.’”<sup>47</sup> Mr. Trump personally verified the Chicago Loan – one of not more than 16 liabilities that he reported – on

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<sup>44</sup> See *United States v. Rigas*, 490 F.3d 208, 234 (2d Cir. 2007) (quoting *Weinstock v. United States*, 231 F.2d 699, 701 (D.C. Cir. 1956)).

<sup>45</sup> 5 C.F.R. § 2634.602(a). Asset, income, and liabilities that meet applicable reporting thresholds are required to be reported by EIGA, 5 U.S.C. § 13104(a), (b) and (d).

<sup>46</sup> 5 U.S.C. § 13108(b)(1). Relevant ethics statutes include EIGA (5 U.S.C. § 13101, et seq.), bribery and illegal gratuities (18 U.S.C. § 201(b) and (c)), federal conflict of interest laws (18 U.S.C. §§ 203, 205, 207 - 209), the Foreign Gifts and Decorations Act (5 U.S.C. § 7342), and their implementing regulations.

<sup>47</sup> See *United States v. Egenberg*, 441 F.2d 441, 444 (2d Cir. 1971).



each of the nine PFDs he filed with the FEC and OGE.<sup>48</sup> Mr. Trump attested to his knowledge of the Chicago Loan disclosure when he signed each PFD filed with the executive branch and certified that the “statements I have made in this report are true, correct, and complete to the best of my knowledge.”<sup>49</sup> Meanwhile, he expressly acknowledged the loan disclosure itself when he was asked about it in his 2016 *New York Times* interview. Trump’s knowledge of the Chicago Loan’s disclosure is indisputably part of the public record.

Furthermore, showing that the defendant has willfully violated the statute “does not require the government to prove the defendant’s specific intent,”<sup>50</sup> only that the defendant “acted with knowledge that his conduct was unlawful.”<sup>51</sup> In this regard, covered PFD filers, like Mr. Trump, are given written notice of the legal consequences of knowingly and willfully making false statements. As part of the general instructions for completing PFDs, each filer is expressly *warned* that it is unlawful to *knowingly and willfully* falsify information on a PFD:

**Warnings** Knowing and willful falsification of information, or failure to file or report information required to be reported by 5 U.S.C. § 13104 may subject you to a civil monetary penalty and to disciplinary action by your employing agency or other appropriate authority under 5 U.S.C. § 13106. Knowing and willful falsification of information required to be filed by 5 U.S.C. § 13104 may also subject you to criminal prosecution.<sup>52</sup>

Mr. Trump’s knowledge of the unlawfulness of making false statements is evidenced by his engagement in what appears to be a continuing pattern of inaccurately reporting loan information on his PFDs. Mr. Trump previously failed to timely and properly disclose a \$130,000 loan he received from his former attorney, Michael Cohen, on his 2017 PFD.<sup>53</sup> That loan was received by Mr. Trump in connection

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<sup>48</sup> 2015 PFD - August, 2023 PFD. Mr. Trump reported between 14 to 16 liabilities on each of his nine PFDs. However, Mr. Trump’s 2018 PFD included a separate and additional reference to the hush-money payments Michael Cohen paid to Stormy Daniels as “2016 expenses” that “were incurred by one of Donald J. Trump’s attorneys” but which Mr. Trump did not view it as “required to be disclosed as ‘reportable liabilities’ on part 8.”

<sup>49</sup> 2015 PFD - August, 2023 PFD, at cover page.

<sup>50</sup> See *United States v. George*, 386 F.3d 383, 393 (2d Cir.2004).

<sup>51</sup> See *Bryan v. United States*, 524 U.S. 184, 191 (1998).

<sup>52</sup> See *e.g.*, U.S. Off. of Gov’t Ethics, Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e), Updated Feb. 9, 2024,

[https://www.oge.gov/web/OGE.nsf/OGE%20Forms/FE904FADB163B45A852585B6005A23E8/\\$FILE/OGE%20Form%20278e%20Dec%202023%20Accessible.pdf?open](https://www.oge.gov/web/OGE.nsf/OGE%20Forms/FE904FADB163B45A852585B6005A23E8/$FILE/OGE%20Form%20278e%20Dec%202023%20Accessible.pdf?open); see also U.S. Off. of Gov’t Ethics, Public Financial Disclosure Guide, OGE Form 278, Jan. 2024, at 212-213, [https://www.oge.gov/web/OGE.nsf/0/CA85FBF583663FEE85258ABA00668E69/\\$FILE/Public%20Fin%20Disc%20Guide%20Jan%202024.pdf](https://www.oge.gov/web/OGE.nsf/0/CA85FBF583663FEE85258ABA00668E69/$FILE/Public%20Fin%20Disc%20Guide%20Jan%202024.pdf).

<sup>53</sup> See *Letter from Noah Bookbinder, Executive Director, CREW, to Deputy Att’y Gen. Rod J. Rosenstein and Deputy U.S. Att’y Robert Khuzami, U.S. Dep’t of Just.*, Apr. 9, 2019,

with a hush-money payment made to adult film star Stormy Daniels at Mr. Trump's behest at a critical juncture during the 2016 presidential election.<sup>54</sup> His attempt to conceal the hush-money payment loan is currently the focus of a criminal fraud case being brought against him by the Manhattan District Attorney in the Supreme Court of the State of New York for falsification of business records.<sup>55</sup> Although Mr. Trump later referenced the hush-money payment on part 8 of his 2018 PFD, he did so reluctantly – only after complaints were lodged with the Justice Department concerning his reporting deficiencies.<sup>56</sup> When he certified Mr. Trump's 2018 PFD, the OGE reviewing official, General Counsel David J. Apol, specifically focused on the hush-money loan payment by commenting that "OGE has concluded that the information related to the payment made by Mr. Cohen is required to be reported and the information provided meets the disclosure requirement for a reportable liability."<sup>57</sup> Based on these facts, Mr. Trump almost certainly was aware by the time he filed his 2018 PFD, on May 15, 2018, if not before, that it would be unlawful to make a false statement on his PFD about his loan obligations.

The actions taken by Mr. Trump to misrepresent his loan obligations go well-beyond actions by other government employees who have fallen afoul of 18 U.S.C. § 1001(a) in recent years. His reporting of a non-existent loan dwarfs portrayals by other government employees, who have been prosecuted for failing to disclose far lesser amounts of their debt obligations.<sup>58</sup>

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<https://www.citizensforethics.org/wp-content/uploads/legacy/2019/04/2019-4-9-DOJ-SDNY-Trump-loan-Cohen-plea-and-testimony.pdf> [hereinafter "Letter from Noah Bookbinder"].

<sup>54</sup> *Id.*

<sup>55</sup> See Indictment, *People v. Donald J. Trump*, Index. No. 71543-23,

<https://manhattanda.org/wp-content/uploads/2023/04/Donald-J.-Trump-Indictment.pdf>.

<sup>56</sup> 2018 PFD; Letter from Noah Bookbinder, *supra* note 53 (supplementing prior complaints filed by CREW with DOJ and OGE by Letter to Deputy Attorney General Rod J. Rosenstein and Deputy United States Attorney Robert Khuzami, May 16, 2018; Letter to Deputy Attorney General Rod J. Rosenstein, Deputy United States Attorney Robert Khuzami and Acting OGE Director David J. Apol, May 3, 2018; Letter to Deputy Attorney General Rod J. Rosenstein and Acting OGE Director David J. Apol, Mar. 8, 2018; Letter to Acting OGE Director David J. Apol, Mar. 2, 2018).

<sup>57</sup> 2018 PFD, at cover page.

<sup>58</sup> U.S. Off. of Gov't Ethics, 2021 Conflict of Interest Prosecution Survey, LA-22-06, July 22, 2022,

[https://www.oge.gov/web/oge.nsf/0/69A64B4389390D0C85258887005CF4C0/\\$FILE/LA-22-06.pdf](https://www.oge.gov/web/oge.nsf/0/69A64B4389390D0C85258887005CF4C0/$FILE/LA-22-06.pdf); Plea Agreement at 1-5, *United States v. Jenkins*, No. 1:20-cr-78 (E.D. Tenn. Oct. 12, 2021)

[https://www.oge.gov/web/oge.nsf/0/D12CD1A2A836B65C85258828006CC526/\\$FILE/Jenkins%20Plea%20Agreement.pdf](https://www.oge.gov/web/oge.nsf/0/D12CD1A2A836B65C85258828006CC526/$FILE/Jenkins%20Plea%20Agreement.pdf) (employee of the Tennessee Valley Authority was sentenced to two years probation and fined after pleading guilty to filing false statements in financial disclosures in violation of 18 U.S.C. § 1001(a)(2) after he failed to disclose debts worth approximately \$276,000 that he and his spouse owed and income from other business interests); U.S. Off. of Gov't Ethics, 2022 Conflict of Interest Prosecution Survey, LA-23-11, July 31, 2023,

[https://www.oge.gov/web/oge.nsf/0/3E107E08B4853EB4852589FD0053F930/\\$FILE/LA-23-11-%202022%20Prosecution%20Survey.pdf?open](https://www.oge.gov/web/oge.nsf/0/3E107E08B4853EB4852589FD0053F930/$FILE/LA-23-11-%202022%20Prosecution%20Survey.pdf?open) (a jury found an employee for the Department of Housing and Urban Development Office of Inspector General guilty of concealing material facts in violation of 18 U.S.C. § 1001(a)(1) and making false statements in violation of 8 U.S.C. § 1001(a)(2), for, among other things, failing to "disclose a \$90,000 loan from his neighbor"); U.S. Off. of Gov't Ethics, 2020 Conflict of Interest Prosecution Survey, LA-21-08, August 2, 2021,

Mr. Trump's failures to accurately report loan information appear to be part of a continuing pattern to undermine public trust in the integrity of the public financial disclosure system as a whole. In this case, he appears to have misled the public in reporting loans to his own companies that he doesn't really owe, but in other cases he failed to properly report loans he did owe. Mr. Trump's actions are not just "eyebrow-raising."<sup>59</sup> Falsely disclosing a multi-million dollar sum as president of the United States or as a candidate for that office far outweighs the stakes and values at play by lower level government officials. It is fundamental to the integrity of the public financial disclosure process that covered information be accurately reported so that the assets, income and debt obligations of the president and candidates for that office can be meaningfully assessed for conflicts of interest, including those that could expose the country to a possible national security risk.

It is not clear why Mr. Trump would report a non-existent loan, but the law must be vigorously enforced against office holders and candidates who flout the disclosure process through repeated false statements. Failure to do so not only renders the system meaningless, but, more importantly, undermines the work of ethics officials who must ensure that financial disclosures are accurate so that potential conflicts of interest that present national security risks can be brought to light.

### **Conclusion**

The purpose of the public financial disclosure reporting process is to ensure public confidence in the integrity of the federal government by demonstrating that high-level government officials are able to carry out their duties without conflicts of interest that could compromise the public trust.<sup>60</sup> Recent disclosures by a court-appointed monitor indicate Mr. Trump may have violated federal law by falsely disclosing a liability owed to one of his own companies on multiple financial disclosure statements he filed between 2015 and 2023 with OGE and the FEC. If Mr. Trump falsified his public financial disclosure statements, he will have undermined the public trust that these laws are designed to protect. An investigation into this matter is important to safeguard that public trust.

Sincerely,

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[https://www.oge.gov/Web/OGE.nsf/0/1B505A4C17E7289685258726004F63B7/\\$FILE/LA-21-08.pdf?open](https://www.oge.gov/Web/OGE.nsf/0/1B505A4C17E7289685258726004F63B7/$FILE/LA-21-08.pdf?open) (unnamed Cabinet-level official in the Government failed to disclose a \$50,000 loan from a private individual on his OGE Form 278 and subsequently entered into a Non-Prosecution Agreement).

<sup>59</sup> Alexander, *supra* note 1.

<sup>60</sup> 5 C.F.R. § 2634.104.



Noah Bookbinder  
President

Attachment

cc:

The Hon. Merrick B. Garland  
Attorney General  
U.S. Department of Justice

Shelley K. Finlayson  
Acting Director  
U.S. Office of Government Ethics

Attachment A

Donald J. Trump Public Financial Disclosure Reports (PFDs)

[2015 PFD](#) (Candidate report filed with FEC on July 15, 2015) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 14 and Chicago Unit Acquisition LLC listed as an asset holding “residential real estate,” which he valued at “\$1,001 - \$15,000” on Part 2, item 9.

[2016 PFD](#) (Candidate report filed with FEC on May 16, 2016) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 14. No corresponding asset entry on part 2 for Chicago Unit Acquisitions LLC, but listed on attachment to PFD, entitled “Schedule (Exhibit A),” item 28, with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[2017 PFD](#) (Annual and initial report filed as President with OGE on June 14, 2017) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 14. No corresponding asset entry on Part 2 for Chicago Unit Acquisitions LLC, but listed on Schedule (Exhibit A), item 28, with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[2018 PFD](#) (Annual report filed as President with OGE on May 15, 2018) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 14. No corresponding asset entry on Part 2 for Chicago Unit Acquisitions LLC, but listed on Schedule (Exhibit A), item 28, with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[2019 PFD](#) (Annual report filed as President with OGE on May 15, 2019) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 11. No corresponding asset entry on Part 2 for Chicago Unit Acquisitions LLC, but listed on Schedule (Exhibit A), item 28, with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[2020 PFD](#) (Annual report filed as President with OGE on July 31, 2020) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 11. No corresponding asset entry on Part 2 for Chicago Unit Acquisitions LLC, but listed on Schedule (Exhibit A), item 28, with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[2021 PFD](#) (Termination report filed with OGE on Jan 15 2021) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 11. No corresponding asset entry on part 2 for Chicago Unit Acquisitions LLC, but listed on Schedule (Exhibit A), item 28,

with explanatory note indicating that the “reason” for not disclosing the LLC on part 2 is that it has “no independent value or income, not inactive nor dormant, not part of an entity structure or license deal.”

[April, 2023 PFD](#) (Candidate report filed with FEC, Apr. 14, 2023) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 9. Chicago Unit Acquisitions LLC reported as asset on part 2, item 30, with “N/A” for “Underlying Assets and Location” with a value of “None (or less than \$1,001)” and income of “None (or less than \$201).”

August, 2023 PFD ([Part 3](#)) (Candidate report filed with FEC, Aug. 9, 2023, was made available to CREW by OGE in three separate PFD documents ([Part 1](#), [Part 2](#) and [Part 3](#).) Part 3 is entitled, “Schedule 1 for Part 2” and contains a list of Mr. Trump’s employment assets and income, including the individual assets that comprise the Trump Organization) “Over \$50,000,000” liability owed to Chicago Unit Acquisition LLC reported on part 8, item 9. Chicago Unit Acquisitions LLC reported as asset on part 2, item 29, with an underlying asset, item 29.1 (“Intercompany receivable from filer (neither entity has booked any interest income or expenses)’ with a value of “Over \$50,000,000” and income of “None (or less than \$201).”