

MEMORANDUM

November 16, 2011

Attorney-Client Privilege

To: Victoria Bjorklund, Simpson Thatcher
Jennifer Reynoso, Simpson Thatcher

Copy: President Bill Clinton, Clinton Foundation Founder
Chelsea Clinton, Board Member, Clinton Foundation
Terry McAuliffe, Board Member, Clinton Foundation
Bruce Lindsey, Board Member, Clinton Foundation
John Podesta, Special Advisor to the Clinton Foundation Board

Re: Background on Teneo and Foundation Activities

Cheryl, John and Terry suggested that I provide you with this memorandum to share background on Teneo, a corporate entity established in June 2011, which subsumed DK Consulting, as well as about Clinton Foundation matters (the Foundation).

In June 2009, DK Consulting was founded by Declan Kelley.¹ Mr. Kelly served as COO of FTI Consulting until June 2009, when he stepped down and established DK Consulting. At that time, he also became the United States Economic Envoy to Northern Ireland. Pursuant to the terms of his exit agreement with FTI and consistent with the ethics agreement of his uncompensated special government employee appointment at the State Department, Mr. Kelly retained and continued to provide services to three paying clients (Coke, Dow, and UBS) and one *pro bono* client (Allstate). In late 2009, Declan retained me as a consultant to DK Consulting to help support the needs of these clients.

¹ Mr. Kelly was one of Secretary Clinton's top fundraisers in 2008, raising in excess of \$2 million for her Presidential campaign; he also raised funds for her 2000 and 2006 Senate campaigns as well as for President Obama in 2008.

In May 2011, Mr. Kelly resigned his Envoy position at the State Department. In June 2011, Mr. Kelly and I founded Teneo Strategies; simultaneously, Mr. Kelly closed DK Consulting and shifted its clients to Teneo. Additionally, his non compete with FTI expired and he was free to begin working with his former clients which he had built over his 15 year career totaling several hundred around the world. By the time he sold his company he had built Financial Dynamics into the largest financial communications company in the world with 1000 employees and offices in 28 countries. Mr. Kelly had by then also represented or advised a large number of Fortune 500 companies in one form or another.

Given concerns that have been expressed about the role of Teneo in the Foundation's and the President's activities, as well as regarding support I provide for President's for-profit business activities, I wanted to take this opportunity to share information and help clarify my activities on behalf of the President –both on behalf of non-profit Foundation activities and the management of the his for-profit business opportunities.

Throughout the past almost 11 years since President Clinton left office, I have sought to leverage my activities, including my partner role at Teneo, to support and to raise funds for the Foundation. This memorandum strives to set forth how I have endeavored to support the Clinton Foundation and President Clinton personally.

Foundation Fundraising

Since its inception, the Foundation has raised funds to cover its infrastructure and operating costs. In 2001, after Terry McAuliffe raised the initial \$100 million to build the Library, an additional \$100 million needed to be raised to complete the \$165 million building and fund the library endowment required by the United State Government. Funds also then needed to be raised to fund the Foundation's operating costs, which today annually runs near \$20 million. That figure doesn't include some of the initiatives within the foundation or many of the other initiatives President Clinton chooses to incorporate into the foundation activities such as Katrina, the Tsunami and Haiti.

The Foundation has engaged an array of fundraising consultants over the past decade to help raise these funds; however, these engagements have not resulted in significant new dollars for the Foundation. For example, the

Foundation paid John O'Donnell and Associates \$700,000 in fees but it had limited success in raising new dollars for the Foundation; in other instances, the Foundation has paid consultants a percentage of the funds they have raised. The Foundation also has hired employees with development experience (*e.g.*, the Foundation hired Dennis Cheng this year) to fundraise for the Foundation. Rightly or wrongly, I believe – given the Foundation's need to raise funds, the willingness of the partner owners of Teneo to help fundraise, and my historical role in carrying the majority of the fundraising burden – that Teneo should help raise funds for the Foundation, which it has. To the best of my knowledge, other individuals within the foundation who have or have had outside consulting engagements or affiliations with law firms or business, those have not been leveraged into support for the Foundation.

\$100M Infrastructure and Endowment Fundraising

In 2001, the Foundation did not have the internal capacity to raise the \$100M to complete the library building and endowment costs. Accordingly, Justin Cooper and I developed and implemented a strategy² to help raise the bulk of these funds from individuals, corporate entities, and foreign government contributing on behalf of their nations. This effort, which raised well over \$150 million, much of it from people who did not know President Clinton when he was in office, took 7 years to complete.

Annual Operating Cost Fundraising

As stated above, the Foundation today has an annual operating budget in excess of \$20 million. Historically, the Foundation has not had the resident capacity to raise these funds annually; though we in the past engaged development consultant to help. To raise the more than \$120 million the Foundation has used to operate since 2001 – including funding for the now affiliated entities, Justin and I have helped to raise the majority of the funds. Since 2006, approximately \$6-11 million of the Foundation's operating costs have been covered by net proceeds from CGI (\$46 million total to date). CGI and our fundraising efforts have generated sufficient funds to establish a quasi endowment, which today stands at \$18 or so

² This strategy included engaging the President's time to undertake specific speeches, events, targeted donor meetings, and other activities, after which Justin and I would follow-up to seek support for the Foundation.

million.³ Since 2003, we have developed strategies to raise the approximately \$6-10 million a year gap between the net proceeds from CGI and our annual operating budget. This gap is largely funded through direct solicitations by Justin and me, some through speeches the President gives on behalf of the Foundation, through events, finding partners throughout the world to donate if we attend there dinner or event, auctions and so on.

Teneo

Teneo was established in June 2011. It has three partner/owners – Declan Kelly, Paul Keary and Doug Band. We have offices in 3 places, and employ more than 65 individuals. Teneo provides the following services to its 18 clients: merchant and investment banking services, corporate restructuring, public relations and communication services, and strategic advising services. As of 30 October 2011, we have 20 clients, a list of which is enclosed.

Cognizant of the Foundation’s significant fundraising needs as well my role as the primary fundraiser for the Foundation for the past 11 years, as a partner in Teneo, Mr. Kelley and I have asked and encouraged our clients to contribute to the Foundation.⁴ Through our efforts, we have brought new donors to the Foundation and garnered increased giving from existing donors.⁵ Additionally, the foundation donors require significant maintenance to keep them engaged and supportive of the foundation. We have sought to

³ Each year we raised sufficient funds to both operate the Foundation and generate excess capacity, which has been set-aside in the quasi endowment. We have also been faced with events that have transpired that required unplanned funding (*e.g.*, the Tsunami, the Gujarat earthquake, Hurricane Katrina, the Haiti earthquake). We have been fortunate to raise funds to cover these unanticipated costs and to help defray additional Foundation costs by securing in-kind gifts of private airplanes for Foundation trips, office space for CGI (saving \$5 million over 5 years), \$2 million through an arrangement that I made with Sonia Gardner to relieve the Foundation’s obligation to the AHA initiative, \$raising 21 million for the 65th birthday, \$2 million when the President recovered from his heart surgery and many other arrangements of this kind to fundraise. We have achieved these outcomes primarily through developing, cultivating and maintaining a global network of donors. The Foundation has had to draw down on the quasi-endowment, which originally stood at over \$35 million as of 2007, to fund the \$28M in unauthorized overruns in CHAI operating costs several times, and to fund the creation and operation of CCI for \$7.6 million. Today, the quasi endowment stands at well over \$20 million.

⁴To date, Teneo partners have raised in excess of \$8 million for the Foundation, more than \$5.25 million of which is in the bank. Teneo partners also have generated over \$3 million in paid speeches for President Clinton, \$1.25 million of which has been paid to him thus far.

⁵ Teneo partners raise funds for the Foundation and contribute time, staff, resources and relationships of the firm to help generate these donations to the Foundation.

make that the case when we could particularly as we are thinking more long term at things such as estate gifts and planned giving for the foundation.

Leveraging Teneo for the Foundation

Tenor Clients Who are New Large Donors to the Foundation:

Below are Teneo clients who either are new to the Foundation or who previously had a more limited giving relationship with the Foundation (e.g., CGI membership). As Teneo partners, we have solicited our clients to contribute or to increase their contributions to the Foundation.

The Coca-Cola Company --- Total Giving: \$4,330,000⁶

2004: \$250,000 year total – for the Operating Fund

2006: \$30,000 year total – for CGI

2007: \$30,000 year total – for CGI membership

2008: \$20,000 year total – for CGI membership

2009: \$1,000,000 year total – for Operating Fund

2010: \$3,000,000 year total – for Operating Fund

Mr. Kelly has advised the CEO of Coca Cola for years; he also enjoys a close relationship with one of the company's largest shareholders Don Keogh. Mr. Kelly introduced the CEO of Coca Cola, Muhtar Kent, to President Clinton in January 2009 at a meeting he arranged at President Clinton's home in DC. Over the course of 2009, Mr. Kelly cultivated Mr. Kent's interest in the Foundation – first in CGI and the Foundation. Mr. Kelly asked Mr. Kent to give \$5 million to the Foundation, which he pledged in early 2010. Mr. Kelly has collected \$3 million of that pledge to date and he and I both will secure the remaining \$2 million in the near future.⁷

The Dow Chemical Company – Total Giving: \$780,000

⁶ Coca Cola has an additional \$2 million commitment outstanding.

⁷ Mr. Kelly also was instrumental in my appointment by Mr. Kent to serve on the Coca Cola International Public Policy Advisory Board. Through this relationship, I have been able to get Coca Cola to sponsor many other Foundation initiatives and events such as the Hope Classic next year, supplying water to Haiti, investing in the Haiti hope juice as well as help individuals around the world, and support candidates running for office that President Clinton was supporting.

2007: \$15,000 year total – for CGI membership
2008: \$20,000 year total – for CGI membership
2009: \$40,000 year total – for CGI membership
2010: \$190,000 year total – \$40,000 to CGI membership; \$150,000 to
General Operating Fund
2011: \$515,000 year total –for CGI;
\$40,000 for membership
\$225,000 to sponsor CGI America
\$250,000 to sponsor CGI Annual Meeting

Mr. Kelly has advised Andrew Liveris for years. In August of 2009, Mr. Kelly invited Mr. Liveris to play golf with President Clinton and me.⁸ Mr. Kelly subsequently asked Dow to become a CGI sponsor at the \$500,000 level, which they did, as well as making a \$150,000 donation to the Foundation for President Clinton to attend a Dow dinner in Davos. To date Mr. Kelly has secured Dow's support for CGI 2012 for \$250,000 as well as an oral commitment to host a CGI America event in Midland Michigan if President Clinton so chooses.

UBS – Total Giving: \$540,000 (since 2005)

2005: \$25,000 year total – for Katrina
2006: \$15,000 year total – for CGI membership
2007: \$90,000 year total – for CGI membership
2008: \$20,000 year total – for CGI membership
2010: \$20,000 year total – for CGI membership
2011: \$370,000 year total – \$20,000 for CGI membership;
\$350,000 for Clinton Economic Opportunity

Bob Mccann is the head of UBS Wealth Management and a long time client and close friend of Mr. Kelly. Mr. Kelly introduced Mr. Mccann to President Clinton at an American Ireland Fund event in 2009. Mr. Kelly subsequently asked Mr. Mccann to support the Foundation, which he did via the Clinton Economic Opportunity Initiative. Mr. Kelly also encouraged Mr. Mccann to invite President Clinton to give several paid speeches, which he has done.

⁸Mr. Liveris provided the Dow plane to fly President Clinton and his staff to and from California for our trip to, and from, North Korea. As a private trip, the Foundation had to pay the costs of airfare; Mr. Liveris' in kind contribution saved the Foundation in excess of \$100,000.

The American Ireland Fund (AIF) – Total Giving: \$350,000

2010: \$250,000 year total – for the Operating Fund

2011: \$100,000 year total – for the Operating Fund

Mr. Kelly is a trustee of AIF; he has urged and ensured that the AIF is a significant donor to the Foundation. Mr. Kelly has successfully secured \$350,000 to date. Mr. Kelly also will continue giving in the coming years as well through the AIF.

The All-State Corporation – Total Giving: \$265,000 (\$500,000 pledge).

2008: \$15,000 year total – for Center Sponsorships

2011: \$250,000 year total – for CGI (Annual Meeting sponsorship)

Mr. Kelly brought Joan Walker, his long time friend, to meet President Clinton at his home in Chappaqua in 2010. Mr. Kelly then asked her to be a Foundation donor; she agreed to sponsor CGI for 2 years at \$250,000 a year starting in 2011.

Barclays Capital --- Total Giving: \$1,100,000 (since 2008)

2008: \$40,000 year total – for CGI membership

2009: \$40,000 year total – for CGI membership

2010: \$520,000 year total – for CGI membership and sponsorship

2011: \$500,000 year total – for CGI sponsorship

Teneo does limited work with Barclays. In 2010, Teneo partners encouraged Barclays give \$500,000 a year to CGI, which they have done for two years to date.

Indo Gold – Total Giving: \$100,000 with a \$150,000 commitment

2010: \$50,000 year total – for CGI (Annual Meeting sponsorship)

2011: \$50,000 year total – for CGI (Annual Meeting sponsorship)

Indo gold is a small Teneo client that we asked to become a CGI sponsor.

BHP Billiton Limited – Total Giving: \$20,000 for CGI 2011.

BHP, one of the world's largest companies, had never sent anyone to attend CGI nor has any relationship with the Foundation. A client of Teneo's since early 2011, Teneo partners encouraged them to send a senior person to CGI in 2011 to begin building a stronger relationship between BHP and the

Foundation/President Clinton.

Teneo⁹ Total Giving – \$100,000
2011 – \$100,000

Teneo donated \$100,000 to the Foundation in 2011 and made two CGI commitments.

Tenor Clients Who are Pre-existing Donors to the Foundation:

The following are current Teneo clients whose relationship with President Clinton and the Clinton Foundation pre-dated their client relationship with Teneo.

GEMS Education – Total Giving: \$780,000 (since 2008)
2008: \$5,000 year total – for CGI
2010: \$500,000 year total – for CGI Sponsorship
2011: \$275,000 year total – \$250,000 for CGI

Gems approached President Clinton in 2009 to seek his personal services as an advisor to the company. Justin and I convinced them to initiate a relationship to Foundation, which they did; that relationship has grown into a business relationship for President Clinton and a donor relationship for CGI.

The Rockefeller Foundation – Total Giving: \$4,276,841 (since 2006)
2006: \$350,000 year total – for CGI (Annual Meeting sponsorship)
2007: \$350,000 year total – for CGI (Annual Meeting sponsorship)
2008: \$2,050,000 year total – \$350,000 for CGI (Meeting sponsorship),
\$1,700,000 for CCI
2009: \$1,176,016 year total – \$350,000 for CGI (Meeting sponsorship),
\$300,000 for CCI, \$526,016 for HIV/AIDS
(Rwanda)

⁹ An issue that was raised to my attention was Teneo's use of space on the 5th floor of the Sheraton during CGI, a common occurrence, as I understand it for people to do at CGI. Teneo hosted 15 meetings in that room during the 4 days of CGI, primarily with the clients identified in this memo. I assumed CGI sent a bill for that room; when I recently learned we had not been billed, I directed that Teneo resources be used to pay any and all costs associated with the room they used during CGI. I believed, rightly or wrongly, that Teneo's further development of its clients to be bigger donors to the Foundation and CGI was an important priority.

2010: \$350,825 year total – \$350,000 for CGI (Annual Meeting sponsorship), \$850 for Haiti

Mr. Kelly was introduced to Judy Rodin, the head of the Rockefeller foundation, by Andrew Liveris. Judy and Andrew are close friends and Judy asked Andrew who could help and advise her and the Rockefeller foundation. Andrew suggested she meet with Mr. Kelly which she did and quickly hired him to advise her and the foundation. Mr. Kelly has become a close advisor to Judy Rodin and the Rockefeller foundation which has been supportive of the Foundation for years. Mr. Kelly is counseling Ms. Rodin on where to direct Rockefeller funds for 2012; Mr. Kelly is seeking to obtain more support for the Foundation.

Laureate International Universities – Total Giving: \$1,401,332

2009: \$1,150,000 – for CGI (\$400,000 for CGI Asia sponsorship, \$750,000 for CGI Annual Meeting sponsorship)

2010: \$201,332 year total – \$200,000 for CGI (Annual Meeting sponsorship), \$1,332 of which for CBHF

2011: \$50,000 year total – for CGI University

Laureate is a Foundation relationship that evolved into a personal advisory services business relationship for President Clinton. I have managed this relations and, since 2011, Teneo partners have helped manage this relationship, which is very time-consuming. Laureate pays President Clinton \$3.5 million annually to provide advice and serve as their Honorary Chairman.

Teneo Client's who have no relationship to the Foundation

The remainder of the clients have no relationship with the Foundation and were either clients of Declans in his previous position or were clients of employees of Teneo that they have brought with them to the firm.

ATT

Black Diamond

Bank of America ¹⁰

¹⁰ The Clinton's have used Bank of America since 1992 in Little Rock for campaigns and various banking services including managing the foundation's accounts. That local branch of the bank has supported the foundation largely because they have profited quite heavily given the 20-year relationship and the heavy amount of interest the Foundation was paying on the tens of millions of dollars it had to borrow in order to

Firebird
Liberty Mutual
Stone Harbor
Frank Stronach
TiVo
UBS AG
Mylan

For-Profit Activity of President Clinton (i.e., Bill Clinton, Inc.)

Independent of our fundraising and decision-making activities on behalf of the Foundation, we have dedicated ourselves to helping the President secure and engage in for-profit activities – including speeches, books, and advisory service engagements. In that context, we have in effect served as agents, lawyers, managers and implementers to secure speaking, business and advisory service deals. In support of the President’s for-profit activity, we also have solicited and obtained, as appropriate, in-kind services for the President and his family – for personal travel, hospitality, vacation and the like. Neither Justin nor I are separately compensated for these activities (*e.g.*, we do not receive a fee for, or percentage¹¹ of, the more than \$50 million in for-profit activity we have personally helped to secure for President Clinton to date or the \$66 million in future contracts, should he choose to continue with those engagements).

With respect to business deals for his advisory services, Justin and I found, developed and brought to President Clinton multiple arrangements for him to accept or reject. Of his current 4 arrangements, we secured all of them; and, we have helped manage and maintain all of his for-profit business relationships. Since 2001, President Clinton’s business arrangements have yielded more than \$30 million for him personally, with \$66 million to be paid out over the next nine years should he choose to continue with the current engagements.

President Clinton Paid Speeches:

complete the library by November of 2004. That support came mostly in 2001 and 2003. Teneo represents Bank of America through the Ceo from the national organization and is a completely separate relationship established through a relationship of a Teneo employee.

¹¹ For example, the Harry Walker agency, the President’s speaking agent, receives a 10% fee on every paid speech without regard to whether they originated the speech. The agency conservatively estimates that in the last decade, \$20 million in speeches for the President have derived sole from Justin and my efforts.

In support of the President's paid speech activity, Teneo partners have created and secured the following paid speeches for President Clinton.

UBS – \$900,000 - \$450,000 in 2011; \$450,000 to be paid in 2012

Mr. Kelly asked UBS to offer President Clinton paid speeches based upon a concept he developed with Bob Mccann for the firm's clients. In addition to the \$540,000 UBS contributed to the Foundation, Teneo partners have secured a commitment from UBS for President Clinton to deliver three additional paid speeches for them in 2012, should he choose to do so.

Ericson – \$750,000 plus \$400,000 for a private plane

After meeting one of Director of Ericsson on a business trip, I learned that they were sponsoring an inaugural event in China. I pursued them to invite President Clinton to China to speak at this event. I negotiated a fee for President Clinton of \$1 million dollars to speak for two one-hour sessions in Hong Kong, which he did this past weekend. In addition to the \$1 million speaking fee, I negotiated additional coverage of the cost of a private plane.

BHP – \$175,000 in 2012

BHP is hosting a board of directors meeting in June of 2012. We encouraged them to do it in NY and pay President Clinton through Walker. The offer is currently at the state department being vetted.

Lightning

President Clinton recently turned down a 2 year, \$8 million offer to become Honorary Chairman of Mati Kochavi's new media business venture. Mati is a former client of Teneo who we were referred to through Marty Edelman. I went back to Mati and proposed a new structure without any business connectivity other than 4 speeches for \$1 million and \$250k to the foundation should President Clinton choose to accept it. That would also include any broadcasting of foundation events or anything President Clinton would like exposure for on his website. This offer will be presented to President Clinton in Walker speech invitations which he can choose to decline or accept with no role or relationship with the company.

Barclays

Teneo cultivated its client relationship to help secure two paid speeches in 2010 and 2011 totaling more than \$700,000.

Other Matters:

Justin Cooper and I have, for the past ten years, served as the primary contact and point of management for President Clinton’s activities – which span from political activity (*e.g.*, campaigning on behalf of candidates for elected office), to business activity (*e.g.*, providing advisory services to business entities with which he has a consulting arrangement), to Foundation activity (*e.g.*, supporting his engagement on behalf of the initiatives and affiliated entities of the Foundation), to his speech activity (*e.g.*, soliciting speeches and staffing and supporting him on speech travel) to his book activity (*e.g.*, editing his books and arranging and supporting him on book tours) to supporting family/personal needs (*e.g.*, securing in-kind private airplane travel, in-kind vacation stays, and supporting family business and personal needs). In the unique roles in which we have had the opportunity to serve, we have been able to help balance the multiplicity of activities that demand his time and engagement to best fulfill his personal, political, business, official former President, and Foundation/non-profit goals.

We appreciate the unorthodox nature of our roles, and the goal of seeking ways to ensure we are implementing best practices to protect the 501(c)3 status of the Foundation.¹² As we go forward, we welcome the opportunity to identify better strategies for serving the President, the Foundation and its affiliated entities.

¹² For example, I understand our policy on uncompensated (comped) passes to attend CGI is being reviewed. Historically, CGI has accommodated as many paying members as we can identify; the majority of members that attend are comped. In the absence of an established policy, there are a variety of methods used to determine who receives comped passes. We have comped individuals that fall primarily into the following categories: spouse of CGI employees, government employees, potential donors being cultivated – including target Teneo clients, President Clinton’s family and friends, family and friends of Foundation employees, guest requests of foreign dignitaries, and celebrities. As the Foundation identified a formal policy for comped passes, we encourage the creation of a policy that will be commonly applied – as opposed to applied by exception. We are happy to help identify the range of instances where comped passes benefit the goals of the Foundation so the final policy operates in service of the Foundation’s goals.