

**EXHIBIT C**

**Walsh, Maryellen (Perkins Coie)**

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**From:** Jones, Scott [sjones@sacsheriff.com]  
**Sent:** Wednesday, June 23, 2010 1:04 PM  
**To:** Mrazik, Ryan T. (Perkins Coie)  
**Cc:** McKeel, Mike  
**Subject:** RE: Philip Porembski Subpoena: Sheriff Report 2010-93641

Ryan,

Just to confirm our conversation, I will be forwarding all reports relative to this incident to you pursuant to your subpoena as soon as I get them. Afterward, if you are able to file an appropriate motion to the court with sufficient detail as to the facts (which I believe in reviewing the report you'll have all you need), and the judge signs the order for us to turn it over (or a copy) to you, then we would be more than happy to do so. In the interim, I've ordered our property warehouse NOT to release the tower to anyone, including Porembsky.

Also, since I've never closed the loop on that issue, I'd be more than happy to accept service by email, but please send correspondence directly to me rather than to Lt. McKeel (you may CC him), Records, etc.

Thank you.

Scott Jones

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**From:** Mrazik, Ryan T. (Perkins Coie) [mailto:RMrazik@perkinscoie.com]  
**Sent:** Monday, June 21, 2010 11:57 AM  
**To:** Jones, Scott  
**Cc:** McCullagh, James R. (Perkins Coie)  
**Subject:** RE: Philip Porembski Subpoena: Sheriff Report 2010-93641

Mr. Jones,

Thank you for your response. We would like to confer with you regarding your response to Facebook's subpoena. We disagree with several of your assumptions and are hopeful that we will be able to resolve these issues or at least better understand the Department's position during a telephone conference.

In advance of speaking with you, we wanted to share some of our preliminary responses to your position that there is not evidence that Mr. Porembski intended to abandon the computer and that you do not have authority to permit Facebook to make a copy of the hard drive. The court order from the U.S. District Court expressly authorized the subpoena to the Sheriff's Department for a copy of the hard drive as well as the police report and other information related to how the Department came into possession of the computer, which we understand contains stolen Facebook usernames and passwords.

As mentioned in the Order, Facebook provided Mr. Porembski with a copy of its motion to conduct discovery. The motion specifically mentioned Facebook's desire to obtain a copy of the information residing on the computer. Mr. Porembski acknowledged receipt of the motion and never once contended that he did not intend to abandon the computer. In addition, the Court specifically mentioned that no response to the motion was received from any defendant. If Mr. Porembski did not intend to abandon the computer and to thereby destroy potentially relevant information, one would have expected that he would have immediately responded to the court or at least that he would have attempted to claim the computer.

When we speak, we will be interested in learning the dates Mr. Porembski was in custody as well as any efforts your department has taken to verify the assumption that Mr. Porembski did not intend to abandon the computer. In the interim, because we understand that the computer may contain stolen information from Facebook that is relevant to Facebook's pending litigation and which may otherwise be subject to spoliation, we must insist that you not return the computer to Mr. Porembski or release it to any other private citizen without permission from the court.

Are you available to speak this afternoon at 3:00 p.m.? If not, please suggest an alternate time.

6/28/2010

Also, please confirm that you have accepted service of Facebook's subpoena by email. If you are insisting on service by another method or to another address, please advise.

Sincerely,

Ryan

**Ryan T. Mrazik | Perkins Coie LLP**

P: 206.359.8098

E: RMrazik@perkinscoie.com

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**From:** Jones, Scott [mailto:sjones@sacsheriff.com]  
**Sent:** Friday, June 18, 2010 1:13 PM  
**To:** Cutler, Joseph P. (Perkins Coie)  
**Cc:** McCullagh, James R. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie)  
**Subject:** RE: Philip Porembski Subpoena: Sheriff Report 2010-93641

Mr. Cutler and/or Mr. Mrazik,

I appreciate your desire to obtain this computer for evidentiary and damages purposes, but I have some fundamental issues with turning it over to you. First of all, it is private property owned by Mr. Porembsky. The "abandonment" on which you predicate your entitlement to the property has not been established. As you know, there must be an attendant intent to abandon property before the owner relinquishes his ownership interest in it. I'm not convinced anything of the sort happened here. Absent any evidence to the contrary, and especially since he was likely in custody when the computer was placed in the public area, I must assume that he did NOT intend to abandon the computer. Therefore, his ownership in the computer remains intact.

I'm not sure why our officer even contacted you in the first place—that is something we will look into—but his representation that we would simply hand over the private property of another upon receipt of a subpoena was unfortunately misplaced. We cannot simply hand over the personal property of another that is in our care no matter how much we may want to, solely because the information contained therein may be of value to a third party. Further, the Facebook-related information that was present could very likely have been generated during or in preparation of this lawsuit which would give it an enhanced measure of protection. I think it is safe to assume that neither the citizen nor the deputy could ascertain with certainty what the nature or context of the information was, without any knowledge of the intricacies of the lawsuit.

In sum, this department cannot legally turn over the computer (or the contents therein) to you, without proper legal authority to do so. Your motion for leave and attendant subpoena do not provide that legal authority and, absent such authority, the Sheriff's Department cannot relinquish the computer or its contents to you.

I apologize for the initial confusion on this matter and I do wish you well with your suit.

Scott Jones  
Assistant to the Sheriff  
Legal Advisor

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**From:** Cutler, Joseph P. (Perkins Coie) [mailto:JCutler@perkinscoie.com]  
**Sent:** Friday, June 18, 2010 12:11 PM  
**To:** Jones, Scott  
**Cc:** McCullagh, James R. (Perkins Coie); Mrazik, Ryan T. (Perkins Coie)  
**Subject:** Philip Porembski Subpoena: Sheriff Report 2010-93641  
**Importance:** High

Scott,

I understand that you have asked for a copy of our motion and the court order related to obtaining an image of the hard drive contained in Philip Porembski's computer that is described in Sheriff Report 2010-93641.

6/28/2010

I have attached the following for your review:

- A copy of the request we filed with the court.
- My declaration supporting the request.
- A subpoena containing the order from the court, as well as a request to produce documents and information as described therein.

I am scheduled to start a trial on Monday, so will be fairly unavailable for the next week, but please follow-up with my colleague Ryan Mrazik, copied on this email, who looks forward to talking through this issue with you.

We would appreciate your acknowledgement of receipt of this email, and confirmation whether you agree to accept service of the attached subpoena by email. Also, could you kindly let us know when would be the best time to touch base with you to discuss?

Thanks!

Joe

**Joseph P. Cutler | Perkins Coie LLP**

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Professional Biography

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6/28/2010