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## **INTRODUCTION**

Defendants Senator Dean Skelos and Adam Skelos respectfully submit this memorandum of law in support of their request to: (1) preclude from trial two recordings that the government intends to offer regarding an unrelated legal referral made by Adam Skelos to a New York State Senator (“Senator-A”),<sup>1</sup> and any recordings containing misrepresentations by Adam Skelos about the legislative work being performed by Senator Dean Skelos on behalf of the Environmental Technology Company; and (2) require the government to provide additional context to two other recordings being offered at trial.<sup>2</sup>

### **I. ADAM SKELOS’S PROVIDING OF A LEGAL REFERRAL TO SENATOR-A IS IRRELEVANT TO THIS CASE**

This motion is prompted by the government’s attempt to introduce two recordings designed to blur the line between senate activity and a completely private matter with Senator-A, an attorney who also happens to serve as a senator, in order to improperly bolster its case. As set forth below, since these recordings relate solely to Senator-A acting as a lawyer and not to Senator-A acting in his capacity as a senator, they have no relevance except to draw the improper connections proposed by the government.

#### **Relevant Factual Background**

On October 10, 2015, the government provided approximately 172 draft transcripts to the defense that it may introduce at trial. This package included two transcripts relating to calls involving Adam Skelos’s attempts to obtain an attorney referral for the individual identified in the Indictment as CW-2, in connection with an alleged traffic violation.

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<sup>1</sup> Following a conversation with the government, we removed the names of non-parties and the government’s cooperating witness from the public filing and respectfully request that the Court maintain them under seal.

<sup>2</sup> The defendants are reviewing the draft transcripts provided recently by the government and reserve their right to make additional objections regarding these materials. The parties will confer in an effort to resolve any issues before raising them with the Court.

The first recording (Session 1607) is a call between Adam Skelos and Senator Skelos, during which Adam Skelos simply asked Senator Skelos to text him Senator-A's contact information. (Exhibit A, at 1). Adam Skelos informed Dean Skelos that he was going to reach out to Senator A about the matter, and that his father could let Senator-A know if he saw him. Senator Skelos responded by pointing out that "there's another guy that works for him. Is [REDACTED] still with Senator-A's firm? I think so. Yeah. . . . I think [REDACTED] is his last name, works there too." Dean Skelos added, "call Senator-A and tell him you have somebody that – but, you know, the guy's got to pay something." Adam Skelos acknowledged that the client would have to pay and then added, "I think he's just trying to avoid getting points on his license because it affects insurance." (Exhibit A, at 2).

The second call (Session 1649) took place on January 13, 2015, and involved Adam Skelos and Senator-A. (Exhibit B).<sup>3</sup> During this brief call, Adam Skelos stated, "I have a client and it might – it might be interesting to you. He ran into some trouble in his car talking on the cellphone and now I think he's going to get points on his license. So he asked if I knew anyone who's affiliated with a law firm that, that he could, he could, you know, hire them. And I said well let me call who's helped me with my own tickets." Senator-A responded, "Yeah. Yeah, let him – you know, do me a favor. Have him call . . . my partner [REDACTED]," and then provided Adam Skelos with the telephone number of the attorney. Adam Skelos then stated, "Now, this guy, he also – he happens to be a CEO of an engineering company based in Connecticut. They're starting to do some work here in New York, so it could – you never know it could lead to . . . other stuff."

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<sup>3</sup> On January 12, 2105, CW-2 texted Adam Skelos and stated, "Hey man – any luck with the attorney thing? I only have 15 days (from last Friday) to plea so need to look for options. Appreciate if you have a rec." (Session 1605) (attached hereto as Exhibit E).

In conversations with the government prior to the filing of this motion, it proffered to the defense that it intends to introduce these two recordings as evidence that Adam Skelos, through his father, can put CW-2 in touch with [REDACTED]

[REDACTED].<sup>4</sup> The government also intends to argue that these recordings are an example of using Senator Skelos's influence to assist the Environmental Technology Company, and that they demonstrate that Dean Skelos and Adam Skelos were working together to bring Senator Skelos's influence to bear with respect to people related to the Environmental Technology Company. As set forth below, these recordings do not support the government's arguments and likely will create a prejudicial misimpression with the jury. As such, the evidence should be excluded.

#### **Applicable Law**

Relevant evidence is that which has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Fed. R. Evid. 401. "Implicit in that definition are two distinct requirements: (1) [t]he evidence must be probative of the proposition it is offered to prove, and (2) the proposition to be proved must be one that is of consequence to the determination of the action." *United States v. Kaplan*, 490 F.3d 110, 121 (2d Cir. 2007) (quoting *United States v. Diaz*, 878 F.2d 608, 614 (2d Cir.1989)). It is well-settled that irrelevant evidence is not admissible at trial. *See, e.g., United States v. Lee*, 723 F.3d 134, n. 7 (2d. Cir. 2013) (citing Fed. R. Evid. 402). Even if evidence is relevant, "the trial judge retains discretion to exclude the evidence 'if its probative value is substantially outweighed by a danger of unfair prejudice.'" *Kaplan*, 490 F.3d at 121 (quoting Fed. R. Evid. 403).

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<sup>4</sup> [REDACTED]

### Argument

A simple reading of the two transcripts at issue makes clear that the communications have no bearing on the specific charges contained in the Indictment. Senator-A is an attorney whose law firm has helped Adam Skelos in the past with legitimate legal work, and Adam Skelos is now introducing Senator-A to another possible client.<sup>5</sup> There is no indication in either recording that Adam Skelos was using Dean Skelos's "influence" in order to obtain special access to Senator-A in his role as a senator. In fact, as the recordings make clear, Dean Skelos initially raised the name of a *different* lawyer who might be able to handle the matter and Adam Skelos was amenable to the idea. Exhibit B at 1:24-2:3. If the government's argument had any validity, such back and forth would never have occurred. Simply put, there is nothing connecting these recordings to the charges in this case.

The Second Circuit has explained that when evaluating the relevance of evidence, it "will often be useful to consider the chain of inferences arising from proffered evidence." *United States v. Quattrone*, 441 F.3d 153, 188 (2d. Cir. 2006). To be sure, "so long as a chain of inferences leads the trier of fact to conclude that the proffered submission affects the mix of material information, the evidence cannot be excluded at the threshold relevance inquiry." *Id.* (citing *United States v. Ravich*, 421 F.2d 1196, 1204 n.10 (2d Cir. 1970)). But these two proposed wiretap recordings cannot even meet this minimal standard because the ultimate conclusion from the requisite chain of inferences still does not impact the mix of material information. Since these conversations have no probative value, they should be excluded as irrelevant.

Even if these recordings are in some way relevant – which they are not – their minimal probative value is outweighed by the risk of unfair prejudice. *United States v. Williams*, 577

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<sup>5</sup> The government does not intend to argue that there was anything improper about this legal work.

F.2d 188, 191 (2d. Cir. 1978) (“[I]f the judge finds the evidence is relevant, he must also determine that the probative worth of, and the Government’s need for, the evidence is not substantially outweighed by its prejudice to the defendant.”).

“Evidence creates unfair prejudice if it may ‘lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged.’” *United States v. Cummings*, 60 F.Supp.3d 434, 438 (S.D.N.Y. 2014) (quoting *Old Chief v. United States*, 519 U.S. 172, 180 (1997)). The Second Circuit has made clear that evidence is prejudicial “when it tends to have some adverse effect upon a defendant beyond tending to prove the fact or issue that justified its admission into evidence. The prejudicial effect may be created by the tendency of the evidence to prove some adverse fact not properly in issue or unfairly to excite emotions against the defendant.” *United States v. Figueroa*, 618 F.2d 934, 943 (2d. Cir. 1980) (internal citations omitted).

Here, the risk of prejudice is particularly high if the government is permitted to make its proffered arguments about what these recordings demonstrate. While the defense can argue the irrelevance of this evidence to the jury, it should not be required to do so, particularly in this case where Senator -A’s position alone could create the suggestion of some “high level access.” The prejudice is compounded here because the government intends to introduce other recordings (e.g., Sessions 690 and 1066) where Dean Skelos and Adam Skelos talk about Senator-A’s activities as a senator in a completely different context. As such, the misimpression that the government hopes to make with these personal calls could impact how the jury sees these other calls or vice versa.

In sum, defendants respectfully request that the government be precluded from introducing Sessions 1607 and 1649 at trial.

**II. THE GOVERNMENT SHOULD NOT BE PERMITTED TO INTRODUCE STATEMENTS OF ADAM SKELOS THAT IT KNOWS ARE FALSE UNLESS THEY PROFFER THAT DEAN SKELOS WAS AWARE OF THEM**

In its June 22, 2015 disclosure letter, the government informed the defense that it “intends to offer evidence and argument that as part of the scheme [relating to Design Build and P3 Legislation], Adam Skelos – with the understanding of Dean Skelos – at times exaggerated and/or misrepresented support Dean Skelos was providing or would provide for [the Environmental Technology Company’s agenda. . . .]” (Disclosure Letter, at 3).<sup>6</sup> The government should not be permitted to introduce any such evidence since it is irrelevant and highly prejudicial unless the government can establish that Senator Skelos, the public official capable of taking, or agreeing to take, official action, was aware of them. Since the government has not proffered such evidence, the government should be precluded from offering such statements at trial.

As the Court pointed out in its opinion denying defendants’ motion to dismiss, “extortion or bribery occurs when an unlawful payment is made in exchange for ‘official action.’” (10/20/15 Opinion, at 4 – Document 47). The Court further determined that “both the Hobbs Act and § 666 apply even where an official action is not ever carried out.” (10/20/15 Opinion, at 7). While the Court’s decision forecloses the issue of whether an official act is required to be proven in order to establish guilt, evidence relating to “official acts” is still relevant since it goes to the issue of a defendants’ intent to enter into the alleged unlawful agreement. *See United States v. Bruno*, 661 F.3d 733, 744 (2d Cir. 2011) (a jury could infer that the public official fulfilled the bribery *quid pro quo* “from evidence of benefits received and subsequent favorable treatment” through official actions taken).

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<sup>6</sup> A redacted copy of the June 22, 2015 Disclosure letter was attached to the defendants’ motion to dismiss and an unredacted copy was provided to the Court at that time.

If admitted, the recordings prejudice both defendants and therefore should be excluded because they will leave the jury with the misimpression that Senator Skelos took certain legislative actions on behalf of the Environmental Technology Company that the government appears to concede that did not happen. (*See* Disclosure Letter, at 3). The jury could rely on this erroneous suggestion of legislative action as evidence of Senator Skelos's intent to enter into an unlawful *quid pro quo*.

Without a proffer by the government establishing that Dean Skelos knew about these misstatements, they do not have "any tendency to make the existence of a fact [that is of consequence to the determination of the action] more or less probable than it would be without the evidence." Fed. R. Evid. 401, 402. In fact, they would only serve to confuse the jury.

For these reasons, any statements by Adam Skelos regarding actions by his father known to be false by the government should not be admitted into evidence unless the government proffers that Dean Skelos was aware of the communications and adopted them as his own.

### **III. THE GOVERNMENT REDACTED RELEVANT AND CONTEXTUALLY REQUIRED PORTIONS OF TWO RECORDINGS**

Defendants object to the government's proposed exclusion of sections of two wiretap recordings because the redacted portions provide important context to the conversations sought to be admitted by the government.<sup>7</sup> This type of selective excerpting that "distorts [the] meaning," of defendants' statements is precisely the type of concern that the rule of completeness set forth in the Federal Rules of Evidence was designed to guard against. *See United States v. Benitez*, 920 F.2d 1080, 1087 (2d. Cir. 1990); *See, e.g., Beech Aircraft Corp. v. Rainey*, 488 U.S. 153 (1988). The government therefore should be precluded from offering the wiretap recordings in their proposed redacted form and instead be required to add the limited

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<sup>7</sup> The government's proposed draft transcripts for these calls are attached hereto as Exhibits C and D. For the Court's convenience, we have included in red the additions proposed by the defense.

additions requested by the defendants so that the evidence is in a manner that includes the additional context “necessary to explain the admitted portion.” *United States v. Castro*, 813 F.2d 571, 575–76 (2d Cir.1987), *cert. denied*, 484 U.S. 844 (1987) (citations omitted).

### **Relevant Facts**

Both calls at issue in this motion relate to communications between Adam Skelos and CW-2 during February 2015. During the first recording (Session 2534), which occurred on February 11, 2015, Adam Skelos and CW-2 discuss the possibility that the *New York Times* may be publishing an article about an investigation of Dean Skelos and Adam Skelos. (Exhibit C). In the portion of the call included by the government, Adam Skelos conveyed his concerns about the possible article, stating, “Like I'm nervous about -- okay, so there's some reporter that -- from the *New York Times* that might be putting together a story regarding like real estate.” Exhibit C at 1:13-16. He then explained that the article may have been related in part to issues regarding a meeting Adam Skelos and CW-2 had with a New York State Senator. *Id.* at 1:23 – 2:16. The government cuts off the conversation after Adam Skelos noted that another senior executive at the Environmental Technology Company had said that *The New York Times* had been on [the Company's] Web site like 12 times that day -- or that week. He thought -- and maybe because of, you know, them wanting to do a story about water purification, I just have a feeling it might be this reporter snooping around, trying to build a story.” *Id.* at 2:24-3:3. In the very next sentence (now omitted), Adam Skelos continued discussing his role with the Environmental Technology Company, by stating, “we have done nothing wrong. Everything has been RFP'ed and done by the book.”

The second recording (Session 2811), which occurred on February 23, 2015, was in connection with CW-2's upcoming meeting with a different New York State senator. Towards the end of the government's proposed excerpt, Adam Skelos advised CW-2 that he had to

“distance himself from being in official like meetings.” (Exhibit D at 6:20-21). He then added, “it's just better to, you know, to keep like you being like the layer of protection between like me and them.” (*Id.* at 7:2-3). Adam later noted that “with everything that's been going on, it just -- I've been trying to be more cautious than average just because, you know, you never want a problem.” (*Id.* at 8-11). The government cuts off the conversation after Adam Skelos stated that “you never want someone to be able to say, oh, he was -- you know, he met with staff on the data then to, you know, it just -- it would become a problem and it really doesn't need to be.” (*Id.* at 13-16). The government's proposed transcript omits the completion of Adam Skelos's statements on this subject; namely that “everything we are doing now we could legitimately say is above board, and let's -- you know, we'll just keep it that way. And we can get this done by doing it that way, too.”

As set forth below, both of these two short, but crucial, additions are necessary to allow the jury to fairly understand these two communications and, therefore, should be included in the government's offering of the recordings.

#### **Applicable Law**

The “rule of completeness” set forth in the Federal Rules of Evidence provides that “[i]f a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part — or any other writing or recorded statement — that in fairness ought to be considered at the same time.” Fed. R. Evid. 106. As the Second Circuit has explained, the rule of completeness is violated “only where admission of the statement in redacted form distorts its meaning or excludes information substantially exculpatory of the declarant.” *Benitez*, 920 F.2d at 1086-87 (quoting *United States v. Alvarado*, 882 F.2d 645, 651 (2d. Cir. 1989)). Even though a statement may be hearsay, an “omitted portion of [the] statement must be placed in evidence if necessary to explain the admitted portion, to place the admitted

portion in context, to avoid misleading the jury, or to ensure fair and impartial understanding of the admitted portion.” *United States v. Castro*, 813 F.2d 571, 575–76 (2d Cir.1987), *cert. denied*, 484 U.S. 844 (1987) (citations omitted).

When faced with evidence presented in redacted form, the most important consideration is to ensure that the information is being offered in a fair and accurate manner that does not improperly manipulate the meaning of the underlying statements. As part of this evaluation, it is necessary to take into account the complete circumstances of the conversation being offered: “courts historically have required a party offering testimony as to an utterance to present fairly the ‘substance or effect’ and context of the statement.” *United States v. Castro*, 813 F.2d 571, 576 (2d. Cir. 1987). Put simply, the testimony “should at least represent the tenor of the utterance as a whole, and not mere fragments of it.” *Id.* at 576 (quoting 7 Wigmore on Evidence § 2099, at 618 (Chadbourn rev. ed. 1978)). In setting forth the proper approach for an analysis under the rule of completeness, the Second Circuit has emphasized that it is important to “remain guided by the overarching principle that it is the trial court's responsibility to exercise common sense and a sense of fairness to protect the rights of the parties while remaining ever mindful of the court's obligation to protect the interest of society in the ‘ascertainment of the truth.’” *Castro*, 813 F.2d 571 at 576 (citing Fed.R.Evid. 611(a)).

### **Argument**

The proposed redactions, without the small additions proposed by the defense, clearly do not “present fairly the substance or effect and context” of the communications being offered, as required by the rule of completeness. *Castro*, 813 F.2d at 576. To the contrary, the carefully-selected excerpts proposed by the government convey a misleading impression of the statements being made by Adam Skelos and CW-2, and omit the fact that the concerns raised in each call had nothing to do with fear of having any criminal conduct revealed. Only by including the

requested additional statements is it possible to “ensure fair and impartial understanding of the admitted portion” and place the redacted portions in proper context. *Id.* at 576.

The portion of the February 11<sup>th</sup> recording sought by the government reflects Adam Skelos’s concern that he or his father might be the subject of an unfavorable newspaper article. In present form (without the additions), the government will be free to argue, and the jury might incorrectly conclude, that Adam Skelos was concerned about the article because he had something to hide. This misperception would be quickly corrected by including Adam Skelos’s very next statement to CW-2. As Adam explained at the time without any knowledge that his communication was being secretly recorded, “we have done nothing wrong. Everything has been RFP’ed and done by the book.” These additional two lines therefore are necessary to “place the admitted portion in context.” *Castro*, 813 F.2d at 576.

The proposed excerpt from the February 23<sup>rd</sup> communication is similarly misleading without the defendants’ proposed addition. In this conversation, Adam Skelos and CW-2 discuss upcoming meetings scheduled between CW-2 and certain New York State senators. The government highlights a portion of the recording during which Adam Skelos talked about wanting to “distance himself” from the meetings and “not become a problem” in light of “everything that’s been going on,” referring to the media attention being devoted the government’s investigation of Senator Skelos. The sentence added by the defendants -- that “everything we are doing now we could legitimately say is above board, and let’s – you know, we’ll just keep it that way. And we can get this done by doing it that way, too” provides important context and an accurate description of the highlighted exchange. As such, it should be included in the proposed transcript.

While it is understandable why the government would like to keep these portions of the

recordings from the jury, the Court should “remain guided by the overarching principle that it is the trial court's responsibility to exercise common sense and a sense of fairness,” *Castro*, 813 F.2d at 576, and ensure that the clarifying statements made by the defendants are included.

**CONCLUSION**

For the reasons set forth above, we respectfully request that the Court rule that the government: (i) shall not introduce the recordings identified as Sessions 1607 and 1649 or otherwise introduce evidence relating to this issue; (ii) shall not admit any misstatements by Adam Skelos relating to Senator Skelos' legislative support for the Environmental Technology Company agenda, without a proffer by the government that Senator Skelos was aware of such statements; and (ii) include the requested additions to Sessions 2534 and 2811 in the final recordings introduced into evidence.

Dated: October 23, 2015

Respectfully submitted,

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ADAM SKELOS, :
  
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Recorded Telephone Calls

ADAM SKELOS Cellphone

Call Date: January 12, 2015  
Call Time: 10:14:50  
Session Number: 1607  
Participants: ADAM SKELOS  
DEAN SKELOS

Audio File Name: [REDACTED] VZW 2015-01-12 10-14-50 01607-001.wav

1 (Phone ringing)

2 ADAM: Hi.

3 DEAN: Hi.

4 ADAM: What's going on?

5 DEAN: Nothing. Just in the office talking with

6 [REDACTED] and --

7 ADAM: Are you upstate or downstate?

8 DEAN: No, I'm upstate.

9 ADAM: Oh, okay. Can you do me a favor?

10 DEAN: Sure.

11 ADAM: Can you text me [SENATOR-A]'s contact  
12 information?

13 DEAN: Sure.

14 ADAM: All right. I --

15 DEAN: Yeah, I'll, I'll, I'll send it to you --  
16 I'll send it to you right now.

17 ADAM: Is he up there or is he down?

18 DEAN: He's -- he will be up here.

19 ADAM: All right. I'll, I'll try him today, but  
20 if you see him before I talk to him, just let him know I  
21 got to reach out to him about something.

22 DEAN: Okay.

23 ADAM: But I'll try and get a hold of him today.

24 DEAN: Okay. And there's a -- there's another  
25 guy that works for him. Is [REDACTED] still with [SENATOR-

1 A]'s firm? I think so. Yeah. There's a young guy that's  
2 from [REDACTED] area. I think [REDACTED] is his last name,  
3 works there, too.

4 ADAM: Okay.

5 DEAN: But, huh?

6 ADAM: You want me to, you want me to call him  
7 instead?

8 DEAN: No, call [SENATOR-A] and tell him you have  
9 somebody that -- but, you know, the guy's got to pay  
10 something.

11 ADAM: Yeah, yeah, of course.

12 DEAN: Okay.

13 ADAM: I think he's (indiscernible)

14 DEAN: Give him a call. I'll, I'll send -- huh?

15 ADAM: I think he's just trying to avoid getting  
16 points on his license because it affects insurance.

17 DEAN: Yeah. Oh, I know.

18 ADAM: So (indiscernible)

19 DEAN: I know. He can't --

20 ADAM: (Indiscernible)

21 DEAN: For sure, for sure. All right. I'll get  
22 it to you in a little bit. Let me run.

23 ADAM: All right. Thanks, Dad.

24 DEAN: Okay. Bye-bye.

25 ADAM: I love you. Bye.

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Recorded Telephone Calls  
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ADAM SKELOS Cellphone

Call Date: January 13, 2015  
Call Time: 14:27:56  
Session Number: 1649  
Participants: ADAM SKELOS  
[SENATOR-A]

Audio File Name: ██████████ VZW 2015-01-13 14-27-56 01649-001.wav

1 A. SKELOS: Hello?

2 [SENATOR-A]: Yeah, hi, Adam. It's [SENATOR-A].

3 How are you? Happy New Year.

4 A. SKELOS: Oh, hey, Happy New Year. How you  
5 doing, [SENATOR-A]?

6 [SENATOR-A]: Good. Thank you.

7 A. SKELOS: So, I actually -- I have a client and  
8 it might -- it might be interesting to you. He ran into  
9 some trouble in his car talking on the cellphone and now I  
10 think he's going to get points on his license. So he asked  
11 if I knew anyone who's affiliated with a law firm that,  
12 that he could, he could, you know, hire them. And I said,  
13 well, let me call who's helped me with my own tickets.

14 [SENATOR-A]: Yeah. Yeah, let him -- you know,  
15 do me a favor. Have him call --

16 A. SKELOS: Yeah.

17 [SENATOR-A]: -- my partner, [REDACTED].

18 A. SKELOS: [REDACTED]? Okay.

19 [SENATOR-A]: The number is [REDACTED] --

20 A. SKELOS: [REDACTED].

21 [SENATOR-A]: -- [REDACTED] --

22 A. SKELOS: [REDACTED].

23 [SENATOR-A]: -- [REDACTED].

24 A. SKELOS: [REDACTED]. Now, this guy, he also -  
25 - he happens to be a CEO of an engineering company based in

1 Connecticut. They're starting to do some work here in New  
2 York, so it could -- you never know, it could lead to --

3 [SENATOR-A]: Oh, good. No.

4 A. SKELOS: -- other stuff. But I figure this  
5 is --

6 [SENATOR-A]: Yeah, glad to help.

7 A. SKELOS: -- at least a good like, you know, a  
8 good segue into something.

9 [SENATOR-A]: Well, I appreciate it. Well, thank  
10 you very much. Yeah, give him my number and I'll see what  
11 I can do to help.

12 A. SKELOS: Awesome. All right. Thanks so much,  
13 [SENATOR-A].

14 [SENATOR-A]: I'll speak to you soon.

15 A. SKELOS: All right. Have a good one.

16 [SENATOR-A]: Bye-bye.

17 A. SKELOS: Bye now.

18 (End of call)

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DEAN SKELOS and :
  
ADAM SKELOS, :
  
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Recorded Telephone Calls

ADAM SKELOS Cellphone

Call Date: February 11, 2015  
Call Time: 16:31:53  
Session Number: 2534  
Participants: ADAM SKELOS  
CW-2

Audio File Name: ██████████ VZW 2015-02-11 16-31-53 02534-001-wav

1 (Phone ringing)

2 CW-2: Hey.

3 A. SKELOS: Hey, what's up?

4 CW-2: Hey, I was curious. [REDACTED] wants to put  
5 out a like short press release on the Bay Park Site, like  
6 getting the notice to proceed on the engineering.

7 A. SKELOS: Um-hum.

8 CW-2: Do you think that that's a, a problem?  
9 It's just for the investment community on his end.

10 A. SKELOS: Can I talk to you as my friend now,  
11 not as a [REDACTED] employee?

12 CW-2: Sure.

13 A. SKELOS: All right. I don't know. Like I'm  
14 nervous about -- okay, so there's some reporter that --  
15 from the *New York Times* that might be putting together a  
16 story regarding like real estate.

17 Now there's nothing that I've ever done that  
18 intertwines, and I'm being like 100 percent honest about  
19 this. Like, I've never done anything with my dad having to  
20 do with that. Like, my dad has no idea about the real  
21 estate business. It's just something that I've, I've  
22 worked in, you know, my entire career.

23 So anyway, somewhere along the line the reporter  
24 was -- dug up something about [REDACTED] in [REDACTED],  
25 and we hadn't -- we had gone out there for [REDACTED] but

1 nothing had ever come of it, you know. It was just -- and  
2 he -- I don't know, he was -- he didn't even sit in the  
3 meeting really. He left.

4 CW-2: Who's [REDACTED]?

5 A. SKELOS: He was a Senator in the [REDACTED]  
6 region.

7 CW-2: Okay.

8 A. SKELOS: He recently left, and it turns out I  
9 think he was doing something illegal with like campaign  
10 funds. I don't know. Nothing to do with us, but we just  
11 set up a meeting because we heard in that area there was  
12 like water contamination issues. Nothing had ever come of  
13 it because just like a lot of municipalities, they were  
14 strapped for funding and, you know, they couldn't pay for  
15 the services that they needed, and that was it for that  
16 time period.

17 But from what I understand, you know, because  
18 this guy was, you know, not on the straight and narrow, you  
19 know, they subpoenaed all his records, and somewhere in his  
20 records it shows that I might have been there with you, you  
21 know, representing [REDACTED].

22 Now I don't think there's anything to worry about  
23 because nothing ever came of it, but the day I met [REDACTED],  
24 [REDACTED] had said that *The New York Times* had been on our Web  
25 site like 12 times that day -- or that week. He thought --

1 and maybe because of, you know, them wanting to do a story  
2 about water purification, I just have a feeling it might be  
3 this reporter snooping around, trying to build a story.

4 A. Skelos: Now, I mean, we've done nothing wrong,  
5 everything has been RFP'd and done by the book. But I, you  
6 know the reason why I'm not going to jump on phone calls  
7 anymore or like attend um, you know, attend any sort of  
8 state meeting is because I have to just be on the side of  
9 caution, you know?

10 [STOP: 3:45]

11 [START: 09:57]

12 A. SKELOS: Did, did anyone from Senator - what  
13 the hell is the guy's name? -- ██████████, Senator ██████████  
14 office call you?

15 CW-2: No, not yet, nor, nor has ██████████ but, you  
16 know, I've been on my cell. I haven't missed any calls or  
17 anything from them, so --

18 A SKELOS: Okay. Yeah, they said they're just  
19 going to -- it's easier for them to just coordinate  
20 directly with you. They might try and do that meeting in  
21 Albany, I think.

22 CW-2: Okay.

23 A. SKELOS: But that's going to be with the  
24 Senate staff member who, who really is involved in like  
25 drafting legislation. So the ██████████ thing is good but ██████████

1 might be better for supporting the bill, you know, just  
2 being along on it.

3 [REDACTED] might even be good for getting like, you  
4 know, the [REDACTED] behind this. It's not going to  
5 be -- really have much opposition, if any, I think, but,  
6 you know --

7 CW-2: What's the [REDACTED] ?

8 A. SKELOS: The [REDACTED]  
9 [REDACTED]. So --

10 CW-2: Oh, okay.

11 A. SKELOS: -- they call them the [REDACTED]  
12 [REDACTED]. But they're the ones who were, you know, obviously  
13 most affected by the storm. And then you get a few  
14 Democrats on the other side because, you know, you have all  
15 the five boroughs in the lower part of Manhattan that was  
16 affected by it. So I really don't see that proposal coming  
17 into much opposition but, you know, good to get the [REDACTED]  
18 [REDACTED] guys on. They were hit the hardest.

19 CW-2: Right.

20 A. SKELOS: Oh, shit. There is ice everywhere.  
21 I don't know. This is fucking dangerous. So anyway,  
22 where -- are you in Connecticut or where are you?

23 CW-2: No, I'm, I'm traveling. But, in fact,  
24 actually I was going to say I'm, I'm going to fly -- I'm  
25 flying into LaGuardia on Friday, like -- I think, I think

1 it's early afternoon.

2 A. SKELOS: Okay.

3 CW-2: And if I'm going to have to do these  
4 meetings by myself --

5 A. SKELOS: Yeah.

6 CW-2: You know, before we were going to do, you  
7 know, like [REDACTED] was going to be like sort of  
8 taking the lead --

9 A. SKELOS: Yeah.

10 CW-2: -- and I was going to present on that, and  
11 now you can't be in the meetings. Either you --

12 A. SKELOS: Yeah, I definitely -- sorry. Go  
13 ahead.

14 CW-2: No, go ahead.

15 A. SKELOS: No, I was saying it's definitely a  
16 good idea if we get together like, even if it's 20 minutes  
17 beforehand, just to kind of prep, you know, what you're  
18 going to or what you need to kind of achieve from the  
19 meeting.

20 CW-2: Well, yeah. But and then I need to  
21 prepare material, too. So if -- like what if like the  
22 [REDACTED] meeting is even like next week? I just am so busy  
23 I need like time to prepare these materials.

24 A. SKELOS: Okay.

25 CW-2: So like are you around on Friday, even

1 like to just grab a quick drink, and then I can like show  
2 you some of the materials we've -- we have just on like P3s  
3 and then like sort of just go through what messages. So I  
4 --

5 A. SKELOS: Yeah, yeah. Absolutely. Definitely.

6 CW-2: Okay.

7 A. SKELOS: Anything you got, and if you want to  
8 e-mail it to me before that, that would be good, and I'll  
9 make some notes, and then we'll get together.

10 CW-2: Okay.

11 A. SKELOS: What time are you going to be in on  
12 Friday?

13 CW-2: It's sometime early afternoon, and then  
14 I've got something in New York that's like going to be  
15 scheduled at some point. So I'll have to get back to you  
16 because it might be that I have to go straight from the  
17 airport into the city --

18 A. SKELOS: Um-hum.

19 CW-2: -- in which case like it would be a lot  
20 easier if you'd be willing to come into the City.

21 A. SKELOS: Yeah.

22 CW-2: Because I've got to go back to Connecticut  
23 then. And so if I'm like out on -- you know, because it's  
24 the day before a 3-day weekend.

25 A. SKELOS: Yeah.

1 CW-2: So I've got to go -- if I'm on Long  
2 Island, then it takes longer to, you know, go through the  
3 traffic --

4 A. SKELOS: Yeah.

5 CW-2: -- whereas if it's New York City, then I  
6 can just shoot up through Westchester. But we can  
7 coordinate that. I mean, are you somewhat flexible?

8 A. SKELOS: Yeah, yeah, I'll, I'll work things  
9 out.

10 CW-2: Okay.

11 A. SKELOS: All right, man. Listen, just that,  
12 that thing I told you about with the possibility and the  
13 whole reporter, just, you know, keep that between us if you  
14 could. I don't want [REDACTED] --

15 CW-2: Yes.

16 A. SKELOS: -- you know, to get nervous talking  
17 to me or all that stuff, so -- or anybody he knows.

18 CW-2: Yeah. And I, I wouldn't -- I mean, it's -  
19 - I wouldn't worry about it. It seems like such a, such a  
20 tenuous connection, you know, like --

21 A. SKELOS: It's really -- it's a stretch, and if  
22 it was like *The Post* or *The Daily News*, I'd say, okay,  
23 well, they'll take anything and write, but *The New York*  
24 *Times*, like they really, you know, do their due diligence.  
25 And if it's nothing, if it's nothing with legs to it, then

1 I don't see them really putting anything out. But, you  
2 know, I, I had to tell you. I've been stressing out about  
3 it, to be honest with you.

4 CW-2: Mmmm. Well --

5 A. SKELOS: But my dad went to Florida for 2  
6 weeks, so he's just like, I'm not dealing with this shit  
7 right now. Yeah, he took a little break in Albany. So  
8 he's taking some time to himself.

9 CW-2: I see. Yeah.

10 A. SKELOS: All right.

11 CW-2: Well, I'll coordinate with you to figure  
12 out what time to meet on Friday if I can. I'm like -- I'm  
13 going to really try to do that because, you know, like now  
14 I'm on my own.

15 A. SKELOS: Yeah.

16 CW-2: So --

17 A. SKELOS: Listen, I will, I will literally  
18 drive, drive there with you, you know, and, and wait  
19 outside with you.

20 CW-2: Yeah, but --

21 A, SKELOS: I just, I just can't go in there, you  
22 know.

23 CW-2: Well, that's, that's fine.

24 A. SKELOS: Yeah.

25 CW-2: And I'll like -- by then I need to have

1 the materials already, like, prepared.

2 A. SKELOS: Yeah.

3 CW-2: So I want to have like -- I want to have  
4 at least a week to work on them, like what, you know, the  
5 structure of it because none of that's been done.

6 A. SKELOS: Yeah. All right. That's, that's a  
7 good idea.

8 [STOP: 16:35]

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA       :  
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v.                                :  
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DEAN SKELOS and                :  
ADAM SKELOS,                   :  
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Defendants.                       :  
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Recorded Telephone Calls



ADAM SKELOS Cellphone

Call Date: February 23, 2015  
Call Time: 14:06:19  
Session Number: 2811  
Participants: ADAM SKELOS  
                  CW-2

1 (Phone ringing)

2 A. SKELOS: Hello.

3 CW-2: Hi.

4 A. SKELOS: All right, so it is important that  
5 you go up to Albany on Wednesday.

6 CW-2: Okay.

7 A. SKELOS: I'll tell you why. You're going to  
8 meet with [REDACTED]. They're, they're -- they have, they have  
9 time, you know, at least a half an hour, if not more, to  
10 sit down with you, but -- and it's not going to be like in  
11 the hallway or anything.

12 I spoke to the person that you're meeting with,  
13 [REDACTED] something, [REDACTED] (ph.) or something like that.  
14 I don't know. Well, he's a staff member, but I think that  
15 [REDACTED] might be even better to go with, you know,  
16 getting something drafted for us and proposing it than [REDACTED],  
17 and that's strictly from the personality point of view of  
18 them.

19 [REDACTED] is going to be great, too, and [REDACTED] will  
20 probably cosponsor it but, you know, the fact that he asked  
21 us to kind of propose some sort -- or to show him some sort  
22 of drafted legislation, which is fine, it just -- you know  
23 how you were hesitant with him saying, yeah, let's do this,  
24 like being psyched about it kind of thing?

25 CW-2: Right.

1           A. SKELOS: We need someone that's psyched about  
2 it because we need it done like now, you know. We can't,  
3 we can't wait a few months and have to -- we don't have  
4 time for convincing. Now, I could convince him but in all  
5 honesty, I think he's like a little nervous about, you  
6 know, me and my involvement, you know, because he's seen me  
7 with you before for something else, not for P3s, so --

8           CW-2: Well, you mean from the, from the meeting  
9 with the town?

10           A. SKELOS: Yeah, he just -- he's very -- here's  
11 the thing with [REDACTED]. He's very conservative, right? So I  
12 think that, you know, he's proceeding with caution with  
13 respect to, you know, proposing some sort of legislation,  
14 but I know that [REDACTED] is like, you know, a  
15 little -- not that he's less cautious but he's more in  
16 supportive of things like this, like they're his -- they're  
17 in his wheelhouse, which is why [REDACTED] and [REDACTED] have always  
18 been my top two guys to go to for this issue. So I think  
19 definitely meeting with [REDACTED] is a good idea on Wednesday.

20           Now I'm seeing [REDACTED] and the guy that you're  
21 meeting, [REDACTED], from his office, that night in Albany  
22 because they're having a fundraiser for the SRCC. I'm  
23 going to that with my dad, along with a few other fund-  
24 raisers, but I'm going to be able to talk to them that  
25 night about everything as far as a time line, you know,

1 pushing it along, when we need things done, what we need  
2 them to do, who they should go for to cosponsor it, you  
3 know. So I'm going to direct them in that, in that  
4 meeting, and it'll all happen this Wednesday.

5 CW-2: Okay. All right.

6 A. SKELOS: Does that sound good?

7 CW-2: Are you still going to see [REDACTED] tonight?

8 A. SKELOS: Yeah, I'm still going tonight. Now  
9 I'm going to tell [REDACTED] that, you know, my guess is that  
10 [REDACTED] is going to need the same thing as [REDACTED] would want,  
11 which is -- what do they ask for? Like what, what it looks  
12 like in other states? I guess that sort of -- what the  
13 actual bill language looks like?

14 CW-2: No, no, no. They just -- it's very common  
15 for them to ask -- you know, you say generally, you know,  
16 here is, here's the policy issue that we're concerned  
17 about, and then they want to know specifically, you know,  
18 okay, but what is it exactly that, you know, I can do? And  
19 that's not unusual.

20 A. SKELOS: Oh, okay.

21 CW-2: So --

22 A. SKELOS: Oh, I thought he was asking for  
23 something a little more like, you know, where -- you know,  
24 where, what have other states kind of done situation.

25 CW-2: No, no, just like what, you know, what,

1 what specifically, you know, the language being requested  
2 is. I mean, remember, these guys have, you know, very  
3 overworked staff.

4 A. SKELOS: Yeah.

5 CW-2: And so it's always easier to say to the  
6 outside expert on the issue, you know, okay, so what's the  
7 specific question, rather than, you know, making them have  
8 to try to figure it out on their own.

9 A. SKELOS: You know, it would, it would actually  
10 be helpful if you had something like that going into  
11 Wednesday's meeting. I mean, it's probably not even a page  
12 of what we're looking to do. Would we be able to provide  
13 them with that?

14 CW-2: Let, let me see if we could.

15 A. SKELOS: All right. And if you want, I could  
16 throw together something and just send it to you and see if  
17 it's good and then, you know, if you want to use that -- I  
18 mean, it's up to you.

19 CW-2: Okay. Let me, let me get back to you on  
20 that.

21 A. SKELOS: All right. Yeah, actually, wait.  
22 Maybe that's a horrible idea, me proposing this and then  
23 coming from my e-mail. I don't know about that. No,  
24 that's a terrible idea. Scratch that off the books  
25 completely.

1           Yeah, it would be good to get something like  
2 that, you know, to these guys sooner rather than later.  
3 But after you have the meeting with them, I'll see you.  
4 We'll, we'll kind of go over what you had talked about and  
5 then I'll, I'll be seeing them that night. Your meeting's  
6 at 4:30, right?

7           CW-2: It's 4 or 4:30. I'll, I'll look at it and  
8 confirm it.

9           A. SKELOS: I -- it's probably, it's probably not  
10 a good idea that you go to the SRCC fund-raiser.

11          CW-2: Oh, I've got to be back that night anyway,  
12 so that's fine.

13          A. SKELOS: Okay. All right. That's -- you  
14 know, technically you are a lobbyist, it's true, but for  
15 you and me to go, it's probably not the best thing, so --  
16 but you're not going to be able to be there anyway. But,  
17 hey, you're a lobbyist now. You're going to start going to  
18 these things.

19          CW-2: Right, right. Yeah, right. Okay. Well,  
20 I'll, I'll look at my schedule and try to, you know, plan  
21 on, plan on doing that.

22          A. SKELOS: Yeah, it's definitely -- you know,  
23 anything that has to be done in Albany, it's always best to  
24 get it done by the Albany people because ultimately they're  
25 the ones -- you know, the district office people, they're

1 spread out throughout the state and they're not -- it's not  
2 that they're not good, it's just that they're not as  
3 involved as the hands-on stuff as the guys are that run the  
4 offices in Albany, you know what I mean?

5 CW-2: Right.

6 A. SKELOS: So this guy, [REDACTED], whatever his name  
7 is, that you're meeting with, he's probably like his head  
8 staffer who handles, you know, everything that goes through  
9 that office. So he's the guy that'll be really actually  
10 doing the work that we need, you know, which is why I  
11 called them and asked them to come to the fund-raiser later  
12 that night. So --

13 CW-2: But, but why, why wouldn't it be a good  
14 idea for, you know, us to be seen together? Isn't it --  
15 you mean that they're not going to get into like talking  
16 about the programs, so they don't really need me or better  
17 like that you just aren't able to talk sort of --

18 A. SKELOS: No, it's better that --

19 CW-2: -- like politics?

20 A. SKELOS: It's better that I distance myself  
21 from being in like official meetings, you know, that have  
22 to do with the state because, one, I'm not a registered  
23 lobbyist and, two, it's a conflict.

24 But me seeing these guys out at stuff that I've  
25 been going to my entire life anyway is fine, and I'll talk

1 to them there about things I need to talk to them about.  
2 But it's just better to, you know, to keep like you being  
3 like the layer of protection between like me and them, you  
4 know, on like official meeting basis.

5 CW-2: Okay.

6 A. SKELOS: Yeah. You know, normally I'd be --  
7 I'm a -- normally, to be honest with you, I'm never really  
8 that cautious. Like, you know me. But with everything  
9 that's been going on, it just -- I've been trying to be  
10 more cautious than average just because, you know, you  
11 never want a problem --

12 CW-2: Right.

13 A. SKELOS: -- you know, or you never want  
14 someone to be able to say, oh, he was -- you know, he met  
15 with staff on the data then to, you know, it just -- it  
16 would become a problem and it really doesn't need to be.

17 CW-2: Right.

18 A. Skelos: So everything what we're doing now, we  
19 can legitimately say is, is above board. Um, and let's, you  
20 know, we'll just keep it that way. Um, and we can get this  
21 done by doing it that way too, you know?

22 CW-2: Mm-hmm.

23 [STOP: 09:11]

24

25

None

Linesheet - Session per Page

User: Vanessa M. Tibbits

Case: 194A-NY-5636957 Target: Adam Line: [REDACTED] VZW File Number:

Session: 1605 Date: 01/12/2015 Classification: SMS Pertinent Duration: 00:00:00  
Monitored By: ebracco Start Time: 10:12:31 EST Complete: Completed Direction: Incoming  
In Digits: [REDACTED] Associate Number: [REDACTED] Participants: [REDACTED]

Content (SMS - Pager)

Hey man - any luck with the attorney thing? I only have 15 days (from last Friday) to plea so need to look for options. Appreciate if you have a rec

Synopsis 1

Comments