STATE OF NEW JERSEY v. GEORGE E. NORCROSS, III, PHILIP A. NORCROSS, WILLIAM M. TAMBUSSI, DANA L. REDD, SIDNEY R. BROWN, and JOHN J. O'DONNELL, Defendants.	SUPERIOR COURT OF NEW JERSEY MERCER COUNTY LAW DIVISION INDICTMENT NO. 24-06-00111-S

REPLY BRIEF IN SUPPORT OF DEFENDANT DANA L. REDD'S MOTION TO DISMISS THE INDICTMENT

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Defendant Dana L. Redd respectfully submits this reply brief in further support of her Motion to Dismiss the Indictment, a set of charges that are fatally flawed and deficient even when viewed in the light most favorable to the Attorney General.

PRELIMINARY STATEMENT

The Attorney General has charged former Camden Mayor Dana Redd with Official Misconduct, as the basis for accusing her with being a member of the so-called "Norcross Enterprise" as well as other Indictment counts entirely dependent on her being guilty of Official Misconduct. Official Misconduct requires "misconduct" by a "public official" acting in her "official" capacity. As the Indictment is presented, none of those elements are facially satisfied. The Attorney General necessarily recognizes that he cannot prosecute a "public corruption" case without a "public official," but the inclusion of Dana Redd is legally groundless, even crediting the Attorney General's factual allegations. Accordingly, the Indictment must be dismissed at this pre-trial stage of the proceedings.

The threshold need for a public official to support an allegation of public corruption may explain why former Mayor Dana Redd was indicted. The Indictment, however, leads with non-factual, non-incriminating allegations against Dana Redd: that she failed to "perform the duties of the office impartially"; that she failed "to conduct business according to the highest ethical standards of public service"; that she failed "to devote her best efforts to the interests of the city"; that she failed "to perform her duties in a legal and proper manner"; that she failed "to display good faith, honesty and integrity"; and that she failed "to be impervious to corrupting influences." Ind. ¶¶ 218(vi); 220(vi); 240. However accusatory, none of these assertions alone or together amount to criminal conduct under New Jersey law without legally-sufficient elaboration.

Moreover, the more specific factual allegations against Dana Redd in the Indictment — even if assumed to be true for the sake of this motion to dismiss — do not imply unlawful conduct by her, much less make out a prima facie case of probable cause. First, the Indictment alleges that Dana Redd requested that a non-governmental person or persons meet with co-defendant Philip Norcross, a private attorney working on matters related to Camden, in 2014. Second, the Indictment alleges that the Dana Redd did not take a call or set a meeting with a prospective developer in 2016. In other words, the Indictment alleges that she did not do things she was not required by any law or custom or practice to do. The factual allegations against Dana Redd — again, even if assumed to be true for the purpose of this motion to dismiss — amount to non-incriminating, legally-innocent acts and omissions that do not become criminal simply because the Attorney General asserts they were done (or not done) with a criminal purpose. As in every sustainable prosecution, there must be more alleged. Because there isn't, the Indictment must be dismissed. To force Dana Redd to continue to defend against this legally baseless prosecution, including enduring the ordeal of trial, is exactly what the gatekeeping function of this Court is intended to protect against.

The Attorney General's oppositional argument is an exercise in circular logic: Dana Redd was part of the Norcross Enterprise; consequently, otherwise innocent things she did (or did not do) were in furtherance of the Norcross Enterprise; therefore, Dana Redd is guilty of being part of the Norcross Enterprise. There is literally nothing even remotely improper, much less criminal (for example, soliciting or accepting a bribe), to fuse these bare conclusions into a triable criminal case, unlike every other case where the indictment allegations are facially sufficient to move the case to trial. In its brief attempting to salvage the Indictment, the Attorney General does provide additional clarity (by further explaining the indictment allegations) as to Dana

Redd's assertedly criminal role. The Attorney General's explanations cannot constructively amend a facially deficient set of charges, however, and only reinforce the need for this Court to dismiss the Indictment.

In its brief, the Attorney General now confirms that Dana Redd is charged with Official Misconduct for affirmative acts, not omissions or inactions that themselves cannot be the basis for statutory Official Misconduct. (State of New Jersey Brief in Opposition to Motion to Dismiss ("State Br.") at 70, 76). The legal significance of this concession cannot be understated. The two affirmative acts attributed to Dana Redd and alleged in the Indictment were self-evidently done in Dana Redd's capacity as co-chair of the private Cooper's Ferry Partnership ("CFP"), not in her capacity as Mayor of Camden. See Ind ¶ 49 (as CFP co-chair, Dana Redd recommended that CFP CEO meet regularly with Philip Norcross); id. at ¶ 77 (as CFP co-chair, Dana Redd told CFP CEO that his job was in jeopardy). Because these alleged actions did not relate to the public duties of the mayor or the mayor's official functions, but rather her private role as a CFP board member, they are not enough to meet the straightforward and literal standard for Official Misconduct set forth in N.J.S.A. 2C:30-2.

Finally, but just as significant, even if the alleged affirmative acts undertaken by Dana Redd were done in her official capacity as Mayor – and, again, they were not according to the Indictment – they were committed over a decade ago, falling years outside the seven-year statute of limitations period for Official Misconduct.

ARGUMENT

I. DANA REDD DID NOT COMMIT AN AFFIRMATIVE, UNAUTHORIZED ACT RELATING TO HER OFFICE

As set forth in the initial brief, a public servant may only be accused of official misconduct if:

> with purpose to obtain a benefit for h[er]self or another or to injure or deprive another of a benefit: (a) [sh]e commit[ed] an act relating to h[er] office but constituting an unauthorized exercise of h[er] official functions, knowing that such act is unauthorized or [s]he . . . committ[ed] such act in an unauthorized manner; or (b) [sh]e knowingly refrain[ed] from performing a duty which is imposed upon him by law or is clearly inherent in the nature of h[er] office.

N.J.S.A. 2C:30-2 (emphasis added).

In other words, the Official Misconduct statute allows for a prosecution if the official "committed an act relating to her office" (subsection (a)) or "refraining from performing a duty" (subsection (b)). This disjunctive provision sets forth two distinct theories of prosecution. The Attorney General has now expressed out loud its choice between the two.

In its brief, the Attorney General confirms that the prosecution against Dana Redd is pursuant to 2(a), not 2(b). State Br. at 70 ("Redd is charged with committing official misconduct by knowingly committing affirmative, unauthorized acts relating to her office in violation of N.J.S.A. 2C:30-2(a)") (emphasis added). The official misconduct statute—especially 2(a)—is not about any colloquial misconduct done by an official; instead, it requires some exercise of *power* or *authority*. Put differently, there must be some use of the office. See State v. Morrison, 277 N.J. 295, 309 (2016) (official misconduct requires a misuse of "governmental authority"); State v. Saavedra, 222 N.J. 39, 60-61 (2015) ("[A]n act sufficiently relates" to office when the officer "commit[s] an act of malfeasance because of the office [he] hold[s] or because of the opportunity afforded by that office"); State v. Kueny, 411 N.J. Super. 392, 407 (App. Div. 2010) ("[T]he wrongdoer must rely upon his or her status as a public official to gain a benefit or deprive another").

Indeed, the Attorney General seeks to distinguish 2(b) cases, which the Attorney General views as inapplicable here because they apply to a charging section the Attorney General is not using. Id. at 73 ("Brady's requirement of a 'non-discretionary duty' in a failure-to-act case says nothing about Redd's duty not to affirmatively commit crimes related to her office."). Consequently, the Attorney General acknowledges that "the criminal law typically requires a more stringent standard to impose liability for not doing something than for actively doing something." Ibid.

Again, the legal significance of this concession cannot be understated, as it conclusively and fatally undermines the Attorney General's theory of prosecution. In other words, the Attorney General cannot sustain the case even if the factual assertions in the Indictment are assumed to be true. Why? The very narrow and limited (and facially innocent) set of allegations that remain are entirely unrelated to actions Dana Redd took in an official capacity. Rather, they relate only to her function as co-chair of CFP, a private, non-profit organization. In addition, even if the actions related to her role as mayor, they do not make use of her office. Thus, because they neither "relat[e] to h[er] office nor "constitute an unauthorized exercise of h[er] official function" (in the words of the statute), they cannot constitute Official Misconduct.

The Attorney General argues that this Court should send this case to trial because the "hat" Dana Redd wore when acting as co-chair was "ambiguous," meaning that the Attorney General is unclear whether Dana Redd was acting in a public capacity as Mayor or in a private capacity as co-chair of CFP. State Br. at 80 ("For one, which hat Redd was wearing in these interactions is ambiguous, and any argument that she was in fact wearing her CFP hat to the exclusion of the mayoral [hat] would go to the sufficiency of the evidence."). In truth, however, it really doesn't matter. The statute requires that Former Mayor Redd used her mayoral office in

some way, and the indictment is without a single example of that: Telling someone to meet with someone else, or refusing to pick up the phone, isn't close; so too telling someone their job is in jeopardy (in whatever capacity).

In any event, contrary to the Attorney General's contention, there is no factual ambiguity. The Indictment itself describes Redd's service at CFP (Ind. ¶ 12), facts with which this Motion does not quarrel. Thus, the Attorney General's argument amounts to nothing less than a frontal attack on Dana Redd's most fundamental due process right: the right not be prosecuted and threatened with prison when the criminal statute on which the Attorney General is relying does not proscribe her conduct. The Attorney General's argument is essentially an effort to re-define and thus expand the reach of the Official Misconduct statute to make non-"official" conduct nevertheless subject to criminal prosecution. If the Attorney General's view of the statute is accepted, then a public official becomes a 24-7-365 actor whose every private activity while she is a public official subjects her to an Official Misconduct charge.

It is well established that "[n]o one shall be punished for a crime unless both that crime and its punishment are clearly set forth in positive law." State v. Regis, 208 N.J. 439, 451-52 (2011) (quoting In re DeMarco, 83 N.J. 25, 36 (1980)) (alteration in original). Accordingly, the rule of lenity provides that, "if a statutory ambiguity cannot be resolved by analysis of the relevant text and the use of extrinsic aids, . . . the ambiguity [must] be resolved in favor of the defendant." Id. at 451. Here, the Attorney General's theory that Dana Redd's tenure as co-chair of a private board can give rise to official misconduct just because it coincides with her tenure as mayor has no basis in the plain language of the statute. The Official Misconduct statute requires "an act relating to h[er] office but constituting an unauthorized exercise of h[er] official

functions." Serving on the private CFP board and committing acts in that capacity do not fit, even if they occurred at the same time Dana Redd was Mayor.

For this reason, the cases cited by the Attorney General are readily distinguishable. First and foremost, each of the cases invovle some use of official power or a breach of duty. Specifically, in State v. Hinds, 143 N.J. 540, 544, 546-47 (1996), although the officer-defendant was off-duty at the time of the alleged offenses, he invoked his title as a police officer to avoid suspicion when confronted on two separate occasions by an investigator[1] and the store Operations Manager[2]; in State v. Burnett, 245 N.J. Super. 99 (App. Div. 1990), the underlying theft and drug offenses occurred while the officer-defendant was on duty; in State v. Weleck, 10 N.J. 355, 361, 365 (1952) , the defendant was a borough attorney who attempted to extort a private citizen by demanding a sum of money in exchange for using his role as borough attorney to influence the mayor and council; in State v. Schenkolewski, 301 N.J. Super. 115, 122, 143 (App. Div. 1997), the bribe that the defendant accepted was in exchange for using his role as chairman of the town zoning board and liaison to the planning board to influence the town committee's decision to transfer land; in State v. Parker, 124 N.J. 628, 641 (1991), a public school teacher showed her students "sexually-explicit magazines" and "discussed her sexual proclivities and those of others with her students" in the classroom; in State v. Cohen, 32 N.J. 1, 9-10 (1960), the officer-defendant schemed to steal money from parking meters despite having duties to "to use all reasonable means to enforce the laws applicable in his jurisdiction[,] . . . to apprehend violators[,] . . . [and to] not himself violate the laws he is sworn to enforce"); in State

[1] When confronted by a State Police investigator, the officer-defendant "said that 'he was also a police officer working with . . . the store's security manager.'" Hinds, 143 N.J. at 544.
[2] The Hinds court explained that a "jury could find that [the officer-defendant] . . . used his office to instill a false sense of security and to avoid suspicion," particularly because, "when the store Operations Manager grew suspicious and confronted [him], he alleviated her concerns by stating that he 'helped [the security manager] catch shoplifters.'" 143 N.J. at 546-47.

v. Bullock, 136 N.J. 149, 157 (1994), the defendant identified himself as a state trooper in both incidents giving rise to his conviction for official misconduct; in State v. Stevens, 203 N.J. Super. 59, 63 (Law Div., Burlington County 1984), the incident giving rise to the officer-defendant's conviction for official misconduct occurred at the police station while he was on duty; and in Saavedra, 222 N.J. at 46, 50, the defendant, an employee of a local board of education, removed confidential documents from the board's office that they were not entitled to.

In addition, in all but two[3] of the cases relied upon by the Attorney General, the defendants were charged with and/or convicted of official misconduct based on undisputably unlawful acts. In Hinds, 143 N.J. at 541, 544, the defendant police officer and a retail store security manager were accused of conspiring to shoplift, and both were ultimately convicted of conspiracy and receiving stolen property, in addition to official misconduct; in Burnett, 245 N.J. Super. 99, the officer-defendant's conviction for official misconduct related to theft and drug offenses; in Weleck, 10 N.J. at 361, 365, an attorney for the Borough of Hillsdale was charged with attempted extortion, in addition to official misconduct, after he "demand[ed], request[ed] and receive[d] from . . . a private citizen, a promise that he, the [private citizen], would pay him, the [defendant], . . . fifteen thousand dollars . . . in return for an agreement or understanding that he, the [defendant], would use his influence and office as . . . Borough Attorney . . . to influence . . . the Mayor and Council . . . to enact a certain ordinance"; in Schenkolewski, 301 N.J. Super. 115, a zoning board chairman was charged after accepting a bribe in exchange for utilizing his public position in an improper manner; in Cohen, 32 N.J. at 3-5, the officer-defendant was charged with official misconduct in relation to his scheme to steal money from parking meters; in

[3] In Parker, 124 N.J. 628, discussed supra, a public school teacher was charged with official misconduct based on actions in the classroom that, while inappropriate, did not separately constitute unlawful conduct. Similarly, in Stevens, 203 N.J. Super. 59, a law enforcement officer was charged with official misconduct after having a woman undress at in his presence at the police station—an act that was not itself unlawful.

Bullock, 136 N.J. at 151-52, the defendant, a suspended state trooper, was convicted of possession of a gun without a permit and unlawful possession of a knife,[4] in addition to official misconduct; in Kueny, 411 N.J. Super. at 395, in addition to official misconduct, the officer-defendant was charged with fraudulent use of a credit card; and in Saavedra, 222 N.J. at 46, the defendant was convicted of official misconduct and theft by unlawful taking of public documents.

The Attorney General also ignores that New Jersey courts have dismissed charges of official misconduct where defendants are employed by non-profit entities that happen to perform work pursuant to government contracts. For example, in State v. Mason, 355 N.J. Super. 296, 300 (App. Div. 2002), defendants were "officers of a private, non-profit corporation that provide[d] educational programs for handicapped students placed there at public expense." Although the Mason court acknowledged that a public servant includes "any person . . . performing a governmental function" and that it "ha[d] in the past recognized that there are certain private entities that carry with them the weight of governmental authority such that their officers are public officials," it made clear that there is "a distinction between one who is a public official or government officer and one who merely performs services pursuant to a government contract . . . [and] only the former can be appropriately charged with official misconduct." Id. at 301-02 (citing State v. Williams, 189 N.J. Super. 61, 66 (App. Div.), certif. denied, 94 N.J. 543 (1983)). Thus, the court concluded that, because "[t]he government does not . . . . exclusively provide education for our children" and because "[n]othing in the functions performed by the[] [defendants], nothing in the powers granted to them and nothing in the record before [it] supports the conclusion that the defendants are anything other than private citizens

[4] The defendant was also charged with armed robbery, kidnapping, terroristic threats, and aggravated assault, but was acquitted on those counts. Bullock, 136 N.J. at 152.

performing services pursuant to government contracts," the defendants could not be found guilty of official misconduct. Id. at 302, 305. The same is true here. Dana Redd served as co-chair for a non-profit dedicated to planning and implementing redevelopment projects in the City of Camden. Although the non-profit sometimes performed work sponsored by or in association with the government, redevelopment is not a function ordinarily performed by the government exclusively.

This is not a case where a defendant is accused of, for example, using an official post to gain access to confidential records she was not entitled to. See Saavedra, 222 N.J. 39. Instead, Dana Redd is accused of requesting – as co-chair of a private non-profit group, not as mayor – that another employee of the non-profit meet with attorney Philip Norcross. That is not unlawful — period — and, even if it somehow were, it has nothing to do with Dana Redd's official mayoral duties.

Here are the two specific "acts" to which the Attorney General points as acts committed by Dana Redd in violation of Section 2(a) of the Official Misconduct statute: First, the Indictment alleges that "[t]he chief of staff to Camden Mayor Dana L. Redd ('CC-2') told CFP CEO-1 that he should start meeting regularly with Philip A. Norcross and herself in order to make sure that CFP had the approval of George E. Norcross, III and Philip A. Norcross for CFP's various projects going forward." Ind. ¶ 49. Naturally, a statement attributed to another person does not constitute an "act" by the defendant. Second, the Indictment alleges:

> During the course of the L3 transaction, CFP CEO- 1 reached out to Camden Mayor Dana L Redd, one of the co-chairs of CFP, and CC-2 for help on the deal, explaining the negative financial consequences for CFP, but they both told him that he had to deal with Philip A. Norcross, who had no formal role with CFP or the City, to resolve it. Dana L. Redd and CC-2 also told CFP CEO-1 at various stages during the L3 transaction that his job was in jeopardy. then a CFP board member, about an issue with the transaction, but

> Dana Redd told him he needed to discuss it further with Philip Norcross.
>
> [Ind. ¶ 77].

CFP business is not official business and thus cannot help sustain the prosecution either.

Finally, the reason why the Attorney General narrowed the allegations against Dana Redd to affirmative acts — as the official misconduct statute requires affirmative acts as opposed to failures to act — is apparent when reviewing how the charges were actually placed before the grand jury by the Attorney General.[5] Specifically, the Attorney General initially requested that the Grand Jury charge Dana Redd with official misconduct in Count IV of the Indictment related to the Radio Lofts allegations (e.g., that she did not return Developer-1's calls). The Grand Jury, however, expressed concerns about those charges. After a break in the proceedings during which the Attorney General's deputies caucused, the Attorney General removed Dana Redd and the Official Misconduct allegations from Count 4 of the proposed Indictment. The Attorney General also removed from Count 13 allegations that the Official Misconduct was tied to Radio Lofts. The colloquoy is as follows:

> THE FOREPERSON: I think it is law related. The question we had is, there is inconsistencies in potentially in when an actual name of the Defendant appears on any one count. For example, on Counts One, Two and Three, I think all six or seven are there. On Count Four tied to Radio Lofts only George, Philip and Tambussi are named, does that mean that the others are not?
>
> MR. WELLBROCK: The names are by each count. So are there sufficient facts in the record from the evidence you heard to connect that person with the conduct for that count.
>
> A JUROR: Count Four though Dana Redd is mentioned in the paragraph.

[5] This specific and limited discussion of the grand jury proceedings refers to the Attorney General's colloquy with the grand jurors about the content of the Indictment, not the evidentiary presentation to the grand jury, which is irrelevant to this Motion to Dismiss, as counsel for the parties have discussed with the Court.

> MR. WELLBROCK: Let us get back to you.
>
> (At which time, a recess was taken.)
>
> MR. WELLBROCK: So Count Four we are going to remove the Official Misconduct provision in Count Four. Count Four is going to be Conspiracy to Commit Theft by Extortion and Criminal Coercion still a second degree. So we will be deleting Official Misconduct from the top of the title. Then from the middle of the page where it says it and then at the bottom of Page 98 that point three, it will be stricken. And that also causes one other change. In the Official Misconduct charge which is Count Thirteen, for Page 111 where it says counts one through 12, it's going to be Counts One through Three and Five through 12. Count Four also gets removed from that official misconduct.

Essentially, the Attorney General deliberately withdrew the "Radio Lofts" failure to act allegations against Dana Redd (specifically that she failed to meet with Developer-1 when he requested a meeting), conceding in response to the Grand Jury that this allegation could not sustain the Offical Misconduct count based on the way that it was offered by the Attorney General in the original version of the Indictment. The concession by the Attorney General is again significant. By withdrawing the "Radio Lofts" allegations against Dana Redd, there exists not a singular affirmative act undertaken by Dana Redd allegedly in her official capacity.[6]

To summarize, the Attorney General concedes that Dana Redd is only charged with "committing affirmative, unauthorized acts relating to her office in violation of N.J.S.A. 2C:30-2(a)." State Br. at 70. The affirmative, unauthorized acts alleged against Dana Redd, however, occurred in her capacity as co-chair of CFP. Correspondingly, not a single act alleged against Dana Redd occurred in an official capacity as Mayor of Camden, as required by the Official Misconduct statute. Without the withdrawn "Radio Lofts" allegations (that Dana Redd refused to

[6] The Attorney General is cognizant of the weakness of these allegations. On the one hand, the Attorney General alleges that Dana Redd refused to meet with Developer-1 when requested in 2016. Ind. ¶ 124. On the other hand, the Attorney General must concede that on March 7, 2016, Dana Redd signed a letter on behalf of the City of Camden to the EDA in support of a tax credit application for Developer-1. Id. at ¶ 113.

meet with Developer-1), the Attorney General is left with no conduct undertaken in an official capacity. Consequently, the Offical Misconduct allegations fail, bringing down with them each and every count that depends on Offical Misconduct.

II. THE ATTORNEY GENERAL'S STATEMENTS ATTRIBUTED TO DANA REDD OCCURRED IN 2013 AND 2014 AND ARE NOT WITHIN THE STATUTE OF LIMITATIONS PERIOD FOR COUNT 13 OF THE INDICTMENT

Count 13 charges the substantive offense of official misconduct — that is, "committing 'an act relating to [Dana Redd's] office' that she knew to be 'an unauthorized exercise of her official functions.'" State Br. at 128. Naturally, there must be "a specific act of misconduct … within the relevant period." Ibid.; see State v. Diorio, 216 N.J. 598, 613 (2014) (explaining that an indictment must be filed within five or seven years "of the commission of the charged offenses"). The Attorney General points to two acts of alleged misconduct after June 2017 that make this charge timely, that is, within seven years of the June 2024 indictment, but neither suffices.

First, the Attorney General says "the agreement itself constituted official misconduct," and it "continued through the end of Redd's mayoral term." State Br. at 129. That is plainly wrong: An "agreement" is not "an act relating to [her] office but constituting an unauthorized exercise of [her] official functions." N.J.S.A. 2C:30-2(a); see Morrison, 277 N.J. at 309 (official misconduct requires a misuse of "governmental authority"); Saavedra, 222 N.J. at 60-61 ("[A]n act sufficiently relates" to office when the officer "commit[s] an act of malfeasance because of the office [he] hold[s] or because of the opportunity afforded by that office"); Kueny, 411 N.J. Super. at 407 ("[T]he wrongdoer must rely upon his or her status as a public official to gain a benefit or deprive another"). The Indictment purports to allege that the Mayor agreed to take such acts—but the agreement and the act are distinct. The agreement might matter if this were a conspiracy count, as "[t]he essence of conspiracy is the agreement to commit a crime." State v.

Samuels, 189 N.J. 236, 252 (2007). But Count 13 charges the substantive offense only, so a supposedly continuing "agreement" cannot make it timely.

Second, the Attorney General argues that Dana Redd's offense continued in that she "received her own financial benefits for her participation" by securing a new job after the end of her term as mayor. State Br. at 129-130. Once again, that might matter if this were a conspiracy charge—and, indeed, the Attorney General repeatedly invokes the language of conspiracy here (State Br. at 130, 131, and 132)—but it is not. The only question is whether a substantive act of official misconduct occurred after June 2017, and the Indictment never identifies one.

The decision in Weleck, 10 N.J. 355, supports dismissal, despite the Attorney General's efforts to turn it the other way around. There, the New Jersey Supreme Court held that the official misconduct charge was timely because the official had twice "made a demand" for money within the limitations period. Id. at 374. Those were the "acts"—by the official himself—that kept the prosecution alive. State Br. at 131. Here, there are eleven paragraphs that reference Dana Redd in the Indictment. Ind. ¶¶ 49, 77, 78, 106, 113, 124-25, 134. Of the eleven paragraphs, eight contain allegations that are clearly outside of the limitations period. Ind. ¶¶ 49, 77, 78, 106, 113, 124-25, 134 (containing allegations between 2013 and October 2016—i.e., eight to eleven years before the Indictment was filed). Of the remaining three paragraphs, there exist no allegations that Dana Redd used an unauthorized exercise of her official function to commit official misconduct. In other words, the Indictment alleges no acts whatsoever by Dana Redd within the limitations period. She is not alleged to have requested, let alone made any "demand," for a new job. The offense of Official Misconduct—as alleged—was thus completed before June 2017, and Count 13 is time-barred.

The State also argues, in passing, that Dana Redd "received her own financial benefits for her participation . . . by having the Enterprise work to secure her a highly renumerative position as CEO of the Rowan-Rutgers Board, which would also boost her pension thanks to the unassuming legislative tweak that George Norcross's close ally in the Legislature had pushed through." State Br. at 129-30. In other words, the State argues that actions attributed to a State legislature (in a bipartisan legislation considered by over 70 state senators and assembly members), or a State University (in offering a position on its Board) somehow extends the limitations period. Naturally, the Indictment falls far short of alleging any participation in those actions by Dana Redd (or any other codefendant for that matter). Furthermore, those actions, undertaken by unrelated individuals, entities, and governing bodies, do not amount to an official act by Dana Redd in an official capacity.

Accordingly, the following charges must be dismissed:

- Count 1, charging George Norcross, Philip Norcross, William Tambussi, Dana Redd, Sidney Brown, and John O'Donnell with racketeering conspiracy;
- Count 2, charging George Norcross, Philip Norcross, Dana Redd, and William Tambussi with conspiracy to commit theft by extortion, criminal coercion, financial facilitation of criminal activity, misconduct by corporate official, and official misconduct in relation to the L3 Complex;
- Count 3, charging George Norcross, Philip Norcross, William Tambussi, Sidney Brown, John O'Donnell, and Dana Redd with conspiracy to commit theft by extortion, criminal coercion, financial facilitation of criminal activity, misconduct by corporate official, and official misconduct in relation to Triad1828 Centre and 11 Cooper;

- Count 5, charging George Norcross, John O'Donnell, Sidney Brown, Philip Norcross, Dana Redd, and William Tambussi with financial facilitation of criminal activity in relation to the possession of Triad1828 Centre tax credits;
- Count 6, charging George Norcross, John O'Donnell, Sidney Brown, Philip Norcross, Dana Redd, and William Tambussi with financial facilitation of criminal activity for directing transactions related to the Triad1828 Centre tax credits;
- Count 7, charging George Norcross, Philip Norcross, William Tambussi, and Dana Redd with financial facilitation of criminal activity in relation to the possession of L3 Complex tax credits;
- Count 8, charging George Norcross, Philip Norcross, William Tambussi, and Dana Redd with financial facilitation of criminal activity for directing transactions related to the L3 Complex tax credits;
- Count 9, charging George Norcross, John O'Donnell, Sidney Brown, Philip Norcross, Dana Redd, and William Tambussi with financial facilitation of criminal activity in relation to the possession of 11 Cooper tax credits;
- Count 10, charging George Norcross, John O'Donnell, Sidney Brown, Philip Norcross, Dana Redd, and William Tambussi with financial facilitation of criminal activity for directing transactions related to the 11 Cooper tax credits;
- Count 11, charging George Norcross, Philip Norcross, William Tambussi, and Dana Redd with misconduct by a corporate official related to Cooper Health;
- Count 12, charging George Norcross, Philip Norcross, William Tambussi, Sidney Brown, John O'Donnell, and Dana Redd with misconduct by a corporate official related to the Trial 1828 Centre and 11 Cooper companies; and

- Count 13, charging Dana Redd, George Norcross, Phil Norcross, William Tambussi, Sidney Brown, and John O'Donnell with official misconduct.

CONCLUSION

For the foregoing reasons, Dana Redd respectfully requests that the Court dismiss the Indictment in its entirety, with prejudice. Additionally, Dana Redd continues to join in and rely on arguments made in the omnibus brief and reply of Defendant George Norcross, as well as the arguments and submissions of the other defendants.

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December 19, 2024