PREPARED BY THE COURT

STATE OF NEW JERSEY,

Plaintiff,

vs.

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
LAW DIVISION – CRIMINAL PART

INDICTMENT NO. 24-06-00111-S
FILE NO. 24-1988

ORDER GRANTING MOTON TO DISMISS INDICTMENT

THIS MATTER having been opened to the Court by Defendants George E. Norcross, III, Philip A. Norcross, William M. Tambussi, Dana L. Redd, Sidney R. Brown, and John J. O'Donnell on a motion to dismiss State Grand Jury Indictment Number 24-06-0111-S, and all Defendants being represented by counsel (see attached list), and said motion having been made on notice to and in the presence of the New Jersey Attorney General, Office of Public Integrity and Accountability (counsel list attached), and the Court having allowed the participation of Amicus Curiae Association of Criminal Defense Lawyers of New Jersey, and Amicus Curiae New Jersey NAACP Conference, New Jersey State AFL-CIO, and New Jersey

Building and Construction Trades Council, and the court having reviewed all briefs submitted by counsel, having heard oral argument on January 22, 2025, and having reviewed a transcript of the oral argument; and for good cause shown and for the reasons delineated in the attached Statement of Reasons;

IT IS on this 26th day of February 2025, **ORDERED** as follows:

1. The motion to dismiss State Grand Jury Indictment Number 24-06-0111-S is **GRANTED AS TO ALL DEFENDANTS;**
2. The court will stay entry of the Order for 45 days to allow the State time to file a notice of appeal. If no such notice is filed and no extension of time is granted, the stay will be vacated. If an appeal is filed, the stay will remain in place pending the appeal, subject to any controlling direction from the Appellate Division

/s/ Peter E. Warshaw

HON. PETER E. WARSHAW, JR., P.J.Cr.

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STATEMENT OF REASONS

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INTRODUCTION

Defendants George E. Norcross, III, Philip A. Norcross, William M. Tambussi, Dana L. Redd, Sidney R. Brown, and John J. O'Donnell have filed a motion to dismiss State Grand Jury Indictment No. 24-06-0111-S. This court grants this motion to dismiss for the following reasons:

1) The Indictment's factual allegations do not constitute extortion or criminal coercion as a matter of law;
2) There is no racketeering enterprise;
3) Dana L. Redd did not commit any act of official misconduct; and
4) All charges are facially time-barred.

PROCEDURAL HISTORY

On June 13, 2024, a State Grand Jury returned Indictment No. 24-06-0111-S wherein defendants George E. Norcross, III, Philip A. Norcross, William M. Tambussi, Dana L. Redd, Sidney R. Brown, and John J. O'Donnell are charged with various violations of the criminal law of the State of New Jersey. An order establishing venue in Mercer County was signed the same day as was an order sealing the Indictment. The Indictment was unsealed on June 17, 2024.

The Indictment is a 112 page "speaking indictment." The first 15 pages of the Indictment contain an overview (pages 1-7), a delineation of "relevant individuals and entities" (pages 7-10), background on the City of Camden (pages 11-13), and

background on the Economic Opportunity Act and tax credit incentives (pages 13-15). Page 15 begins the description of the so-called Norcross Enterprise and delineates the factual allegations which comprise the Indictment. This description continues through page 80. Count One of the Indictment presents on page 81.

Count One charges all six defendants with First Degree Racketeering Conspiracy, contrary to the provisions of N.J.S.A. 2C:41-2(c). All six defendants are alleged to comprise the enterprise. The purposes of the enterprise are delineated at pages 82-85 and are alleged as follows:

> The Norcross Enterprise constituted an ongoing organization whose members and associates function as a continuing unit for the common purpose of achieving the objectives of the Enterprise. It was part of the conspiracy that the objects and purposes of the enterprise would include the following:
>
> a. Preserving, protecting, promoting, and enhancing the power, reputation, and profits of the Enterprise and its members and associates;
>
> b. Preserving, protecting, promoting, and enhancing the reputation and political power of George E. Norcross, III, the defendant, who was the leader of the Enterprise, through the use of various means, including controlling endorsements and access to the local political party apparatus, directing appointments to government positions, intimidating political opponents, using its influence and control over government agencies to cause opponents to lose government contracts;
>
> c. Enriching and rewarding members, allies, and associates of the Enterprise, including with political endorsements, appointments to public positions,

influencing government contracts, and placement in lucrative private sector jobs;

d. Influencing the New Jersey Legislature, which sits in Trenton, New Jersey, to pass the EOA in 2013 in a manner that greatly increased tax credit awards for projects in Camden and was tailor made to advance the interests of the Enterprise;

e. Obtaining Grow NJ and ERG tax credits over a 10-year period, beginning with the acquisition of the tax credits through applications to the EDA by the Enterprise members and associates and their associated firms, and by other means, and which, according to the Enterprise's plan, would be received during that 10-year period through annual certifications to the EDA;

f. Using the tax credits to pay for a building or buildings in Camden, which would be occupied by certain of the Enterprise members' firms, and firms associated with Enterprise members, and to cover the costs of Camden property occupied by firms associated with Enterprise members, so that costs expended in planning, constructing, or occupying such property would be offset by the application or sale of the tax credits;

g. Concealing, misrepresenting, and hiding the illegal operation of the Enterprise and acts done in furtherance of the Enterprise from the public and law enforcement, for the purpose of advancing the objectives of the Enterprise, including by misleading the public, law enforcement, the news media, and others into believing that the acquisition and sale of the tax credits stemmed from purely lawful activity, and thus avoiding attempts by the State to recapture the value of awarded tax credits;

h. Promoting compliance with the Enterprise's demands by retaliating against those in the way of and opposed to the Enterprise; and

i. Using the Enterprise's reputation for controlling governmental entities to intimidate and threaten those who held property interests that the Enterprise wanted to acquire, including in order to apply for, and receive, Grow NJ and ERG tax credit awards.

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, MER-24-001988, Indictment at ¶ 215[1].

The pattern of racketeering activity is articulated as being at least two incidents of racketeering conduct, including, but not limited to:

a) Interference with Commerce by Threats or Violence, in violation of 18 U.S.C. § 1951;

b) Theft by Extortion, in violation of N.J.S.A. 2C:20-5;

c) Financial Facilitation of Criminal Activity, in violation of N.J.S.A. 2C:21-25;

d) Misconduct by Corporate Official, in violation of N.J.S.A. 2C:21-9; and

e) Conspiracy to commit these crimes, in violation of N.J.S.A. 2C:5-2.

This offense is alleged to have occurred between in or about 2012 and the date of the Indictment.

Count Two charges defendants George Norcross, Philip Norcross, Dana Redd, and William Tambussi with First Degree Conspiracy to Commit Theft by Extortion,

[1] All future references to the Indictment will be cited by using "Ind. ¶" followed by the paragraph number(s).

Criminal Coercion, Financial Facilitation of Criminal Activity, Misconduct by Corporate Official, and Official Misconduct. This count relates to the L3 Complex. The statutes implicated are N.J.S.A. 2C:5-2, N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5, N.J.S.A. 2C:21-25(a) and (c), N.J.S.A. 2C:21-9(c), and N.J.S.A. 2C:30-2. This offense is alleged to have occurred between on or about June 5, 2013 and the date of the Indictment.

Count Three charges all six defendants with the same first-degree crimes alleged in Count Two, but in relation to the Triad1828 Centre and 11 Cooper. This offense is alleged to have occurred between on or about April 16, 2013 and the date of the Indictment.

Count Four charges defendants George Norcross, Philip Norcross, and William Tambussi with Second Degree Conspiracy to Commit Theft by Extortion, Criminal Coercion, and Official Misconduct, contrary to N.J.S.A. 2C:5-2, N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5, and N.J.S.A. 2C:30-2. This count concerns the Radio Lofts. This offense is alleged to have occurred between on or about October 1, 2016 and October 31, 2023.

Count Five charges all six defendants with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C: 21-25(a) and N.J.S.A. 2C:2-6. This count concerns possession of Triad1828 Centre tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Six charges all six defendants with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C:21-25(c) and N.J.S.A. 2C:2-6. This count concerns directing transactions in the Triad1828 Centre tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Seven charges George Norcross, Philip Norcross, William Tambussi, and Dana Redd with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C:21-25(a) and N.J.S.A. 2C:2-6. This count concerns possession of L3 Complex tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Eight charges George Norcross, Philip Norcross, William Tambussi, and Dana Redd with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C:21-25(c) and N.J.S.A. 2C:2-6. This count concerns directing transactions in L3 Complex tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Nine charges all six defendants with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C:21-25(a) and N.J.S.A. 2C:2-6. This count concerns possession of 11 Cooper tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Ten charges all six defendants with First Degree Financial Facilitation of Criminal Activity, contrary to N.J.S.A. 2C:21-25(c) and N.J.S.A. 2C:2-6. This count concerns directing transactions in 11 Cooper tax credits. This offense is alleged to have occurred between on or about January 1, 2013 and the date of the Indictment.

Count Eleven charges George Norcross, Philip Norcross, William Tambussi, and Dana Redd with Second Degree Misconduct by a Corporate Official, contrary to N.J.S.A. 2C:21-9(c) and N.J.S.A. 2C:2-6. This count concerns the use, control, and operation of Cooper Health to further and promote criminal objectives. This count also implicates N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5. N.J.S.A. 2C:21-25(a), and N.J.S.A. 2C:21-25(c). This offense is alleged to have occurred between on or between June 5, 2013 and the date of the Indictment.

Count Twelve charges all six defendants with Second Degree Misconduct by a Corporate Official, contrary to N.J.S.A. 2C:21-9(c) and N.J.S.A. 2C:2-6. This count concerns the use, control, and operation of Conner, Strong & Buckelew, NFI, The Michaels Organization, CP Residential GSGZ, and CPT Equities. The count also implicates N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5, N.J.S.A. 2C:21-25(a), N.J.S.A. 2C:21-25(c), and N.J.S.A. 2C:30-2. This offense is alleged to have occurred between on or about April 16, 2013 and the date of the Indictment.

Count Thirteen charges all six defendants with Second Degree Official Misconduct, contrary to N.J.S.A. 2C:30-2 and N.J.S.A. 2C:2-6. This offense is

alleged to have occurred between on or about January 1, 2014 and December 31, 2017.

The final page of the Indictment notices Forfeiture, contrary to N.J.S.A. 2C:41-3(b) regarding all six defendants.

All defendants except Brown were arraigned on July 9, 2024. Brown was arraigned on August 7, 2024.

On July 9, 2024, the court was advised that all defendants would be filing a joint motion to dismiss the indictment. This motion was to be predicated on two concepts:

(1) Even if all of the Indictment's factual allegations are accepted as true, those allegations do not amount to a crime as a matter of law; and

(2) Applicable statutes of limitations bar all charges on the face of the Indictment.

Defendants advised the court that they were asking it to decide the motion based solely on an evaluation of the "four corners" of the indictment, that is, an evaluation of every word of the 112-page document.

The motion promised was the motion filed. The first defense brief was filed on behalf of George Norcross and all defendants on September 24, 2024. The second defense brief was filed on behalf of William Tambussi on September 26, 2024. The remaining four defendants filed briefs on October 1, 2024. The State submitted its

brief on November 22, 2024. All defendants replied to the State's brief on or about December 19, 2024.

The court also granted two motions for leave to participate as Amicus Curiae. One such motion was filed on behalf of the Association of Criminal Defense Lawyers of New Jersey. The other was filed on behalf of the New Jersey NAACP Conference, the New Jersey State AFL-CIO, and the New Jersey Building and Construction Trades Council.

Oral argument occurred on January 22, 2025. Counsel kindly provided the court with a copy of the transcript.

The nature of the motion filed in this case requires that every single word of the 112-page indictment be considered part of the record. Each word matters. This court has not engaged in any fact finding and has not reviewed any part of the grand jury transcript. The court has not made even one credibility determination. It is important for the court to provide a general summary of the allegations, but it does so with the caveat that the entire indictment comprises the allegations which drive the resolution of this motion. The Indictment is incorporated by reference into this record.

SUMMARY OF ALLEGATIONS

The City of Camden, which operates under the mayor-council model of government, has a defined waterfront district. During a period of significant economic decline, city officials focused revitalization efforts on abandoned industrial sites along the waterfront. In 1984, the Cooper's Ferry Development Association (CFDA) was formed to work with public and private entities on redevelopment projects. In 2011, CFDA merged with the Greater Camden Partnership to form Cooper's Ferry Partnership (CFP). In 2021, CFP changed its name to Camden County Partnership (CCP), and Defendant Redd has been its CEO since 2022.

Another organization involved in waterfront redevelopment was the Camden Redevelopment Authority (CRA) which was established in 1987. The CRA took ownership of certain land along the waterfront which was in need of redevelopment to prevent taxes from accruing. The CRA managed some redevelopment efforts. Other entities, including the New Jersey Economic Development Authority (EDA), came to own property and/or redevelopment rights along the waterfront. Ind. ¶¶ 15, 16, 20-24.

The Grow New Jersey Assistance Program (Grow NJ) became law in January 2012. It established a tax incentive credit program to be administered by the EDA for businesses which met certain eligibility requirements. Tax incentive credits

would be approved and issued by the State on an annual basis. They could be used to offset the amount of tax owed to the State or "they could be sold to another company that could use the credit to offset its own liabilities." Ind. ¶¶ 26-27. Applications under Grow NJ were to be received by July 2014. Ind. ¶ 26.

The Economic Opportunity Act of 2013 (EOA) was signed into law on September 18, 2013. The Act streamlined New Jersey's five existing economic development programs into two, Grow NJ and the Economic Redevelopment and Growth program. (ERG). The EOA expanded incentives previously offered and lowered thresholds to obtain them in areas which included Camden. Ind. ¶¶ 28-30.

The Indictment charges that George E. Norcross, III (George Norcross), an alleged formidable and ruthless political force, led a criminal enterprise the Grand Jury dubbed the "Norcross Enterprise." In addition to being of local and national political prominence, George Norcross is the executive chairman of Conner, Strong & Buckelew (CSB), and the Chairman of the Board of Trustees of Cooper Health. He is also a partner in groups that own the Ferry Terminal Building, 11 Cooper, and the Triad1828 Centre. Ind. ¶ 9. He has never held elected public office. "From at least approximately 2012 to the present, George E. Norcross, III led a criminal enterprise whose members and associates agreed that the enterprise would extort others through fear of economic and reputational harm and commit other criminal offenses to achieve the enterprise's goals." Ind. ¶ 1.

The five co-defendants are the indicted members of the Norcross Enterprise:

1) Philip A. Norcross (Philip Norcross) is the managing shareholder and CEO of a New Jersey law firm. From 2010, he was the Chair of the Board of the Cooper Foundation which supports the charitable purposes, programs, and services of Cooper Health and its affiliates. Since 2014, he has also been on the board of Cooper Health. Ind. ¶ 10;
2) William M. Tambussi (Tambussi) is a partner at a New Jersey law firm. He is "the long-time personal attorney to George Norcross, III". He has served as outside counsel to the City of Camden, the CRA, Cooper Health, and CSB. Ind. ¶ 11;
3) Dana L. Redd (Redd or Mayor Redd) has been the CEO of the CCP since 2022. She was on the Camden City Council between 2001 and 2010 and a State Senator from 2008 until 2010. She was Mayor of Camden between 2010 and 2018. She was CEO of the Rowan University/Rutgers-Camden Board of Governors from 2018-2022. Ind. ¶ 12;
4) Sidney R. Brown (Brown) is the CEO of NFI, a trucking and logistics company. He served on the board at Cooper Health from 2014 until, at least, the date of the Indictment. He is a partner in the groups that own the Ferry Terminal Building, 11 Cooper, and the Triad1828 Centre. Ind. ¶ 13; and

5) John J. O'Donnell (O'Donnell) has, at various times, been COO, president, and CEO of The Michaels Organization (TMO), a residential development company. He is also a partner in the groups that own the Ferry Terminal Building, 11 Cooper, and the Triad1828 Centre. He has served on the boards of CFP and CCP at various times since 2018. Ind. ¶ 14.

The criminal activity here is said to have begun in 2012. Members of the Enterprise and others discussed pending EOA legislation of which George Norcross said, "This is for our friends." He spoke of using the tax credit legislation to build an office for free. Ind. ¶ 31. During 2012 and 2013, CFP CEO-1 and CFP President-1 were engaged with Philip Norcross and his firm trying to construct favorable legislation.

At the same time, George Norcross studied the status of various waterfront redevelopment rights. George Norcross learned about a view easement held by Developer-1, the founder of Dranoff Properties, Inc. (DPI), a residential real estate development company based in Philadelphia. In 2002, DPI began renovating and remediating the Victor Lofts, a housing project completed in 2003. A view easement for the Victor Lofts did not expire until 2022. Ind. ¶¶ 19, 31-34.

George Norcross also learned that Columbus, Ohio based Steiner & Associates (Steiner) was part of a partnership called the Camden Town Center (CTC). The CTC had an agreement with the EDA to develop nearly 30 acres of Camden waterfront land. The EDA held title to that land. Ind. ¶¶ 18, 34.

In 2012 and 2013, Philip Norcross worked directly with the Senate President to write the EOA. Legislation was proposed and revised. The Governor's Office was involved. The EOA was enacted on September 13, 2013. Ind. ¶¶ 36-42.

Before the passage of the EOA, CFP was discussing purchasing what was known as the L3 Complex which was near the waterfront and comprised of two three-story buildings and a parking lot spread over 21 acres. In the summer of 2013, Mayor Redd's chief of staff told CFP CEO-1 that he should start meeting regularly with Philip Norcross and "herself" to make sure CFP projects had the approval of George and Philip Norcross. The meetings began and evolved into weekly "stakeholder" meetings. Philip Norcross was interested in CFP's efforts to acquire the L3 Complex. Ind. ¶¶ 47-53.

CFP CEO-1 was wary of George Norcross's political power. He believed George Norcross caused CFP's funding to be cut off in the early 2000s and that there was a disagreement which caused the CFP founder to leave CFP. CFP CEO-1 also had some notion of George Norcross trying to have a Palmyra municipal employee fired in 2001. Ind. ¶¶ 53-54. In September 2013, George Norcross, angry about an article concerning CFP CEO-1, shared his thoughts with others that this CEO could be replaced. Ind. ¶ 55.

On January 30, 2014, CFP signed an agreement of sale with the EDA to purchase the L3 Complex on what CFP believed to be very favorable terms. CFP

planned to partner with Keystone Property Group and Mack-Cali Realty (KPG/MC). Cooper Health CEO-1 told CFP CEO-1 that this agreement angered George Norcross and that he wanted CFP CEO-1 or the CFP President fired. George Norcross opined that CFP did not know what it was doing and should not be in the development business. A meeting with Philip Norcross followed on March 5, 2014, during which Philip Norcross named other entities with whom CFP should partner, including Investor-1. Later, Philip Norcross told CFP CEO-1 that Investor-1 was interested. He suggested that CFP and Investor-1 engage in discussions protected by a non-disclosure agreement. CFP CEO-1 began discussions with Investor-1 even though he did not want to do so. Investor-1 and George Norcross had an ongoing financial relationship. Ind. ¶¶ 56-63.

In March 2014, Cooper Health CEO-1 asked CFP CEO-1 for a proposed lease for Cooper Health to move into the L3 Complex once CFP acquired it. CFP sent a proposal which Cooper Health shared with Philip Norcross. In April 2014, CFP reached an agreement in principle with KPG/MC for a joint venture to complete the purchase of the L3 Complex. Philip Norcross and George Norcross learned of this. CFP believed that the terms of its agreement with KPG/MC were quite favorable. Later in April, Cooper Health CEO-1 advised CFP CEO-1 that there was pushback because KPG/MC was not a local firm, and that Philip Norcross was still "torqued" about CFP CEO-1 "blowing off" Investor-1. Ind. ¶¶ 64-67.

Cooper Health officials were of the view that there were no office buildings appropriate for Cooper Health besides the L3 Complex. Ind. ¶ 68.

On April 25, 2014, Philip Norcross and another individual met with CFP CEO-1 at the CFP office. "Philip A. Norcross told CFP CEO-1 that CFP was not allowed to use KPG/MC and it should only use Investor-1, in a manner that CFP CEO-1 took as a threat to CFP." Ind. ¶ 70. The exact words used are not provided.

"Given what CFP CEO-1 understood to be a threat from Philip A. Norcross and based on what he knew about George E. Norcross, III's dispute with the CFP Founder and his knowledge of George E. Norcross's conduct in the past, CFP CEO-1 and CFP President -1 agreed to partner with Investor-1 and another real estate investor working with Investor-1 (Investor-2)." Ind. ¶ 71.

In May 2014, Investor-2 made an offer to CFP to acquire a joint interest in the L3 Complex. CFP President-1 perceived the offer to be "very, very light." However, in an email, the CFP President wrote that it was a "false choice as it doesn't seem like we will be able to close the KPG/MC deal given the opposition." Ind. ¶ 72. By the summer of 2014, CFP and Investor-1 and Investor-2 had verbally agreed that CFP would purchase the L-3 Complex and sell it to an entity created by Investor -1 and Investor-2. CFP was acting as a pass through entity to obtain the building at a lower price. This plan was never actually realized though. Ind. ¶¶ 73-74.

During the summer of 2014, it appeared Cooper Health would be part of the entity that would own the L3 Complex until Philip Norcross indicated that plan could complicate securing tax credits. Circumstances continued to frustrate CFP and CFP CEO-1 contacted Mayor Redd, a CFP co-chair, for help on the deal. Mayor Redd was advised as to negative financial consequences facing CFP. Mayor Redd and another person told the CFP CEO-1 that they "had to deal with Philip Norcross." Mayor Redd also told the CFP CEO-1 at various times that his job was in jeopardy. Ind. ¶¶ 75-77.

Cooper Health CEO-1 died suddenly in September 2014. Mayor Redd and Philip Norcross each told CFP CEO-1 that "CC-1", then the CEO of the Cooper Foundation chaired by Philip Norcross, would replace Cooper Health CEO-1 on the board and as co-chair of CFP. Mayor Redd told CFP CEO-1 that this would help get CFP back on George Norcross's good side. Philip Norcross told CFP-CEO-1 that it would "help mend fences" with George Norcross. For the remainder of 2014, CFP CEO-1 told CC-1 about how the proposed real estate venture kept getting worse for CFP. CC-1 told him he had to deal with Philip Norcross and pushed him to close the transaction. Ind. ¶¶ 78-79.

In November 2014, Cooper Health applied to the EDA for tax credits based on its prospective lease of space in the L3 Complex. Cooper Health did not disclose any plans it had to be part owner of the complex. George Norcross was chairman of

the Cooper Health board at the time. In December 2014, the EDA approved a tax credit award of nearly $40 million to be paid over a ten-year period subject to administrative requirements. CFP closed on the L3 Complex in late 2014. CFP conveyed the L3 Complex to L/N CAC, an entity owned by Investor-1 and Investor-2, the same day. CFP did not make much money and certainly profit did not approach what they believed it could have been had they done things completely their way. Ind. ¶¶ 80-84.

In early 2015, Cooper Health, advantaged by approved tax credits, began moving personnel into the L3 Complex. In March 2015, Cooper Health bought a 49 percent ownership share of L/N CAC. Cooper Health has also received tax credits. Ind. ¶¶ 85-87.

Between October 2019 and December 2022, it is alleged that the Norcross Enterprise lied to media about how Cooper Health came to own part of the L3 Complex. Tambussi and George Norcross are alleged to have participated in a conference call with a reporter and pushed the false assertion that CFP could not "do the deal" on its own. Ind. ¶¶ 88-92.

The L3 Complex was not the only waterfront area which interested the Norcross Enterprise. George Norcross had been studying the status of various redevelopment rights as the EOA legislation progressed. Beginning in 2013, George Norcross and the Enterprise conspired to extort from DPI and Developer-1 tax

credits and rights to develop the waterfront. The goal was to secure space for CSB, NFI, and TMO in what eventually became the Triad1828 Centre and to get the tax credits. They also wanted to get tax credits and residential development rights for what became 11 Cooper. Doing this presented challenges because no one in the Enterprise owned the land or any redevelopment options. DPI had a protected view easement that would limit the height of new structures and DPI had a right of first refusal on residential construction. Ind. ¶¶ 93-94.

George Norcross was undeterred by any of this. He sought a meeting with Liberty Property Trust (LPT) to "plan the waterfront." Ind. ¶ 100. LPT was a real estate property trust which obtained certain development rights from Steiner. The Triad parcel was owned by the Delaware River Port Authority (DRPA) and Steiner held the development rights. DPI's rights posed obstacles too. The meetings requested did occur. In the summer of 2015, Steiner agreed to sell its redevelopment options to LPT. It is alleged that Steiner did this because of a sense that "political forces . . . will obstruct us at every turn." Ind. ¶¶ 103-104. The sale was still not complete in September 2016 because of "political landmines." Ind. ¶ 105.

In September 2015, a press conference was held in Camden announcing LPT's plans for waterfront development. The Governor, Mayor Redd, George Norcross, and others attended. A press release touted George Norcross, Brown, and O'Donnell and their respective firms as local leaders committed to development. LPT was to be

the master developer and it held the right to purchase or develop certain waterfront land. George Norcross, Brown, and O'Donnell were part of a group referred to as the Camden Partners Group. (Camden Partners). Philip Norcross represented Camden Partners. Philip Norcross was to negotiate with LPT regarding construction of what would become the Triad1828 Centre and 11 Cooper. Ind. ¶¶ 106-107. "At the time of the press conference, George Norcross, Brown, and O'Donnell had no business interests in LPT or the property being redeveloped." Ind. ¶ 108.

Between September 2015 and December 2015, LPT tried to negotiate with DPI. There was a meeting in October 2015 which George Norcross attended as did Philip Norcross who was there to represent "LPT as counsel". Ind. ¶¶ 109-110.

For almost a year, until October 2016, Developer-1 negotiated with LPT regarding the critical issues of releasing his view easement, exercising his residential development rights, and his continued involvement in Camden's redevelopment. LPT's CEO told Developer-1 that he would have to partner with TMO. Developer-1 had reservations but he wanted to be part of the redevelopment, and he trusted the LPT CEO so he stayed with the negotiations. Developer-1 was "wary" about working with George Norcross but he knew that LPT intended to work with George Norcross. Ind. ¶¶ 111-112.

As negotiations proceeded, Developer-1 applied for ERG tax credits for the residential development project as a joint venture with TMO. "On or around March

7, 2016, Dana L. Redd signed a letter on behalf of the City of Camden to the EDA in support of the tax credit application." Ind. ¶ 113.

Soon though the negotiations between Developer-1 and TMO broke down. Developer -1 "was not comfortable with the level of control TMO wanted" and did not really want a partner anyway. Ind. ¶ 111.

The Norcross Enterprise wanted to build its office tower at a height exceeding the limit of Developer-1's view easement. LPT tried to negotiate terms for termination of the easement. George and Philip Norcross participated. Developer- 1 did not yield. This led to a conference call in the summer of 2016 during which George Norcross, in the presence of Philip Norcross, told Developer-1 "if you f**k this up, I'll f**k you up like you've never been f**ked up before. I'll make sure you never do business in this town again." Developer-1 "took this threat seriously". He believed continued intractability would jeopardize his ability to business in Camden and his financial interests generally. Ind. ¶¶ 116-118.

George Norcross "admitted making this "threat". In a recorded call with a CSB colleague, he said ". . . the guys f***ed around with [Developer-1] until I went crazy, insulted [Developer-1], obviously I'll never do business with the guy again." Ind. ¶ 119.

The view easement issue remained unresolved. Camden Partners was unable to apply for tax credits. George Norcross was concerned about personal humiliation

if the negotiations fell apart and a deal could not be reached. Developer-1 was simultaneously exploring ways to redevelop the Radio Lofts building. He wanted to change its zoned use from residential to commercial, possibly to lower environmental standards, and to possibly obtain EDA tax credits to finance remediation. He wanted to talk to Camden officials. Mayor Redd did not return his calls. That was uncommon in his experience with Mayor Redd. Developer-1 did not know that his calls were not being returned because of an edict to Mayor Redd from Philip Norcross. Ind. ¶¶ 120-125.

Between October 14, 2016 and October 17, 2016, issues between the Norcross Enterprise and Developer-1 "came to a head". There was still no deal between LPT and DPI, though LPT thought one was "close". All defendants except Mayor Redd agreed to cause the CRA to initiate litigation against DPI to create additional pressure. Tambussi and Philip Norcross included members of their law firms to devise a plan. Tambussi's client, the CRA, would seek an order confirming its ability to condemn Developer-1's view easement. Philip Norcross's law firm researched the law. A memorandum was shared. On October 19, 2016, Tambussi wrote to Philip Norcross "the likelihood that the court will declare that the CRA has the right to condemn the view easement under the circumstances presented is good. The harder part will be to convince the court to expedite the process." Ind. ¶¶ 126-133.

A plan to get a declaratory judgment complaint filed was discussed and "Phil Norcross is going to brief the Mayor who I believe will then discuss with [the then chair of the CRA board.]" Ind. ¶ 134. Defendant Tambussi's firm worked a number of hours on the project with only limited contact with the CRA. Condemnation can only be exercised by government entities.

Paragraph 136 of the Indictment alleges that on October 20, 2016, George Norcross and Philip Norcross spoke by phone with Developer-1 and his attorney. George Norcross "again threatened" Developer-1 with consequences if he did not agree to release his view easement and transfer other rights. Ind. ¶ 136.

The next morning George Norcross recounted the conversation to a friend. He said "Oh, my God. Last night, I finally got it resolved…I had to get on the phone last night with [Developer-1] for an hour and a half. He tried to f**king shake us down. As usual…And I told him, 'no' I said '[Developer-1], this is unacceptable. If you do this, it will have enormous consequences.' He said, 'Are you threatening me?' I said 'absolutely.'" Ind. ¶ 137.

Nevertheless, an email was circulated on October 21, 2016 from LPT's general counsel to Philip Norcross and others concerning a draft agreement between DPI, TMO, LPT, and Camden Partners "reflecting the terms you related to me last night that you and George discussed with [Developer-1] and [Developer-1's

attorney]. An attachment to the email memorialized the terms. But later that day, the deal "fell through." Ind. ¶¶ 137-138.

In another recorded phone conversation, George and Philip Norcross discussed using Tambussi and the CRA to act against Developer-1. George Norcross told Philip Norcross ". . . I want to encourage Tambussi to do his thing." Ind. ¶ 139.

Later on October 21, 2016, George Norcross spoke to O'Donnell in a recorded call. The Indictment alleges they "spoke about what had happened with Developer-1 that day and linked the condemnation declaratory judgment action with the Norcross Enterprise obtaining an advantage in its negotiations with both Developer-1 and LPT. Ind. ¶ 141. George Norcross stated "Here's what we're going to do, here's what I want to do. I would hope the city would protect their rights and file Monday morning. We'll go to Liberty [Property Trust] and say 'look. You want to do this project, you're going to do it under our terms and conditions. We're not going to deal with it like this…Developer- 1 walked away from getting reimbursed for all of his expenses and getting some relief on his [Radio] [L]oft[s] building. Now he gets nothing. Good." No reply statement from O'Donnell is included in the Indictment. Ind. ¶ 141.

On October 22, 2016, all defendants except Mayor Redd participated in a conference call which was also recorded. George Norcross said "Here's the problem. [Developer-1] as part of this expects us to be helping him on a variety of things…I

don't even want to help him because on all the conversations I've had with Bill [Tambussi] on this subject, I don't even know why we're dealing with [Developer-1]…[T]he city ought to condemn his ass and just move on…he's gonna come under some very serious accusations from the City of Camden which are gonna basically suggest that he's not a reputable person and he's done nothing but try to impede the progress of the city….you can never really trust him until you got a bat over his head." Ind. ¶ 142. George Norcross further explained that LPT was needed for the condemnation action because that was a "City of Camden issue" Ind. ¶ 143, and further opined that if settlement ultimately followed any legal action there would have be "serious conversation with Liberty about who's paying" Ind. ¶ 143.

Philip Norcross credited George Norcross with devising the plan to use the Camden government to seek condemnation. During this same call Tambussi explained the impact the CRA bringing suit could have on Developer-1: " so, the thought process here is that…if in fact the court agrees with us, and we think we have a very strong argument in that regard, the [Victor's] view easement value comes down to virtually nothing…because …of the facts that we know with regard to…how the development will enhance the value of [Developer-1]'s property. So it puts [Developer-1] in a drastically different position in terms of negotiating." Ind. ¶ 145.

The participants in the call discussed the strategic advantage this legal action gave the Norcross Enterprise over Developer-1:

> Philip A. Norcross: [M]y guess is if Bill [Tambussi] is successful on the narrow issue of that view easement, . . . I guarantee you [Developer-1's] gonna pick up the phone and call his friend [an LPT senior vice president] and say, "How do we make the deal?" That's my assessment of what would happen.
> John J. O'Donnell: I agree on both ends. I agree you have to do that to bring Liberty [Property Trust] to the table also to deal with it.
> Sidney R. Brown: Right, is the goal here. Let me just make sure, is the goal here really to try to put some pressure on [Developer-1] to sign what we just tried to get signed?
> George E. Norcross, III: Of course. Either that or condemn it, so we can move expeditiously sure it is . . . I mean, I think we've been dealing from position of weakness for one year. We gotta get this project on our terms.

Ind. ¶ 146.

During the same call, George Norcross proposed having the CRA consider trying to take away Developer-1's Radio Lofts option to apply additional pressure as "another point of attack on this putz." Philip Norcross responded that the best "head shot" was to kill the [Victor's] view easement. Ind. ¶¶ 147-148.

Towards the end of the call, Brown observed "A couple of …good things would come out of this…it puts pressure on [Developer-1] to come to the table that he hasn't had any pressure to do up to this point….so, seems to me we should proceed and go ahead and let Bill [Tambussi] get this thing done. Ind. ¶ 149.

Tambussi notified LPT's counsel that Camden, through the CRA, was seriously contemplating filing suit to confirm CRA's right to condemn the view easement and that Camden Partners would file tax credit applications once the action was filed. He asked for LPT to cooperate with the CRA. Ind. ¶ 150.

LPT did not cooperate as needed. The legal action was not initiated. What happened was LPT offered Developer-1 some additional money to increase the total value of the deal for Developer-1 to $1.95 million. Ind. ¶ 151.

On October 24, 2016, Developer-1 consented and agreed to extinguish the Victor Lofts view easement, sell his residential rights of first refusal, sell his residential development rights and property, and sell $18 million worth of ERG tax credits that could be redeemed following development on the 11 Cooper site. Ind. ¶ 152.

"Developer-1 was open to extinguishing the Victor Lofts view easement because he did not want to stand in the way of development of the Camden waterfront but believed that it was worth more than what he was ultimately paid for it." He also wanted to partner with LPT in the residential development project. However, the "threats" made by George Norcross caused Developer-1 to believe "that remaining in the project-or sticking to his price for the value of his various rights-would lead George E. Norcross, III to use his control of the Camden government to cause DPI financial harm. He also feared that George E. Norcross, III

would attack his business in the media which would cause his firm reputational harm." Ind. ¶ 153.

There was eventually litigation brought concerning the Radio Lofts site in 2018. Camden and the CRA were represented by Tambussi and his firm. As the case neared trial, Developer-1 sought to introduce evidence that Camden and the CRA became hostile to him beginning in 2016 during his negotiations with the Norcross Enterprise. In 2023, Tambussi filed a pre-trial motion to preclude any reference to the Norcross brothers in the civil action. The motion was not decided. The grand jury insinuates that Defendant Tambussi misrepresented or obfuscated the involvement of the Norcross brothers. Ind. ¶¶ 155-157.

On October 24, 2016, the same day that Developer-1 agreed to sell, CSB, NFI, and TMO filed Grow NJ tax credit applications with the EDA. They proposed to construct what became the Triad1828 Centre to relocate employees from their present firms outside Camden. Ind. ¶ 158.

On March 24, 2017, EDA authorized Grow NJ tax credit awards in the amount of "approximately $ 86.2 million for CSB, approximately $79.3 million for TMO, and approximately $79.3 million for NFI to construct an office building on the Triad parcel . . . ." Ind. ¶ 159.

The Tower was built between 2017 and December 2019. It was owned by Camden Partners Tower Equities (CPT Equities), an entity comprised of LLCs

associated with George Norcross, Brown and O'Donnell. CSB, NFI, and TMO would lease space from CPT Equities. There were no other tenants in the building. Ind. ¶ 160.

CSB, NFI, and TMO have complied with the necessary administrative procedures to receive their tax credits. The EDA has issued appropriate letters of compliance and approved the credits. CSB, NFI, and TMO have sold the tax credits they received. Ind. ¶¶ 161-165.

11 Cooper was also built between January 2017 and December 2019. TMO constructed the building using plans received from Developer-1 in the settlement. Its ownership group is CP Residential GSGZ which is owned by LLCs that include George Norcross, Brown, and O'Donnell as part of the ownership. They, too, have applied for, received, and sold tax credits. Ind. ¶¶ 169-172.

In mid-2017, CFP CEO-1 met with the then President and CEO of Cooper Health (Individual 2) who advised the CFP CEO-1 that George Norcross wanted to move people around in Camden. George Norcross allegedly did not approve of CFP CEO-1 remaining in his position. CFP CEO-1, who had been employed at CFP since the late 1990s, advised that he was happy in his job and not looking to leave. Ind. ¶ 173.

In December 2017, CC-1 told CFP CEO-1 that Mayor Redd needed a place to go when her term ended. CFP CEO-1 was told that Mayor Redd was going to

become the CEO of the joint Rowan University-Rutgers Camden Board of Governors and the present CEO (Individual-1) was going to take CFP CEO-1's job. CFP CEO-1 was asked to resign. This would cause him to lose bonus and severance monies. CFP CEO-1 was offered another public position which paid almost $100,000 less than the CEO job. CFP CEO-1 reminded CC-1 he had a contract and was told that Tambussi had looked at it and they "could drive a truck through it." Ind. ¶¶ 174-175.

CC-1 told CFP CEO-1 that if he did not resign, "they" would make something up about him which would lead to termination for cause. This would cause him to lose a bonus anticipated to be $50,000, and his severance package and would also harm his reputation. Ind. ¶ 177.

As this was occurring, the Senate President introduced pension legislation which would benefit Mayor Redd and few others. The Mayor would be able to re-enter the pension system and accrue pension time and benefits based upon her anticipated $275,000 salary as CEO of the joint board. Ind. ¶ 178.

CC-1 continued to discuss CFP CEO-1 leaving his position. CFP CEO-1 asked for his severance package to be restructured and for the CFP board to be used as cover. CC-1 replied, in summary, that there was no cover from a relentless George Norcross who simply no longer wanted CFP CEO-1 in that position. CFP CEO-1 resigned at the end of December 2017. He was paid his anticipated bonus. Mayor

Redd replaced Individual-1 as CEO of the joint board and Individual-1 replaced CFP CEO-1. Ind. ¶¶ 179-180.

In December 2017, Developer-1 agreed that DPI would sell six properties, including the Victor Lofts, to a REIT. To complete the sale, Developer-1 needed to transfer an existing PILOT (payment in lieu of taxes) agreement for the Victor to the REIT. This required an application to and approval from the Camden City Council. The issue of this approval was discussed at a Camden stakeholders' meeting led by Philip Norcross in March 2018. Philip Norcross said the PILOT agreement transfer approval should be slowed down by the City to create a legal strategy to deal with Developer-1. Philip Norcross said that basically DPI's transfer of the PILOT agreement should be treated as a package deal with DPI's unrelated option to develop the Radio Lofts site. Philip Norcross hoped that this would cause Developer-1 to forfeit his right to develop the Radio Lofts site. Ind. ¶¶ 181-185. This led to the CRA Executive Director contacting Individual-1, who was now the CFP CEO, about how the CRA might "unwind" Developer-1's rights to the Radio Lofts site. Ind. ¶ 187.

The CRA had an agreement going back to August 2002 with DPI that gave DPI the right to purchase the Radio Lofts building after the environmental remediation. This agreement did not contain a provision to terminate. But in March 2018, the CRA drafted a letter purporting to terminate DPI's option to purchase Radio Lofts. This action required approval of the CRA's board which was quickly

given. The REIT's application to allow the transfer of the PILOT agreement was filed with the City of Camden in April 2018 and seven days later, the CRA sent a letter to DPI purporting to terminate its Radio Lofts redevelopment option. DPI filed suit against Camden, the CRA and others on June 21, 2018. The litigation settled in 2023 on terms seemingly unfavorable to Developer-1. His reasons for settling included a belief he would not be treated fairly by the court system, that he had already incurred substantial legal fees and even if he prevailed in the litigation, appeals would impair his ability to refinance or sell the Victor. Ind. ¶¶ 188-196. The Grand Jury alleges that the Norcross Enterprise "successfully caused Developer-1 to forfeit his Radio Lofts development option." Ind. ¶ 197.

The speaking portion of the indictment closes by reviewing the amount of tax credits and salary earned by George Norcross, Brown and O'Donnell between around 2012 through 2023. It also discusses tax credits and benefits received by Cooper Health, L/N CAC and CP Residential as well as the philanthropic efforts of the Norcross brothers. Ind. ¶¶ 198-211.

LEGAL ANALYSIS

The court concludes that the indictment must be dismissed. Section A will provide an overview of the law pertaining to indictments. Section B will explain that the indictment must be dismissed because its factual allegations do not constitute extortion or criminal coercion as a matter of law. Section C will discuss the court's

conclusion that there is no racketeering enterprise. Section D will explain that Dana L. Redd was not a member of an enterprise and did not commit an act of official misconduct. Finally, Section E will delineate why all charges in the indictment are facially time-barred.

A. Review Of Law Concerning Indictments

The court concludes that Indictment No. 24-06-0111-S must be dismissed. Before discussing the substantive reasons for the court's decision, some discussion about indictments is necessary.

Article I, Section 8 of the New Jersey Constitution guarantees the right to indictment. N.J.S.A. 2B:22-1, et seq establishes procedures for a State Grand Jury.

The grand jury occupies a high place as an instrument of justice in New Jersey's system of criminal law. The grand jury fulfills a constitutional role of standing between citizens and the State. State v. Del Fino, 100 N.J. 154, 164 (1985). The grand jury is asked to determine whether a basis exists for subjecting the accused to a trial. The grand jury must determine whether the State has established a prima facie case that a crime has been committed and that the accused committed it. State v. New Jersey Trade Waste Ass'n, 96 N.J. 8 (1984).

State v. Hogan, 144 N.J. 216, 228 (1996) emphasized that the purposes of the grand jury extend beyond bringing the guilty to trial. Equally significant is its responsibility to protect the innocent from unfounded prosecution. Though the grand

jury is an arm of the court, courts reluctantly and sparingly review the grand jury's actions to protect its independence. State v. Shaw, 241 N.J. 223, 289 (2020). A court intervenes only on the clearest and plainest grounds, and only when the indictment is manifestly deficient or palpably defective. State v. Twiggs, 233 N.J. 513, 532 (2018) (citing State v. Hogan, 144 N.J. 216, 228-229, 676 A.2d 533 (1996)).

"The grand jury's role is not to weigh evidence presented by each party but rather to investigate potential defendants and decide whether a criminal proceeding shall be commenced. . . . . Credibility determinations and resolution of factual disputes are reserved almost exclusively for the petit jury." Hogan, 144 N.J. at 235. The grand jury is intended to be more than a prosecutor's "rubber stamp." Id. at 236.

The State believes that in asking the court to dismiss the Indictment based only on the four corners of the Indictment, defendants face an impossibly uphill climb. It argues that the defendants incorrectly treat the Indictment as the totality of the State's case, and that the defendants improperly ask the court to consider factual disputes rather that restricting their arguments to purely legal questions.

The State argues that the grand jury properly alleged each of the crimes it charged and that, for now, pending a different type of motion to dismiss, the court's consideration should end.

The State asserts its compliance with Rule 3:7-3(a) which requires that the indictment shall be a "written statement of the essential facts constituting the crimes

charged." The State is satisfied the indictment meets this elementary who, what, when, where requirement and that it gives the defendants all the notice they need to prepare a defense. Defendants do not dispute notice.

The State also asserts that defendants cannot convert their facial motions into an attack on the sufficiency of the evidence simply because the grand jury returned a speaking indictment. United States v. Phillips, 690 F. Supp. 3d 268, 276-279 (S.D.N.Y. 2023) discusses speaking indictments. It observes that an indictment generally need do little more than track the language of the statute charged and state the time and place of the alleged crime. An indictment is not supposed to inform the defendant of the evidence or facts which will be used to prove the case. Most times, a court will not be able to test the sufficiency of the evidence on a pretrial motion to dismiss. An exception exists when the government has made what can be described as a full proffer of the evidence it intends to present at trial. Id. at 278. In this case, the State emphatically emphasizes that the indictment does not constitute a full proffer of its case.

The choice to proceed by way of speaking indictment was the State's. Such indictments are fairly rare in New Jersey Superior Court. That a speaking indictment was used does not change the standards governing a motion to dismiss. The court accepts that this speaking indictment is not a full proffer of the State's case, and that

it was, at least in part, intended to serve as a bill of particulars. However, the speaking indictment does open the door to the facial challenge all defendants bring.

Defense counsel correctly argue that there are numerous situations where a court must consider dismissal of an indictment. Most of these situations require the court to review the entire grand jury proceeding, including testimony, instructions, and certain colloquy. The motion the court grants today is different.

Defendants correctly assert that when the allegations in an indictment do not support the charges, the indictment is palpably defective and subject to dismissal. State v. Brady, 452 N.J. Super 143 (App. Div. 2017). The court believes that the facial challenge defendants bring is appropriately heard because the argument makes no reference to the grand jury record, and because it assumes that every factual allegation in the Indictment is true and was adequately supported before the grand jury.

The facial challenge defendants make is purely legal. Defendants suggest that the indictment alleges the essential facts surrounding the crime in detailed fashion and that those facts, accepted as true and construed in the most favorable way to the State, do not constitute a crime. It follows that if the facts alleged do not, as a matter of law, constitute a crime, the indictment is manifestly deficient and facially and palpably defective.

The question of law as to whether the indictment charges a crime is for the court's determination. State v. Schneiderman, 20 N.J. 422, 426 (1956). It is clear that the questions presented to the court by this motion are purely legal and ripe for immediate resolution.

The court disagrees with the State's argument that defendants are really just attacking the persuasiveness of the Indictment's narrative by challenging how alleged conduct should be interpreted. Again, that is simply not what defendants have done. The court is asked to consider that which is factually alleged against the conduct proscribed by statutes. State v. Perry, 439 N.J. Super 514 (App. Div. 2015). State v. Riley, 412 N.J. Super 162, 169 (Law Div. 2009) instructs that when "a statute is interpreted in such a way that the facts presented to the grand jury simply do not fall within the statute invoked, then the indictment must be dismissed."

The court will proceed to discuss the reasons why the Indictment must be dismissed.

B. The Factual Allegations Of The Indictment Do Not Constitute Extortion Or Criminal Coercion As A Matter Of Law

The indictment must be dismissed because its factual allegations do not constitute extortion or criminal coercion as a matter of law.

During oral argument, counsel argued on behalf of all defendants that the entire indictment hinged on violations of the extortion and criminal coercion statutes,

and that if the indictment failed to sufficiently allege violations of these statutes, dismissal of the entire indictment was the appropriate remedy. (Transcript of Motion to Dismiss the Indictment, at 12:15–13:2, 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, MER-24-001988 (Jan. 22, 2025))[2]. Counsel argued that "the question for the court is does the indictment allege facts that constitute extortion. That's a traditional question of law for the court." T16-16 to 16-19. Counsel opined that "it's really extortion or bust in this case." T16-10 to 16-11.

The State, in reply, asserted: "Now everyone agrees the most central question in the case as a whole is whether these defendants, in fact, conspired to engage in extortion or coercive behavior. Well, the grand jury found that they did and for very good reason." T38-7 to 38-11.

Later in argument, the critical nature of this basic question presented again:

> The Court: "It just—it brings us right back to the beginning of the day where Mr. Roth's argument was it can't possibly be extortion."
> Mr. Grillo: "Under—and I certainly understand that, Your Honor. And I think, as we said, the one place where maybe we all agree is that this does, in some sense, hinge on whether those threats are unlawful."
> The Court: "All right. But what if they're not?"
> Mr. Grillo: "What if the threats---"
> The Court: "What if the alleged threats aren't unlawful threats?"

[2] All future references to the motion transcript will be cited in accordance with Rule 2:6-8.

> Mr. Grillo: "Well--"
> The Court: "Then what happens?"
> Mr. Grillo: "Your honor, I think it certain—it certainly impacts the strength of the State's indictment. And I obviously think that's the question they have hung their hat on today. The State certainly believes that the indictment's facts make clear that those threats are wrongful. The grand jurors certainly believe that threats were wrongful. And if there is a question as to whether or not the evidence supports it, we're happy to defend them in an appropriate motion to dismiss the indictment where the full record is going to be evaluated and where the State has the full compliment of its evidence to support those—those arguments."

T232-7 to 233-9.

The validity of every count in this thirteen-count indictment depends upon the existence of unlawful threats. The State argues that the grand jury's determination that these unlawful threats occurred is presumptively valid and entitled to deference. Defendants argue that the grand jury was wrong on the law and that the court has the obligation and duty to dismiss the indictment now. The court agrees with the defense assertion,

Count One of the Indictment is the First Degree Racketeering Conspiracy. All six defendants are charged with having engaged in a pattern of racketeering activity described as being at least two incidents of racketeering conduct, including but not limited to Federal Hobbs Act Extortion, Theft by Extortion, Financial Facilitation of Criminal Activity, Misconduct by Corporate Official or Conspiracy to commit these

offenses. The financial facilitation and corporate misconduct charges require a predicate crime which in this case is an extortion type offense.

Counts Two through Four are various conspiracy charges all of which allege conspiracies which depend upon legally valid extortion and conspiracy charges.

Counts Five through Ten allege Financial Facilitation charges and Counts Eleven and Twelve are Misconduct by Corporate Official charges. These counts are pled on a complicity theory. The alleged shared criminal liability is clearly one to commit extortion and criminal coercion.

Count Thirteen is the Official Misconduct count. The heart of this count, which is pled generically, is the promotion and advancement of the crimes alleged in the other counts. If those counts fall, so must Count Thirteen.

Defendants correctly assert that the threat offenses are the common denominator of every count and that if these threats are not crimes, it follows that no count in the indictment can be sustained as a matter of law.

The indictment alleges acts of extortion or criminal coercion against Developer-1 and CFP CEO-1. Before addressing the specifics of the threats, a review of the relevant statutes is appropriate.

Hobbs Act Extortion is a violation of 18 U.S.C. § 1951. Section (a) of the statute provides "Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce by robbery

or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than 20 years, or both." The State has not alleged the robbery element of the statute. Extortion is defined in section (b)(2) as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right."

Theft by Extortion is a violation of N.J.S.A. 2C:20-5. The statute provides that a person is guilty of theft by extortion if he purposely and unlawfully obtains property of another by extortion. Extortion can be accomplished in multiple ways but the potentially relevant subsections here are (c), (d), and (g). Subsection (c) concerns a threat to "expose or publicize any secret or asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute." Subsection (d) concerns a threat to "take or withhold action as an official or cause an official to take or withhold action." Subsection (g) concerns a threat to "inflict any other harm which would not substantially benefit the actor but which is calculated to materially harm another person." The model criminal jury charge for this offense states that "the threatened harm need not have been illegal. The defendant may have been privileged or duty bound to inflict the harm which he/she threatened. However, if defendant used the threat of harm to

coerce a transfer of property, then defendant is guilty of theft by extortion." State v. Roth, 289 N.J. Super 152, 158 (App. Div. 1996) is referenced in a footnote in the charge. The model charge also provides that the "threat may have been either written or spoken, expressly stated or implied from the surrounding circumstances." See Model Jury Charges (Criminal), "Theft by Extortion" (N.J.S.A. 2C:20-5) (rev'd June 5, 2006)

Criminal Coercion is a violation of N.J.S.A. 2C:13-5. The statute provides that a person is guilty of criminal coercion if "with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct, he threatens to do one of several things. The potentially relevant subsections here are a(3), a(4), and a(7). Subsection a(3) concerns a threat to "expose any secret which would tend to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute." Subsection a(4) concerns a threat to "take or withhold action as an official, or cause an official to take or withhold action." Subsection a(7) concerns a threat to "perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships."

The extortion and criminal coercion statutes are very closely related. The major difference between the two is the purpose of the threat. Extortion involves the

purpose to get the money or property of another and criminal coercion involves the object to restrict another's freedom. Cannel, N.J. Crim. Code Annotated, comment 2 on N.J.S.A. 2C:20-5, and comment 2 on N.J.S.A. 2C:13-5 (2024). The statutes parallel each other and have only some small insignificant differences in language. Ibid.

> The many small differences seem to be the result of tinkering with language, motivated by the desire to exclude from the definitions of extortion or criminal coercion any activities which seem legitimate. The problem of drafting statutes broad enough to perform their desired functions but without the capacity to criminalize behavior which is not unjustifiably threatening is a difficult one.

Ibid. Not every threat is criminal, or even wrong. State v. Monti, 260 N.J. Super 179, 185 (App. Div. 1992).

State v. Roth, 289 N.J. Super 152 (App. Div. 1995) is insightful. The case concerned the interpretation of subsection (g) of the extortion statute. The Appellate Division considered the relevant provisions of the New Jersey Penal Code, Final Report of the New Jersey Criminal Law Revision Commission issued in 1971. The court wrote, "The 1971 Commentary acknowledges that a law which included every threat made for the purpose of obtaining property would encompass a significant portion of accepted bargaining." Roth, 289 N.J. Super at 161. Thus, certain commercial or economic menaces are excluded from the purview of the statute. This includes certain threats "to breach a contract, to persuade others to breach a contract,

to infringe a patent or a trademark, to change a will or persuade another to change a will, to refuse to do business or to cease doing business, to sue, to vote stock one way or another." Ibid. (quoting 1971 Commentary at 227-228). The court referenced the Commentary's statement that "for the most part these are situations in which a private property economy must tolerate considerable 'economic coercion' as incident to free bargaining. Civil remedies are usually adequate to deal with abuse of the privilege." Ibid. But before exempting threats otherwise considered illegal under this provision, the code drafters intended that there exist an economic or commercial nexus between the actor who utters these protected threats and the underlying transaction. The absence of this nexus was a critical fact in Roth. In Roth, the defendant had no economic or commercial connection to the underlying real estate transaction so it could not be said that his hardball bargaining tactics constituted non-criminal accepted economic bargaining. Roth, 289 N.J. Super at 161.

Defendants correctly argue that when considering private parties negotiating economic deals in a free market system, threats are sometimes neither wrongful or unlawful. In these situations, there may be nothing inherently wrong in using economic fear to obtain property. United States v. Sturm, 870 F.2d 769,773 (1st Cir. 1989). "Fear of economic loss is a driving force of our economy that plays an important role in many legitimate business transactions" Brokerage Concepts, Inc v.

U.S. Healthcare, Inc., 140 F.3d 494,523 (3d Cir. 1998). These principles have strong application to the threats in this case.

The alleged threats made by George Norcross to Developer-1 are:

1) In the context of negotiations to get Developer-1 to extinguish his view easement, George Norcross said via telephone "if you f**k this up, I'll f**k you up like you've never been f**ked up before. I'll make sure you never do business in this town again." Ind. ¶¶ 115-118.

2) On October 20, 2016, George Norcross and Philip Norcross threatened Developer-1, who was with his counsel, with "consequences" if he did not reach agreement regarding the view easement and the transfer of the right of first refusal. Ind. ¶ 136. George Norcross admitted this "threat" in a recorded conversation with a friend the next day. George Norcross told his friend that he had been on the phone with Developer-1 for an hour and a half and that Developer-1 "tried to f**king shake us down. As usual." George Norcross said he told Developer-1 "no" and "this is unacceptable. If you do this it will have enormous consequences." When Developer-1 asked if he was being threatened, George Norcross said "absolutely." Ind. ¶ 137.

How is this to be interpreted? The indictment must be read in its entirety, and the reader must apply the healthy dose of common sense urged by the State. Clearly, this is a steel cage brawl between two heavyweights, both accompanied at times by

at least one lawyer. Neither seems to like or trust the other. Each is trying to prevail in the negotiations and there is substantial money at stake. Beyond that, power and control along the waterfront is in play. Developer-1 handles himself ably and gives as good as he gets. In this context, what does it mean to be told he would be "f**k[ed] up like [he] [has] never been f**ked up before" and that he will "never do business in this town again?" Does it mean anything at all? This sabre-rattling sounds much like "this town ain't big enough for the two of us."

Remember not every threat is criminal or even wrong. State v Monti, 260 N.J. Super 179, 185 (App. Div. 1992). George Norcross's "threat" may be boorish and indecorous. His statement does not satisfy any reasonable person's view of how something as important as how Camden's waterfront redevelopment plans should be decided. The State is not wrong when it advances the idea of the truly level playing field, where critical decisions are made on the basis of developer qualifications and public benefit, as opposed to George Norcross's selfish interests. However, the court is not called upon to consider whether the redevelopment could have proceeded in a better, more fair, less political way. The court is asked to evaluate whether this "threat" was criminal.

When Developer-1 asks George Norcross if he is threatening him, what is he really doing? Does he seek to confirm that he is, indeed, in physical or other danger or is he goading and needling his adversary? Recall that in a phone call George

Norcross did not seem to know was being recorded he stated that he spent an hour and a half on the phone with Developer-1 who "tried to f**king shake us down. As usual." The court is reminded of the old saying that "where one stands depends upon where one sits."

And the amorphous threat to make sure you never do business in this town again? This can be perceived as a "threat", but to do what? The Indictment and the State focus not on the intent of the person making the threat but on the effect on Developer-1, the hearer. This court finds that this statement is precisely the sort of economic coercion that the 1971 commentary recognized as incident to free bargaining. There undoubtedly was an "economic or commercial nexus" between Norcross and the underlying negotiation. Unlike the defendant in Roth, Norcross and his cohorts had the wherewithal to develop the waterfront parcel that conflicted with the view easement.

The Indictment references other "threats" allegedly made concerning Developer-1. George Norcross is alleged to have said of Developer-1 in conversations with all defendants except Redd that ". . . . he's gonna come under some very serious accusations from the City of Camden which are gonna basically suggest that he's not a reputable person and he's done nothing but try to impede the progress of the city. . . ." Ind. ¶ 142. This is not a threat of any kind. There is no explanation as to what those serious accusations even were, but they were not

coming from George Norcross. Indeed, representatives of the City of Camden would be entitled to speak up if they believed that Developer-1 was using his view easement and his right of first refusal to obstruct critical redevelopment efforts. In any event, none of this conversation was communicated to Developer-1 by any defendant.

The other relevant threat is that the Enterprise threatened CFP CEO-1 over the L3 complex. CFP CEO-1 reportedly feared George Norcross because in the early 2000's George Norcross had a dispute with the CFP founder and caused Camden to slash the nonprofit's funding. He also caused the founder to give up his job and leave Camden. CFP CEO-1 also knew of the Palmyra recordings from 2001 which allegedly captured George Norcross trying to force a councilman to fire a Palmyra employee even though George Norcross had no formal role in Palmyra. CFP CEO-1 also believed that George Norcross was mad at him because of positive media attention CFP CEO-1 received. Ind. ¶¶ 53 -55.

In 2012, CFP was interested in exploring the purchase of the L3 complex which the EDA owned. In the summer of 2013, "the chief of staff to Camden Mayor Dana Redd 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.

The meetings occurred and evolved into weekly Camden stakeholder meetings. The Norcross influence and presence was strong even though no Norcross had any role at CFP or in City government. Philip Norcross sought regular updates. Ind. ¶¶ 50-52.

In January 2014, CFP signed an agreement with the EDA to purchase the L3 complex for approximately $ 32.7 million. This price included a discount from market value which CFP was entitled to because of its nonprofit status. CFP needed to partner with an investor to finance the transaction and they wanted to use KPG/MC. CFP CEO-1 quickly learned that CFP's contract to purchase the L3 Complex angered George Norcross who believed that CFP was ill-suited to be in the development business. George Norcross allegedly told Cooper Health CEO-1 that CFP CEO-1, and another CFP executive should be fired. Ind. ¶¶ 56-58. No one got fired and George Norcross continued to simmer.

Cooper Health CEO-1 told CFP CEO-1 and another CFP executive that because of George Norcross's anger over this deal, the CFP officials had to meet with Philip Norcross. The meeting happened in March 2014. Philip Norcross told them that CFP should not be involved in development and they should turn the deal over to a private investor and made some suggestions as to whom CFP should use. Philip Norcross later advised CFP of a specific investor's interest. This investor had

an ongoing financial relationship with George Norcross. CFP did not want to work with this particular investor, but they began discussions anyway. Ind. ¶¶ 59-63.

While this was happening, Cooper Health CEO-1 spoke to CFP CEO-1 about Cooper Health leasing space in the L3 complex when available. A proposal circulated. Philip Norcross saw it. In April 2014, CFP reached an extremely financially favorable agreement in principle to partner with its preferred investor as opposed to the investor championed by George Norcross. Of course, Philip and George Norcross learned of this. Cooper Health CEO-1 advised CFP CEO-1 that he was getting "push back", that Philip Norcross was "still torqued about (CFP) blowing off" the Norcross preferred investor, and that CFP CEO-1 should handle that gingerly. Ind. ¶¶ 64-67.

George Norcross did not feel that there were any other viable infrastructure choices for Cooper Health besides the L3 Complex. On April 25, 2014, Philip Norcross met with CFP CEO-1 in the CFP office and "told him that CFP was not allowed to use KPG/MC and it should only use" the handpicked Norcross investor. CFP CEO-1 felt threatened and, after considering what he subjectively believed about George Norcross's past conduct, he agreed to partner with Team Norcross. Ind. ¶¶ 68-71. Philip Norcross did not make any express threat.

This decision was a bad financial one for CFP. CFP CEO-1 though recognized the Hobson's choice aspect of his situation. CFP President-1 noted in an

email that the choice over with whom to partner was a "false choice as it doesn't seem like we will be able to close the KPG/MC deal given the opposition." Ind. ¶ 72. CFP believes it lost millions.

By the summer of 2014, CFP and its partners had a verbal agreement that CFP would purchase the L3 complex and then sell it to an entity created by the investment partners called L/N CAC. CFP was a pass-through entity. It could acquire L3 at a lower price because of its non-profit status. This approach never quite worked. Another possibility included Cooper Health being part of the investor's group but Philip Norcross advised Cooper officials any ownership interest could complicate subsequent tax credit applications. Cooper Health thus stood down. Ind. ¶¶ 73-75.

CFP CEO-1 contacted Mayor Redd who was a co-chair of CFP and explained the negative financial consequences of the deal. The Mayor told CFP CEO-1 that he had to deal with Philip Norcross to resolve the issue. The Mayor, more than once, told CFP CEO-1 that his job was in jeopardy. This appears to have been in 2014 as well. Ind. ¶ 77.

In late September 2014 and while the deal was pending, Cooper Health CEO-1 suddenly and tragically died. Cooper Health CEO-1 had been a co-chair at CFP and a member of its board. Mayor Redd and Philip Norcross told CFP CEO-1 that the CEO of the Cooper Foundation, chaired by Philip Norcross, would replace Cooper Health CEO-1 on the board of CFP and as co-chair of CFP. This would make

George Norcross "happier" and "help mend fences." Ind. ¶ 78. After this new individual was installed, CFP CEO-1 continued to share that the L3 deal kept getting worse for CFP. The new co-chair told CFP CEO-1 "that he had to deal with Philip Norcross and pushed him to close the transaction." Ind. ¶¶ 78-79.

In November 2014, Cooper Health applied to the EDA for tax credits under the Grow NJ program in anticipation of leasing space in the L3 Complex. In December 2014, without having been advised of Cooper's intention to later become part owner of the L3 Complex, the EDA approved an award of nearly $40 million in tax credits to Cooper Health to be paid out over ten years subject to certain annual certifications. Ind. ¶¶ 80-81.

CFP closed on the L3 Complex in December 2014 and conveyed the property to its investor partner the same day. In 2015, Cooper Health began moving personnel into the Complex. Cooper Health, then in March of 2015, "only four months after applying for tax credits to lease space in the L3 Complex, bought a 49 percent ownership share of L/N CAC." Ind. ¶¶ 82-87. Cooper Health has received all promised tax credits.

The details regarding the history of the L3 Complex acquisition are important though there is only one threat alleged. This is the threat made by Philip Norcross that CFP should only partner with the Enterprise's chosen investor. Importantly, the Indictment says that in 2014 Philip Norcross told CFP CEO-1 that it "should only

use Investor-1 in a manner that CFP CEO-1 took as threat to CFP." Ind. ¶ 70. CFP CEO-1 ultimately, it is alleged, did as was suggested because he was generally aware of retaliatory conduct George Norcross had engaged in a decade or so earlier. CFP CEO-1 appears to have been consulting with CFP President-1.

CFP CEO-1 believed he was being threatened. Was he? Was the effort by Philip Norcross, allegedly doing the bidding of George Norcross, something which constitutes the required purposeful state of mind for Theft by Extortion or Criminal Coercion? Was it wrongful under Hobbs Act Extortion? This court finds that the answer to these questions is no. A review of a model jury charge helps explain why.

As regards Theft by Extortion, for example, the model jury charge indicates that:

> The threat may be one which is written or spoken, expressly stated or implied from the surrounding circumstances. The threat may have been to injure the victim directly or to injure another person, unrelated to the victim, so long as the threat was intended to intimidate or intimidated the victim. The State need not show that any of these threats were carried out. A threat alone, if it enabled defendant to obtain property, is sufficient.
>
> It is no defense that other persons would not have been intimidated by the threat. It is sufficient if you find that the threat was effective as to this victim as to enable the victim to obtain property.
>
> The threatened harm need not be illegal. The defendant may have been privileged or even duty-bound to inflict the harm which he threatened. However, if the Defendant used the threat of harm to coerce a transfer of property, then defendant is guilty of theft by extortion.

Model Jury Charges (Criminal), "Theft by Extortion" (N.J.S.A. 2C:20-5).

The court's conclusion is that the threat perceived by the CFP CEO-1 in 2014 does not constitute extortion or criminal coercion as a matter of law.

Here the focus must be on the "threat" made by Philip Norcross to CFP CEO-1 that the CFP "was not allowed to use KPG/MC and it should only use Investor-1 in a manner CFP CEO-1 took as a threat to CFP." Ind. ¶ 70. This was not an express threat so what is to be implied by it? The apparent political muscle and brass knuckle vindictiveness of the Norcross brothers is alleged to have been known by CFP CEO-1 but that does not convert Philip Norcross's strong statement of unsolicited and unwelcomed opinion into a threat. In fact, before the "threat" was made, CFP CEO-1 had, at the behest of Philip Norcross, seriously explored partnering with the Norcross choice. CFP CEO-1 walked away when he felt the deal was not good enough. The Indictment makes it clear other factors influenced CFP CEO-1's choice to ultimately go back to the preferred Norcross choice, including that Mayor Redd and unindicted co-conspirators told him at "various stages during the L3 transaction that his job was in jeopardy." Ind. ¶ 70.

CFP CEO-1 ultimately made his choice. He may well have correctly anticipated eventual adverse personal consequences, specifically, the loss of his good job, if he stuck with his preferred investor. But, ultimately, that was his choice. He could have signed to partner with KPG/MC and let the dominoes fall. Had he done

so, things could have happened which were bad for him personally but still financially good for CFP. No one will know what could have happened because CFP CEO-1 made his choice. Philip Norcross's conduct may have been preemptory and imperious but it does not constitute extortion or criminal coercion. In fact, there is never even a line drawn between the alleged threat and what Philip Norcross would actually do about non-compliance.

State v. Fair, 256 N.J. 234 (2024) required the Supreme Court to decide whether a prosecution for terroristic threats premised on a reckless state of mind was constitutional under First Amendment grounds. The crime of terroristic threats is not charged in this case and the threats alleged do not involve a reckless state of mind. Fair does note that true threats of violence lie outside the First Amendment's protection. Fair, 256 N.J. at 228. There was no threat of violence here and the Indictment does not endeavor to conclude precisely what Philip Norcross meant.

The defense correctly argues that the "threat" made by Philip Norcross must be construed as one which is purely economic in nature, just hard bargaining. The State acknowledges Viacom Int'l. v. Icahn, 747 F. Supp, 205, 213 (S.D.N.Y. 1990) and agrees that generally speaking, the difference between illegal conduct and hard bargaining is whether the victim has the right to be free of the pressure that the defendant is imposing. It further agrees that in a hard bargaining scenario the alleged victim has no pre-existing right to be free of the fear he is quelling by receiving value

in return for transferring property to the defendant, but that in an extortion scenario the alleged victim has a pre-existing entitlement to pursue his business interests free of the fear he is quelling by receiving value in return for transferring property to the defendant. Pb60[3]. CFP had no pre-existing right to public funding and CFP CEO-1 had no pre-existing right to keep his job. He had a contract but he had civil remedies if the contract were breached. CFP and CFP CEO-1 had no pre-existing right to the support of the Mayor or City Government or to the support of powerful, self-interested local "players". No doubt, George Norcross was driven by what was best for George Norcross, and what was best for CSB, Cooper Health, and perhaps Camden, quite possibly in that order.

Just as there are no threats under State law, there is also no Hobbs Act Extortion.

As regards Developer-1, there was clearly negotiation which centered on the relinquishment of property rights. However, there was no illegal exploitation of Developer-1's fear of potential economic harm. The Norcross Enterprise clearly had the same right to try to negotiate a presence on the Camden Waterfront as Developer-1 did. The means it used were negotiations and hard bargaining, which cannot be considered wrongful under the facts alleged. It is also not wrongful to allow your

[3] All future references to the State's brief will be cited in accordance with Rule 2:6-8.

adversaries to fear your reputation for using political power. Potential litigation is not a wrongful means when the litigation is commenced for appropriate reasons. United States v. Pendergraft, 297 F.3d 1198, 1208 (11th Cir. 2002). This to be contrasted with the defendant in Roth who "possessed only the bare right to file a motion to set aside the sheriff sale." Roth at 161.

The court is satisfied as a matter of law that the Indictment must be dismissed because its factual allegations do not constitute extortion or criminal coercion as a matter of law. The decision to do this is authorized by Riley, 412 N.J. Super. at 162. In Riley, Judge Ostrer analyzed whether New Jersey's computer crime laws prohibited employees from accessing computer data in a manner prohibited by their employers. The court thoroughly analyzed the language of the statute, the legislative history, case law and principles of statutory construction. The facts the court evaluated were simply the facts alleged in the indictment which the Court accepted as true. Like the Riley court, for purposes of deciding the motion, the court will accept the facts as alleged by the State. Id. at 167. At the risk of unnecessary repetition, this is a legal decision which involves an assessment of, for now, undisputed facts.

The court has a clear duty to act when an indictment's factual allegations do not amount to crimes as a matter of law. The parties seem to agree that that the Indictment is premised on the alleged threats. But the threats are not extortion or

coercion as a matter of law. The derivative offenses in the indictment all rest on the threat-based offenses so they too must be dismissed.

By way of summary, the court concludes that all of the charges in the Indictment are predicated on the existence of wrongful or unlawful threats. There are no such threats alleged.

Count One can not stand without Hobbs Act extortion, or extortion. The financial facilitation of criminal activity and misconduct by corporate official charges similarly depend upon the illegality of the threats. Without wrongful or unlawful threats, the conspiracy charges cannot be sustained either. The State has not established the requisite agreement to commit at least two predicate accts. Ind. ¶ 216.

Because of this, the rest of the charges collapse. The court will discuss the Official Misconduct charge later, but next it will address another reason that the Racketeering count must be dismissed: there is no racketeering enterprise.

C. There Is No Racketeering Enterprise

Count One of the Indictment charges all six defendants with Racketeering Conspiracy, a First Degree crime. Ind. ¶¶ 212 – 216. The offense is alleged to have been committed between in or about 2012 and the date of the Indictment. There are also unindicted co-conspirators. The conspirators are alleged to have acted with

purpose to promote and facilitate the crime of racketeering by conspiring, confederating and agreeing that:

> A. One or more of them would engage in conduct which would constitute the crime of racketeering; and
>
> B. One or more of them would aid in the planning, solicitation and commission of the crime of racketeering, that is the defendants and the unindicted co-conspirators, being persons employed and associated with an enterprise, which enterprise was engaged in and the activities of which affected trade and commerce, would conduct and participate, directly and indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity, including the commission of a crime of the first degree, in violation of N.J.S.A. 2C: 41-2(c), all as herein described.

Ind. ¶ 213.

Count One alleges that these six defendants, along with other unindicted persons, "did constitute an 'enterprise' within the meaning of N.J.S.A. 2C: 41-1(c), herein referred to as the "Norcross Enterprise," that is, a group of individuals associated in fact although not a legal entity, and whose associates thereof engaged in, and the activities of which affected, trade and commerce." Ind. ¶ 214.

The Count also alleges the purposes of the enterprise in Paragraph 215 which appear on pages 82–85 of the Indictment. The court has already enumerated the alleged purposes. See above 3-5.

The Count ends by alleging the "pattern of racketeering activity" which, as defined in N.J.S.A. 2C:41-1(d) must consist of at least two incidents of racketeering conduct, including but not limited to:

> a. Interference with Commerce by Threats or Violence, in violation of 18 U.S.C. Section 1951 by obstructing, delaying, and affecting commerce and the movement of any article and commodity in commerce, by extortion as it is defined in that section, to wit, by obtaining property from another, with consent, induced by wrongful use of actual and threatened fear under color of official right, and attempting and conspiring so to do;
> b. Theft by Extortion, in violation of N.J.S.A. 2C:20 – 5:
> c. Financial Facilitation of Criminal Activity, in violation of N.J.S.A. 2C:21-25;
> d. Misconduct by Corporate Official, in violation of N.J.S.A. 2C: 21-9; and
> e. Conspiracy to commit these crimes, in violation of N.J.S.A. 2C; 5-2.

Ind. ¶216.

The court has already delineated that the indictment must be dismissed because it is based on the criminality of the alleged threats. However, it remains important to thoroughly evaluate another problem with the Racketeering charge. That problem is the absence of an enterprise.

State v. Ball, 141 N.J. 142 (1995) is critical to understanding the elements of a racketeering offense. The gravamen of a racketeering violation is the involvement in the affairs of an enterprise through the pattern of racketeering activity. Id. at 155. For there to be racketeering, there must first be an enterprise as defined by

N.J.S.A. 2C:41-1(c). By statute, enterprise means any individual, sole proprietorship, partnership, corporation, association, or other entity or group of individuals associated in fact though not a legal entity. It includes illicit as well as licit enterprises and governmental as well as other entities.

The model jury charge for racketeering draws heavily on the Ball decision to tell juries about what it means to be an enterprise:

"There does not need to be a distinct, ascertainable structure to constitute an enterprise." Id. at 160. Rather, the term embodies any group of persons associated in fact and includes traditional organized groups, with command structures, as well as less organized and non-traditional groups. While the term is broad, it targets only organized crime type activities that are substantial in nature.

The enterprise must have an organization, the hallmark of which consists in the kinds of interactions that become necessary when a group is to accomplish its goal(s), divides among its members tasks that are necessary to achieve a common purpose. Id. at 162. "The division of labor and the separation of functions undertaken by the participants serve as the distinguishing marks of the enterprise because when a group divides and assembles its laborers in order to accomplish its criminal purposes, it must necessarily engage in a high degree of planning, cooperation and coordination, and, in effect, constitute itself as an organization." Ibid.

Evidence of an ascertainable structure will support an inference that the group engaged in carefully planned or highly coordinated criminal activity and thus, will support the conclusion that an enterprise existed. But apart from an organization's structure, the focus of the evidence must be on the number of people involved, their knowledge of the objectives of the association, how they associated with each other, whether they performed discrete roles in carrying out the scheme, the level of planning involved, how decisions were made, the coordination involved in implementing decisions and how frequently the group engaged in incidents or committed acts of racketeering and the length of time between the acts. Id. at 161-163. See also Model Criminal Jury Charges, (Criminal) (Racketeering, N.J.S.A. 2C: 41- 2(c)).

A review of every word in the Indictment makes it abundantly clear, as a matter of law, that the enterprise defined by the grand jury does not and cannot legally exist. Enterprise is an element separate from the pattern of racketeering activity and the State must prove the existence of both to establish a RICO violation. Id. at 161-162.

The State's brief at page 43 summarizes the roles of the Enterprise members: George Norcross is "indisputably the Enterprise's leader." Philip Norcross and William Tambussi were the Enterprise's lawyers, and they practiced law "beyond the scope of lawful practice." "O'Donnell and Brown were

businessmen, who, among other things, participated directly in plotting to use a municipal entity to file a condemnation action to gain leverage against or punish Developer – 1, supplied financial capital and in turn used their various entities to collect the tax credits at the heart of the conspiracy." Dana Redd was "the Mayor of Camden – the most powerful government official in the city – allowing the Enterprise to directly control and leverage the people's government to pick winners and losers among its constituents."

C(1). Sidney R. Brown And John J. O'Donnell

Begin with Brown and O'Donnell. Sidney R. Brown is "the CEO of NFI, a trucking and logistics company. From 2014 to the date of this Indictment, he was a member of the board at Cooper Health. He was also a partner in the groups that own the Ferry Terminal Building, 11 Cooper, and the Triad1828 Centre." Ind. ¶ 13. John J. O'Donnell "has been in the executive leadership of The Michaels Organization ("TMO"), a residential development company, in various roles including chief operating officer, president, and chief executive officer. He was also a partner in the groups that own the Ferry Terminal Building, 11 Cooper, and the Triad1828 Centre and was on the board of CFP, later known as the Camden Community Partnership, at various times beginning in 2018." Ind. ¶ 14. No logical reading of the Indictment establishes any basis to believe that either man was the member of a criminal

enterprise, as a matter of law. This conclusion is made after accepting all alleged facts as true.

What did these two men do? In September 2015, there was a press conference in Camden to announce Liberty Property Trust's plans to develop the waterfront. The accompanying press release listed George Norcross, Brown and O'Donnell and their respective firms as local leaders committed to invest in the project. LPT was the master developer. George Norcross, Brown and O'Donnell were part of the Camden Towers Partner Group, represented by Philip Norcross. The plan was to move forward with constructing what became the Triad1828 Centre and 11 Cooper. Interestingly, none of these individuals had any legal interest in LPT or in the property being redeveloped. Ind. ¶¶ 106-108. The desire to build was purely aspirational.

After the press conference, LPT sought to negotiate with Developer-1. There was a meeting also attended by George Norcross and Philip Norcross during which Philip Norcross was counsel to LPT. Negotiations proceeded over the balance of 2015 and into 2016 for almost a full year. Developer-1 was asked to relinquish his view easement and residential development rights "as well as his continued role in Camden redevelopment more generally as the residential developer." Ind. ¶¶ 109–111.

Developer-1, at one point, was told by the LPT CEO he would have to partner with TMO, where O'Donnell was CEO, going forward. Developer-1 had reservations, but he continued to negotiate. Developer-1 was wary of working with George Norcross but he "knew" that LPT intended to work with George Norcross and TMO. Ind. ¶ 112. This was around the time that Developer-1 applied for the tax credits, which Mayor Redd endorsed. Negotiations between Developer-1 and LPT broke down for reasons personal to Developer-1.

George Norcross, Brown and O'Donnell continued to work with LPT regarding the development of the Triad Parcel even though they had no rights to it. There was a strategic timing element to when any agreement could be signed without jeopardizing a subsequent effort to secure tax credits. Developer-1's view easement remained an obstacle and Developer-1's failure to yield led to the threat to "f**k you up like you have never been f**ked up before" and ensure that Developer-1 would never do business in Camden again. Ind. ¶¶ 115-117. There is no indication Brown or O'Donnell participated in this conversation or even knew of it.

The uncertainty over Developer-1's intentions led to a telephone conversation which was recorded between the LPT CEO and George Norcross on August 22, 2016. George Norcross made his commitment to the project clear and said:

> We are, we are way committed to this project. Way out there ourselves. Not financially like you are, but we are out there from 'let's put it this way, George Norcross is out there. If the Michaels (Organization) walked away and if

> NFI walked away, it wouldn't be a big deal to them. If I walked away, it would be a . . . bad thing for the city. It would be humiliating for me, obviously, if we were to walk away. That's why I'm so irritated by (Developer–1's "crap." George Norcross continued "I talked to John (O'Donnell) today and I said "John, "Is [Developer-1] playing his . . . crap with us? Because he . . . told us all along [,] "No problem, no problem, We're gonna make it, we're gonna make it'. . . I detest dealing with this guy. It's just really annoying to me.

Ind. ¶ 121. Clearly, George Norcross suggests that this was just business to Brown and O'Donnell, perhaps just another deal, but personal for George Norcross, at least to some extent.

A fair reading of the Indictment suggests that at this point, George Norcross knows he is losing.

Negotiations continued. Developer-1 wanted to explore ways to redevelop the Radio Lofts building and had ideas he wanted to discuss with Mayor Redd regarding changing the area's zoned use from residential to commercial and to explore whether certain tax credits could be used for building remediation. He could not get Mayor Redd on the phone which was inconsistent with past practice. It is alleged that the calls were not being returned because Philip Norcross said they should not be. Ind. ¶¶ 122-125. From this, should the court conclude that Developer-1's efforts to push the right buttons in furtherance of his self-interest were thwarted by the efforts of the Norcross brothers to push those same buttons to benefit themselves or the

"Enterprise"? Is there a superior right to be heard? Or to get what one wants? In any event, this has nothing to do with Brown and O'Donnell.

There was still no deal in mid-October. All defendants except Mayor Redd "then agreed to cause the CRA to bring court action against DPI with the purpose of creating additional pressure on Developer-1 to sell his rights." Ind. ¶ 127. Philip Norcross and Tambussi along with members of their law firms developed a plan, originally devised by George Norcross, by which the CRA would pursue condemnation. Tambussi believed this legal strategy would succeed though he was concerned about the amount of time it might take. Ind. ¶ 133. The lawyer defendants and their law firms prepared pleadings. CRA was minimally included. Developer-1 was again warned of consequences. Developer-1 reached a negotiated agreement, from which he quickly backed out.

This reignited discussions about the condemnation strategy. George Norcross spoke to O'Donnell on October 21, 2016, saying that he "hoped" the city would go to court to protect its rights. The word hoped appears in paragraph 141 of the Indictment as a direct quote and indicates, by simple definition, George Norcross's understanding that whether the city went to court was not up to him. It was certainly not up to Brown and O'Donnell.

These circumstances led to the conference call on October 22, 2016, quoted directly in the court's Summary of Allegations at pages 25-27 herein and quoted

directly in the Indictment. Ind. ¶¶ 142-150. This is a conversation between George Norcross, 2 lawyers, and 2 C-suite executives. It is clear that Brown and O'Donnell are simply listening to experienced counsel discuss a legal strategy which could ultimately make them money, which was their sole apparent purpose for being involved in any of this. They listened to the lawyers and agreed to proceed as the lawyers suggested. There was no protracted discussion, no back and forth, no debate. The lawyers recommended what to do and the executives agreed. No doubt, the plan was to put pressure on Developer-1 but wasn't that the point? The planned legal action never happened, and Developer-1 never knew about it. The conversation did not constitute a threat of any kind.

Ultimately, the situation evolved in a way which benefitted Brown and O'Donnell. LPT offered Developer-1 additional money, and an agreement was reached. The Triad1828 Centre and 11 Cooper were built. Tax credits authorized by law were applied for and received and will continue to be received.

The court returns to its earlier question: what did Brown and O'Donnell do? The answer, giving the State the benefit of every positive inference and accepting every fact alleged in the indictment as true, is simply nothing criminal. Two sophisticated businessmen backed the right horse when it came to selecting an investment partner. This partner may have been motivated by many things but for Brown and O'Donnell, this was about getting the buildings built and making money

and that is all they did. There is no evidence that they were part of any "enterprise." There is no evidence they intended to plan, join, or assist Mayor Redd in committing official misconduct.

C(2). William M. Tambussi

The court is also satisfied as a matter of law that there is no prima facie case that Tambussi was part of any enterprise either.

William Tambussi is a partner at a New Jersey law firm and the long-time personal attorney to George Norcross. Tambussi is embedded in Camden County politics having been counsel to the Camden County Democratic Committee since 1989 and having served as outside counsel to the City of Camden, the CRA, Cooper Health, and CSB. Ind. ¶ 11. The Indictment presents him as a true insider. The State's brief says Tambussi was the "voice of the Enterprise" on the Camden County Democratic Committee. Pb10.

What did Tambussi do here to make himself part of this criminal enterprise? He represented clients. He was not a business partner of any co-defendant. He did not own any piece of the Camden waterfront. He did not and does not collect any tax credits.

The Indictment focuses on things Tambussi did as a lawyer. The first relates to discussing but never filing a condemnation action or related declaratory judgment action on behalf of the CRA which was designed to strip Developer-1 of his property

interests. He is alleged to have "later engineered the concealment of that scheme." Defendant is further alleged to have "concealed the truth about the Enterprise's extortionate acquisition of the L3 Complex" and to have "participated in the conspiracy to coerce CFP-CEO-1 to resign under threat of financial and false reputational ruin." Pb10.

Tambussi did what he did in this case by being a lawyer. Concerning Developer-1, Defendant Tambussi researched the feasibility of successfully bringing an action through CRA to condemn Developer-1's view easement. This was to facilitate the development of the waterfront and to put pressure on Developer-1. His research suggested that there was a good likelihood that a court would declare that the CRA had the right to condemn the view easement and that the harder part would be to get the court to speed the process up. Ind. ¶¶ 126-133. This is predictive lawyering. And he never filed the action. To discuss and prepare to do that which is never done, on the facts presented in this Indictment, does not make Tambussi a member of an enterprise. The fact that he participated in a recorded phone call discussing this with all defendants except Mayor Redd does not change anything.

Importantly, after the indicted defendants, except Mayor Redd, decided that the declaratory judgment action should be pursued, Tambussi notified LPT's counsel of the contemplated legal action. He asked for LPT's cooperation with the CRA. He did not get it. Another lawyer represented LPT, which ultimately did not act as

Tambussi urged. The decision made by LPT not to cooperate with the Norcross Enterprise's request is what moved the negotiation with Developer-1 to resolution. Ind. ¶¶ 142-151. Developer-1, who also had a lawyer(s), never knew the litigation was contemplated. Nothing Tambussi did constituted an improper agreement "to cause the CRA to bring court action against DPI." Ind. ¶ 127. There is evidence his law firm was communicating with CRA as the litigation was being prepared. Ind. ¶ 135. Nothing in the Indictment suggests the CRA was a hostage, and the Grand Jury drew no conclusion as to how much direct client contact was necessary to prepare the legal documents.

A second thing Tambussi allegedly did as a lawyer related to litigation concerning the Radio Lofts site, which was commenced in 2018 by Developer-1 against Camden and the CRA. "The City and the CRA were represented by, among others, William M. Tambussi." Ind. ¶ 155. When the case got closer to trial, Developer-1 sought to introduce evidence that Camden and the CRA became hostile towards him in 2016 while he was negotiating with members of the Enterprise. On August 31, 2023, Defendant Tambussi filed a motion to preclude any reference to the Norcross brothers in the trial. Ind. ¶ 156. The motion was never heard. The portion of the Indictment relating to this is captioned "William M. Tambussi Later Sought To Conceal the Norcross Enterprise's Plot." Ind. ¶ 62.

The Indictment alleges on September 1, 2023, while representing the City of Camden in that same litigation, William M. Tambussi argued during his pretrial motion, in part, that "the jury won't be confused about whether or not we're talking about a financial agreement and the 2018 interaction between the parties or some view easement for which George Norcross and Phil Norcross were not parties. That was a transaction between [Developer-1] and Liberty [Property Trust]." Ind. ¶ 157. "In truth and in fact, the transaction Tambussi referred to was consummated, at the insistence of Philip A. Norcross, through a four-party agreement among DPI, LPT, Camden Partners Land LLC (an entity associated with George E Norcross, III, Sidney R. Brown, and John J. O'Donnell) and TMO." Ind. ¶ 157.

It should be noted that in paragraph 108, the Indictment asserted that in 2015, George Norcross, Brown, and O'Donnell had no interest in LPT or the property being developed. Camden Partners did exist at that time though. The State's argument that the criminality here is not about an alleged misrepresentation or half-truth being proffered in the litigation but instead about the Enterprise's ongoing efforts to conceal criminal conduct is unpersuasive. The matter between Developer-1 and LPT resolved in 2016. It was over. When the 2018 litigation was heading to trial, the Triad1828 Centre and 11 Cooper were built, occupied, and receiving State approved tax credits. There was nothing left to hide as Tambussi defended his client in 2023. A review of every word of the Indictment suggests the effort to keep a jury

from hearing the Norcross name was simply a reasoned legal decision. To the extent that there is an argument that Defendant Tambussi was arguing half-truths, that is not criminal and too remote to be fairly considered to be part of any conspiracy.

C(3). Philip A. Norcross

Similarly, Philip Norcross was not part of any enterprise. Philip Norcross, brother of George Norcross, is the managing shareholder at his New Jersey law firm. He was Chairman of the Board at the Cooper Foundation and on the board at Cooper Health. He clearly had personal and professional interest in the Camden waterfront. In its brief, the State alleges that Philip Norcross "plotted to, and did, extort and coerce Developer-1, CFP, and CFP's CEO and President" and "also plotted for the Enterprise to reap financial benefits – millions of dollars- through its extortionate and coercive conduct." Pb9-10. It is alleged that he did this by influencing the legislature to pass the EOA, pushing CFP-CEO-1 to partner with a handpicked Norcross investor to facilitate redevelopment, participating in negotiations with Developer-1 and advising Enterprise members how to stymie Developer-1, and participating in developing a plan for Camden and the CRA to take Developer-1's rights.

The court has concluded that the alleged extortionate and coercive threats were not threats under the law. It is important to further note though that Philip Norcross had a right to do what he was doing.

Philip Norcross had the right to craft proposed EOA legislation and to communicate with the Senate President and anyone else who would listen to him. That he was allegedly implementing his brother's partially self-serving agenda does not diminish his right to lobby. It is beyond obvious to observe that people and entities try to influence legislation every day. Few are motivated by purely altruistic concerns and most consider principally how they or a client directly benefit from the action they urge. It is a fact of life and the public relies upon the wisdom and discretion of lawmakers to enact appropriate laws. "It is neither unusual nor illegal for people to seek action on laws in the hope that they may bring about an advantage to themselves and a disadvantage to their competitors." Eastern Railroad Presidents Conference v Noerr Motor Freight, Inc., 365 U.S. 127, 139 (1961).

Philip Norcross's actions regarding the L3 Complex negotiations and his interactions with CFP CEO-1 are similarly not criminal. No doubt, just like with the EOA legislation, he pushed aggressively to cajole CFP to partner with a specific investor. The chief of staff to Mayor Redd encouraged CFP and Philip Norcross to communicate about development issues and there was a time when CFP-CEO-1 took the suggestion regarding investors as a threat. It simply was not as a matter of law. Like threats to Developer-1, one cannot tell exactly what the alleged threat is or what the consequence of non-adherence would be. As previously discussed, this was hard bargaining, perhaps even nasty bargaining, but it was not criminally extortionate

conduct. CFP CEO-1's reaction was based on things he believed about George Norcross and these beliefs drove his decisions concerning how CFP would proceed. As previously discussed, CFP CEO-1 had no pre-existing right to be free of these economic type threats. CFP enjoyed a strong voice in Camden's waterfront efforts. It clashed with a more powerful group, something which occurs every day in politics and business.

Philip Norcross's efforts to get the better of Developer-1 also do not make him part of a racketeering enterprise. These efforts are thoroughly reviewed in earlier parts of this statement of reasons. Any "threats" Philip Norcross was a part of making constitute the type of economic threats that are deemed routine and accepted in a free market system.

It must be remembered that Philip Norcross and Tambussi were lawyers actively engaged in lawyering and constitutionally protected political activity. Lawyers represent clients and, in this case, the clients – Camden, the CRA, Cooper Health – had wide ranging interests and concerns. The matters here are not one discrete case but rather evolving, fluid situations. These lawyers had the right to bring or threaten to bring legal action. They certainly had the right to discuss and strategize legal actions even if those discussions involved finding a way to invoke the law to deliver a body blow to an adversary. And clearly they had the right to engage in efforts to influence government action. Such action is immune from

criminal liability and intrinsic to the constitutional right to petition. Eastern Railroad President's Conference, 365 U.S. at 138; LoBiondo v. Schwartz, 199 N.J. 62 (2009).

The court has just addressed the reasons why a review of every word in the indictment, with every factual assertion assumed to be true, mandates the conclusion that the enterprise defined and alleged by the Grand Jury does not exist as regards defendants Philip Norcross, Tambussi, Brown, and O'Donnell. The court will address Dana Redd separately.

D. Dana L. Redd Was Not A Member Of An Enterprise And Did Not Commit Official Misconduct

Dana Redd did not commit any act of official misconduct, and she was not a member of any racketeering enterprise. The conclusion that the extortion and criminal coercion offenses do not allege crimes has been explained. The court has also addressed how that conclusion causes the collapse of all remaining counts of the indictment, including Count 13, the Official Misconduct charge. Nevertheless, the court will address the legal insufficiency of the Official Misconduct allegation against Redd. She too is not a member of any enterprise.

The Indictment defines Redd as a career public servant. She is currently the CEO of the Camden County Partnership, which was formerly CFP. From 2001 to 2010, she was a member of the Camden City Council. From 2008 to 2010, she was a State Senator. Redd served as Mayor of Camden from 2010 to 2018 and from 2018

to 2022, she served as CEO of the Rowan University/Rutgers-Camden Board of Governors. Ind. ¶ 12. However, the Grand Jury and the State allege that, in addition to her public service, she was a member of a racketeering enterprise who used the power of her office to commit crimes.

The State alleges that "Redd helped shape the L3 Complex and Triad1828 Centre & 11 Cooper extortion schemes, including by demonstrating that the Camden mayor's office supported the enterprise's goals and threats, directing victims to deal with enterprise members, installing co-conspirators in desired positions, and ignoring victim's requests for assistance". Pb11, Indictment citations omitted. For her complicity in the extortionate behavior, "Redd benefitted financially." Pb11, Indictment citations omitted. How? "When the Enterprise coerced CFP CEO-1 into resigning so that Redd could take his job, the Senate President – a close ally of George Norcross with whom the Norcross brothers had worked to shape the EOA tax credits – introduced an arcane legislative tweak that would significantly increase the size of Redd's pension (and only a handful of other people's)." Pb 11, Indictment citations omitted. "This was in conjunction with the Norcross Enterprise further rewarding her by putting her in charge of the Rowan -Rutgers Joint Board, a State government position that paid $275,000 a year, increasing her pensionable salary significantly. Pb11-12, Indictment citations omitted.

Count Thirteen of the Indictment is pled in general terms. It alleges that Mayor Redd acted with purpose to obtain a benefit for herself and another in excess of $200 and to injure another or to deprive another of a benefit and that she committed an act relating to her office but constituting an unauthorized exercise of her official functions, knowing that the act was committed in an unauthorized manner. More specifically, as Mayor of Camden, she had certain official functions and duties including "to perform the duties of the office impartially, to supervise all of the departments of the City government, to supervise and direct all necessary public city functions, to conduct business according to the highest ethical standards of public service, to devote her best efforts to the interests of city, to perform her duties in a legal and proper manner, to display good faith, honesty, and integrity, and to be impervious to corrupting influences." Ind ¶ 240. The State is proceeding only pursuant to N.J.S.A. 2C:30-2(a). T186-15 to186-18.

There is no doubt that Defendant Redd was a public servant as defined by N.J.S.A. 2C:27-1(g). The disagreement is primarily whether she or others received a benefit and whether she committed an act relating to her office which constituted an unauthorized exercise of her official functions, knowing that such act was unauthorized or that she was committing such act in an unauthorized manner. See N.J.S.A. 2C:30-2(a). The State argued:

> And the affirmative act is the agreement to participate and to use the power of her office and to further the objectives

> of the criminal enterprise and to further individual criminal conspiracies that constitutes the affirmative act. Now, the benefit that those acts warrant are to further the power and influence of the Enterprise, to facilitate other crimes, specifically the extortions, and it results in a lucrative position that Ms. Redd receives at the Rutgers Rowan Board that results from her conspirators, as it's alleged in the indictment, manipulating other people so that at the end of her term, that position is available for her. And included within that course of conduct is what's alleged to be the forcing of Cooper's Ferry's CEO to vacate his position to clear space for the current Rutgers Rowan Board CEO to leave his position and open up a position for Dana Redd.

T186-18 to T187-11.

The State further argued that the Norcross Enterprises rewards those who are loyal and punishes those who are not. The job Redd received at the end of her term was "a benefit for her loyalty." T189-25 to 190-1. N.J.S.A. 2C:27-1(a) defines benefit to mean "gain or advantage, or anything regarded by the beneficiary as gain or advantage, including a pecuniary benefit or a benefit to any other person or entity in whose welfare he is interested."

What did Dana Redd do? And were those actions unauthorized or committed in an unauthorized manner? Did she receive a benefit? The Indictment does not say much about her actual conduct.

In 2013, the Mayor's chief of staff, not the Mayor, told CFP CEO-1 that he should meet regularly with Philip Norcross. Ind. ¶ 49.

In 2014, the Mayor declined to intercede when CFP CEO-1 asked for help when the L3 complex deal was being negotiated. Another person, CC-2, was asked to help as well. They both told CFP-CEO-1 that he had to deal with Philip Norcross. She also told CFP CEO-1 that his job was in jeopardy. Ind. ¶ 77.

In 2015, the Mayor attended a press conference announcing LPT's plans for the Camden waterfront. The Governor was also present. Ind. ¶ 106. This press conference was held even though defendants George Norcross, Brown and O'Donnell "had no business interests in LPT or the property being developed." Ind. ¶ 106.

In 2016, the Mayor signed a letter to the EDA on behalf of the City of Camden supporting Developer-1's application for ERG tax credits for the residential development contemplated as a joint venture between DPI and TMO. Ind. ¶ 113.

In or around 2016, the Mayor failed to return Developer-1's phone calls even though she used to do so. This was pursuant to the instruction of Philip Norcross. Ind. ¶¶ 124-125. Developer-1 wanted to discuss the Radio Lofts project.

In October of 2016, an email communication that did not include the Mayor discussed the CRA's contemplated legal action to confirm that eminent domain was available to extinguish Developer-1's view easement. The email mentions that Philip Norcross was to brief the Mayor who "I believe will then discuss with [the then chair

of the CRA Board]." Ind. ¶ 134. It is unclear whether this conversation between Philip Norcross and the Mayor ever occurred.

In December 2017, CFP CEO-1 was told that Defendant Redd needed a job when her mayoral term ended, and she would become the CEO of the Rowan-Rutgers Joint board and the person she replaced as CEO would take CFP CEO-1's position. Ind. ¶ 174. This led to CFP CEO-1's resignation. Ind. ¶ 180. In accepting the new position, Defendant benefitted greatly from new pension legislation shepherded by the Senate President which helped only a "handful of people." Ind. ¶ 178.

The court has already ruled that the charges supported by alleged extortionate conduct cannot stand. That ruling collapses the Official Misconduct charge. There are, however, independent reasons why the Official Misconduct charge is not factually supported.

"The crime of official misconduct serves to insure that those who stand in a fiduciary relationship to the public will serve with the highest fidelity, will exercise their discretion reasonably, and will display good faith, honesty and integrity." State v. Schenkolewski, 301 N.J. Super 115, 145-146 (App. Div. 1997), certif. denied 151 N.J. 77 (1997); State v. Thompson, 402 N.J. Super 177 (App. Div. 2008).

To charge an offense under subsection (a) of the official misconduct statute, the State must produce evidence that the defendant is a public servant who

committed an act relating to her office knowing that it was unauthorized and did so with a purpose to benefit herself or another or to injure another. State v. Bullock, 136 N.J. 149, 153 (1994). The predicate act does not have to be criminal. State v. Parker, 124 N.J. 628 (1991).

The acts Mayor Redd is accused of committing largely entail day to day discretionary decisions. What she did or did not do in this case was not an unauthorized exercise of her official functions. Certainly, a mayor has the right to consult citizens' groups which include powerful, unpopular people in public policy discussions as critical as the redevelopment of a blighted city. A mayor has the right to hold an opinion as to the best redevelopment options and the right to favor one side over the other and the right to participate in a press conference attended by the sitting Governor. It should be noted that this Mayor did these things but, at the same time supported her less favored developer's application for ERG tax credits: a mayor has the right to hedge her bets in an effort to keep the City's redevelopment moving forward. A mayor has the right to join forces with coalitions which she believes have the best chance of prevailing. There was no non-discretionary duty of allegiance or support owed by Redd to CFP CEO-1 or Developer-1. And she had no official duty to keep either of them from getting hurt financially, personally, or reputationally. A mayor has the right to decide which phone calls she returns.

All facts alleged in the indictment are presumed true for purposes of this motion. Conclusions drawn as to the law and the State's arguments as to how facts are to be interpreted do not get the same deference. What is to be made of the fact that Dana Redd got a new job when her mayoral term ended? Did she get it simply because of fealty and devotion to the machine or the "Enterprise"? Or did she get it because she was qualified? See Ind. ¶ 12 for its recitation of Redd's political experience. To conclude that all discretionary decisions made by Redd discussed in the Indictment were made because of allegiance to the Enterprise is not a conclusion supported by a review of every word in the Indictment. There is no evidence of even a vague promise that Redd would be taken care of when her term ended.

The new job did indeed pay well. It was made even better by beneficial pension legislation, supported by the Senate President and signed by the Governor. That this legislation helped only a "handful of people" (Ind. ¶ 178) is irrelevant and the Indictment does not disclose whether any others of that "handful of people" got indicted too.

Official Misconduct requires a misuse of public office, but the misuse does not include every bad or self-interested act performed by a public servant. State v. Kueny, 411 N.J. Super 392 (App. Div. 2010) The required misuse is not present in this case. That does not mean that there is not room to criticize the apparently close, mutually beneficial political relationship that the Mayor shared with George

Norcross, a man of formidable influence. It just means that the Official Misconduct charge is not sustainable.

The facts alleged by the grand jury and accepted as true by the court do not support the notion that Mayor Redd compromised the duties of her office with an intention to benefit herself or anyone else. The inferences the State asks the court to draw, while theoretically feasible, are not supported by the evidence. The court cannot interpret the indictment to conclude that Redd's new job was a reward, or a benefit, for service to the enterprise.

For the reasons discussed above, there is insufficient basis in the facts alleged in the Indictment to conclude that Redd was a member of any enterprise or that she committed official misconduct. The reasons discussed as to other alleged Enterprise members generally apply to Redd as well.

E. The Charges Are Facially Time-Barred

The Indictment against all defendants must be dismissed because the charges are facially time-barred.

A criminal statute of limitations is designed to protect individuals from charges when the basic facts have been obscured by time. It balances the right of the public to have persons who commit crimes charged, tried, and sanctioned with the right of the defendant to a prompt prosecution. State v. Diorio, 216 N.J. 598, 612 (2014); State v. Zarinsky, 75 N.J. 101, 106(1977). In New Jersey, the statute of

limitations in a criminal statute is tantamount to an absolute bar to the prosecution of the offense. It is more than merely an affirmative defense to be asserted by a defendant. State v. Short,131 N.J. 47,55 (1993).

In New Jersey, a prosecution for a crime must generally be commenced within five years after it is committed. N.J.S.A. 2C:1-6(b)(1). A prosecution for Official Misconduct must be commenced within seven years. N.J.S.A. 2C:1-6(b)(3). A prosecution for an offense is commenced "when an indictment is found." N.J.S.A. 2C:1-6(d). "The Grand Jury returned this indictment on June 13, 2024, so the charges are timely prosecuted if the crimes they allege had not been fully committed as of June 13, 2019 and June 13, 2017, respectively." Pb108.

An offense is committed when every element occurs or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated and time starts to run on the day after the offense is committed. N.J.S.A. 2C: 1-6(c). A criminal offense is often classified as either a discrete act or a continuing offense. A discrete offense is one that occurs at a single point in time, such as a robbery. A continuing offense involves conduct spanning an extended period of time and generates harm that continues uninterrupted until the course of conduct ceases. Diorio, 216 N.J at 614.

Defendants argue that the entire indictment must be dismissed because the charges are facially time-barred. The State's view is that an actual dispute concerning the proper computation of the statute of limitations is for the jury to decide, not the judge at a pretrial testimonial hearing. State v. Ochmanski, 216 N.J. Super 240 (Law Div. 1987). The State believes that whether a "conspiratorial agreement was in fact as broad as the indictment alleges, whether each defendant in fact subscribed to that agreement, and if and when the conspiracy ended are issues for the jury." United States v. Kozeny, 493 F. Supp. 2d 693, 715 (S.D.N.Y. 2007)

Count One of the Indictment charges all defendants with First Degree Racketeering Conspiracy. The time frame alleged is between 2012 and the date of the Indictment. The purposes of the enterprise are delineated between pages 82 and 85 of the Indictment. The alleged time frame and the alleged purposes of the enterprise are not facts. They are allegations, assertions and, ultimately, conclusions.

Certainly, to be timely, the Count One offenses must have continued beyond June 13, 2019. The State acknowledges that a RICO conspiracy continues "until the accomplishment or abandonment of the objectives of the conspiracy." State v. Cagno, 211 N.J. 488, 509-510 (2012).

Clearly, many critical events occurred prior to June 13, 2019. For example, George Norcross said of the EOA 'this is for our friends" in 2012. Interactions with the legislature concerning the EOA occurred in 2012 and 2013. Mayor Redd's chief

of staff told CFP CEO-1 to meet regularly with Philip Norcross in 2013.The machinations concerning the transfer of the L3 Complex occurred in 2014. Cooper Health moved into the L3 Complex in 2015. George Norcross's threat to "f**k Developer-1 up like he had never been f**ked up before" and to make sure he would never do business in Camden again occurred in 2016. Discussions concerning a declaratory judgment action regarding condemnation rights occurred in 2016. Tax credits were applied for in 2016 and authorized by the EDA in March 2017. CFP CEO-1 was told George Norcross wanted to move people around in mid-2017 and Redd took her new job in January 2018. DPI filed suit against Camden and the CRA in 2018. Any extortion to obtain property was complete by 2019.

Nonetheless, the State argues that at least three elements of the RICO conspiracy continued into the present: "(1) enriching themselves and obtaining effectively property through EOA (Grow NJ and ERG) tax credits over a ten-year period; (2) promoting compliance with the Enterprise's demands by intimidating and retaliating against those who defied them; and (3) concealing the illegal activities of the Enterprise." Pb112.

First, the State argues that a central objective of the RICO conspiracy was to obtain the Grow-NJ and ERG tax credits to offset costs incurred in planning, constructing, or occupying a specific property. Firms controlled by or associated with George Norcross, Brown and O'Donnell received and sold the tax credits in

2022 and 2023. These defendants remain eligible to seek credits in relation to the extorted property interests through 2030. The State believes that because these defendants continued obtaining and selling tax credits after June 2019, prosecution for the RICO conspiracy is not time-barred. The objectives of the conspiracy were not yet accomplished or abandoned, as contemplated by Cagno, 211 N.J. at 509-510. The State believes the receipt and/or sale of the tax credits, which were obtained only because of the acquisition of property rights through extortion, constitutes the required continuing course of conduct. The State further asserts that that a conspiracy for economic gain continues until the accomplishment of its economic objectives. United States v. Rutigliano, 790 F.3d 389, 400 (2d Cir. 2015).

Defendants also all argue that the tax credits received in the five years preceding the Indictment cannot be construed as "proceeds" of a crime regarding the Financial Facilitation offenses. These offenses are alleged as part of the pattern of racketeering activity. Defendants suggest that the criminal facilitation offenses do not state offenses on their own terms but instead require the possession or use of property derived from some other crime. The tax credits in this case are not proceeds of a crime. The Indictment itself describes the conditions precedent for obtaining Grow NJ credits and ERG credits. Ind. ¶¶ 26-29. To obtain the tax credits, "a business had to show that the provision of tax credits was a material factor in the decision to make a capital investment in Camden as well as demonstrate that the

capital investment and creation of jobs would result in a net positive benefit to the State at least equal to the amount of tax credits requested" Ind. ¶ 29.

The Indictment never alleges that any business sought or received tax credits for which it was not eligible. There is no allegation of fraud in the application process. Indeed, the submitted applications were approved by the State of New Jersey and the credits were paid and apparently will continue to be paid. One must think that the State would have the ability to deny payments if it, for any reason, concluded that there was a crime actively being committed.

This court does not believe that the continued receipt of properly sought and approved tax credits extends any conspiracy to the present time. To accept the State's argument, "…no conspiracy would end until every conspirator no longer retained any economic benefit no matter how residual." United States v. Kang, 715 F. Supp. 2d 657, 679-680 (D.S.C. 2010). Defendants correctly argue that in this case the immediate object of the various alleged schemes was to extort property rights and all of that was complete before 2019. "The fact that Defendants then allegedly used those rights to do other things – e.g. build a new office tower, move jobs into Camden, and ultimately apply for tax credits, all perfectly legal in its own right – does not extend the alleged conspiracy." Drb29[4].

[4] All references to the defendants reply brief will be cited in accordance with Rule 2:6-8.

This conclusion is supported by what has been referred to by the parties as the Doherty/Grimm exception. United States v Doherty, 867 F.2d 47,61 (1st Cir. 1989); United States v Grimm, 738 F.3d 498, 503 (2d Cir. 2013). These cases stand for the proposition that a conspiracy for economic gain does not continue until the accomplishment of the conspiracy's economic objectives if those economic objectives are achieved through the receipt of serial payments that are "lengthy, indefinite, ordinary…noncriminal and unilateral." Grimm 738 F.2d at 503.

The tax credits here were received by uncharged entities associated with defendants George Norcross, Brown and O'Donnell. While that may not have great legal significance, it tends to show a separation between the allegedly extortionate acts and the receipt of legitimate tax credits approved by the State. To receive the tax credits, the businesses must apply and make the appropriate showings of compliance. Ind. ¶ 29. This is a ministerial act. The court is not persuaded by the State's argument that the serial payments are not indefinite because the tax credits are only available until 2030. The on-going payment of these earned tax credits does not operate to extend the limitations period.

Second, the State argues that the RICO conspiracy had an objective of "promoting compliance with the Enterprise's demands by retaliating against those in the way of and opposed to the Enterprise" and "using the Enterprise's reputation for controlling governmental entities to intimidate and threaten those who held

property interests that the Enterprise wanted to acquire" Pb121, citing Ind. ¶ 215(h) – (i). To support this theory of extending the statute of limitations, the State refers to the litigation initiated by Developer-1 concerning the Radio Lofts. Ind. ¶¶ 181-197. Developer-1 filed suit against the City of Camden, the CRA, and others in June 2018 and the litigation settled in 2023. Tambussi represented defendants in the litigation. Developer-1's decision as to when to sue and when to settle, on unfavorable terms, cannot be said to extend the statute of limitations period. The pace of the litigation is not alleged to have been controlled by any member of the "Norcross Enterprise." Statements made by Tambussi in the course of representing clients are immune from civil liability. See Ruberton v. Gabage, 280 N.J. Super. 125, 132-133 (App. Div. 1995).

Third, the State argues the Enterprise made affirmative acts to conceal its illegal operations. Specifically, between October of 2019 and December of 2022, "agents and members and associates of the Norcross Enterprise made statements to the media in order to conceal the true facts surrounding the L3 acquisition." Ind. ¶ 91. These statements are said to advance the ideas that CFP was not capable of purchasing L3, that CFP planned to use Cooper Health funds to finance the deal, and that Cooper Health CEO-1 had unilaterally committed Cooper Health to an above-market lease in L3 without the knowledge of others at Cooper Health. Ind. ¶ 91. These alleged statements are attributed to "an individual identified as a spokesperson

for George Norcross," (Ind. ¶ 91(a)), unidentified Cooper Health officials, Ind. ¶ 91(b), and Tambussi. It is alleged that in May 2022, Tambussi, George Norcross, and others participated in a recorded conference call with a WNYC reporter which was later posted online by the New Jersey Globe. Tambussi said "CFP couldn't "do the deal" and that Cooper Health CEO-1 had unilaterally agreed to a long-term lease for Cooper Health at an inflated rate. Ind. ¶ 91(c). The State says that these statements were not true because CFP had an agreement "in principle" with KPG/MC, Cooper Health officials were aware of lease discussions and viewed the contemplated lease rate favorably even though it was never agreed to. Ind. ¶ 92.

The State acknowledges that "mere overt acts of concealment" are not tantamount to a "conspiracy to conceal" Twiggs, 233 N.J. 513, 543 (2018) (Pb123), but urges the court to view this in the context of a charged racketeering offense which includes concealment of the criminal activity as a conspiratorial objective. It argues the question of whether the alleged conduct actually supported the conspiracy is for a petit jury.

The court disagrees. The plain statement in Twiggs is controlling. The worst that can be said about these alleged statements is that they are "mere overt acts of concealment" Ibid. There is no nexus, even inferential, between these statements and an effort to keep the conspiracy active after the accomplishment of its core objectives. See Grunewald v. United States, 353 U.S. 391, 402 (1957). One

statement was made by a spokesperson, another was unattributed and the third was made by Tambussi, in the presence of George Norcross, years after the occurrence of the relevant events. Recall Cooper Health moved personnel into the L3 Complex in early 2015.

It is clear to the court that Count One is facially time-barred. For the same reasons, none of the other counts of the Indictment subject to a five-year limitations period survive either.

Count Thirteen, the Official Misconduct charge against all defendants, is also time-barred. The time frame alleged for the commission of this offense is between January 1, 2014, and December 31, 2017. Ind. ¶ 240. Mayor Redd left office January 1, 2018. The State argues Count Thirteen survives scrutiny because the Grand Jury alleged that the crime continued until the end of 2017, a time within the limitations period. The State further argues that between June and December 2017, the Enterprise operated continuously. It is asserted that while some conspirators reaped the benefits of their crimes constructing buildings with an eye towards collecting tax credits, Redd planned for post-mayoral employment. Others, including members of the Enterprise, influenced the Legislature to pass favorable pension legislation. Others, including members of the Enterprise, importuned CFP CEO-1, a person with whom some were unhappy, to leave a job he liked. Redd got that job with a good salary and an improved pension. What this comes to though is starkly this: Dana

Redd got a new job at a time she needed one. No action she took between June and December 2017, as described in the indictment, was criminal. Nothing any other defendant did constitutes aiding and abetting.

The State suggests that the job was a reward for faithful service and fidelity to the Enterprise. The Indictment does not consider whether Redd was competent and capable. The theory is that the job was a quid pro quo and a financial reward for corrupt participation, but that is conclusory supposition. It is not a fact which the court must accept as true. Anything Redd did in 2013, 2014, 2015, or 2016 is clearly time-barred. All she did after June 2017 was finish her term and get a job.

The Indictment must be dismissed because, even if all alleged facts are accepted as true, all charges are time-barred.

CONCLUSION

The court grants the motion made by all defendants to dismiss the Indictment. At oral argument, one defense counsel arguing on behalf of all defendants stated "Now, its true, most defendants do not bring this type of motion. As I said, most cases don't raise this type of issue." T60-8 to 60-10. The issue of the facial validity of an Indictment presents infrequently. There is rarely "a fight about where the line is between legal and illegal conduct" and usually "we have a fight about what happened." T10-11 to 10-13. The arguments made by the defense are properly raised

and procedurally appropriate in this case and the court is convinced of the correctness of the defense position.

The Order the court issues today reflects a legal decision. It does not dimmish or disregard the admirable service and effort of a particularly committed State Grand Jury. This court deeply respects its effort. The grand jury "occupies a high place as an instrument of justice in our system of law." State v. Bell, 241 N.J. 552,559 (2020). That high place is not in any way diminished by this decision. In the end, this was a question of law.