

Memorandum

PRIVILEGED AND CONFIDENTIAL ATTORNEY OPINION WORK PRODUCT

To: File

From: Gibson, Dunn & Crutcher LLP

Re: Chebra Interview Memorandum

On February 19, 2014, Eugene Chebra was interviewed by Reed Brodsky and Alyssa Kuhn of Gibson Dunn. Chebra was not represented by counsel during the interview. All information contained herein was provided by Chebra or as indicated. Chebra has not read or reviewed the memorandum and has not adopted or approved its contents. Brodsky began the interview by administering the standard *Upjohn* warnings per Gibson Dunn protocol, and requesting that Chebra refrain from discussing the investigation and interview with others. Chebra stated that he agreed, understood, and did not have any questions.

This memorandum does not contain a verbatim transcript of what was said at the meeting; rather, it is a summary of the discussion that reflects counsel's mental thoughts and impressions and is therefore protected from disclosure by the attorney work product doctrine.

I. Background

In 1976, Chebra received his B.S. in Civil Engineering from the Newark College of Engineering, now the New Jersey Institute of Technology. In 1977, Chebra joined the New Jersey Department of Environmental Protection ("DEP") in the Division of Water Management. Chebra left DEP in 1979 to travel and do social work. He rejoined DEP in 1981 in the Division of Water Quality, Municipal Finance & Construction Element, as a trainee. Chebra currently serves as Assistant Director for the Division of Water Quality. Chebra supervises approximately 63 staff members in his current position. Chebra stated that his primary responsibility is to administer EPA funds to local municipalities for water and waste treatment facilities. Chebra stated that he had no contact with Mayor Zimmer prior to the May 9, 2013 meeting. Chebra explained that in his position at DEP, he typically does not communicate directly with mayors.

II. Superstorm Sandy Aid Allegations

A. May 9, 2013 Meeting with Hoboken and the Rockefeller Group

Chebra attended the May 9, 2013 meeting with Mayor Zimmer, Stephen Marks (Hoboken's Business Administrator), the Rockefeller Group, Fred Worstell (Dresdner Robin), Lori Grifa (Wolff & Samson), and other members of the DEP. Chebra was invited to the May 9, 2013 meeting by Michele Putnam, Director of the Division of Water Quality. Chebra said that he attended the meeting to explain interim and emergency loan programs that Hoboken could apply for to help fund its flood mitigation plan ahead of Federal Emergency Management Agency ("FEMA") and other state financing. Since 1985, the DEP has disbursed over \$6 billion in loans, and takes in approximately \$100 million per year in repayments. When Superstorm Sandy hit, the DEP and the Environmental Infrastructure Trust ("EIT") recognized that there would be billions of dollars in damages, so the DEP worked with the EIT to create the Statewide Assistance Infrastructure Loan ("SAIL") Program, a loan program administered by the DEP and the EIT, which provides financing to municipalities and utility authorities waiting for federal funds for storm and waste water projects. Chebra recalled that the information the DEP provided to Hoboken at the meeting was the same information that the DEP provided to every municipality and utility authority the DEP met with after Superstorm Sandy.

Chebra recalled that the purpose of the May 9, 2013 meeting was to discuss Hoboken's flood mitigation plan, not the Rockefeller Group's North End development project. Chebra recalled that the DEP didn't know the substance of Hoboken's flood mitigation plan before the meeting, but received a scrub of the plan so that the DEP could provide helpful information at the meeting regarding funding sources, permits, and other relevant programs. Chebra did not recall having knowledge of the Rockefeller Group prior to the May 9, 2013 meeting.

During the May 9, 2013 meeting, Chebra recalled that the Hoboken team laid out a map, explained where flooding occurs in Hoboken, and showed the DEP where they hoped to build flood walls and pump stations. Chebra did not recall if Mayor Zimmer or Marks led the meeting, but recalled that Mayor Zimmer spoke about Hoboken's problems with flooding. Chebra recalled that the Hoboken team mentioned that the North Hudson Sewerage Authority ("NHSA") would oversee the bidding process and construction of their project.

Chebra recalled thinking during the meeting that the public-private partnership between Hoboken and the Rockefeller Group was a very positive partnership. While the DEP could help front funding for Hoboken's flood mitigation plan, the DEP's funding would be in the form of a loan, not a grant, so Chebra noted to himself that it would have been more beneficial for Hoboken to work with private entities like the Rockefeller Group that could help pay for Hoboken's flood mitigation plan. Chebra did not recall ever getting the

impression that Mayor Zimmer did not want to partner with the Rockefeller Group or that Mayor Zimmer did not want the Rockefeller Group at the meeting. Chebra recalled Mayor Zimmer being appreciative of the Rockefeller Group's involvement in the flood mitigation plan. Chebra said he thought DEP was meeting with a team that had a problem and was working together to find a solution.

Chebra recalled that the DEP discussed alternative funding sources available for Hoboken's flood mitigation plan. Specifically, Chebra recalled that he conveyed that Hoboken could apply for the interim and emergency loans provided by the DEP and the EIT. In addition, Chebra recalled that Hoboken was interested in land acquisition, something the DEP could fund if Hoboken acquired land that they intended to preserve. Chebra recalled that Linda Coles discussed land acquisition with Hoboken.

Chebra did not recall ever hearing that Sandy aid was tied to endorsements, political affiliation, or the Rockefeller Group's development project in Hoboken. Chebra stated that the representations the DEP made to Mayor Zimmer and Hoboken during the meeting were the same representations the DEP provided to every municipality and authority they met with: the DEP would assist in any way they could and would help municipalities and authorities navigate the FEMA funding process.

B. Post-May 9, 2013 Meeting

After the May 9, 2013 meeting, the DEP continued to help Hoboken navigate funding streams for its flood mitigation plan. During the interview, Brodsky showed Chebra emails that Chebra was copied on between Michele Siekerka, Assistant Commissioner at the DEP, Mayor Zimmer, and David Zimmer, Executive Director of the EIT, among others, discussing 406 Hazard Mitigation funding administered by FEMA. Chebra said he was copied on the emails for informational purposes. Chebra again explained that the DEP could provide loans for water infrastructure projects, but explained that it would have been better for Hoboken if they could get reimbursed through 406 Hazard Mitigation funds because 406 FEMA funding is 90% grant money whereas the DEP and EIT interim loan program is only 19% grant money and the rest must be paid back with 1% interest. Chebra said that the DEP made sure that Hoboken would not be disqualified from FEMA funding if it submitted a Letter of Intent for the DEP and the EIT loans.

Chebra also explained that Hoboken submitted a Letter of Intent to receive a loan for a wet weather pump station on or about October 7, 2013. During the interview, Chebra provided a planning document created by Hatch Mott MacDonald, a consulting engineering firm, for a wet weather pump station to be owned by Hoboken City and operated by the NHSA. Chebra said that Hoboken was one of seventeen projects that the DEP categorized as in dire need. Chebra explained that if and when the "dire need" projects hit the DEP's radar screens, the DEP would prioritize helping those projects move forward.

Hoboken's application for the loan is due on or about March 3, 2014. Chebra explained that Hoboken's pump station project will require "Level 2" review because, among other things, the impact the pump will have on the public. Level 2 review requires a public hearing with a 30-day comment period. Chebra explained that every project is ranked according to scientific, objective criteria. Chebra explained that Linda Coles is the project manager for this program and that Coles reviewed Hoboken's Letter of Intent and provided Hoboken comments.

Chebra stated that in his position at the DEP, he does not communicate with Mayor Zimmer or Hoboken officials. Typically, an engineer within the DEP would reach out to Chebra if there were an issue with a municipality, but Chebra stated that there were no issues brought to his attention regarding Hoboken. Chebra stated that he was surprised by Mayor Zimmer's allegations. Chebra recalled she was a concerned mayor during the May 9, 2013 meeting, but said that her behavior was not unusual for a mayor trying to rebuild after Superstorm Sandy. Chebra stated that the DEP tries to assist the best it can.