

EXHIBIT 42-C

to the

**CONFIDENTIAL DECLARATION
OF GREGG D. THOMAS
IN SUPPORT OF PLAINTIFFS' OBJECTIONS**

12/06/2012

The following is a draft transcript of a consensual recording of a telephone call on October 28, 2012 between Dave Houston and

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This draft transcript, in its current form, is for the sole purpose of review by the prosecuting attorneys and should not be construed as a final verbatim transcript. Further review may be necessary for trial purposes.

(ID 2)

DH: Dave Houston

[Redacted]

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Typing Key:

AV: Automated Voice

Auto: Automated Message

UI: Unintelligible

PH: Phonetic

IA: Inaudible

PH: Phonetic

///: Speaking simultaneously

(10/28/2012) (00:06:31)

[Redacted]

Hello.

DH:

Hi, [Redacted]

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[Redacted]

Yes.

DH:

Hi this is DAVE HOUSTON. How are ya?

[Redacted]

Good DAVID. How are you?

DH:

I'm trying to get over a cold um anyway I wanted to get back to you (UI) real quick. I talked to [Redacted] um I've got some issues referencing a hearing that was supposed to go away that looks like now we're gonna have to do it so I'm gonna be pretty well caught up for about the next three days, meaning next week, not Friday, it's a holiday here. So that puts me out completing that by Wednesday. I've got some things on the injunctive relief issue concerning Tampa that's supposed to take place on Thursday or Friday. Um I was gonna have the other counsel cover it because it looked like I was gonna be tied up but I may be able to finish what I'm doing by Wednesday which puts me in the ability area of talking with TERRY one-on-one. What I would like to do is ah try to get some idea from you where we stand and at the same point in time I talked to him last night and of course his primary concern is ah original, authentication, original authentication and I didn't really have much of an answer because I knew we hadn't made any

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sort of a plan for that but if we can think about those two things I'd like to try to close this thing out one way or another.

[]

Yeah I agree um I don't really have anything more to add as far as original authentication other, other than the fact that ah I'm quite sure when you get the material you realize that, that it is authentic and my client um you know he can only, he can only ah he can only attest to what, what he's done with the material since its been in his possession. You know whatever happened with it before he doesn't know but he's under the impression that it went from um [] hands into his own um.

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DH:

Okay.

[]

That there weren't you know too many other um parties involved, if any.

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DH:

Okay well and that all sounds.

[]

Ah it's my, it's my understanding also that there's his handwriting are on the DVDs and when I say his it's []

DH:

Right um.

[]

So.

DH:

And I don't, you know, I haven't even given a second's thought to how we can put this together, ah transfer it to the extent of TERRY being able to at least see what's there.

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[]

Mm hm.

DH:

I think we talked about that before it's and the reason is maybe not surprisingly at one point in time, a long time ago, there was some HULK HOGAN impersonation out there. I don't know whether you're aware of that one but um there was um some stuff going on and you don't frankly if you really looked at if you could tell the difference. But of course he's asked me to somehow figure out that ah we're not dealing with a situation like that. And again, I, its, its reasonable questions and concerns from him without trying to throw rocks at anybody. It's that situation where he wants (chuckles) to make sure that he's not in a situation buying something that's not even him and then he looks at it and goes oh my God what have I done. I mean literally he's gonna be looking at me saying on my God what did you do.

[]

No yeah I get it but you now what, what I've done in situations like these is, you know, I'll, I'll have ah you know like an offer of proof ah exactly how many tapes, how long, the contents of each um and you know at, at the closing if you

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will, um, you'll have an opportunity to view it and if it is what I told you it was then the deal closes. If its not what I told you it was then the deal doesn't close.

DH: Okay well that's fair.

Yeah.

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DH: And if you would. Oh go ahead I'm sorry:

And then I think from, from this point um what might be helpful for our next conversation cause I agree with you I don't want to go back and forth a hundred times and, and this and that. Um at least if, if ah if I can get a floor from my client and you can get a ceiling from your client I'm quite sure that, that um you and I as reasonable people will be able to figure this thing out in our next conversation.

DH: Okay and I think for the, just the purposes of the next conversation I know that he's gonna ask me questions regarding how we're gonna do it, an how we can view then, thing like that.

Yeah.

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DH: And how we can authenticate them and all that stuff and hopefully you and I can talk about that. I'm hoping as early as Thursday but I'm figuring realistically Friday. I'm gonna try to fly to Tampa on Thursday so I can meet with him and this of course is one of the reasons.

Mm hm.

DH: And at the same point in time he able to talk with you on Friday and I know was looking for some time so um between all of us we can put it together and we'll have a, hopefully, a very constructive, very close to final conversation on Friday.

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Great.

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DH: Alright?

Thank you very much. I'll get back to you at a time that works. I appreciate the call and um and then you know as far as to assurances for your client um everything that I said on a prior occasion stands, like representations and warranties and, and the agreement.

DH: Right.

Periodic payments, if there's a breach, payment stopped, disgorgement all of that kind of stuff.

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DH: And . . .

[Redacted]

Lie detector, whatever, whatever you guys want is fine.

DH: And that helps and you know really I've never failed to tell you this. I don't think it's bad.

[Redacted]

Mm hm.

DH: Negotiation to tell you this. My client is aware there's some sort of video out there with what's been said to be racial epithets on it and I think everybody is well aware that he is a public figure in a public marketplace and that would be very damaging to him so I know there's been the word out there oh this tape exists and we're gonna get it soon, some of these Internet sites are at least implying that and I'm hopeful. .

[Redacted]

Mm hm.

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DH: Your client recognizes the harm that would do.

[Redacted]

Ah you never know how long, I mean by no means is this a threat, you never know how long a good relationship with a client is gonna last um I'm in a good place with my client now. I don't see putting um our negotiation off. I think we're on a good track um and, and I can virtually assure you that my client control lasts another week.

DH: Okay that sounds great. Alright [Redacted] we'll be in touch. Thank you.

[Redacted]

Thanks, yeah, bye.

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DH: Bye.

(Sound of phone being hung up_

(End of recording)