
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**
 :
 v. :
 :
 L. HARVEY SMITH and :
 RICHARD GREENE : **Mag. No. 09-8124 (MCA)**

I, Robert J. Cooke, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

From in or about April 2009 to in or about July 2009, in Hudson County, in the District of New Jersey and elsewhere, defendants

L. HARVEY SMITH and
RICHARD GREENE

and JC Official 1 and the Consultant did knowingly and willfully conspire to obstruct, delay, and affect interstate commerce by extortion under color of official right, by accepting and agreeing to accept corrupt payments that were paid by another, with that other person's consent, in exchange for defendant Smith's anticipated official assistance as specific opportunities arose.

In violation of Title 18, United States Code, Sections 1951(a) and 2.

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT A

continued on the attached page and made a part hereof.

Robert J. Cooke, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,
July ____, 2009, at Newark, New Jersey

HONORABLE MADELINE COX ARLEO
UNITED STATES MAGISTRATE JUDGE

Signature of Judicial Officer

ATTACHMENT A

I, Robert J. Cooke, am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have personally participated in this investigation and am aware of the facts contained herein, based upon my own investigation, as well as information provided to me by other law enforcement officers. Because this Attachment A is submitted for the limited purpose of establishing probable cause, I have not included herein the details of every aspect of the investigation. Statements attributable to individuals contained in this Attachment are related in substance and in part, except where otherwise indicated. All contacts discussed herein were recorded, except where otherwise indicated.

1. At all times relevant to this Complaint, defendant L. HARVEY SMITH ("defendant HARVEY SMITH") served as a New Jersey State Assemblyman and was a mayoral candidate in Jersey City. A three-term Jersey City councilman who spent four years as City Council President, defendant HARVEY SMITH also served as acting mayor of Jersey City from May through November 2004.

2. At all times relevant to this Complaint, defendant RICHARD GREENE ("defendant GREENE") served as an aide to New Jersey Assemblyman HARVEY SMITH.

3. At all times relevant to this Complaint:

a. There was a cooperating witness (the "CW") who had been charged in a federal criminal complaint with bank fraud in or about May 2006. Pursuant to the FBI's investigation and under its direction, the CW posed as a real estate developer interested in developing properties in the greater Jersey City area. The CW represented that the CW did business in numerous states, including New York and New Jersey, and that the CW paid for goods and services in interstate commerce;

b. There was an individual (hereinafter "JC Official 1") who represented himself to be in high-level positions at the Jersey City Housing Authority (the "JCHA") and, until in or about May 2009, at the Jersey City Board of Education ("BOE");

c. There was an individual who represented himself to be the owner of a political consulting firm based in Jersey City, New Jersey (hereinafter "the Consultant"); and

d. There was an individual who was a high-ranking official with the State of New Jersey Department of

Transportation (hereinafter the "DOT Official").

4. On or about April 22, 2009, at approximately 9:53 a.m., FBI agents intercepted an outgoing phone call from the Consultant to JC Official 1 over the Consultant's cell phone. The Consultant and JC Official 1 confirmed the existence of upcoming meetings between two Jersey City mayoral candidates (one of which was defendant HARVEY SMITH) and the CW. JC Official 1 informed the Consultant that the meeting with defendant HARVEY SMITH was set for "Friday morning [April 24] at 10."

5. On or about April 24, 2009, defendant HARVEY SMITH met with the CW, JC Official 1 and the Consultant at a restaurant in Staten Island, New York. During the meeting, defendant HARVEY SMITH was informed by the CW that the CW was interested in developing property on Garfield Avenue in Jersey City, New Jersey (the "Garfield Avenue Project"). Defendant HARVEY SMITH was further informed by the CW that he was seeking help expediting an anticipated zoning change and that he wanted to make sure he "had [defendant HARVEY SMITH'S] support."

6. Later during the meeting, defendant HARVEY SMITH left the table for approximately two minutes. During defendant HARVEY SMITH'S absence, the CW asked JC Official 1 if defendant GREENE was going to be joining them at the meeting. JC Official 1 responded that "[defendant GREENE] was going to be the intermediate person between, to do the thing but no, he couldn't make it, so . . ." The CW interjected and asked JC Official 1: "So what are we going to do? Give it to him after?" JC Official 1 responded, "Give it to me and I'll have to give it to him." He won't take it himself," in response to which the CW said, "So you gotta give it to him, he won't take it from me? Okay." (The "it" referred to by the CW and JC Official 1 was an interstate courier envelope containing approximately \$5,000 in cash.) The CW then confirmed, "But the guy [defendant HARVEY SMITH] understands I'm looking to get expedited?" and JC Official 1 replied, "Oh yeah." The CW then said: "Tell him I'll do the 5 now, I'll do 5 more after the election. If he wants more, no problem, as long as he helps me expedite the stuff." JC Official 1 told the CW, "I'll bring it up now and we'll take it from there." At this point, defendant HARVEY SMITH returned to the table.

7. On defendant HARVEY SMITH'S return to the table, JC Official 1 told him that "[the CW] here is a very generous person and he likes working with people. He's going to make a contribution to your campaign. His only thing is that his name is not connected to it, nor my name, nor [the Consultant's] name.

He'll give you something now and you make the run off and he'll keep contributing to you, to your success." The CW added, "Run off or you get elected, or both, I told [JC Official 1] I'll do the \$5,000 now and then 5 after the run off and then after the election, just don't put my name anywhere or anything like that." Defendant HARVEY SMITH said, "I can only put the name on the check that is, who the check's coming from." JC Official 1 then made clear to defendant HARVEY SMITH: "There is no check. There is no check. There is no check." The CW stated, "We don't want to have any conflicts . . ." Defendant HARVEY SMITH responded, "I understand and that's going to be difficult for me to deal with." The CW said, "Deal with [JC Official 1] on it." JC Official 1 added to defendant HARVEY SMITH, "That's why we want to make sure you go through [defendant] Rich [GREENE]." We have to figure out a way that we put a contribution like that into, um, we have to come up with checks, because . . ." JC Official 1 said, "We'll deal with it." At the conclusion of the meeting, defendant HARVEY SMITH told the CW, "I appreciate this opportunity."

8. As defendant HARVEY SMITH and the CW were leaving the restaurant, the CW said, "So, I'm going to handle everything through [JC Official 1]," to which defendant HARVEY SMITH replied, "I understand." The CW said, "Just don't put my name on nothing," to which defendant HARVEY SMITH again replied, "I understand." The CW said, "Just give me your word that your going to expedite my stuff," and defendant HARVEY SMITH said: "I don't do quid pro quos. [JC Official 1] will tell you how I operate," and laughed.

9. On or about April 30, 2009, defendant GREENE met with the CW, JC Official 1 and the Consultant at a restaurant in Bayonne, New Jersey. As they sat down, the CW confirmed that defendant HARVEY SMITH also was attending the meeting, and defendant GREENE confirmed that defendant HARVEY SMITH was present at the diner (gesturing behind him) but on a phone call. The CW said, "So I guess after breakfast we'll do our business . . .," and JC Official 1 interjected: "After breakfast we'll do our business with [defendant] Rich [GREENE]. Rich will take care of it." The CW told defendant GREENE: "I like that name Greene. I'm the green party, green cash," to which defendant GREENE replied, "Oh, okay. Alright. Works for me."

10. Outside the restaurant, FBI agents observed defendant HARVEY SMITH get out of a Ford Flex bearing a New Jersey license plate 4PY-27V and walk into the restaurant.

11. Defendant HARVEY SMITH thereafter joined the meeting

inside of the restaurant. The CW said to him, "I didn't know you were still on the [New Jersey State] assembly," and defendant HARVEY SMITH said, "Yeah." The CW said, "I was telling Mr. [defendant] GREENE and [JC Official 1] that I might need something from you." Defendant HARVEY SMITH responded, "You gotta stop talking like that, and I'll tell you why. Because we are forging a relationship and whatever I can do to help you, I will, and when you talk like that, it puts me . . ." and the CW said, "Say no more."

12. The CW then said, "My boys here [meaning JC Official 1 and the Consultant] are helping me out on Garfield Avenue with a project you know we spoke about I think last time," to which defendant HARVEY SMITH said, "Yeah." The CW continued, "[A]nd, um, I have to check on the status but there's an application in the DEP now [referring to the New Jersey Department of Environmental Protection] for a No Further Action Letter. . . . [A]nd you know the way it works with the big agency, ahh, you know, they're delaying things, so maybe I'll get you that information." In response, defendant HARVEY SMITH told the CW, "Well, I'll get the information. You give me the name and I'll find out what the status of the situation is with the DEP, if you write it down or something I'll go on and find out where they are with regards to the cleaning of that area." The CW said, "I appreciate that." Moments later, defendant HARVEY SMITH told the CW, "So write down all the stuff you want." The CW agreed and said, "I'll give it to [JC Official 1]" to provide to defendant HARVEY SMITH.

13. As defendant HARVEY SMITH, defendant GREENE, the CW, JC Official 1 and the Consultant got up to leave the table, the CW said, "So I'll get that DEP information, we'll get you a zone application." Defendant HARVEY SMITH replied, "All I need to know is what the project is, if you give me the name of the project and I'll find out the site so I can question . . . so I can find out what the status of what they're looking for the status of the clean up."

14. In the parking lot outside of the restaurant, the CW, who was walking behind him, said to defendant HARVEY SMITH, "So I'll do business today with [defendant] Rich [GREENE]. Is that okay?" Defendant HARVEY SMITH did not turn around or respond. The CW again said, "Mr. Harvey, I'll do business with [defendant] Rich [GREENE] and then I'm going to do 5 . . . ," at which point defendant HARVEY SMITH said, "Stop talking. I understand. You make me feel like I might want to pat you down to see if you got. . ." and then laughed. The CW said, "After the election, I'll do the same again," to which defendant HARVEY SMITH replied "thank

you" and then got into his car.

15. The CW proceeded to remove an envelope containing approximately \$5,000 in cash from the trunk of his car. Envelope in hand, the CW walked over to defendant GREENE, who was standing with JC Official 1, and handed the envelope containing the cash to defendant GREENE. The CW said, "I told [defendant] HARVEY [SMITH], this is \$5,000," and defendant GREENE said, "Okay." The CW continued on: "[G]reen as in the name. Just don't put my name on anything. I don't want any conflicts or anything. You know [defendant HARVEY SMITH'S] a good guy. I told him this is 5 now and after the election, I'll give him another 5." Defendant GREENE said, "Okay, alright." The CW asked, "Now, [defendant HARVEY SMITH] won't forget my name and number, will he?" Both JC Official 1 and defendant GREENE told the CW that defendant HARVEY SMITH would not forget the CW. JC Official 1 added, "I'm about the closest thing to him [meaning defendant HARVEY SMITH]." As he was leaving, defendant GREENE told the CW, "It's a pleasure."

16. FBI agents then observed defendant GREENE enter the front passenger side of a gray Ford Flex bearing a New Jersey license plate located in the parking lot outside of the restaurant, and in which defendant HARVEY SMITH was sitting in the driver's seat. When he got into the car, defendant GREENE had in hand the interstate courier envelope containing the \$5,000 in cash he had accepted from the CW to pass to defendant HARVEY SMITH. Defendant GREENE remained inside of the car with defendant HARVEY SMITH for approximately seventeen minutes. When defendant GREENE exited the car, leaving defendant HARVEY SMITH inside, defendant GREENE no longer had the envelope containing the \$5,000 cash with him. FBI agents then observed defendant HARVEY SMITH drive away from the restaurant.

17. On or about May 6, 2009, JC Official 1, the Consultant and the CW met at a steakhouse in Weehawken, New Jersey. During this meeting, JC Official 1 asked the CW about the progress of anticipated real estate development projects. As to Garfield Avenue, the CW told JC Official 1 that "I had my guys speak to the sellers on the Garfield Avenue, the DEP thing, and the DEP actually looked at the application, and they're coming out, they said May 20, I have it down, I'll tell you what . . . they said May 22nd. They're doing a site inspection - everything's okay, then they sign off. You know, I asked [defendant HARVEY SMITH], but I don't need him for that, so." JC Official 1 said, "Okay, good." With respect to the \$5,000 cash payment provided to defendant GREENE to be passed to defendant HARVEY SMITH in exchange for defendant HARVEY SMITH'S official action, JC Official 1 told the Consultant and the CW, "I converted it. I

gave [defendant HARVEY SMITH] money orders." JC Official 1 and the Consultant laughed. The CW asked, "Money orders for five grand? . . . you just have to put different names I guess on it." JC Official 1 replied, "With money orders, you don't have to put any names on it."

18. On or about May 14, 2009, JC Official 1, the Consultant and the CW met at a diner in Jersey City, New Jersey. After the meeting, JC Official 1 and the CW continued to talk in the parking lot outside of the diner. JC Official 1 further explained to the CW how JC Official 1 converted the \$5,000 corrupt payment to defendant HARVEY SMITH to money orders: "I gave them to my niece and told her to pick up some money orders."

19. On or about July 16, 2009, defendant HARVEY SMITH, JC Official 1, the Consultant, and the CW met at a diner in Jersey City. Before the Consultant arrived, JC Official 1 told defendant HARVEY SMITH: "We're doing a lot of projects, Harvey, throughout the State of New Jersey, alright. We're getting ready to do two nice ones in Bayonne okay, Hoboken, Carlstadt, [the CW interjected, "Jersey City"], Jersey City, so we're all over the place, so we feel in some ways, we need to-- but we're into it now-- you being able to help us out while you're in office and everything else, whether it's the next six months that you, or four months or whatever it is, so that's why [the CW] wanted to reach out for you and let you know some of the things that we're doing and how you might be able to help us out, okay?" Defendant HARVEY SMITH nodded yes. JC Official 1 continued, "[W]e got the one property on Garfield Avenue," and defendant HARVEY SMITH asked, "What's the name of the site?" The CW responded, "The owner is Garfield Avenue Associates." Defendant HARVEY SMITH said, "So you have, um, that project [referring to Garfield Avenue]?" JC Official 1 explained that the proposed project "was on contaminated soil" but that it had been "cleaned up." The CW further explained to defendant HARVEY SMITH: "There is a CEA in place - classification exception area - from DEP. They cleaned up whatever that classification area was, now I'm waiting for-- unrestricted NFA, and then I'll close hopefully in the next ten days, two weeks, so that's the plan on that." Defendant HARVEY SMITH asked JC Official 1, "So, where's the-- so how can I help [the CW] with his--" JC Official 1 told defendant HARVEY SMITH that he could "help" by "[w]ell basically when we do get the approval to go ahead, you know, that is part of your district, and we'd just like your support on it also, okay. I mean that's a big, big plus, because we know we're going to run into some opposition on the other side from your other girlfriend-" to which Defendant HARVEY SMITH replied by asking JC Official 1 if he was referring to a certain Jersey City Councilwoman, and JC

Official 1 said, "Yes." JC Official 1 continued that, "on that site [the CW] wants to put four towers of 23 stories each, so it's a big, big project. . ." The CW interjected, "780 units combined," and JC Official 1 continued on telling defendant HARVEY SMITH, "Just to let you know also we have, we have met with the mayor on it, we have met with [a State of New Jersey official] on it." Defendant HARVEY SMITH asked, "You haven't met with [the Jersey City Councilwoman]?" and was told that they had not. JC Official 1 went on to explain regarding the Garfield project, "We're looking to put in a mixed use. . . with a pre-school, a daycare center, [the CW interjected, "affordable housing. . . Section 8 housing], affordable housing. . . [the CW] is willing to work with the community." Defendant HARVEY SMITH was told by the CW that the CW also had "met with [Jersey City council president], and [the council president] promised [the CW] his support for the zone change and whatever else [the CW] need[ed] for the site." Defendant HARVEY SMITH asked, "And you think the only opposition is going to be from [a Jersey City Councilwoman]?" and JC Official 1 told defendant HARVEY SMITH said that he expected her to "go along with it." Defendant HARVEY SMITH was told by the CW, "Right now, the DEP is the first thing, I guess." JC Official 1 said, "Once we get past the DEP. . ." Defendant HARVEY SMITH confirmed that what the CW needed the property "clean" for housing and schools. The CW agreed with defendant HARVEY SMITH and said that the development the CW proposed sought "the most restricted use," unlike commercial development. The CW said that the CW would not "build on a CEA property, I want NFA [referring to a No Further Action Letter]."

20. As the meeting continued, JC Official 1 explained to defendant HARVEY SMITH that JC Official 1 and the CW also had met with a Bayonne public official to discuss property development in Bayonne "on Route 440." JC Official 1 told defendant HARVEY SMITH, "With the property on 440, we're going to need some state help also," specifically with the Department of Transportation ("DOT"). At this point in the meeting, the Consultant arrived, and JC Official 1 recounted what defendant HARVEY SMITH, JC Official 1 and the CW had been discussing so far - both the Garfield Avenue development in Jersey City and the proposed Bayonne development involving Route 440. Defendant HARVEY SMITH said of the Garfield Avenue project, "the only thing I'm concerned about is the clean up." Defendant HARVEY SMITH was told by the CW, "The answer to your question is I need your support to get that thing from the DEP, but there is no more disturbance of the land, or the soil or the water, all of that's been completed." Defendant HARVEY SMITH then said, "But they have a problem with height." JC Official 1 agreed: "That's the biggest issue." Defendant HARVEY SMITH, JC Official 1, the

Consultant and the CW then discussed the best way to complete the Garfield Avenue project without obstruction of existing views. The conversation then returned to the Bayonne development. JC Official 1 told defendant HARVEY SMITH, "And then, like you said, we're going to need your help in relationship to working with us to help in some kind of way with 440 in Bayonne with the DOT." The CW interjected and explained to defendant HARVEY SMITH that what the proposed development needed was a "turn-off off of 440" in order to defeat the opposition to the development, who were concerned with traffic issues, "and obviously that's, you know, DOT issues. That's where I need some assistance." JC Official 1 told the CW, "So [defendant] HARVEY [SMITH] is putting together a consulting company. . . so we'll be prepared and ready to meet that need and [defendant] HARVEY [SMITH] will continue to work with us," to which the CW replied, "Absolutely, I can appreciate that. I need guys who can help me get things done, so." Defendant HARVEY SMITH then told the CW, "I need to just get a little list of what you're trying to do, so that before I go on vacation I can get the ball rolling. First of all, I can put in some calls to see where the DEP situation is." The CW said that he would get JC Official 1 the necessary information. Defendant HARVEY SMITH continued, "The other thing that I'll do is, I'll be back in two weeks, and I'll talk to [the DOT Official]" who the CW confirmed is "the Chairman of the DOT" and who "would be a big help for the Bayonne project." Defendant HARVEY SMITH told the CW that the DOT Official is "the chairman of our committee," and JC Official 1 asked defendant HARVEY SMITH, "You're on the Transportation Committee?" Defendant HARVEY SMITH confirmed that he was, and JC Official 1 said, "That's a plus for us, okay good."

21. Minutes later, the conversation returned to the Garfield Avenue project, and defendant HARVEY SMITH asked the CW what name the DEP application was under. The CW told defendant HARVEY SMITH that it was registered under "Garfield Avenue Associates LLP," and defendant HARVEY SMITH wrote down the information with a pen provided by JC Official 1. Defendant HARVEY SMITH then asked for the specific address, and was told "750 Garfield Avenue." Again, defendant HARVEY SMITH wrote down the information provided by the CW. Defendant HARVEY SMITH said, "And what you're looking for is a-" and the CW said, "Unrestricted NFA." As defendant HARVEY SMITH continued to write, the CW clarified that NFA was shorthand for "No Further Action Letter." Defendant HARVEY SMITH continued to write notes for another approximately ten seconds. The CW then said, "I'm looking for a guy that can help me out. You know me, I know you. I trust you. Just like before the election [referring to the \$5,000 payment from the CW that defendant HARVEY SMITH accepted

through Richard Greene on or about April 30, 2009], I was there for you, I'm a generous guy and then anything else that needs to get done-." Referring to the \$5,000 payment, defendant HARVEY SMITH pointed at the CW and said, "According to your standards you're generous," and all at the table laughed. Defendant HARVEY SMITH told the CW, "You left yourself open to that." The CW said, "When I offer, I offer low, I'm a businessman," and defendant HARVEY SMITH said to the Consultant and JC Official 1, "You see, I got [the CW] to open up." Regarding the projects on Garfield Avenue and in Bayonne, defendant HARVEY SMITH then said, "I'm going to find out what the deal is with this. I'm gonna get on it as soon as we finish here." Defendant HARVEY SMITH was told that the CW would get him a map on the Bayonne Route 440 project. Defendant HARVEY SMITH then asked the CW if the CW would "have a problem" with defendant HARVEY SMITH approaching the DOT Official and telling him to work with the CW. Defendant HARVEY SMITH said that he would speak to the DOT Official: "I'm gonna say, 'Hey [DOT Official], would you be interested in handling [the Bayonne Route 440 matter]?' " The Consultant added that the DOT Official was a "very well respected" state assemblyman. Defendant HARVEY SMITH continued to take notes as the Consultant provided additional information on the location of the proposed development in Bayonne, and the needs of the CW with respect to access from Route 440. Defendant HARVEY SMITH told the CW, "So what I'm going to do is this, just so you know is, I'm going to ask [the DOT Official] if he would be interested in handling [the CW's application]. And so that way, give [the DOT Official] the business opportunity. . . ." Defendant HARVEY SMITH then said, "Okay, I'm going to try to at least put this in motion," asked the CW for the CW's telephone number. Because Defendant HARVEY SMITH was going on vacation, defendant HARVEY SMITH said that he wanted to "get [the CW] and [the DOT Official] together so you can play this out. I'll give [the DOT Official] the generics, and you can handle the rest." JC Official 1 then told defendant HARVEY SMITH to have the DOT Official call JC Official 1. The CW then asked defendant HARVEY SMITH if defendant HARVEY SMITH was, in fact, going to make inquiries about the Garfield Avenue project, and defendant HARVEY SMITH confirmed that he would.

22. As the July 16th meeting continued, defendant HARVEY SMITH then told the CW that defendant HARVEY SMITH did not plan to run for office again in the future. JC Official 1 pointed out that defendant HARVEY SMITH had made friends over the years, and defendant HARVEY SMITH said of himself that "the people down at the Assembly respect me." Defendant HARVEY SMITH then provided counsel to JC Official 1 and the CW regarding how to handle any issues that may arise with a particular Jersey City Councilwoman

and a zone change in Jersey City. Defendant HARVEY SMITH told the CW, "See, not only do you have my connections, you got my knowledge . . ." Shortly thereafter, defendant HARVEY SMITH said that he had to leave but assured the CW that he would reach out to people on the CW's development projects. As JC Official 1 got up to walk defendant HARVEY SMITH out of the diner, the CW told JC Official 1 that JC Official 1 could relay to defendant HARVEY SMITH that the CW would give defendant HARVEY SMITH \$10,000 this time since defendant HARVEY SMITH had made clear that "he wasn't happy with the five" [meaning the \$5,000 payment Defendant HARVEY SMITH accepted on or about April 30, 2009]. The CW indicated he would meet with defendant HARVEY SMITH the following day if need be. JC Official 1 indicated that he would relay this information and then stepped away to speak with defendant HARVEY SMITH in private, leaving the Consultant and the CW inside the diner. Minutes later, JC Official 1 returned from outside the diner and told the CW that "[defendant HARVEY SMITH] would take that [meaning \$10,000] to get started." JC Official 1 said defendant HARVEY SMITH was willing to meet with the CW the next day, July 17th.

23. On or about July 17, 2009, defendant HARVEY SMITH, JC Official 1, the Consultant and the CW met at a diner in Hoboken, New Jersey. During this meeting, defendant HARVEY SMITH told the CW, "Well, I made two calls yesterday." The CW told defendant HARVEY SMITH, "You're a man of your word," and defendant HARVEY SMITH replied, "I only do business one way." Defendant HARVEY SMITH then began to reference notes in front of him and convey to the CW what actions defendant HARVEY SMITH had undertaken on the CW's behalf following their meeting the previous day. First, defendant HARVEY SMITH addressed what he had done for the CW with the DEP and Garfield Avenue project: "They got back to me while I was on the highway, and [an individual] is going to try and get me the information by the end of the day. [T]hey talked to the [DEP] commissioner yesterday, they taking care of that." Defendant HARVEY SMITH went on to tell the CW what actions defendant HARVEY SMITH had undertaken for the CW with regard to the Bayonne Route 440 project: "On the DOT . . . I spoke to that commissioner [] in regards to that and so, if everything you say is in place . . . and you're going to do it from the lumber yard as [the Consultant] said, that puts you all the way, then that gives you, then all you - and you need a letter from the mayor that he supports it, I mean I'm just giving you my point of view, a letter from the mayor as well as whatever lawyer you use." The CW told defendant HARVEY SMITH, "I appreciate your support." Defendant HARVEY SMITH then excused himself from the table for a brief period of time.

24. On defendant HARVEY SMITH'S return to the table, defendant HARVEY SMITH told the CW that "the [DOT Official] cannot, I should have known that, ethically we can't represent, his law firm couldn't represent you, but what [the DOT Official's] willing to do to help me out is, with the DOT, if you need, if my clout isn't enough, he'll make a phone call down the road to let him know how [the DOT Official] supports this project." Defendant HARVEY SMITH then went on to apologize to the CW for having been late to the meeting and then reminded the CW that defendant HARVEY SMITH was "trying to find me a new way of making a living [likely referring to his plan to start a consulting company as discussed at the July 16th meeting]." As the meeting was concluding, defendant HARVEY SMITH told the CW, "I just wanted to give you that update and when I get the other information, I will give it [JC Official 1] to give it to you."

25. Defendant HARVEY SMITH, JC Official 1, the Consultant and the CW then left the diner. In the parking lot outside, as the CW took an envelope containing \$10,000 cash out of the trunk of the CW's car, defendant HARVEY SMITH said "okay," patted the CW on the shoulder and then began to walk toward his Ford Flex, which was parked nearby. The CW then provided the envelope containing the \$10,000 to JC Official 1, who followed defendant HARVEY SMITH to defendant HARVEY SMITH'S Ford Flex, and leaned in the open passenger side window. Shortly thereafter, JC Official 1 returned to where the Consultant and the CW stood without the envelope containing the \$10,000 cash, and JC Official 1 indicated to the CW that defendant HARVEY SMITH had "said thank you" for the \$10,000 cash. As the CW approached defendant HARVEY SMITH'S Ford Flex, the CW said, "Harvey, I don't want you to call me a cheap skunk anymore," and then proceeded to lean inside the passenger window of the Ford Flex. Defendant HARVEY SMITH replied, "Hey, it's not about that, it's just about, it's just about the fact that I'm a straight guy." The CW said, "Just like me, we do business our own way, so." The CW told defendant HARVEY SMITH, "I appreciate your support, you're my man, DOT, DEP God bless you." Defendant HARVEY SMITH then drove away from the parking lot, and the CW returned to where JC Official 1 and the Consultant stood. JC Official 1 told the CW that defendant HARVEY SMITH must have "put it away real fast," referring to the envelope containing \$10,000 cash that defendant HARVEY SMITH had accepted from the CW in exchange for defendant HARVEY SMITH'S official action benefitting the CW.