



November 2, 2017

**VIA ELECTRONIC MAIL**

Records Access Officer  
Special Litigation Bureau  
New York County District Attorney's Office  
One Hogan Place  
New York, NY 10013  
[FOIL@dany.nyc.gov](mailto:FOIL@dany.nyc.gov)

**Re: Freedom of Information Law Request**

Dear Records Access Officer:

Pursuant to the Freedom of Information Law, N.Y. Pub. Off. Law §§ 84-90 (FOIL), American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that the New York County District Attorney's Office (NYCDA) produce the following within five business days:

1. Calendar entries reflecting any meetings or phone calls between any of the individuals listed in Appendix A and District Attorney Cyrus Vance, Jr.

For calendar entries created in Outlook or similar programs, the documents should be produced in "memo" form to include all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

2. Communications relating to requesting, scheduling, accepting, or declining meetings or phone calls between any of the individuals listed in Appendix A and District Attorney Cyrus Vance.
3. Any communications, or memorializations of such communications, between any of the individuals listed in Appendix A and District Attorney Cyrus Vance, Jr.
4. All notes taken by any NYCDA employee who attended any of the meetings responsive to Item 1.



5. The case file for the investigation into whether there was criminal liability in the fraud alleged by buyers of units at the Trump SoHo.<sup>1</sup>
6. Records sufficient to identify the last settlement offer made by the attorneys for the accused in the investigation responsive to Item 5.
7. Records reflecting all communications between (a) District Attorney Cyrus Vance, Jr. or anyone acting on his behalf and (b) Marc Kasowitz, anyone acting on his behalf, or anyone whose email ends in @kasowitz.com.
8. Records reflecting all communications between (a) District Attorney Cyrus Vance, Jr. or anyone acting on his behalf and (b) any of the plaintiffs in *Palmer Gardens LLC v. Bayrock/Sapir Organization LLC*, No. 10-05830 (S.D.N.Y. filed Aug. 2, 2010), or their attorneys. See Appendix B.
9. Records reflecting all communications between (a) District Attorney Cyrus Vance, Jr. or anyone acting on his behalf and (b) Mayors Michael Bloomberg or Bill DeBlasio or anyone working on their behalf regarding the NYCDA's criminal investigation into fraud at the Trump SoHo.
10. Records reflecting all communications between (a) District Attorney Cyrus Vance, Jr. or anyone acting on his behalf and (b) Donald J. Trump, Donald Trump Jr., Ivanka Trump, or anyone whose email ends in trump.com or trumporg.com.
11. All policies related to conflict-of-interest guidance for the District Attorney and campaign-related activities, including:
  - a. Any guidance or requirements for when the District Attorney is required or recommended to return campaign donations;
  - b. Procedures for identifying when a person requesting an official meeting with the District Attorney is also a campaign contributor; and
  - c. Procedures for screening meetings with campaign contributors.

For Items 1 through 4, please provide all responsive records from January 1, 2010, through the date of the search.

For Item 5, please provide the case file as it currently exists.

For Items 6 through 9, please provide all responsive records from January 1, 2010, through December 31, 2013.

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<sup>1</sup> Mike McIntire, *Donald Trump Settled a Real Estate Lawsuit, and a Criminal Case Was Closed*, N.Y. TIMES, Apr. 5, 2016, <https://www.nytimes.com/2016/04/06/us/politics/donald-trump-soho-settlement.html>; Jesse Eisinger et al., *Ivanka and Donald Trump Jr. Were Close to Being Charged With Felony Fraud*, PROPUBLICA & WNYC (Oct. 4, 2017, 4:00 AM), <https://www.propublica.org/article/ivanka-donald-trump-jr-close-to-being-charged-felony-fraud>.

For Item 10, please provide all responsive records from August 1, 2012, through the date of the search.

For Item 11, please provide all iterations of any such policy that have existed from January 1, 2010, through the date of the search.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term “record” in its broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

In addition, American Oversight insists that NYCDA use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

In the event some portions of the requested records are properly exempt from disclosure pursuant to N.Y. Pub. Off. Law § 87(2), please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

**You should institute a preservation hold on information responsive to this request.** American Oversight intends to pursue all legal avenues to enforce its right of access under FOIL, including litigation if necessary. Accordingly, NYCDA is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and NYCDA can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

## Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>2</sup>

We share a common mission to promote transparency in government. American Oversight looks forward to working with NYCDA on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Cerissa Cafasso at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.869.5246.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers  
Executive Director  
American Oversight

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<sup>2</sup> American Oversight currently has approximately 11,600 page likes on Facebook, and 37,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Nov. 2, 2017); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Nov. 2, 2017).

## Appendix A

- Mitchell Eitel
- Marc Kasowitz
- Eugene Remm
- Bart M. Schwartz
- William B. Wachtel
- Any employee of the Law Firm of Hugh H. Mo
- Any employee of Sciam Construction LLC

## Appendix B

### **Plaintiffs**

- Xue Feng
- Joyce Gerstein
- Rachel Gerstein
- Herbert Gerstein
- Henry Gross
- Michael Hadjedj
- Felisa Hernandez
- Alan Maltz
- Janet Maltz
- Randall A. Meckel
- Anh Ngoc Truong
- Acacio Rodriguez
- Christine Singh
- Sean Tran
- Hubert Tsai
- Beaver Metal, LLC
- Creditbox Universal, SL
- Palmer Gardens LLC

### **Attorneys from Adam Leitman Bailey, P.C.**

- Adam Leitman Bailey
- William J. Geller