

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v.- : S1 15 Cr. 317 (KMW)

DEAN SKELOS and ADAM SKELOS, :

Defendants. :

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**THE GOVERNMENT’S SENTENCING MEMORANDUM**

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Defendants Dean Skelos and Adam Skelos are scheduled to be sentenced on April 28, 2016 at 10:00 a.m. The United States of America respectfully submits this memorandum in advance of the sentencing proceedings and in response to the defendants’ sentencing submissions, dated March 23, 2016.

**I. PRELIMINARY STATEMENT**

By almost any metric, the instant offenses were among the most serious public corruption crimes committed in New York State in recent memory. Accordingly, justice in this case requires a stiff and substantial sentence for each defendant. It must be a sentence that not only addresses the egregiousness of the crimes, the duration of the conduct, and the lucrativeness of the schemes, but also reflects the abiding damage to the democratic process and to the public trust caused by the Senate Majority Leader and his son. It must be a sentence that not only punishes Dean and Adam Skelos for the insidious harm they have caused, but one that also deters other elected officials and promotes respect for the rule of law, consistent with the principles applied by virtually every federal judge imposing a sentence for public corruption crimes of this nature, magnitude, and length.

In addition, justice further requires that Dean Skelos's sentence include a stiff and substantial fine, well above the Guidelines, to reflect both the seriousness of his crimes and also his ability to pay, given the lifelong taxpayer-funded state pension of more than \$95,000 per year that he is scheduled to receive, despite his conviction for criminally abusing his public position.

The seriousness of the criminal conduct in this case is beyond question. As a unanimous jury found, the defendants—for years—brazenly abused the public trust placed in Dean Skelos as one of the state's most powerful officials, by seizing opportunities to illegally convert his public position into private gain, with Adam Skelos alternately threatening both economic and physical harm to accomplish their joint crimes. Specifically targeting businesses that depended almost entirely on favorable treatment from the State for their livelihood, Dean Skelos forced those businesses to pay Adam Skelos hundreds of thousands of dollars for doing nothing (and sometimes for doing worse than nothing). Through their crimes, Dean and Adam Skelos have fed the public's worst fears and suspicions about their government: that our elected officials are not looking out for the public good, but instead looking out only for ways to turn the immense power entrusted in them into personal profit. At a time when the public's trust in their government is at an all-time low, Dean and Adam Skelos—through their conduct and their words—have managed to lower the bar even further. Judges have routinely relied on precisely this kind of public harm analysis in imposing substantial prison terms in similar cases.

The crimes committed here were, of course, all the more serious given the overarching and outsized authority that Dean Skelos commanded. As the Senate Majority Leader, Dean Skelos held a unique position of power and trust. The evidence at trial established that power in New York State government is heavily concentrated in the hands of just three people: the Governor, the Senate Majority Leader, and the Assembly Speaker. The Senate Majority Leader

wields power over such critical issues as which legislation is sent to the floor for a vote and which compromises, if any, are made in all significant budget and policy negotiations. And almost immediately after taking the oath of Senate Majority Leader, Dean Skelos proceeded to violate that oath and launch his multiple criminal schemes—deliberately abusing that enormous power for his own, and his son’s, personal ends. Thus, while any breach of an elected official’s duty of honest services does significant harm to the public, Dean Skelos’s power, stature, and influence vested him with an even greater responsibility, and his corruption did unique harm to the public trust. The Skeloses’ crimes did not just corrupt one vote, but the entire legislative process, causing immeasurable damage to public confidence in New York State government. Accordingly, substantial sentences are necessary in this case to punish the defendants for the vast harm their crimes caused, to deter others from similar violations of the public trust, and to promote respect for the law.

The need for substantial sentences here is further supported by the plentiful sentencing precedents in this District and within the Second Circuit. Those courts have imposed very significant prison terms on public officials, none of whom wielded more official power than Dean Skelos, who were convicted of crimes less serious and of shorter duration than those committed by Dean Skelos and Adam Skelos—even where the other public officials accepted responsibility for their wrongdoing, which Dean Skelos notably continues to fail to do. As described more fully below, at least 14 New York State legislators have been convicted of federal corruption-related crimes in the past ten years, not to mention the many additional local officials similarly convicted. In those cases, the Courts have meted out significant sentences in part because of the special harm caused by public corruption,<sup>1</sup> routinely holding, often in strong

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<sup>1</sup> See U.S.S.G. Manual app. C (Amendment 666) (“The higher alternative base offense

language, that corrupt officials' prior good works and sympathetic pleas from well-meaning supporters cannot outweigh the seriousness and harmfulness of the offense or the needs for general deterrence and to promote respect for the law. Such concerns are even more acute in this case, where Dean Skelos stands as the fourth Senate Majority Leader in a row to face criminal charges (the third convicted), and the first who has been convicted of charges directly involving the abuse of the enormous power of the office of the Senate Majority Leader. As in these other cases, Dean Skelos's prior good works and the defendants' personal circumstances can neither undo the damage caused by his long-running dishonest service nor outweigh the public's interests in promoting respect for the law and general deterrence.

Accordingly, and for the reasons set forth in more detail below, the Government respectfully submits that substantial terms of imprisonment are not just appropriate but necessary in this case in order to vindicate the principles of sentencing as set forth in Title 18, United States Code, Section 3553(a). The Court should calculate a Guidelines range of 151 to 188 months' imprisonment for defendant Dean Skelos, and a range of 121 to 151 months' imprisonment for defendant Adam Skelos. With respect to Dean Skelos, the Government believes that a substantial term of imprisonment is necessary to achieve the purposes of sentencing in this case. That term should be within or approaching the Guidelines range, which would also be a sentence appropriately at the higher end of recent sentences received by other New York State legislators convicted of public corruption offenses in this Circuit.<sup>2</sup> Such a sentence would be just

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levels for public officials reflect the Commission's view that offenders who abuse their positions of public trust are inherently more culpable than those who seek to corrupt them, and their offenses present a somewhat greater threat to the integrity of governmental processes.").

<sup>2</sup> As set forth below, these other officials have received sentences in the general range of six to ten years' imprisonment (with a few exceptions above and below that range). *See infra* pp. 14-21.

punishment given, among other things, that the offense involved an egregious and long-running abuse of power for financial gain by one of the highest ranking and most powerful public officials in New York State. Similarly, for defendant Adam Skelos, a sentence including a significant term of imprisonment is necessary, whether within or approaching the Guidelines range, to adequately address the seriousness and egregiousness of Adam Skelos's repeated acts of criminal corruption—blatantly and constantly abusing his father's powerful public position for his own personal profit.

## II. THE OFFENSE CONDUCT IN THIS CASE

The Court is well aware of the trial record in this case, which overwhelmingly established the defendants' guilt on each of the eight counts of conviction, stemming from the defendants' participation in three separate schemes to monetize Dean Skelos's public position for Adam Skelos's private gain.<sup>3</sup> Relevant to sentencing, the defendants' conduct demonstrated a brazen pattern of pressuring, bullying, and threatening those with substantial official business before the New York State Senate in order to extract payments for Adam Skelos. Through the three main schemes proven at trial, the defendants sought more than \$760,000 in extortion payments, bribes, and gratuities, and ultimately succeeded in obtaining more than \$334,000 to line their family's pockets. All this was done at direct cost to the companies that desperately sought Dean Skelos's official support, while violating and doing immeasurable damage to the public trust.

The Glenwood Scheme. As part of a pre-meditated plan set into motion when it became clear that Dean Skelos would become Senate Majority Leader in January 2011, the defendants launched a concerted campaign to squeeze money out of Glenwood in exchange for Dean

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<sup>3</sup> For a more detailed recitation of the facts proven at trial, the Government respectfully refers to its opposition to the defendants' post-trial motion pursuant to Rules 29 and 33 of the Federal Rules of Criminal Procedure. *See* Docket # 158 at 7-28. Herein, the Government highlights the facts it believes are most pertinent to the sentencing factors.

Skelos's support for the 421-a and rent control legislation worth millions of dollars to the company. Starting in December 2010, and spanning over nearly two years, the defendants directed their demands to Glenwood for payments to Adam Skelos primarily—although not exclusively—through Charles Dorego, Glenwood's general counsel.<sup>4</sup> As Dorego testified at trial, Dean Skelos, on about 10 separate occasions, personally pressured Dorego to find ways to pay Adam Skelos. Adam Skelos, for his part, pressed Dorego on more than a dozen occasions, often within days (or even less) of separate in-person demands by Dean Skelos.

Indeed, perhaps most egregiously, Dean Skelos repeatedly requested that Glenwood steer payments to Adam Skelos—whether through commissions or employment—during meetings in which Dorego and others discussed official legislative business, and even during meetings in which Glenwood specifically asked that Dean Skelos take certain positions on real estate legislation controlled by the State Legislature. (Tr. 483-86). In the face of the constant and unyielding pressure from the defendants, Dorego, with Leonard Litwin's approval, relented and took steps to pay Adam Skelos. (Tr. 597-90). Ultimately, Dorego arranged a \$20,000 direct payment and negotiated a guaranteed \$4,000/month consulting agreement from Abtech for a period of up to three years, valued at least at \$144,000 over the lifespan of the contract (not including potential commission payments and stock options), for a total of over \$164,000 in bribe payments from Glenwood, even before getting to the amount later extorted from Abtech in April 2013, as described below.

The Abtech Scheme. Even after obtaining the consulting contract from Abtech arranged by Glenwood, and even though Adam Skelos was making hundreds of thousands of dollars per year during the relevant period (*see* GX-3302), Dean and Adam Skelos were not satisfied. Once

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<sup>4</sup> As was established by trial, the defendants also directed their solicitations to Glenwood's founder, Leonard Litwin, and its chief lobbyist, Richard Runes. (Tr. 424-25, 440-43).



it became clear that Abtech was positioned to win a public works contract with Nassau County, an opportunity that Abtech secured thanks to Dean Skelos's official influence in expediting the issuance of a Request for Proposal for the project, the defendants sought even more money.

Specifically, as memorialized in an April 10, 2013 email that Dorego sent Abtech, the defendants demanded a "4% commission" on the total value of Abtech's contract with Nassau County, which at the time was slated at approximately \$10,000,000, and which ultimately rose to \$12,000,000. (GX-1337). If Adam Skelos did not receive the 4% commission, the defendants threatened to not "push[] through" the "legislation and the RFP" being sought by Abtech. (*Id.*)<sup>5</sup>

Given the importance of the Nassau County contract to the fledgling company, Abtech could not ignore the defendants' extortionate and illegal demands for a bigger payday. As Glenn Rink, Abtech's CEO, testified, the threat amounted to a "death threat or death knell" to the company. (Tr. 1075). Bjornulf White, Abtech's Vice President of Business Development, described being "shock[ed]" by what he described as the defendants' attempt to hold the company "hostage." (Tr. 1313-14). Abtech decided that it needed to "accommodate" the defendants' demands given the company's belief that the defendants could—and would—in fact block Abtech's ability to win the lucrative contract. (Tr. 1075). Thus, although the company could not afford to pay the defendants' request for a "4% commission," Abtech agreed to

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<sup>5</sup> Dorego testified to the content and nature of a call he received from Adam Skelos on this subject as follows:

Adam called and was as angry as I had ever heard him before. He was furious that he'd been doing all this and his father was helping him, and they were -- he was angry that when they finally saw the breakdown of this particular project, that the engineers were going to make more money than him. And he was furious, and that I should tell Glenn that this is probably going to stop or we're not going to do it. My dad's going to stop, or whatever, or I forget the exact words. But they were furious, and they were going to stop whatever they were doing.

(Tr. 618-19).

increase Adam Skelos's monthly payments to \$10,000 a month, something that he was plainly not entitled to under his contract. (Tr. 1075-1076). After Abtech agreed to make the hostage payments to Adam Skelos, Dean Skelos held up his end of the bargain by contacting County officials while Abtech's contract approval was still pending, pressuring County executives to fund Abtech's contract, and advocating for New York State funding and legislation being sought by the company.

In total, the defendants solicited and attempted to obtain \$480,000 in extortion and bribe payments (4% of the total not-to-exceed value of the Abtech contract, which ultimately became \$12,000,000), and successfully obtained approximately \$88,000 in extortion and bribe payments from Abtech following the April 10, 2013 email.<sup>6</sup>

PRI Scheme. Finally, the defendants participated in yet a third brazen corruption scheme, this time targeting a company called PRI. Just like Glenwood, PRI was based in Nassau County and depended heavily on legislation controlled by Dean Skelos. At the same time that the defendants were pressuring Dorego to pay Adam Skelos, they embarked on a similar plan to obtain money from PRI and its CEO, Anthony Bonomo.

Similar to Dorego, Bonomo was the recipient of numerous requests from Dean Skelos to direct business to Adam Skelos and his family. And even after Bonomo agreed to direct some court-reporting business to the Skelos family in response to these requests, Dean Skelos continued demanding even more of these court reporting commissions for his son. Dean Skelos used the same *modus operandus* as he did with Dorego by soliciting additional commissions for Adam Skelos from PRI in the very same conversations in which Bonomo sought Dean Skelos's

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<sup>6</sup> The \$88,000 is measured by the additional monthly payments that Adam Skelos received beyond the \$4,000 per month that Dorego originally negotiated for him, to which he was not entitled to under his contract. In total, Adam Skelos collected \$198,000 in payments from Abtech. (GX-3302A).

support for the “extender” legislation PRI needed to remain solvent. (Tr. 1923, 1926-27). Given Dean Skelos’s persistent demands during these conversations, Bonomo ultimately decided to offer Adam Skelos a full-time job with a salary and health benefits beginning on January 2, 2013. (Tr. 1925).

From the outset, Dean and Adam Skelos made clear that Adam Skelos had no intention of actually doing the job for which he was being paid a full-time salary. On his first day of work, Adam Skelos appeared for a few hours and then left. (Tr. 108). The following weeks and months were no better: Adam Skelos went to work for a fraction of the required time (if it all), and falsely filled out time sheets saying that he’d worked full 35-hour work weeks.

When Adam Skelos’s supervisor dared to tell him that he was expected to come to the office and work just like any other paid employee, Dean Skelos called Anthony Bonomo demanding to know why Adam Skelos was being “picked on,” and told Bonomo, in no uncertain terms, that Bonomo had to “work this out.” (Tr. 1947, 1950-51). From that day forward, as Bonomo testified, Bonomo had no doubt that if he fired Adam Skelos he would risk the legislative wrath of Dean Skelos. (Tr. 1951, 1956, 1959). As a consequence, Bonomo continued to pay Adam Skelos for more than two years, even though Adam Skelos did no real work for the company and had even physically threatened his supervisor. During the entire time period it paid Adam Skelos, PRI did not sell one insurance policy to a single medical provider as a result of Adam Skelos. (Tr. 158, 1974). Throughout the same period, Dean Skelos continued to support legislation critical to PRI in the New York State, which is what PRI expected to and did receive in return for paying Adam Skelos. (Tr. 2065, GX-3307).

In total, Adam Skelos received \$116,120 in payments and health insurance benefits from PRI. (GX-3302A).

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In sum, as the jury swiftly concluded at trial, the defendants sought bribe and extortion payments totaling \$760,120 from the three companies, successfully obtaining more than \$334,000, all in exchange for the promise of official actions from Dean Skelos.<sup>7</sup>

### III. THE GUIDELINES CALCULATION

The defendants were convicted of conspiring to commit extortion under color of official right, in violation of 18 U.S.C. § 1951 (Count One), conspiring to commit honest services fraud, in violation of 18 U.S.C. §§ 1349 and 1343 (Count Two), substantive extortion related to Glenwood, Abtech, and PRI (Counts Three, Four, and Five, respectively), and substantive solicitation and receipt of bribes related to Glenwood, Abtech, and PRI, in violation of 18 U.S.C. § 666 (Counts Six, Seven, and Eight, respectively). The Guidelines section applicable to these crimes is U.S.S.G. § 2C1.1.

Dean Skelos. Pursuant to U.S.S.G. § 2C1.1(a)(1), the base offense level for Dean Skelos is 14 because he was a public official. Because the offense involved more than one bribe or extortion, the base offense level is increased by two levels pursuant to U.S.S.G. § 2C1.1(b)(1).

Pursuant to U.S.S.G. § 2C1.1(b)(2), in relevant part:

If the value of the payment, . . . [or] the value of anything obtained or to be obtained by a public official or others acting with a public official, . . . exceeded \$5,000, increase by the number of levels from the table in § 2B1.1 [] corresponding to that amount.

U.S.S.G. § 2C1.1(b)(2). As set forth above, the amount “to be obtained” by the defendants, meaning the amount of bribe and extortion payments they sought from Glenwood, Abtech, and

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<sup>7</sup> The actual payments were comprised of \$198,000 received from Abtech, \$116,120 received from PRI, and \$20,000 received from American Land Services through Glenwood, for a total of \$334,120. This represents the criminal proceeds successfully obtained by the defendants and should be the amount of forfeiture ordered by the Court, jointly and severally, for both defendants. The defendants are also subject to restitution.

PRI, was approximately \$760,120.<sup>8</sup> Thus, Dean Skelos's offense level is increased 14 levels pursuant to U.S.S.G. § 2B1.1(b)(1)(H). Finally, Dean Skelos's offense level is also increased by four levels pursuant to U.S.S.G. § 2C1.1(b)(3), because the offense involved an elected public official.

In total, Dean Skelos's offense level is calculated as 34, which, based on a Criminal History Category of I, results in a Guidelines range of 151 to 188 months.

Adam Skelos. Adam Skelos's offense level calculation mirrors that of Dean Skelos, except that, pursuant to U.S.S.G. § 2C1.1(a)(2), his base offense level is two levels lower because he is not a public official. Accordingly, Adam Skelos's offense level is 32 and, based on a Criminal History Category of I, his Guidelines range is 121 to 151 months.<sup>9</sup>

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<sup>8</sup> This figure is calculated as follows: (1) \$20,000 payment from American Land Services arranged by Dorego; (2) \$144,000 to be paid by Abtech pursuant to the initial, three-year contract with Adam Skelos negotiated and obtained by Dorego; (3) \$480,000 representing the commission payments of 4% of the total contract value demanded by the defendants' from Abtech in April 2013; and (4) \$116,120 in actual payments and benefits from PRI to Adam Skelos. The \$760,120 in intended and actual payments is a conservative figure. It does not include the substantial additional commission payments sought by the defendants from Glenwood, Abtech, and PRI related to title insurance, energy, fracking, and court reporting as part of the scheme. The \$760,120 figure is conservative for the additional reason that, pursuant to § 2C1.1(b)(2), the Court also could calculate the loss according to the value of the benefits received or to be received by the bribe payors, which would have been significantly higher because it would have included more than \$12 million in tax abatements related to the 421-a program received by Glenwood as result of the 421-a extension passed by Dean Skelos during the conspiracy period; the net value of the Nassau County contract won by Abtech; and the value of the PRI extender legislation passed by Dean Skelos during the conspiracy period, without which PRI, a company worth at least \$150 million dollars, would have ceased to exist.

<sup>9</sup> Adam Skelos suggests that his Guidelines Range is 78-97 months, which appears to only count the payments he actually received rather than the \$760,000 that the defendants solicited. The fact that the defendants only actually received more than \$334,000 in payments does not lower the Guidelines calculation because U.S.S.G. § 2C1.1(b)(2) explicitly directs that the Court use the value of anything "to be obtained," if that amount is larger than the amount actually obtained. *See, e.g., United States v. Tejada-Beltan*, 50 F.3d 105, 109 (1st Cir. 1995) ("For purposes of sentencing, there is no distinction between a solicitation of a bribe and a completed bribe."); *United States v. Quinn*, 359 F.3d 66, 680 (4th Cir. 2004) ("The mere fact that

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As the Court is aware, the Guidelines still provide strong guidance to the Court following *United States v. Booker*, 543 U.S. 220 (2005), and *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005). Although *Booker* held that the Guidelines are no longer mandatory, it also held that district courts must “consult” the Guidelines and “take them into account” when sentencing. *Booker*, 543 U.S. at 264.

The United States Sentencing Commission has purposefully established high Guidelines ranges for public corruption offenses. Indeed, approximately ten years ago, the Sentencing Commission increased the offense levels applicable to bribery and extortion offenses. U.S.S.G. Manual app. C (Amendment 666). In doing so, the Commission stated, in relevant part:

This amendment increases punishment for bribery, gratuity, and “honest services” cases while providing additional enhancements to address previously unrecognized aggravating factors inherent in some of these offenses. This amendment reflects the Commission’s conclusion that, in general, public corruption offenses previously did not receive punishment commensurate with the gravity of such offenses. . . . The higher alternative base offense levels for public officials reflect the Commission’s view that offenders who abuse their positions of public trust are inherently more culpable than those who seek to corrupt them, and their offenses present a somewhat greater threat to the integrity of governmental processes.

(*Id.*). The significant recommended Guidelines ranges in this case reflect the considered judgment of the Sentencing Commission, and are the product of the Commission’s stated belief that lenient sentences for public corruption defendants do not adequately reflect the “gravity of

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Muhammad’s bribe was not successful does not prevent us from using the ascertainable benefit that the bribe intended to influence in order to enhance his sentence.”). Moreover, the background commentary to Section 2C1.1 makes clear that the value of the bribes includes bribe payments solicited or attempted to be obtained, but not actually paid, such as, for example, the 4% of the total value of the Abtech contract that the defendants attempted to extort from Abtech. U.S.S.G. § 2C1.1 cmt. (“solicitations and attempts are treated as equivalent to the underlying offense”).

such offenses.” (*Id.*). Accordingly, the Court should give the recommended Guidelines ranges careful consideration as “the starting point and the initial benchmark” for the appropriate sentences in this case. *Gall v. United States*, 552 U.S. 38, 49 (2007).

#### **IV. PRECEDENT OF OTHER FEDERAL PUBLIC CORRUPTION PROSECUTIONS AND SENTENCES IN THE STATE OF NEW YORK**

In the last ten years, at least 14 other New York State legislators have been convicted of federal public corruption-related crimes.<sup>10</sup> Although the Court must, of course, sentence the defendants based on the conduct specific to this case and the defendants’ individual circumstances, in order to fully take into account the seriousness of the defendants’ offenses, the acute need to deter others who might be tempted to follow the defendants’ path, as well as to avoid unfair sentencing disparities, a brief overview of the recent federal prosecutions and convictions of New York State legislators is appropriate.

As detailed below, in virtually all of these other cases, the court imposed substantial terms of imprisonment. In doing so, the sentencing judges stressed, often in strong language, the severe harm to democratic institutions wrought by corruption, as well as the particularly dire need for deterrence in this area. In imposing a seven-year sentence on State Senator Carl Kruger even after a guilty plea, for example, Judge Rakoff noted that public corruption crimes “not only betray[] ... constituents’ trust, but ... strike[] a blow against every principle on which a democracy is founded.” (Ex. A at 42). Similarly, in sentencing State Assemblyman Anthony Seminerio to six years’ imprisonment, also after a guilty plea, Judge Buchwald emphasized that this type of offense “destroys the fabric of our society.” (Ex. B at 19). Although virtually all of

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<sup>10</sup> This figure does not include the many other New York State legislators who were convicted in State court or who were convicted of crimes that did not involve corruption. *See* New York Public Interest Research Group, “A Review of Albany’s Ethical Failures,” December 2015, available at [http://www.nypirg.org/pubs/Albany\\_Ethics\\_Failures\\_2015\\_12.11.15.pdf](http://www.nypirg.org/pubs/Albany_Ethics_Failures_2015_12.11.15.pdf) (listing 41 state officials convicted since 2000) (last visited Mar. 29, 2016).

these cases involved mere rank-and-file members of the State Legislature and less egregious abuses of power than here, often following full acceptance of responsibility (unlike here), the judges nonetheless saw fit to impose substantial terms of imprisonment, largely in the range of six to ten years' imprisonment (with a few exceptions above and below that range). Considering the seriousness of the defendants' offenses, their abuse of Dean Skelos's position as the Senate Majority Leader, as well as their continued refusal to recognize the severity of their misconduct and the special nature of the harm caused these precedents overwhelmingly support a substantial and stiff prison sentence for Dean Skelos and Adam Skelos at least at the higher end of the range of these recent public corruption sentences, and within or approaching the applicable Guidelines ranges.

1. United States v. Carl Kruger, 11 Cr. 300 (JSR)

Carl Kruger, a former colleague of Dean Skelos in the New York State Senate, fully accepted responsibility for his criminal conduct by pleading guilty to corruption charges resulting from his participation in two separate bribery conspiracies involving hundreds of thousands of dollars of bribes. Kruger's principal offense involved pressuring a hospital executive who depended on legislation in the New York State Senate to award a contract to a hospice company that employed Kruger's consulting firm. After his guilty plea, Senator Kruger requested a "very lenient sentence" and only a "short" period of imprisonment from Judge Rakoff, which the defense argued would account for the "good Carl Kruger [had] done as a senator, as a community member, and as a family man." 11 Cr. 300 (JSR), Docket #207 at 1-2, 71. After calculating a Guidelines range of 108 to 135 months, based on a loss amount of between \$400,000 and \$1,000,000 and inclusive of acceptance of responsibility credit, Judge Rakoff rejected Senator Kruger's sentencing arguments and imposed a sentence of 84 months (7



years). In doing so, Judge Rakoff described the systemic harm wrought by public corruption and the concomitant need for stiff punishment:

. . . without any need to do so, Mr. Kruger entered into extensive, long-lasting, substantial bribery schemes that, frankly, were like daggers at the heart of honest government. It's really difficult to overstate the evils that are wrought when a government official comes to bribery, let alone one of Mr. Kruger's power and province. We have only to look at other countries to see that once corruption takes hold, democracy itself becomes a charade, justice becomes a mere slogan camouflaging a cesspool of self-interest. When a legislator accepts bribes, he not only betrays his constituents' trust, he strikes a blow against every principle on which a democracy is founded.

Ex. A at 46-47.

Notably, the need for punishment was not overridden by the defendant's cited history of "good works" in office. Judge Rakoff acknowledged that "there is a great deal of good in Mr. Kruger's character and in the way he has conducted much of his life," as evidenced by "the many letters that the Court has received and in the evidence of his activities over many years inside and outside New York government." *See* Ex A. at 46. But Judge Rakoff explained that, "whatever credit is due Mr. Kruger for his good deeds and whatever sympathy one might feel, as I do feel, for a fellow human being who, in the Court's view, feels genuine remorse[,] must be balanced against the huge harm that Mr. Kruger has done that make this country, and the principles for which it stands, the last best hope of democracy. And I think that balance weighs heavily in favor of a substantial sentence." Ex. A at 47. Unlike Senator Kruger, here Dean Skelos has shown no remorse whatsoever for his crimes.

2. United States v. Malcolm Smith, 13 Cr. 397 (KMK)

Malcolm Smith was Dean Skelos's immediate predecessor, albeit for a very brief period, as Senate Majority Leader. Smith was convicted at trial of various corruption offenses that arose

not from his authority as majority leader, but principally from his scheme to bribe Republican Party officials to be placed on the Republican ballot for the 2013 New York City mayoral race. Although Smith requested a sentence of one year and one day, Judge Karas sentenced him to a term of imprisonment of 84 months (seven years), slightly below the Guidelines range of 97 to 121 months. Like other judges, in imposing sentence, Judge Karas observed that, “[t]he corruption of the process is really serious. It has to be respected, most of all by our elected officials.” Ex. C at 24. Judge Karas also noted that a sentence imposed in a public corruption case should be fashioned to give serious pause to other public officials, “who may be in [the defendant’s] position going forward who have to say to themselves I don’t want to face the consequences of not giving my constituents or the people of the State of New York my honest services.” Ex. C at 25. Judge Karas also determined that a sentence of 84 months adequately accounted for the defendant’s prior good acts, explaining:

[I]n any of these public corruption cases there is that tension where presumably the person who has been elected or appointed to some sort of public service position is engaged in public service but if they have taken a bribe or offered a bribe or done something that corrupts the process, then the law takes into consideration the fact they they’re public servants. That’s what makes the crime so serious. It is that we are entitled to expect our public officials to only engage in selfless good deeds and to only legislate in the best interests of their constituents and to act in a way that is exemplary.

Ex. C at 21-22.<sup>11</sup> In large measure, Dean Skelos’s conduct was more serious than Smith’s because Dean Skelos actually abused the power of the office of the Senate Majority Leader to extort bribe payments from companies lobbying him and relying on him to pass legislation.

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<sup>11</sup> In that case, Judge Karas also sentenced former New York City Councilman Daniel Halloran to 10 years’ imprisonment for his participation in the scheme. *United States v. Daniel Halloran*, 13 Cr. 297 (KMK).

3. United States v. Anthony Seminerio, 08 Cr. 1239 (NRB)

Anthony Seminerio, a former New York State Assemblyman, pleaded guilty to corruption charges relating to his receipt of approximately \$1 million worth of bribes from hospitals through a consulting firm. Although the applicable Guidelines range was 135 to 168 months' imprisonment, Seminerio sought a sentence of home confinement, citing his advanced age, significant health issues, and his long career of public service. However, Judge Buchwald sentenced him to six years' imprisonment (72 months), explaining that "[c]itizens are entitled to trust in the integrity of their government. Now is the time to impose a sentence which sends a message that such conduct is unacceptable because it destroys the fabric of our society. This is [a] message to people like you . . . who have a choice, who have options. This sentence must be a message to other public officials who see easy money and a setting in which the ethics rules do little to prevent temptation." Ex. B at 19.

4. United States v. Efrain Gonzalez, 06 Cr. 726 (WHP)

Efrain Gonzalez, a former New York State Senator, pleaded guilty to corruption charges involving the embezzlement of more than half a million dollars from nonprofit groups to cover his personal expenses. Judge Pauley found that the Guidelines range was 108 to 135 months' imprisonment, and sentenced the defendant to 84 months (7 years). In doing so, Judge Pauley also observed the immeasurable damage caused by public corruption crimes:

As an elected official for so many years, you understand better than anybody else in this courtroom that what you did was wrong. . . . In the end, you undermined the public's confidence in the integrity and altruism of their elected officials, and in this respect you have done incalculable damage.

Ex. D at 41-42. In response to Gonzalez's citation to his prior good acts, Judge Pauley explained that "[w]hile he undoubtedly performed some good and generous acts throughout his life and as

a senator, as many of the letters that were submitted to the Court attest, he has brought public disgrace onto himself and the New York State Senate.” *See* Ex. D at 40. Thus, “there is a compelling need to punish him for his venal acts and to ensure general deterrence among those who would try to use their public offices for personal gain.” Ex. D at 41.

5. United States v. Vincent Leibell, 10 Cr. 1198 (WWE)

Former New York State Senator Vincent Leibell pleaded guilty, pursuant to a plea agreement with a stipulated Guidelines range of 18 to 24 months’ imprisonment, to charges stemming from his receipt of at least \$43,000 in cash payments from attorneys doing business in and for Putnam County, and obstructing a federal grand jury investigation into his conduct. Like the defendants here, who are facing much higher sentencing ranges, Leibell requested a non-incarceratory sentence. In sentencing the defendant to 21 months’ imprisonment, Judge Eginton (from the District of Connecticut, sitting in the Southern District of New York by designation) observed that “[g]iven [Leibell’s] more than 30 years of public service, it is not surprising there are those individuals whose lives he has positively impacted.” *See* Ex. E at 35-36. However, Judge Eginton ultimately found that a custodial sentence was necessary, because otherwise “the wrong message would be sent to the public” and it might “encourage others to engage in similar behavior.” Ex. E at 37. Senator Leibell, unlike Dean Skelos, took responsibility for his conduct, which involved substantially smaller bribe payments than those at issue here, as reflected in the applicable Guidelines ranges in the two cases.

6. United States v. Eric Stevenson, 13 Cr. 161 (LAP)

Former New York State Assemblyman Eric Stevenson, a rank-and-file member, was convicted at trial for accepting multiple cash bribes from businessmen in exchange for taking

official actions in their favor. The bribes to Stevenson totaled approximately \$22,000, and his conduct took place over the course of about a year.

Chief Judge Preska calculated Stevenson's Guidelines range as 51 to 63 months, less than half of Dean Skelos's recommended range here, and sentenced Stevenson to three years' imprisonment. In doing so, Chief Judge Preska observed that "the crime of conviction was that of selling an assemblyman's core function for money. It was a betrayal of the responsibility bestowed on an elected official by his constituents for his own self-aggrandizement and not in the service of his constituents." Ex. F at 15. Chief Judge Preska took into account "the good works that [Stevenson] had done," but stated that "there is a need for an incarceratory sentence here to reflect the seriousness of the offense, particularly the betrayal of an elected official's core function. There is certainly a need for an incarceratory sentence to provide general deterrence to others who might be so minded." Ex. F at 15-16.

7. United States v. William Boyland, Jr., 11 Cr. 850 (SLT) (E.D.N.Y.)

William Boyland, Jr., a former New York State Assemblyman and another rank-and-file member, was convicted at trial in the Eastern District of New York of 21 public corruption counts, stemming from four separate corrupt schemes. The applicable Guidelines range was 235 to 293 months' imprisonment, and Judge Townes sentenced him to 14 years' imprisonment (168 months), noting that he had "betrayed the trust of his constituents. He violated his ethical duties as an Assemblyman." Ex. G at 17.

8. Other Examples

Pedro Espada, Jr., another predecessor of Dean Skelos as Senate Majority Leader, was convicted for embezzling money from a not-for-profit institution that received federal funding and filing false tax returns, and was sentenced to 60 months' (5 years') imprisonment. *See*

*United States v. Pedro Espada, Jr.*, 10 Cr. 985 (FB) (E.D.N.Y.). Unlike Dean Skelos, however, Espada did not use his power as Senate Majority Leader to obtain bribe and extortion payments.<sup>12</sup>

State Senator Thomas Libous—second in command to Dean Skelos in the Senate—was convicted for making false statements to an FBI agent to cover up his corrupt efforts to find his son a job with an inflated salary. Under the unique circumstances of that case—the defendant was terminally ill—the Government did not seek an incarceratory sentence, and Judge Briccetti imposed a sentence of six months’ home incarceration. *See United States v. Thomas Libous*, 14 Cr. 440 (VB).

State Assemblywoman Shirley Huntley was convicted of embezzling approximately \$87,700 in state funds from a non-profit. She attempted to cooperate with the Government and made covert recordings, but ultimately did not receive a cooperation agreement and was sentenced to one year and one day of imprisonment. *See United States v. Shirley Huntley*, 13 Cr. 54 (JBW) (EDNY).

State Assemblyman William Scarborough was convicted of theft of government funds for falsely submitting travel expense vouchers for days he did not actually travel to Albany, and was

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<sup>12</sup> Another of Dean Skelos’s predecessors, Joseph Bruno, initially was convicted of honest services fraud in connection with his failure to disclose conflicts of interest arising from his receipt of substantial payments from individuals seeking to do business with the State. Bruno’s conviction and sentence of two years was overturned after the Supreme Court’s decision in *Skilling v. United States*, 130 S. Ct. 2986 (2010) and he was acquitted after a retrial. *See United States v. Joseph Bruno*, 09 Cr. 29 (GLS) (N.D.N.Y.). In commenting on the *Bruno* case in a press interview he gave during the instant conspiracy period, Dean Skelos stated, “There are always going to be some bad apples, whether it’s in a corporation, whether it’s in the Legislature, in all walks of life. We’ve passed a lot of legislation in terms of ethics reform—JCOPE. . . . So we passed an awful lot of reform, and if there’s more that we can do in terms of transparency and other things, we should do it.” *Taking the Lead: A Q&A with Dean Skelos (Part 2)*, City & State (Jan. 5, 2015).

sentenced to 13 months' imprisonment. *See United States v. William Scarborough*, 14 Cr. 354 (TJM) (N.D.N.Y.).

Former Assemblyman Brian McLaughlin was initially sentenced to 10 years' imprisonment for his involvement in crimes including fraud and racketeering, notwithstanding the Government's motion for a downward departure pursuant to Section 5K1.1 of the Guidelines. *See United States v. Brian McLaughlin*, 06 Cr. 965 (RJS). McLaughlin's sentence was later reduced to 72 months after McLaughlin provided additional substantial assistance.

State Senator John Sampson was convicted of obstruction of justice and lying to federal agents, relating to an investigation into his alleged embezzlement of state funds. His sentencing is scheduled for May 6, 2016. *See United States v. John Sampson*, 13 Cr. 269 (DLI) (E.D.N.Y.).

Finally, Dean Skelos's counterpart in the Assembly, former Speaker Sheldon Silver, was arrested in January 2015 and charged with public corruption offenses relating to his receipt of millions of dollars of bribes through payments routed through two law firms to which Silver acted as "of counsel." Silver was convicted at trial and is scheduled to be sentenced on April 20, 2016. *See United States v. Sheldon Silver*, 15 Cr. 93 (VEC).

Dean Skelos's Offenses Were Indisputably Among the Most Serious of These Crimes

As established at trial, given his virtually unmatched position of power, the duration of his misconduct, the multiplicity of his schemes, and the stubbornness of his behavior even in the face of warnings by Senator D'Amato and others, and the even more trenchant warnings that came in the form of so many fellow legislators convicted before him, the magnitude of Dean Skelos's betrayal of the public trust easily exceeds the harm to the public manifest in the other cases discussed herein.

Moreover, the matters on which Dean Skelos repeatedly failed to provide his honest services were of considerable consequence. In exchange for corrupt payments, Dean Skelos negotiated and voted on real estate legislation worth millions of dollars to Glenwood and involving tax breaks worth hundreds of millions of dollars to the real estate industry generally; supported and voted on medical malpractice insurance legislation critical to PRI's survival; and assisted Abtech with a \$12 million county contract and supported significant state budget expenditures. Simply put, Dean Skelos corrupted some of the most consequential decisions on the New York State legislative agenda—corruption far more serious and with much broader effects than, for example, the false travel expenses claimed by William Scarborough, the failed and longshot attempt to get on the mayoral ballot by Malcolm Smith, or the exploitation of not-for-profits done by Pedro Espada, Jr. and Efrain Gonzalez.

The instant offense also stands out in terms of its length and breadth. For over five years, Dean Skelos solicited and received bribe and extortion payments from not one, not two, but three different companies, who were beholden to him because of their reliance on state legislative action and his official influence. Though we are not suggesting that Dean Skelos must receive a 14-year sentence, in its multifarious and long-lasting nature, the instant offense was more akin to that of William Boyland, Jr., who participated in four separate schemes over the course of approximately four years, or that of Pedro Espada, Jr., who participated in four related schemes over the course of five years.

Finally, in terms of the Guidelines (driven largely by the loss amount in these cases), the 151-to-188 month range applicable to Dean Skelos exceeds that of all the foregoing public officials except for William Boyland, Jr. (and, likely, Sheldon Silver). Those officials with the Guidelines ranges closest to Dean Skelos were Anthony Seminerio (135 to 168 months), Carl



Kruger (108 to 135) and Efrain Gonzalez (108 to 135). They were sentenced to six, seven, and seven years' imprisonment, respectively, and as discussed above, their conduct was less serious than here because they did not approach the level of power that Dean Skelos had as Majority Leader. Dean and Adam Skelos's sentence should reflect the greater seriousness of their offenses.

The significant sentences imposed by other federal sentencing judges in this Circuit and the compelling rationales articulated in support of them, which are equally if not more applicable here, animate the need for significant incarceratory sentences for Dean Skelos and Adam Skelos. These cases also illustrate the extent to which public corruption has been an endemic problem in New York State. The defendants' crimes tragically demonstrated that corruption of public office for personal financial benefits reached the very highest levels of New York State—a true “dagger[] at the heart of honest government.” Ex. A at 46. The sentences in this case must account for the seriousness of the defendants' crimes and promote sorely needed deterrence and respect for the law—particularly among elected officials and their associates, who should have no doubt that, if they flout the public's trust like these defendants did, their conduct will be met with severe consequences.

## **V. APPLICATION OF THE RELEVANT SECTION 3553(A) FACTORS**

It is difficult to overstate the seriousness of the defendants' public corruption crimes. Every time a public official commits a crime, his or her conduct taints the body in which he or she serves and the government as a whole. It undermines the core principle of democratic governance that elected representatives should act solely in the interest of the public good. It perpetuates a belief that New York's government is hopelessly corrupt. It unfairly taints those elected officials who are law-abiding and who serve their constituents with integrity. And it

discourages many honest citizens who would otherwise seek out public service (or engage in a meaningful way with their state and local government) from doing so at a time when their service and engagement is sorely needed. In sum, individuals like the defendants who abuse the power and responsibility of representing the people into an opportunity for private gain do true violence to our system of democracy and governance. For the reasons set forth below, the Section 3553(a) factors mandate stiff and significant sentences.

**A. The Nature and the Circumstances of the Offense**

In this case, the defendants engaged in *three* separate corruption schemes. In doing so, they repeatedly sold Dean Skelos's office for personal payments to Adam Skelos, using implicit and explicit legislative threats to those who were particularly vulnerable to Dean Skelos's official powers. Significantly, it was Dean Skelos who approached Glenwood and PRI—repeatedly—about directing money to his son. Though the companies ultimately paid to avoid the prospect of Dean Skelos becoming unsupportive of their needed legislation, it is a significant aggravating factor that the companies did not first approach Dean Skelos or otherwise instigate the violation of his oath to honestly serve the public. To make matters worse, Dean Skelos made these demands for payments for his son during meetings when he was discussing official business. And, in this case, the defendants persisted in such destructive conduct with impunity, even when faced with numerous warning signs—for example, the obvious reluctance of Glenwood and PRI to do personal business with the defendants—that would have quickly deterred others less determined to monetize a position of public trust.

Thus, the scope and nature of the crimes cut sharply against Dean Skelos's characterization of the defendants' corrupt behavior as a "complete aberration." (Dean Skelos Sent. Mem. at 1). Rather, the defendants' crimes were sustained and systematically carried out

over a period of several years, encompassing the entire period during which Dean Skelos was the Majority Leader. In fact, Dean Skelos began soliciting payments from Glenwood and PRI in late 2010, immediately upon learning of his imminent elevation to Majority Leader in 2011. That the defendants abused one of the most powerful positions in the State of New York for private gain makes the defendants' conduct all the more serious. Not only did Dean Skelos represent his district as a State Senator, but his position as Senate Majority Leader also required him to act in the best interests of *all* citizens of the State of New York. The magnitude of the betrayal of the public trust, therefore, is on par with that of former Speaker Sheldon Silver, and as already mentioned, far exceeds the harm to the public that was present in the other cases against State legislators discussed herein.

Dean Skelos's actions surrounding the funeral of a New York City police officer killed in the line of duty vividly demonstrate the extent to which Adam Skelos's financial interests overtook Dean Skelos's sense of public duty. At Adam Skelos's urging, in early January 2015, Dean Skelos called the Nassau County Executive to berate him for, in Adam Skelos's view, inadequately funding Abtech's contract. Dean Skelos pressured the Nassau County Executive, not because he supported Abtech's environmental product, but because his son "felt like he's getting jerked around." (GX-1438-T). The next day, Dean Skelos used the occasion of the funeral of the fallen police officer to explicitly tell County officials that they should pay his son's company. It is hard to imagine a more cynical time and place for an abuse of political power, even in the long annals of public corruption in the State of New York.

Dean Skelos insists that his corruption was somehow less serious because it supposedly did not involve "bags of cash . . . or other sorts of self-enriching payments which are typically associated with public corruption." (Dean Skelos Sent. Mem. at 25, 28). Of course, Dean Skelos

does not and cannot explain how a \$20,000 check for no work, a \$78,000 yearly salary for a job Dean Skelos knew his son was not showing up to, and a demand for a \$480,000 payday (which led to an additional \$6,000-per-month payment from Abtech), also for nothing other than Dean Skelos's use of official power, differ from the "bags of cash" or "self-enriching payments" he describes as being part of typical public corruption cases. (Dean Skelos Sent. Mem. at 28).

Dean Skelos also seeks to justify a non-incarceratory sentence by arguing that his crimes arose "from a father's love for his son . . . a father who wanted to see his son succeed and, as time went by, to provide for his young family." (Dean Skelos Sent. Mem. at 25, 28). The Government recognizes that Dean Skelos was, in some measure, motivated by an unchecked desire to assist his son, who in many ways was a driving force of the schemes. We have taken that into account in not strictly advocating that the Court must impose a sentence within the applicable Guidelines range of 151 to 188 months. However, a dramatic variance of the type Dean Skelos seeks on that basis would not be just. Dean Skelos is and should be held responsible for his actions. He had an abundance of choices and ways to help his son, yet he chose the path of crime and of betrayal of his oath, over and over again. And personal motivations, whatever they might be, do not and cannot wholly mitigate the seriousness of a public corruption offense, particularly when the public official carried out the offense over years and spanning multiple terms in office.

Like all public officials, Dean Skelos took an oath swearing to provide honest services to the people he represented. He renewed that oath (with Adam Skelos literally standing by his side) even while perpetrating criminal schemes of dishonest service. All public officials have families and personal relationships. Corruption laws are necessary to enforce the fundamental tenet that public officials must follow their oaths and act solely in the interests of their

constituents without being influenced by their own financial interests or those of their families. Thus, the defendants' argument that their public corruption offenses do not warrant prison terms because they arose out of personal circumstances is without merit.

Indeed, contrary to Dean Skelos's assertion that his motives were "extraordinary" and "far outside the heartland of public corruption cases," public corruption cases—or any criminal case, for that matter—almost always involve perpetrators seeking ill-gotten gains to support the lifestyles of themselves and their families. Here, Dean Skelos directed the hundreds of thousands of dollars to his son, from businesses that needed Dean Skelos's official actions, to enable Adam Skelos to live a lifestyle that he could not otherwise have afforded if left to his own lawful devices. Moreover, here, as the evidence at trial demonstrated, Dean Skelos also did in fact personally benefit from the corrupt payments because Dean Skelos was financially supporting Adam Skelos. For example, the extortion payments and bribes enabled Adam Skelos to purchase a house without further monetary contributions from Dean Skelos or his assumption of any potential liability as a co-signer on the loan as Dean Skelos had previously committed to do. When the schemes ended, Dean Skelos told Adam Skelos he would increase his financial support. (GX-1533-T). In other words, every dollar successfully extorted was a dollar less that Dean Skelos needed to contribute to Adam Skelos's lifestyle.

The letters submitted in support of the defendants for their sentencing confirm that the defendants had choices; they did not need to target businesses reliant on Dean Skelos for legislation for bribes and extortion payments as they did. As those letters bear out, the Skelos family enjoyed a broad support network made up of successful business people who were not lobbying Dean Skelos, any number of whom could have helped give Adam Skelos a chance to earn a legitimate income. That faced with these myriad opportunities, Dean Skelos chose to

target businesses most dependent on his official actions (and at a time when his power was at its highest as the Senate Majority Leader) reveals that his conduct was more about cashing in on his power to fulfill the family's perceived entitlement than just about helping his son. That is also confirmed by the fact that Adam Skelos was financially well-off by any objective standard, even before Dean Skelos began soliciting the bribe payments. He had owned and resided in a two-bedroom, two-bathroom condominium in Mineola, New York. (GX-208). And even without the bribe payments charged in this case, Adam Skelos's yearly income already was well in excess of \$200,000. (GX-3302). Knowing that Adam Skelos was doing well financially (just not well-off enough by their own entitled standards), Dean Skelos and Adam Skelos misrepresented his financial condition to Glenwood and PRI to increase the corrupt payments they would be willing to pay Adam Skelos.

Dean Skelos's hypocrisy displayed through his public statements and positions serves as yet another aggravating factor. Dean Skelos violated his duty to provide honest services even as he violated the same ethical principles he voted for and then publicly touted. For example, on June 16, 2011, just *three days* after Dean Skelos publicly stated that ethics reform he had just passed was a "significant step toward restoring the public's trust in government," he was meeting in Albany with Glenwood representatives who were lobbying him on legislation and asking them to help Adam Skelos in violation of the ethics laws he passed. (Tr. 513:25-514:8; 514:11-21).<sup>13</sup>

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<sup>13</sup> Indeed, Dean Skelos actually voted in favor of laws prohibiting the very conduct he was convicted of, and publicly touted his involvement in restoring the public's confidence in public officials. On March 7, 2007, Dean Skelos voted in favor of the "Public Employee Ethics Reform Act of 2007." Most relevant here, one of the provisions of this law that Dean Skelos passed prohibited public officials from soliciting gifts from clients of lobbyists, which is precisely what Dean Skelos did in this case. (See GX-1910, at 7). Again, in 2011, this time as Majority Leader, Dean Skelos passed purported ethics reform in the "Public Integrity Reform Act of 2011," publicly stating that it was a "significant step toward restoring the public's trust in government" and that "[i]t shows that we can work together . . . to strengthen the people's faith in their elected

As for Adam Skelos, the egregiousness and sheer criminality of his conduct, proved at trial, can hardly be disputed. Adam Skelos routinely and openly sold his father's office to the highest bidder, often bullying and threatening those he believed were not adequately capitulating to his demands or sufficiently cowering to his own perceived power. Mountains of evidence (both introduced at trial and in proof not put before the jury) established that Adam Skelos brazenly and persistently sought and demanded payments for himself in exchange for official actions from his father, often resorting to means used by professional criminals, including making threats of violence and using a "burner" phone.<sup>14</sup>

Adam Skelos's actions displayed a complete and total disregard for the law, not to mention the special public trust held by his father. Indeed, believing that the law did not apply to him and abusing his father's official power was at the heart of Adam Skelos's personal business plan. Adam Skelos put this criminal attitude on display when he blithely told Bjornulf White that Dean Skelos would stop helping Nassau County if the County did not accede to Adam Skelos's wishes (GX-1435-T) ("I'll tell you this, the state's not going to do a fucking thing for the county. Any favor that [the Nassau County Executive] calls and asks for, it's not

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representatives." The Court should take into account that Dean Skelos violated the very ethics laws he put in place and used to (falsely) build a reputation as a public official who cared about ethics in government.

<sup>14</sup> In addition to the trial evidence that Adam Skelos threatened to injure his supervisor at PRI, the Government's investigation also established that: (1) in February 2013, he threatened to go to the home of the loan officer handling the mortgage loan for the house he purchased with bribe payments and "beat the shit out of him" because he was asking Adam Skelos questions to verify his income; and (2) on February 13, 2012, Adam Skelos called a real estate company that lobbied Dean Skelos, and which had recently declined to renew a contract with Adam Skelos's utility company, and conveyed a message to the president of the company that "[h]is relationship with the Skelos' is effing dead and when I see him, I'm going to kick his effing ass," before hanging up. In both instances, Dean Skelos was personally made aware of the threats. The loan officer called Dean Skelos's office and spoke with him personally about the threat. Similarly, the owner of the real estate company set up an appointment with Dean Skelos and traveled to Albany, where he met with Dean Skelos and told him about Adam Skelos's threat.

happening.”), and when Adam Skelos berated a Greek diner owner for not providing business to him and suggested that his father would retaliate in response (GX-1434-T) (“You had an opportunity to work with someone who could get a lot of things done for you, but now it’s done. . . . For some reason, you thought you were more important and more powerful because you have a few members that, that have diners.”). Nothing about Adam Skelos’s actions and motivations in committing the offenses weigh in his favor—his conduct was repeated, intentional, and driven solely by personal greed.

In sum, as to this first sentencing factor, the defendants’ public corruption crimes were undeniably serious. A significant sentence is thus required to provide just punishment for their offenses.

**B. The Need for the Sentence Imposed to Promote Respect for the Law and to Afford Adequate Deterrence**

The need to promote respect for the law and deter other legislators from engaging in acts of corruption also require substantial sentences here, particularly given the rampant political corruption (proven in multiple prosecutions) that has plagued the New York State Legislature in recent years.<sup>15</sup> Given the harm caused by public corruption crimes, and the extent of the corruption problem in New York, *see supra* pp. 13-21, the sentences here must communicate that these types of violations of the public trust will not be met simply with tough talk but also with significant sentences.

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<sup>15</sup> Indeed, in recent prosecutions by this Office, public officials have been caught on recorded conversations candidly discussing the sad state of affairs in New York government. *See, e.g.*, Assemblyman Stevenson (“Bottom line . . . if half of the people up here in Albany was ever caught for they do. . . .they . . . would probably be [in jail], so who are they BS-ing?”); City Councilman Daniel Halloran (“Money is what greases the wheels – good, bad, or indifferent . . . . That’s politics, that’s politics, it’s all about how much . . . and that’s our politicians in New York. They’re all like that, all like that. And they get like that because of the drive that the money does for everything else. You can’t do anything without the F’ing money.”). These statements, made by public officials in unguarded moments, bring home the dire need for general deterrence.



The defendants' conduct here itself provides a powerful reminder of the dire need for greater deterrence. Dean Skelos persisted in corrupting his official position even after he watched from his perch in the Senate each of his three immediate predecessors as Majority Leader brought down by criminal charges: Joseph Bruno, Malcolm Smith, and Pedro Espada, Jr. If that were not enough, even as Dean Skelos knew he was being investigated for conduct related to his outside income—and continuing through Sheldon Silver's arrest and after the defendants rightly suspected that the U.S. Attorney's Office was investigating the payments to Adam Skelos—the defendants did not stop the scheme, but instead just tried to be more careful in how they continued their crimes.

Among the many earlier wake-up calls that should have led the defendants to stop their ongoing criminal abuse of Dean Skelos's public position was the April 2013 meeting between former Senator Alphonse D'Amato and Dean Skelos. During that meeting, Senator D'Amato warned Dean Skelos that Adam Skelos was treating his PRI position as a no-show job and that the company was unhappy about the arrangement. Rather than take this message as an opportunity to finally clean up their act, Dean Skelos dismissively told Senator D'Amato that his son needed the PRI money and insurance coverage. The scheme continued for two more years.

In seeking a non-custodial sentence, Dean Skelos argues that “[s]urely, any potential offender would view Mr. Skelos' conviction and its attendant consequences on his career and the inability of this 68-year-old man to retool himself together with the shame and public humiliation he has already incurred as strong deterrents to unlawful conduct.” (Dean Skelos Sent. Mem. at 38). The negative consequences to his public career are in no way mitigating factors because the opportunity to serve in an elected position is an honor that must be earned, not an entitlement that generates a debt if it is lost. In this (and so many other) regards, the defendants' requests for

non-custodial sentences with community service requirements are woefully insufficient. To allow the defendants, without a significant period of incarceration, to simply rebuild their reputations by serving the very public they betrayed, would be an outcome that undoubtedly would erode (not promote, as it must) respect for the rule of law and the public's confidence in the ability of the criminal justice system to address public corruption. All convicted felons who committed crimes while enjoying successful careers and public standing suffer grievous reputational harm once they are caught and convicted of their crimes—and rightly so. But this reputational loss is a side-effect of their criminal conduct, not a substitute for appropriate punishment. That Dean Skelos happened to be a politician rather than a businessman or teacher or some other person living in the esteem of the community does not warrant the radical departure from sentencing principles as urged by the defendants. And, perversely, it was that very reputation as a powerful public official enjoyed by Dean Skelos, and by Adam Skelos by extension, which allowed the defendants to commit their crimes.

The obvious need here for general deterrence is just one of many reasons why Dean Skelos's reliance on the lenient sentences imposed in *United States v. McDonnell*, No. 3:14-cr-12 (E.D. Va. 2015), and *United States v. Renzi*, 4:08-cr-212 (D. Ariz. 2013), is grossly misplaced. (See Dean Skelos Sent. Mem. at 41-42). Notably, Dean Skelos cherry-picks cases from other districts, while simply ignoring the many significant sentences handed down by judges in this and neighboring districts for corrupt conduct in the New York State Legislature itself.<sup>16</sup> Yet, Dean Skelos's criminal conduct arose in the context of a long and public history of

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<sup>16</sup> In selectively citing these examples of leniency, Dean Skelos has also conveniently cited two particularly low sentences in public corruption cases in other Districts. For example, he ignores sentences such as those imposed on former Governor Rod Blagojevich in the Northern District of Illinois (168 months), and former Congressman William Jefferson in the Eastern District of Virginia (156 months), among many others across the country who have received

undeterred corruption within the New York State Legislature. Moreover, Governor McDonnell and Congressman Renzi did not have the opportunity that Dean Skelos did to watch as a parade of their peers (and even predecessors) were convicted of criminal offenses and removed from office. Sentences drastically below the Guidelines Range here, as the defendants seek, would ignore the history of undeterred criminal conduct in the New York State Legislature and would create an unwarranted disparity with sentences of other similarly situated corrupt New York State officials.<sup>17</sup>

In addition, the conduct in the cases cited by Dean Skelos is easily distinguishable from the crimes in this case. Former Governor McDonnell engaged in one bribery scheme actively nurtured by the briber. By contrast, Dean Skelos personally initiated and actively extorted the bribe payments from three separate businesses over the course of at least five years. As for former Arizona Congressman Renzi, the sentencing judge found that the bribery scheme was less serious because the conduct related to the congressman's obtaining repayment of a business debt from a previous transaction involving a business partner, rather than "a pure bribery-kickback scheme; for example, no relationship between, say, a congressman and a constituent or anybody else and influence is exerted to profit from that position," which would have been more serious,

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significant terms of incarceration for their public corruption offenses.

<sup>17</sup> Indeed, although sentencing disparities are primarily considered on a nationwide scale under 18 U.S.C. § 3553(a)(6), public corruption defendants convicted in this Circuit are those who are most similarly situated to these defendants because, among other things, they include Dean Skelos's own former colleagues in the Legislature. *See, e.g., United States v. Martin*, 371 F. App'x 638, 642 (6th Cir. 2010) (district court did not err where it stated that 18 U.S.C. § 3553(a)(6) "looks first to national disparities" but "does not prohibit the Court from looking at other disparities, such as disparities within a particular case involving multiple defendants or even disparities within the district"); *cf. United States v. Cavera*, 550 F.3d 180, 195 (2d Cir. 2008) (en banc) ("The environment in which a crime was perpetrated may, in principle, inform a district court's judgment as to the appropriate punishment in any number of ways."); *id.* (affirming district court's sentence based, in part, on need for local deterrence of crime).

in the court's view. (*United States v. Renzi*, Oct. 28, 2013 Tr. 10-11). Dean Skelos engaged in precisely the type of conduct that the sentencing judge in *Renzi* regarded as more serious because Dean Skelos had no prior business relationship with the companies from which he solicited bribes. The payors were constituents lobbying him for legislation when he decided to distort his power to obtain the payments from them for his son.<sup>18</sup>

Specific deterrence also remains an applicable consideration here. With respect to Dean Skelos, while he is no longer in the New York State Senate, he has failed to accept responsibility for his criminal conduct. He has steadfastly refused to show remorse for his violation of the public trust, persisted in characterizing his criminal conduct as simply the result of loving his son too much, complaining of humiliation, and pointing fingers at the immunized witnesses. Against these facts, the Court can appropriately consider specific deterrence in crafting its sentence. *See, e.g., United States v. Martinucci*, 561 F.3d 533, 535 (2d Cir. 2009) (lack of remorse is a pertinent sentencing factor under Section 3553(a)); *United States v. Keskes*, 703 F.2d 1078, 1090-91 (7th Cir. 2013) (“A lack of remorse is a proper sentencing consideration ‘because it speaks to traditional penological interests such as rehabilitation (an indifferent criminal isn’t ready to reform).’”) (citation omitted).

As for Adam Skelos, while his counsel understandably offers something of an apology while arguing for a non-custodial sentence, the fact remains that neither Adam Skelos nor Dean

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<sup>18</sup> Dean Skelos suggests that there is inequity in the fact that the witnesses who testified against him were given non-prosecution cooperation agreements by the U.S. Attorney's office. There is no inequity here because Dean Skelos and Adam Skelos engineered the bribery scheme, not the immunized witnesses. The individuals who testified against them at trial paid Adam Skelos after it became clear from the defendants' conduct that they had to pay if they did not want Dean Skelos to use his official power to hurt their businesses. *See also United States v. Gonzalez*, 272 F. App'x 117, 122 (2d Cir. 2008) (“Nor can [the defendant] rely on the government's failure to prosecute [a co-conspirator] the apparent head of the conspiracy. The District Court must consider ‘disparities among *defendants* with similar records *who have been found guilty* of similar conduct.’”) (emphasis in the original) (quoting 18 U.S.C. § 3553(a)(6)).

Skelos have ever fully accepted responsibility for their criminal conduct, denying their guilt, attacking the credibility of their victims, and arguing vociferously at trial that their conduct was simply part of politics. Defendants cannot have it both ways—loudly denying the breach of trust at trial and in public statements attacking the prosecution of the offenses, while, when seeking the Court’s leniency, implying through counsel that they have acknowledged their criminal conduct and the grievous damage it caused to the public trust. Moreover, specific deterrence remains a particular concern with respect to Adam Skelos. His entire business plan centered on taking advantage of his father’s official position. His sense of entitlement to privilege and money without actually working for it indicates a risk that he could commit future frauds. Indeed, even after it became clear that his conduct was under investigation, Adam Skelos attempted to use every conceivable means to avoid detection, rather than withdraw, including employing a self-described “burner phone.” While he will no longer be able to exploit his father’s public power, Adam Skelos demonstrated an enthusiasm and predilection to engage in criminal schemes—and even physical violence—that could potentially extend beyond the charges in this case if he is not specifically deterred by a significant sentence.

**C. The History and Characteristics of the Defendants**

**1. Dean Skelos**

As no doubt every other public official convicted of criminal conduct has done at sentencing, Dean Skelos asserts that his dedication to his constituents overcomes the other principles of sentencing—the needs to reflect the seriousness of the offense, promote respect for the law, and afford adequate deterrence—and merits leniency in this case. While he cites his good acts as a politician, a factor credibly cited by many of the New York State legislators who have been sentenced in recent years, he fails to acknowledge the special position of trust that

accompanied his position. Undeniably Dean Skelos has done good things in his political life—but that was his job. His status as a public servant formed the very basis for the charges in this case and for an elevated base offense level under the Sentencing Guidelines; that status cannot, at the same time, serve as a shield against serious punishment. Service to the public is the bare minimum expectation of a member of the New York State Senate, and the provision of some honest services does not negate the participation in a scheme and artifice to deprive constituents of their rights to the complete honest services of their elected officials. *See United States v. Serafini*, 233 F.3d 758, 773 (3d Cir. 2000) (good works as a legislator “reflect[ ] merely the political duties ordinarily performed by public servants” and “if a public servant performs civic and charitable work as part of his daily functions, these should not be considered in his sentencing because we expect such work from our public servants”). Indeed, as the cases involving corrupt New York State legislators described above demonstrate, courts routinely reject claims that a legislator’s prior good works should outweigh the nature and circumstances of the offenses and the needs for deterrence, to promote respect for the law, and to provide just punishment.

Dean Skelos also cites various difficult personal circumstances as mitigating factors. While many of the sentencing factors weigh heavily in favor of a significant term of imprisonment for Dean Skelos, the Government recognizes that Dean Skelos has had a positive impact on his friends, family, and community. The Court can and should take into account these circumstances, which, in addition to the particular role played by Adam Skelos in driving at least some of his father’s criminal conduct, the Government has considered in not seeking a sentence necessarily within or above the Guidelines range. However, the described personal difficulties faced by an educated, accomplished professional, who had plenty of options other than illegal

conduct, are not any more sympathetic than those of the many less privileged defendants who are routinely sentenced to significant terms of imprisonment in this District. It is also worth noting that Dean Skelos's criminal acts to support his son's financial position were not undertaken at a time when his son was destitute or anything near it; he abused his office to extort money for his son even though, as he well knew, his son was already earning a six-figure income without such criminal assistance.

## **2. Adam Skelos**

Adam Skelos cites certain personal circumstances involving problems and emotional hurdles he has dealt with in his own life. These circumstances are sympathetic and undoubtedly have been difficult for Adam Skelos and those around him to bear, and the Government has taken them into account by not strictly seeking a sentence within or above the Guidelines range of 121 to 151 months. Nevertheless, Adam Skelos's circumstances are not so unusual or out of the ordinary to justify anything close to the extraordinary variance he seeks. *See, e.g., United States v. Hamilton*, 548 F. App'x 728, 730-31 (2d Cir. 2013) (affirming 150-year sentence notwithstanding defendant's difficult childhood); *United States v. Stitsky*, 536 F. App'x 98, 116 (2d Cir. 2013) (affirming 85-year sentence where district "court acknowledged [the defendant's] childhood hardships, [but] accorded them little mitigating weight given the 'extensive harms' caused by his crimes"); *United States v. Ho Duc Nguyen*, 508 F. App'x 39, 40 (2d Cir. 2013) (affirming 400-month sentence where district court considered that "the defendant indeed had a harrowing life experience and deprivation as a child").

Many defendants sentenced in this District have difficult personal problems as a backdrop to their criminal actions. Adam Skelos, while certainly having dealt with some challenging personal circumstances had, unlike many less fortunate defendants, a loving father

who time and again provided Adam Skelos with support to overcome these difficulties long before the two men resorted to criminal conduct. Adam Skelos also cites the particular needs of his children—needs about which he was aware even as he put his family at risk by continuing his criminal conduct. Again, defendants sentenced in this District regularly have children or others who are dependent on them financially and emotionally. Without minimizing the obvious harm caused to a family when children are separated from their father, what is evident here is that Adam Skelos and his family seem to enjoy a broad support network of individuals who appear willing to step in and lend a hand to those Adam Skelos will leave behind during a period of incarceration. This support network is broader than that of many defendants who appear for sentencing in this District, and can lessen the negative impact of his absence on his children. Accordingly, while the Court should give due weight to Adam Skelos’s personal circumstances, those circumstances do not warrant the dramatic departure from the Guidelines range urged by the defense.

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In sum, Dean Skelos and Adam Skelos seek non-incarceratory sentences based on Dean Skelos’s prior good works and based on family circumstances. While it is true that the Court should consider these circumstances in crafting the sentences, the mitigating factors are strongly outweighed by other sentencing factors.

First, the Guidelines ranges in this case are entitled to careful consideration. As noted above, the Sentencing Commission purposefully raised offense levels applicable to bribery offenses because “offenders who abuse their positions of public trust are inherently more culpable than those who seek to corrupt them, and their offenses present a somewhat greater threat to the integrity of governmental processes.” U.S.S.G. app. C (Amendment 666). Second,



the defendants' crimes were premeditated and long-lasting, causing incalculable damage to the public interest. Third, the seriousness of the defendants' crimes is aggravated because they committed them in the context of having witnessed numerous New York State legislators, including Dean Skelos's predecessors, convicted and removed from office for public corruption offenses—and they deliberately chose to launch their criminal scheme upon Dean Skelos's election as Majority Leader in order to abuse all the power that entailed. Finally, a significant sentence—accounting for the prior sentences imposed on New York State legislators that have failed to adequately deter public corruption in this State—is necessary to promote deterrence and respect for the law.

In consideration of all of these factors, the Government submits that the defendants deserve—and justice requires—significant sentences at the higher end of sentences received by other public corruption defendants in this Circuit, whether those terms are within or approaching the applicable Guidelines ranges.

**VI. THE COURT SHOULD IMPOSE AN ABOVE-GUIDELINES FINE ON DEAN SKELOS**

The Government respectfully submits that a fine on Dean Skelos significantly above the applicable Guidelines Range of \$35,000 to \$350,000 is necessary under the relevant factors to reflect the fact that Dean Skelos stands to collect a lifetime pension approaching \$100,000 per year from the ultimate victims of his crime, the people of the State of New York, and that he has ample means to pay a larger fine without harming any dependents.

Section 3572(a) of Title 18, United States Code, sets forth the facts to be considered by the district court before imposing a fine, in addition to the factors set forth in Section 3553(a). Such factors include: (1) the defendant's income, earning capacity, and financial resources; (2) the burden that the fine will impose upon the defendant and any of his dependents; (3) any

pecuniary loss inflicted upon others as a result of the offenses; (4) whether restitution is ordered; (5) the need to deprive the defendant of illegally obtained gains from the offenses; and (6) the expected costs to the government of any imprisonment. 18 U.S.C. § 3572(a). Section 5E1.2 of the Guidelines states that a district court “shall impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay any fine.”

U.S.S.G. § 5E1.2(a). In determining the size of any fine, the district court shall consider:

- (1) the need for the combined sentence to reflect the seriousness of the offense (including the harm or loss to the victim and the gain to the defendant), to promote respect for the law, to provide just punishment and to afford adequate deterrence;
- (2) any evidence presented as to the defendant’s ability to pay the fine (including the ability to pay over a period of time) in light of his earning capacity and financial resources;
- (3) the burden that the fine places on the defendant and his dependents relative to alternative punishments;
- (4) any restitution or reparation that the defendant has made or is obligated to make;
- (5) any collateral consequences of conviction, including civil obligations arising from the defendant's conduct;
- (6) whether the defendant previously has been fined for a similar offense;
- (7) the expected costs to the government of any term of probation, or term of imprisonment and term of supervised release imposed; and
- (8) any other pertinent equitable considerations.

U.S.S.G. § 5E1.2(d). The Guidelines further provide that, “[t]he amount of the fine should always be sufficient to ensure that the fine, taken together with other sanctions imposed, is punitive.” *Id.* The defendant bears the burden of demonstrating an inability to pay a fine. *See United States v. Camargo*, 393 F. App’x 796, 798 (2d Cir. 2010); *United States v. Salameh*, 261 F.3d 271, 276 (2d Cir. 2001).

In this case, pursuant to Title 18, United States Code, Section 3571(b), the maximum fine is \$250,000 per count—which totals \$2,000,000 over the eight counts of conviction here.

Applying the relevant facts, the Government concurs with the assessment of the Probation Department that Adam Skelos does not have the means to pay a fine. However, for the reasons set forth the below, the Government submits that the Court should impose a fine on Dean Skelos above the Guidelines Range of \$35,000 to \$350,000.

**A. Defendant Dean Skelos Has the Ability to Pay a Significant Fine Without Unduly Burdening Financial Dependents**

Dean Skelos has managed to amass a net worth in excess of \$2,000,000 during his tenure in the Senate. (Dean Skelos Draft PSR ¶ 111). His liquid assets include more than \$175,000 in cash deposits and more than \$975,000 in securities. (*Id.*). His assets also include two residences—one in Long Island worth over \$625,000, and one in Florida worth more than \$110,000. (*Id.*). He has no liabilities. (*Id.*). On top of that, just eleven days after the jury rendered its verdict in this case, Dean Skelos applied to New York State to receive a pension of \$95,843.52 per year for the rest of his life. (Dean Skelos Draft PSR ¶ 113 (noting anticipated pension payments); *Skelos Pension to Top \$95K*, State of Politics (available at <http://www.nystateofpolitics.com/2016/02/skelos-pension-to-top-95k/> (last visited Mar. 29, 2016))).<sup>19</sup> Accordingly, Dean Skelos has the financial ability to satisfy a significant fine—including a fine well above the Guidelines Range. Moreover, he can satisfy that fine without

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<sup>19</sup> The Court may consider anticipated pension payments in its findings whether a defendant has the means to pay a fine. *See, e.g., United States v. Mislal-Aldarondo*, 478 F.3d 52, 71-72 (1st Cir. 2007) (finding no error in imposing fine where only source of income to pay fine was defendant’s monthly pension); *United States v. Mellen*, 393 F.3d 175, 187 (D.C. Cir. 2004) (finding no error where court found that defendant had ability to pay fine based on his government pension and assets at time of sentencing); *United States v. Petty*, 132 F.3d 373, 382-83 (7th Cir. 1997). *Accord United States v. Gaudet*, 966 F.2d 959, 963 (5th Cir. 1992) (rejecting challenge to restitution, finding defendant was “on notice that court could consider his pension as an available source of income from which to satisfy the fines or restitution” where pension payments were referenced in the presentence report).

unduly burdening any financial dependents. The Draft Presentence Report notes that his spouse has her own significant liquid assets (independent of him). (Dean Skelos Draft PSR ¶ 112). Based on these facts, the factors set forth in Section 3572(a) weigh in favor of imposing a substantial fine on Dean Skelos. As described below, careful consideration of the Section 3553(a) and U.S.S.G. § 5E1.2 factors demonstrates that a fine within the applicable Guidelines Range is not sufficient to achieve the goals of sentencing, and that an above-Guidelines fine would be reasonable in this case.

**B. A Fine Within or Below the Applicable Guidelines Range Is Not Sufficient to Provide Adequate Deterrence, to Promote Respect for the Law, or Provide Just Punishment**

As demonstrated above, Dean Skelos currently has the financial ability to satisfy a fine at the top end of the Guidelines Range, which would still leave him with more than \$1.6 million in personal assets (not counting his spouse's own assets) and zero liabilities. However, for the remainder of his life, Dean Skelos also will collect more than \$95,000 per year in Senate pension payments from the victims of his crimes—the people of the State of New York whom he defrauded out of the honest services he swore to provide them. For that reason, even a fine at the top end of the Guidelines Range—\$350,000—would not be sufficient to achieve the goals of sentencing. Assuming Dean Skelos keeps \$60,000 per year of his pension after taxes, he would recoup the total fine even at the top of the Guidelines Range from the victims of his crimes within six years. It would be gravely unjust if a fine in a public corruption case were so small that the defendant could easily pay it by using pension money paid for by the victims of his crimes and owed to him from holding the same office that he corrupted. Indeed, Dean Skelos himself has previously acknowledged this manifest injustice.<sup>20</sup> Here, a fine only within the

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<sup>20</sup> In 2011, Dean Skelos voted for State legislation to forfeit the pensions of newly-elected

Guidelines Range would largely shield the personal wealth of Dean Skelos derived from the office he corrupted, and thus be insufficiently punitive. Moreover, the Government submits that the Court needs to impose an above-Guidelines fine here to serve the purpose of general deterrence, so that publicly elected officials understand that a lifetime pension will not be available as a backstop if they are caught violating their duty to provide honest services. Under the particular facts and circumstances of this case, imposing a fine that fully takes into account the pension income that even corrupt State legislators collect sends the necessary deterrent strongest message corruption does not pay.

Based on all of the factors enumerated in Sections 3553(a) and 3572(a) and U.S.S.G. § U.S.S.G. § 5E1.2(d), the Government respectfully submits that the need for the sentence to deter others, promote respect for the law, and provide a just punishment requires the imposition of an above-Guidelines fine.

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Senators convicted of public corruption offenses. (*See* Part C of the Public Integrity Reform Act of 2011). Later attempts by the Governor to amend the New York State Constitution to permit forfeiture of the pensions of convicted legislators first elected prior to 2011—like Dean Skelos—failed to pass the State Assembly.

