

REPORT OF GIBSON, DUNN & CRUTCHER LLP  
CONCERNING ITS INVESTIGATION ON BEHALF OF  
THE OFFICE OF THE GOVERNOR OF NEW JERSEY  
INTO ALLEGATIONS REGARDING THE GEORGE WASHINGTON BRIDGE  
LANE REALIGNMENT  
AND SUPERSTORM SANDY AID TO THE CITY OF HOBOKEN

March 26, 2014

**EXECUTIVE SUMMARY (MINUS THE RECCOMENDATIONS)**

What follows is the product of interviews with more than 70 witnesses and the review of more than 250,000 documents, including the personal texts and emails of the Governor, the Lieutenant Governor, and their senior staffers, over the past two months.

We were tasked by the Office of the Governor to investigate (i) allegations concerning the George Washington Bridge toll lane realignment at Fort Lee, and (ii) Mayor Zimmer's allegations concerning Superstorm Sandy aid allocations to Hoboken. Based on our investigation, we are now in a position to address most but not all of these allegations, as several key witnesses have refused to cooperate with our investigation or asserted their Fifth Amendment rights.

But we have had the cooperation of all current members of the Governor's Office, former members of that Office, and other independent witnesses as well. We are therefore confident that, based on our thorough review, we have a clear understanding of what happened here, even if the participants' precise motives remain to be determined.

We were also tasked by the Governor's Office to make recommendations, as warranted by our findings, to promote best practices going forward. Here is a summary of our findings and recommendations.

A. George Washington Bridge Toll Lane Realignment At Fort Lee From September 9 to 13, 2013, the Port Authority realigned two of the three George Washington Bridge toll lanes dedicated to local access from Fort Lee, thereby causing massive local traffic congestion for those trying to access the bridge from Fort Lee.<sup>1</sup> There was no apparent forewarning to the Fort Lee Mayor's Office, the local police force, or local emergency services.<sup>2</sup>

Some Port Authority officials claimed this was just a study to assess a longstanding traffic issue,<sup>3</sup> but it soon thereafter emerged that, even within the Port Authority, this traffic study was so closely held that its Executive Director complained he did not know about it at the time and therefore put a stop to it on September 13, 2013.<sup>4</sup>

Rumors started to swirl that this toll lane realignment may have been done to target Fort Lee Mayor Mark Sokolich, a Democrat, because he did not endorse Governor Christie for re-election.<sup>5</sup> And questions remained in any event about what ulterior motives there may have been for conducting such a traffic study at that point in time, what role the Governor and/or anyone on his staff may have played in that decision, and whether anyone tried to cover up the truth after it became a public controversy.

### **The Participants In This Act**

Our investigation found that David Wildstein (then of the Port Authority) and Bridget Kelly (then one of the Deputy Chiefs of Staff in the Governor's Office) knowingly participated in this plan to realign toll lanes leading onto the George Washington Bridge at Fort Lee, at least in part, for some ulterior motive to target Mayor Sokolich.

Our investigation also found that Bill Stepien (then the Governor's campaign manager) and Bill Baroni (then the Deputy Executive Director of the Port Authority) knew of this idea in advance, but we found no evidence that they knew of the ulterior motive here, besides the claimed purpose of conducting a traffic study.<sup>6</sup> As to whether anyone else may have knowingly participated in this plan to target Mayor Sokolich, our investigation has not found any evidence of anyone else's involvement.

What motivated this act is not yet clear. The common speculation that this was an act of political retaliation because Mayor Sokolich failed to endorse the Governor for re-election<sup>7</sup> is not established by the evidence that we have seen. By his own account, Mayor Sokolich had a "good relationship" with the Christie Administration.<sup>8</sup> He was therefore considered a Democrat who might cross party lines to endorse the Governor's re-election.<sup>9</sup>

But by late March 2013, both the Governor's Office and his campaign knew that Mayor Sokolich would not be endorsing,<sup>10</sup> yet that had no apparent effect upon his working relationship with the Christie Administration over the next several months. Indeed, by April 2013, Sokolich was no longer on the list of Mayors whose endorsement the campaign would be seeking; yet in mid-May 2013, he remained on a list of Mayors being considered for honorary appointments by the Governor.<sup>11</sup> And when speculation of political retaliation surfaced as a reason for this lane realignment, Mayor Sokolich said he found it "incomprehensible that there's any truth whatsoever to these rumors."<sup>12</sup>

Something happened to change this dynamic dramatically, however, in August 2013. By that time, Kelly had become Deputy Chief of Staff,<sup>13</sup> assuming the post left vacant by her predecessor, Stepien, who had departed in April 2013 to run the Governor's re-election campaign.<sup>14</sup> Because Stepien was her "benefactor," Kelly relied heavily on him during this transition.<sup>15</sup> And at some point after Stepien's departure to run the campaign, Kelly and Stepien became personally involved, although, by early August

2013, their personal relationship had cooled, apparently at Stepien's choice, and they largely stopped speaking.

Around that same time, Wildstein started pressing Port Authority engineers to assess the traffic effects resulting from the dedicated Fort Lee toll lanes leading onto the George Washington Bridge.<sup>16</sup> That Fort Lee was favored with these dedicated toll lanes was an issue periodically raised within the Port Authority. Indeed, Wildstein himself first raised the issue in late 2010.<sup>17</sup> For some reason yet to be determined, Wildstein seemed to be driving this issue again in 2013. It was Wildstein's "idea," like so many other "crazy" ones he'd had before that never got off the ground.

Among his political friends, Wildstein first approached Stepien about this idea to realign the Fort Lee toll lanes. Stepien, who was no longer a State employee at the time, sidestepped the question, telling Wildstein he would have to go to "Trenton."

Wildstein then began communicating with Kelly about that subject using their personal email accounts.<sup>18</sup> On August 12, 2013, Kelly reconfirmed that Mayor Sokolich would not be endorsing the Governor for reelection. Then, on August 13, 2013, she sent Wildstein her now-infamous email: "Time for some traffic problems in Fort Lee."<sup>19</sup> To which Wildstein knowingly responded: "Got it."<sup>20</sup>

We found no evidence up until that point in time of any hostility toward Mayor Sokolich. But when Kelly learned that one of her staffers, Evan Ridley, apparently met with Mayor Sokolich a few days later on August 16, 2013, she lashed out about it in a series of emails, saying "I am on fire," "I am irate," "[W]hy did he think it was ok to meet with Sokolich?," and "He should not have met with Fort Lee without approval. I am really upset with him."<sup>21</sup>

Meanwhile, by late August 2013, Wildstein had received from Port Authority engineers a "suggested modification" to the Fort Lee lanes in contemplation of an imminent traffic study there.<sup>22</sup> On August 28, 2013, he exchanged emails with Kelly on their personal accounts about having a "call" that evening "re: Ft. Lee."<sup>23</sup>

On September 6, 2013, Wildstein instructed Port Authority employees to reduce Fort Lee's toll access from three lanes to one,<sup>24</sup> apparently giving the impression this was "to do a quick assessment on Fort Lee impacts to be used for a discussion with the Fort Lee Mayor next week."<sup>25</sup> In internal emails at the time, Port Authority employees expressed concern: "A single toll lane operation invites potential disaster."<sup>26</sup> But Wildstein nevertheless forged ahead, privately emailing Kelly: "I will call you Monday AM to let you know how Fort Lee goes."<sup>27</sup>

Unbeknownst to Fort Lee officials, who apparently received no prior notice,<sup>28</sup> the Port Authority's traffic study was implemented during the rush hour starting on the morning of September 9, 2013.<sup>29</sup> Wildstein showed up personally at the George Washington Bridge to witness what he had wrought.<sup>30</sup>

The complaints started coming that very morning from Fort Lee officials, including Mayor Sokolich, who phoned Wildstein's Port Authority boss, Bill Baroni,<sup>31</sup> about an "urgent matter of public safety in Fort Lee."<sup>32</sup> Instead of returning the call, Baroni forwarded the message to Wildstein's personal email account.<sup>33</sup> Wildstein responded: "radio silence,"<sup>34</sup> and then forwarded that exchange to Kelly, joking that Mayor Sokolich's "name comes right after mayor Fulop"<sup>35</sup>—an apparent reference to Jersey City Mayor Steven Fulop, whose meetings with Christie Administration officials were cancelled by Kelly the month before. Kelly responded by thanking Wildstein: "Ty."<sup>36</sup> Later that same day, September 9, 2013, Kelly checked in with her staff to inquire: "Have you spoken to the Fort Lee Mayor?"<sup>37</sup> They had not.<sup>38</sup>

The very next morning, on September 10, 2013, Kelly and Wildstein gloated over the problems they were causing Mayor Sokolich. Kelly texted Wildstein: "Is it wrong that I am smiling?"<sup>39</sup> To which Wildstein responded, "No,"<sup>40</sup> derisively calling the affected Fort Lee residents "Buono voters"<sup>41</sup>—a reference to Governor Christie's Democratic opponent, State Senator Barbara Buono.<sup>42</sup> On September 12, 2013, Mayor Sokolich emailed Baroni a letter that "this decision has negatively impacted public safety here in Fort Lee,"<sup>43</sup> which Baroni then passed on to Wildstein.<sup>44</sup>

This time, Wildstein forwarded the letter to both Kelly and Stepien on their personal email accounts.<sup>45</sup> And when Kelly learned later from her staff that Mayor Sokolich had also called to say he was "extremely upset,"<sup>46</sup> she responded by personal email: "Good."<sup>47</sup>

That same day, September 12, 2013, Wildstein advised Michael Drewniak, the Governor's Press Secretary, of a press inquiry to the Port Authority about the Fort Lee traffic congestion.<sup>48</sup> Wildstein also sent Drewniak a draft response to the inquiry: "The Port Authority is reviewing traffic safety patterns at the George Washington Bridge to ensure proper placement of toll lanes. The PAPD has been in contact with Fort Lee police throughout this transition."<sup>49</sup>

That evening, Baroni texted Wildstein a message from "Serbia"<sup>50</sup>—an apparent reference to Mayor Sokolich, who is actually Croatian<sup>51</sup>—that the Mayor said his "frustration is now trying to figure out who is mad at me."<sup>52</sup> Meanwhile, at the Port Authority, Executive Director Patrick Foye, a Cuomo Administration appointee, complained he had not been made aware of this land realignment decision beforehand and, on the morning of September 13, 2013, emailed that he found this "very troubling"<sup>53</sup> and was "going to fix this fiasco" by immediately reversing the decision.<sup>54</sup>

Wildstein then wrote Kelly a private email: "The New York side gave Fort Lee back all three lanes this morning. We are appropriately going nuts."<sup>55</sup> Around the same time, Baroni emailed Foye that "[t]here can be no public discourse" about the reversal.<sup>56</sup> Days later, though, the controversy had not died down.

On September 17, 2013, Mayor Sokolich again texted Baroni wanting assurances “the recent traffic debacle was not punitive in nature.”<sup>57</sup> Baroni forwarded the text to Wildstein,<sup>58</sup> who forwarded it to Kelly.<sup>59</sup> And later that same day, a Wall Street Journal reporter called Wildstein, who urgently texted Kelly for “instructions” and wrote, “I need to speak with you.”<sup>60</sup>

On September 17, 2013, The Wall Street Journal’s story reported “speculation that the closures could be retribution for Mr. Sokolich’s decision not to endorse Mr. Christie in his reelection bid in November,” but quoted Mayor Sokolich as saying, “I find it incomprehensible that there’s any truth whatsoever to these rumors.”<sup>61</sup> On the morning of September 18, 2013, Wildstein forwarded it to Stepien at his personal email account.<sup>62</sup> Stepien responded: “It’s fine. The mayor is an idiot, though. W[in] some, lose some.”<sup>63</sup> Admitting too much, Wildstein replied: “I had empty boxes ready to take to work today, just in case.”<sup>64</sup> He added: “It will be a tough November for this little Serbian.”<sup>65</sup>

Wildstein also reached out to Drewniak, admitting he was “unusually nervous over this one.”<sup>66</sup> Drewniak, unaware of any ulterior motive behind this traffic study, said that the story was “[n]ot so bad. At least it doesn’t run wild with that crazy allegation it was done as political retaliation. That was a nutty suggestion.”<sup>67</sup>

On October 1, 2013, The Wall Street Journal broke another story, this time reporting on Foye’s internal September 13, 2013 email sharply criticizing the traffic study and pulling the plug on it.<sup>68</sup> Stepien texted Wildstein: “Holy shit, who does he [Foye] think he is, Capt. America?”<sup>69</sup> And Wildstein replied: “Bad guy. Welcome to our world.”<sup>70</sup> The next morning, on October 2, 2013, Wildstein forwarded this article to Stepien at his private email account, and Stepien responded to Wildstein: “For what it’s worth, I like you more on October 2, 2013 than I did on October 2, 2009[.]”<sup>71</sup>

As the controversy grew, Wildstein and Kelly attempted to cover it up. Others in the Governor’s Office were being told by Wildstein and Baroni that this was a legitimate traffic study and an operational issue best left to the Port Authority to handle. With Assembly Committee hearings looming in late November 2013, Wildstein helped prepare Baroni for his testimony. Baroni told the Committee this was a legitimate traffic study long under consideration and long overdue because Fort Lee had received favored treatment in the past.<sup>72</sup> He even described the study’s limited but inconclusive results, showing there was improvement in I-95 traffic flow as a result of this toll lane realignment.<sup>73</sup> Baroni also publicly identified Wildstein as the Port Authority employee responsible for orchestrating the lane realignment.<sup>74</sup>

By early December 2013, Wildstein was feeling vulnerable, knew he would have to resign, and then did.<sup>75</sup> While he continued to insist to the Governor’s Office that this was a legitimate traffic study, even if flawed in its execution, and admitted that this was his “idea,” he tried to deflect blame, telling Drewniak that he had not acted alone, identifying Kelly and Stepien as others who knew, and claiming he had emails

to prove it. Wildstein even suggested he mentioned the traffic issue in Fort Lee to the Governor at a public event during the lane realignment—a reference that the Governor does not recall and, even if actually made, would not have registered with the Governor in any event because he knew nothing about this decision in advance and would not have considered another traffic issue at one of the bridges or tunnels to be memorable.

Drewniak passed on Wildstein's claims to others in the Governor's Office. Others also heard the Kelly email rumors and reported them back to the Governor's Office around that time. On December 9, 2013, Port Authority officials testified before the Assembly Committee that Wildstein was behind the lane realignment decision and told them "not to worry" about notifying Foye or Fort Lee officials in advance.<sup>76</sup> Foye also testified, saying he was not aware of any actual traffic study.<sup>77</sup>

The Governor became concerned about what he was hearing and demanded straight answers from his senior staff. On December 12, 2013, he had further inquiries made of Kelly and Stepien. Both denied any involvement in the decision to close these lanes. Kelly even claimed to have searched her emails, showing a couple to the Governor's Chief of Staff, Kevin O'Dowd, a former federal prosecutor, but none of the damning private ones proving her advance knowledge and participation. But Kelly was nevertheless panicked by what she considered to be O'Dowd's "grilling."

She called her staffer, Christina Renna, that same night to make a desperate request: delete the email that Kelly sent to Renna on September 12, 2013, where Kelly, upon learning Mayor Sokolich was "extremely upset,"<sup>78</sup> responded: "Good."<sup>79</sup> Despite Kelly's attempt to cover her tracks, Renna preserved a copy of that email.<sup>80</sup>

The very next morning, on December 13, 2013, the Governor convened a special meeting of his senior staff and also invited Drewniak.<sup>81</sup> He stood the entire time and raised his voice. He told them he was concerned they were all suffering from "senioritis" following the election. He said the national attention was a double-edged sword: "The spotlight can turn to a searchlight real quick." He mentioned a number of miscues but then focused on the George Washington Bridge lane realignment fiasco. He said words to the effect of: "This is a mess, and now I have to clean it up."

He demanded to know from each of them in that room whether they had any prior knowledge or involvement in the lane realignment. He said he was going to hold a press conference later that day to set the record straight. He told them to come forward with the truth that morning, to go tell O'Dowd or Charles McKenna, then the Governor's Chief Counsel. "The confessionals are open," he said.

But Kelly did not come forward. To the contrary, when questioned for a second time by O'Dowd that morning, Kelly continued to deny any involvement. Later that morning, the Governor held his press conference, saying he had been "assured" by his senior staff and Stepien that they were not involved. He

also announced at the press conference that Baroni would be replaced at the Port Authority by Deborah Gramiccioni, one of the Governor's senior staffers and also a former federal prosecutor.<sup>82</sup> The "assurances" that the Governor had received proved to be inaccurate.

When, on the morning of January 8, 2014, documents subpoenaed by the Assembly Committee surfaced publicly in the press, they showed Kelly and Stepien communicating with Wildstein about the Fort Lee lane realignment issue using their personal email accounts.<sup>83</sup> Kelly's email exchanges with Wildstein were particularly damning because she seemed to be blessing the decision beforehand for some ulterior motive. Stepien's showed awareness, but not approval. That afternoon, on January 8, 2014, the Governor called together his top aides and advisors at Drumthwacket. It was an emotional session, in which the Governor, welling up with tears, expressed shock at the revelations, directed Kelly's immediate firing for lying to him, and also decided to sever ties with Stepien.

The next morning, on January 9, 2014, the Governor held a press conference for nearly two hours in which he acknowledged this breach by someone close to him, took responsibility for it happening on his watch, and answered the press's questions.<sup>84</sup> That same morning, Kelly texted her then-former staffer, Renna, admitting her transgression: "I'm sorry to tarnish IGA."<sup>85</sup> Since then, Wildstein, Kelly, and Stepien have asserted their Fifth Amendment rights against self-incrimination,<sup>86</sup> from which adverse inferences can appropriately be drawn.<sup>87</sup> No one else has done so.<sup>88</sup> Indeed, we have had the cooperation of every current member of the Governor's Office, including the Governor himself, former members of that Office, and other independent witnesses as well.

### **The Role Of The Governor**

Our investigation found that Governor Christie did not know of the lane realignment beforehand and had no involvement in the decision to realign the lanes. He does not recall becoming aware of the lane realignment during the period the lanes were closed, but would not have considered a traffic issue memorable in any event.<sup>89</sup> After the fact, he at first accepted the explanation being offered by New Jersey's representatives at the Port Authority that this was simply a traffic study, an operational issue to be handled there, and the resulting controversy just typical in-fighting between the New York and New Jersey contingents.

But once the Governor became aware of Port Authority officials publicly questioning whether this was a legitimate traffic study and rumors of others' involvement, he made appropriate inquiries and even convened a special meeting of his senior staff on December 13, 2013, demanding to know whether any of them were involved in this decision, only to be lied to by Kelly. When documents were then publicly released on January 8, 2014, confirming Kelly's participation in the decision to close these lanes and

Stepien's apparent awareness, Governor Christie called together his top advisors that same day and, in an emotional session, expressed shock at the revelations, directed Kelly's firing immediately for lying to him, and also decided to sever ties with Stepien.

The very next day, the Governor held a nearly two-hour press conference to acknowledge this transgression by someone close to him, to take responsibility for it, and to answer questions from the press.<sup>90</sup> Then, his Office commissioned this investigation. Governor Christie's account of these events rings true. It is corroborated by many witnesses, and he has conducted himself at every turn as someone who has nothing to hide. Moreover, in all the documents we reviewed (including the personal texts and emails of the Governor and his senior staff) and from all the witnesses we interviewed, we uncovered nothing contradicting the Governor's account.

### **The Role Of The Governor's Senior Staff, Besides Bridget Kelly**

We have not found any evidence of any other member of the Governor's staff, besides Bridget Kelly, being involved in the decision to realign these George Washington Bridge toll lanes at Fort Lee. And we have not found any evidence of any other member of the Governor's staff, besides Bridget Kelly, doing anything to cover up what happened here after the fact. There were members of the Governor's staff who became aware of the lane realignment during or after the fact, but they understood from Wildstein or Baroni, apparently relying on information provided him by Wildstein, that this was a legitimate traffic study, no matter how misguided the Port Authority's execution of it, and therefore an operational issue for the Port Authority to deal with, not the Governor's Office. And by December 2013, as hearsay and rumors filtered back to some in the Governor's Office about Kelly's possible involvement, there was follow-up and questioning of Kelly, who denied it.

### **4. Conclusion**

In sum, we have not found any evidence of anyone in the Governor's Office knowing about the lane realignment beforehand or otherwise being involved, besides Bridget Kelly. Whatever motivated Wildstein and Kelly to act as they did, it was not at the behest of Governor Christie, who knew nothing about it.<sup>91</sup>

The Governor and his senior staff gave Kelly the benefit of the doubt—a decision that was both understandable under the circumstances and reasonable based on the evidence available to the Governor's Office at that time. Importantly, the evidence exposing this operation was not to be found in government files; rather, it was hidden in the personal email accounts and personal texts of those participating in order to conceal their act.



As other investigations progress, they may uncover, through their subpoena powers, more about the questions that remain unanswered, including what really motivated this plan. And consistent with our mandate, we will continue to facilitate the Governor's Office's cooperation.

## **B. HOBOKEN MAYOR DAWN ZIMMER'S ALLEGATIONS CONCERNING SANDY AID**

In allegations made publicly for the first time on a national cable news program on January 18, 2014, Hoboken Mayor Dawn Zimmer accused the Christie Administration of a conspiracy at the highest levels to coerce her into advancing a stalled real estate project being pursued by a private developer (the Rockefeller Group) in exchange for Sandy aid.

Mayor Zimmer has claimed that, starting in May 2013, she repeatedly received threats from high-ranking State officials, including Lieutenant Governor Kimberly Guadagno, Department of Community Affairs ("DCA") Commissioner Richard Constable, and Governor's Office of Recovery and Rebuilding ("GORR") Executive Director Marc Ferzan, as a "direct message"<sup>92</sup> from Governor Christie.

In handwritten notes purportedly made "a few days"<sup>93</sup> after these May 2013 exchanges, Mayor Zimmer described them as "corrupt"<sup>94</sup> and wrote that they showed a "direct connection b/t the Rockefeller p + Sandy funding."<sup>95</sup>

Our investigation found that Mayor Zimmer's allegations are, in material respects, demonstrably false. They are contradicted by contemporaneous documents, other witnesses' accounts, and her own prior statements. In sum, the subjective perceptions she may have do not match objective reality, as reflected in the hard evidence uncovered during our investigation.

We note at the outset Mayor Zimmer's claim that the Christie Administration held Hoboken's Sandy aid hostage for ulterior political motives is contradicted by Mayor Zimmer's own public statements as recently as a week before she went public with these accusations.

Mayor Zimmer's statements since mid-May 2013 do not square with her allegations now that she was supposedly being threatened by the Christie Administration at that time.

- After she alleged these threats were first made in mid-May 2013, she repeatedly heaped praise on Governor Christie for having "done a great job for NJ & Hoboken."<sup>97</sup> Indeed, on May 24, 2013, she wrote to the Governor: "Thank you for your continued advocacy for New Jersey and efforts to rebuild our communities."<sup>98</sup>
- Moreover, in October 2013, her Chief of Staff offered in writing to provide Governor Christie's re-election campaign with a letter of "support" from Mayor Zimmer, saying she was "proud to stand with" the Governor because he "was there for us when we needed him most, responding to the crisis of Superstorm Sandy."<sup>99</sup>

- On January 11, 2014—one week before first making her allegations—Mayor Zimmer told the press that, while disappointed with Hoboken’s Sandy aid, “I don’t think it was retaliation and I don’t have any reason to think it’s retaliation.”<sup>96</sup>

### 1. Mayor Zimmer’s Specific Allegations

Taking Mayor Zimmer’s allegations in turn, she has claimed she received threats from three different Christie Administration officials on three separate occasions:

**a. Lieutenant Governor Guadagno:** Mayor Zimmer has alleged that, two days after she sent a May 8, 2013 letter to Governor Christie requesting more Sandy aid, the Lieutenant Governor, having met “w/ the Gov.,”<sup>100</sup> “created”<sup>101</sup> a public event at a ShopRite in Hoboken, invited Mayor Zimmer to attend, and then, after the May 13, 2013 event, “pulled [her] aside in the parking lot”<sup>102</sup> to deliver “a direct message from the governor”<sup>103</sup> that “if you don’t move ahead”<sup>104</sup> with the Rockefeller Group’s project, “we’re not going to be able to help you”<sup>105</sup> with more Sandy aid.

Mayor Zimmer further alleged that the Lieutenant Governor said to her at that time: “I know it’s not right. I know these things should not be connected, but they are and if you tell anyone, I’ll deny it.”<sup>106</sup> In other words, to credit Mayor Zimmer’s account, one would have to believe that Guadagno, a former federal prosecutor and county sheriff, made a full confession—right there, out in the open, in the supermarket’s parking lot, immediately after that public event, with press and staff nearby—that she was doing something wrong, knew it was wrong, and was doing it anyway.

Our investigation found that Mayor Zimmer’s account of this exchange is, in material respects, demonstrably false:

(i) Guadagno did not meet with the Governor and then create this event to deliver his message to Mayor Zimmer. In fact, the decision to invite Mayor Zimmer to the event occurred midday on Friday, May 10, 2013—before Guadagno met with the Governor at a senior staff retreat later that day, as contemporaneous documents show.<sup>107</sup>

(ii) This was not a “created”<sup>108</sup> event. It was weeks in the planning, as contemporaneous documents show.

(iii) It was not the Lieutenant Governor who “pulled” Mayor Zimmer “aside” to have this private meeting.<sup>109</sup> It was actually Mayor Zimmer who requested the meeting, as contemporaneous documents show.<sup>110</sup> And she requested that meeting to pitch her “[i]mportant idea” to fund a sweeping, post-Sandy flood mitigation plan for Hoboken.<sup>111</sup>

(iv) It was Mayor Zimmer who had the Rockefeller Group on her mind, not Guadagno, as contemporaneous documents show. That is because the Rockefeller Group designed Hoboken’s flood mitigation plan—the same one that Mayor Zimmer was seeking Sandy aid to fund—but its development

project, backed by lawyers she perceived as close to the Governor, had just suffered a setback before Hoboken's Planning Board five days earlier when its application for redevelopment benefits was voted down. Mayor Zimmer was anxious about its status, having recently written the Governor complaining that "the solution to Hoboken's flooding challenges cannot be dependent on future development."<sup>112</sup>

(v) Guadagno had to be firm with Mayor Zimmer during their private meeting, pushing back on Mayor Zimmer's funding demands and unwarranted assumption that the stalled Rockefeller Group project was why Hoboken was not getting more Sandy aid. And we know what Guadagno said because she repeated it to the press that same day: "[While] the mayor is a great advocate for Hoboken, . . . the governor has to be an advocate for the entire state. We are trying to [do] the best we can with the resources we have."<sup>113</sup>

(vi) Guadagno has had no role in the Sandy aid decision-making process, which is formula-driven, based on objective criteria, and subject to federal oversight. Therefore, she personally could not have affected Hoboken's Sandy aid allocations at all. Moreover, even though the Rockefeller Group project did not "move ahead,"<sup>114</sup> Hoboken nevertheless then got all of the CDGB funding it applied for (\$200,000),<sup>115</sup> and its allocation for hazard mitigation funding is roughly equivalent to what other applying municipalities received (\$142,080),<sup>116</sup> and is likely to change when all the grant applications are rescored.<sup>117</sup>

Both the Lieutenant Governor and Governor deny Mayor Zimmer's allegations. And the Lieutenant Governor's account of what transpired is corroborated by hard evidence, contemporaneous with the events in question. Mayor Zimmer's isn't.

**b. DCA Commissioner Constable:** Mayor Zimmer has alleged that, just three days after she claimed the Lieutenant Governor delivered this "direct message from the governor,"<sup>118</sup> Commissioner Constable delivered the same message as they were both about to appear on a PBS television panel discussing Sandy's aftermath on May 16, 2013.

According to Mayor Zimmer's account: "We are mic'd up w/other panelists all around us – + probably the sound team listening + he [Commissioner Constable] says – I hear you are against the R project[.] I reply – I am not against the Rockefeller p – in fact I want more commercial dev. in Hob."<sup>119</sup> To which Constable purportedly replied that "everyone in the statehouse believes u r against it," and then said: "[I]f you move that forward the \$ would start flowing to u."<sup>120</sup>

From that, Mayor Zimmer surmised: "it is pretty clear what he means by '\$ will flow.' Nice to know there is a direct connection b/t the Rockefeller p & Sandy funding."<sup>121</sup> In other words, to credit Mayor Zimmer's account, one would have to believe that Constable, who is also a former federal prosecutor and registered Democrat, was part of this conspiracy to deliver this "direct message"<sup>122</sup> from the Governor to

Mayor Zimmer, that he managed to place himself in a position to do so, and then proceeded to threaten Mayor Zimmer, while “mic’d up”<sup>123</sup> in a public setting surrounded by other panelists as they were just about to go live on the air.

Our investigation found that, in material respects, Mayor Zimmer’s account of this exchange is demonstrably false:

(i) Constable did not seek out Mayor Zimmer to deliver any message from the Governor, nor did he have any message to deliver. Rather, the panelists were assigned their seats at the time they arrived for the broadcast. And Constable had not spoken to the Governor or Lieutenant Governor beforehand about this event, did not attend the Governor’s senior staff retreat (as he was not part of the Governor’s senior staff), and did not work in the “statehouse.”<sup>124</sup>

(ii) An independent witness, Belmar Mayor Matthew Doherty, a Democrat, who was seated next to Mayor Zimmer, reported that Constable never said anything to the effect of, “If you move forward” with that private development project, “the money would start flowing to you.” In fact, Doherty said he did not hear any quid pro quos discussed or threats made that evening.

(iii) Real time photographs of Constable and Mayor Zimmer talking as they were “mic’d up” on the eve of the broadcast show Mayor Zimmer starting the conversation and doing most of the talking during it, yawning about midway through, and then smiling at the end—hardly the demeanor one would expect of someone who had just been threatened.<sup>125</sup>

(iv) Mayor Zimmer is right that Constable used the words, “move forward,” and “money” will “start flowing,” that evening. But not in his pre-show conversation with Mayor Zimmer. He said them on the air during the broadcast: “[W]e’re starting to get the federal monies to flow. . . . You’re going to see businesses with capital start to move forward.”<sup>126</sup> (v) As DCA Commissioner, Constable has no responsibility for advancing commercial real estate developments unless they have an affordable housing component, which the Rockefeller Group’s project doesn’t. Therefore, he would have had no reason to raise the Rockefeller Group’s project with Mayor Zimmer in the first instance.

(vi) Even though the Rockefeller Group’s project did not “move forward,” Hoboken still got the entire amount it sought in CDGB funding—\$200,000<sup>127</sup>—which was the only Sandy aid program administered at the time that directly provided funding to municipalities. In other words, Constable, having supposedly threatened Mayor Zimmer to no avail, then nevertheless gave her the entire amount he could of Sandy aid requested by Hoboken from the CDGB program. Both Commissioner Constable and the Governor deny Mayor Zimmer’s allegations. And Commissioner Constable’s account of what transpired is corroborated by hard evidence, contemporaneous with the events in question, and an independent witness’s account. Mayor Zimmer’s is not.

**c. GORR Executive Director Ferzan:** Mayor Zimmer has further claimed that, “a month ago,” in December 2013, before she made these allegations, she met with GORR Executive Director Marc Ferzan, who oversees the State’s Sandy rebuilding effort, and asked him to “put some support” behind Hoboken’s “Rebuild by Design” proposal to HUD.<sup>128</sup>

According to Mayor Zimmer, Ferzan replied: “[Y]ou need to let me know how much development you’re willing to do.”<sup>129</sup> She considered this to be another example of the “pressure” the Christie Administration was placing on her to support private development in exchange for Sandy aid.<sup>130</sup> In other words, to credit Mayor Zimmer’s account, one would have to believe that Ferzan, another former federal prosecutor and registered Independent who left a lucrative private sector job at PricewaterhouseCoopers to do this public service, joined in the conspiracy to threaten Mayor Zimmer and then made these statements to her in furtherance of the conspiracy.

Our investigation found that, in material respects, Mayor Zimmer’s account of this exchange is demonstrably false:

(i) Mayor Zimmer last met with Ferzan not “a month ago,” but rather, on November 25, 2013, at a briefing attended by many other mayors, staffers and State officials.<sup>131</sup> In other words, Ferzan made whatever statements he did to Mayor Zimmer in a public setting in a room crowded with other people.

(ii) It was not Mayor Zimmer who brought up “Rebuild by Design.” It was Ferzan, without tying it in any way to support for private economic development, as contemporaneous documents show. Indeed, a State official kept copious notes of that briefing and captured, in words or substance, Ferzan’s exchange with Mayor Zimmer that day: “Hoboken Mayor Zimmer asked how the State is going to help urban areas with the second tranche of CDGB-DR funds. . . . She said . . . the city needs some help for things like elevating utilities and elevators. Marc Ferzan said the State asked [FEMA] about raising utilities and [it] said no. He said Rebuild by Design is one avenue to consider.”<sup>132</sup>

(iii) By that time, Hoboken was already one of 10 finalists (three of which were from New Jersey) in HUD’s “Rebuild by Design” competition, likely worth many millions of dollars in federal Sandy aid to the eventual winner.<sup>133</sup> And Mayor Zimmer should have known that HUD was using an expert jury to pick the winner, that New Jersey officials are not on that jury, and that there was therefore no real value in New Jersey officials “support[ing]” Hoboken alone,<sup>134</sup> as opposed to continuing to facilitate all three New Jersey contenders, which earned them “thanks” from HUD for “extraordinary cooperation”<sup>135</sup> “digging in with the RDB teams.”<sup>136</sup> Yet that misconception seems to be motivating Mayor Zimmer’s allegations now. Indeed, she told a national news show on January 19, 2014, of her “concern” that “the governor 20 ultimately will not support” Hoboken’s “Rebuild by Design” proposal, and “if I don’t have his support on this plan, then we’re not in a good position to win this competition.”<sup>137</sup>

(iv) As Mayor Zimmer also should have known, HUD's "Rebuild by Design" competition has expressly encouraged public-private partnerships, advising competitors it would "implement selected proposals with both public and private funding dedicated to this effort."<sup>138</sup> Indeed, the President's Hurricane Rebuilding Task Force, on whose advisory group Mayor Zimmer serves, expressly provides in its rebuilding strategy for "using public-private partnerships to lower project costs" and "leverage Federal funding."<sup>139</sup> Thus, even had Ferzan mentioned private development in this context, Mayor Zimmer should have realized that would have been perfectly appropriate and consistent with the "Rebuild by Design" competition's mandate.

(v) Mayor Zimmer never mentioned Ferzan's supposed role in this conspiracy before January 20, 2014, and only did so that day after Ferzan held a morning press call describing the State's "objective process," calling Mayor Zimmer's claim of unfair treatment for Hoboken a "mischaracterization," and saying "I'm scratching my head a little bit about any community that's getting the short end of the stick."<sup>140</sup> Only later that day did Mayor Zimmer go on a national cable news program and name Ferzan as a co-conspirator for the first time.<sup>141</sup>

(vi) A central premise of Mayor Zimmer's conspiracy theory is that Hoboken's Sandy aid has been "held hostage."<sup>142</sup> But in reality, as dozens of witnesses from State government familiar with the Sandy aid decision-making process confirmed, there has been no politicization of that process whatsoever. Not with regard to Hoboken or anyone else. Decisions are made on the merits, formula-driven, and based on objective criteria, under federal oversight.<sup>143</sup> And while the Rockefeller Group project remains stalled, Hoboken has received multiple Sandy aid 21 allocations in recent months and stands to get many millions of dollars more if it wins the "Rebuild by Design" competition.<sup>144</sup>

Moreover, Hoboken-affiliated parties have thus far collectively received nearly \$70 million in Sandy funding. Both Ferzan and the Governor deny Mayor Zimmer's allegations. And Ferzan's account is corroborated by hard evidence, contemporaneous with the events in question, and many other witnesses' accounts. Mayor Zimmer's isn't.

### **Other Factors Bearing On Mayor Zimmer's Allegations**

There are other factors considered during our investigation that inform our conclusions, including but not limited to the following:

**a. Scope Of The Conspiracy Alleged And Inability To Carry It Out:** The conspiracy that Mayor Zimmer has alleged would necessarily have had to include many actors within various departments of the Christie Administration. That is because she has claimed that Hoboken's Sandy aid was being affected by this conspiracy. In order for that to have happened, the many individuals responsible for the management and execution of Sandy aid programs would necessarily have had to become involved in this alleged plot.

The top aides to the Governor, Lieutenant Governor, DCA Commissioner, and GORR Executive Director— who include other former federal prosecutors, a former State Deputy Attorney General, a former senior counsel in the State Attorney General’s Office, private sector lawyers recruited to help administer the program, and even an out-of-stater recruited because of her extensive experience in helping New Orleans in the aftermath of Hurricane Katrina—would have had to know if such a thing ever happened. And to a person, they all say, “No, it didn’t happen.” Nor could it have.

Our investigation found that the Christie Administration has implemented an objective and transparent process for allocating Sandy aid. It is formula driven.<sup>145</sup> And it is subject to federal oversight.<sup>146</sup>

Moreover, our investigation found that 22 Hoboken has been treated fairly, compared to other New Jersey municipalities, given the scarce resources available. Indeed, even Mayor Zimmer’s press secretary has conceded “the fact that Hoboken is about on par with other towns in getting a modest amount of aid from state-run programs,” saying only that it “deserves” more.<sup>147</sup> In other words, the threats that Mayor Zimmer has alleged were neither carried out, nor could they have been.

**b. Mayor Zimmer’s Changing Account Over Time:** Mayor Zimmer’s story is also suspect because it keeps changing. By her own account, she sat on these allegations for more than eight months (despite her public duty to remedy them),<sup>148</sup> continued to praise the Governor publicly in the interim,<sup>149</sup> and then, chose to air them publicly for the first time on a national cable news program, rather than timely report them to law enforcement authorities.<sup>150</sup> Then, over three successive days of television interviews in January 2014, she altered her story each time she retold it.

For example, at first, she said this message came from the “Christie Administration,”<sup>151</sup> but then, the next day, called it a “direct message from the governor.”<sup>152</sup> And she never mentioned Marc Ferzan until after he publicly questioned her accusations,<sup>153</sup> at which point she then named him as a co-conspirator.<sup>154</sup> In essence, her allegations have been a moving target.

**c. Mayor Zimmer’s Mischaracterization Of The Rockefeller Group’s Role:** Mayor Zimmer now casts the Rockefeller Group in a negative light, but that appears to be revisionist history on her part. A year ago, she was “thank[ing]” the Rockefeller Group in her “State of the City” speech for designing Hoboken’s flood mitigation plan.<sup>155</sup> She embraced that plan and tried to convince State officials to fund its implementation.<sup>156</sup>

But the Rockefeller Group’s development project was a different story. She is now essentially claiming that the Rockefeller Group, through its lawyer-lobbyists at Wolff & Samson, unduly influenced the 23 Christie Administration. Our investigation found no evidence of anything untoward in those dealings.



For example, Mayor Zimmer appears to have mischaracterized a May 9, 2013 meeting with Christie Administration officials, to which Hoboken officials were invited by Wolff & Samson, as being about the Rockefeller Group's development project,<sup>157</sup> when contemporaneous documents show that meeting was really about Hoboken's flood mitigation plan—the one supported by Mayor Zimmer and designed by the Rockefeller Group's engineers.<sup>158</sup> Moreover, contemporaneous documents show that the Port Authority's decision to fund an economic development study of Hoboken's North End in 2010 actually came about at Mayor Zimmer's request before Wolff & Samson partner and Christie appointee David Samson even began serving as the Port Authority's Chair.<sup>159</sup>

Hence, Mayor Zimmer's mischaracterization of the Rockefeller Group's role further undermines her allegations. d. Lack Of Substantiation For Mayor Zimmer's Claims We were unable to substantiate Mayor Zimmer's allegations during our investigation.

Through counsel retained for her after she had already gone public with her accusations and spoken with investigators, Mayor Zimmer declined our request for an interview. Other Hoboken officials similarly declined our requests for interviews, although we were able to obtain Hoboken documents through a formal public records request. Nevertheless, even without Mayor Zimmer's cooperation, we have had the benefit of reviewing her several lengthy television interviews, and were also able to obtain from media websites copies of handwritten notebook entries that she provided the press. As a result, we are aware of her account and what she has claimed corroborates it.

Mayor Zimmer's handwritten notebook, offered as corroboration for her account, is suspect. It is not a contemporaneously written document. Rather, on its face, and by Mayor Zimmer's own admission, it was written "a few days" after the events it purports to chronicle.<sup>160</sup> 24 And its most inflammatory statements appear to have been added even later, written across the top and down the side of pages.<sup>161</sup>

Even crediting this notebook's contents as genuine, however, they are only as accurate as the perceptions of the writer. And based on the hard evidence, Mayor Zimmer's perceptions have not proven to be accurate. Therefore, what other witnesses say she then told them is not corroboration either because it is as unreliable as the perceptions she recounts in her handwritten notebook. All of this proffered "corroboration" is, in reality, hearsay, from which no credible conclusions can be drawn.

**3. Conclusion:** In sum, our investigation has concluded that Mayor Zimmer's allegations are unsubstantiated and, in material respects, demonstrably false. Whatever subjective perceptions she may have do not match objective reality, as reflected in the hard evidence uncovered during our investigation. Moreover, her allegations are contradicted by contemporaneous documents, other witnesses' accounts, and her own prior statements. Mayor Zimmer herself has called the sequence of events that she has alleged "unbelievable."<sup>162</sup> Based on our investigation, we would have to agree.