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STATE'S EXHIBIT C

Affidavit of Josh Schaffer

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AFFIDAVIT OF JOSH SCHAFFER

STATE OF TEXAS

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COUNTY OF HARRIS

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My name is Josh Schaffer. I am 39 years old. I am a lawyer with an office at 1021 Main, Suite 1440, Houston, Texas 77002. I have been licensed to practice law in Texas since November of 2002.

I represented Planned Parenthood Gulf Coast (PPGC) in the criminal investigation that the Harris County District Attorney's Office (HCDAO) conducted into allegations that PPGC unlawfully sold fetal tissue for valuable consideration. That investigation commenced in August of 2015 and concluded with a grand jury's decision to indict David Daleiden and Sandra Merritt for various offenses on January 25, 2016. Neither PPGC nor any of its employees were charged with any crimes as a result of the investigation.

I have read the motion to quash (MTQ) the felony indictment in cause number 1496318 that counsel for Daleiden filed on April 14, 2016. I am making this affidavit at the request of Melissa Hervey, an assistant district attorney with the HCDAO.

As soon as PPGC became the target of this investigation in August of 2015, I made it a priority to try to obtain the raw, unedited, complete video footage that Daleiden had recorded at PPGC on April 9, 2015. This footage would contain the

best evidence of what occurred. I believed that it would benefit PPGC by demonstrating that neither it nor any of its employees committed any crimes or contemplated the commission of any crimes during the encounter with Daleiden and Merritt.

As soon as I made contact with HCDAO prosecutors in August of 2015, I began requesting the unedited video footage. Sunni Mitchell, the prosecutor who was leading the HCDAO investigation, said that she was not opposed to giving me that footage. However, she said that the HCDAO did not have any video footage other than what was available to the public on YouTube. I suggested that she request the unedited video footage from the Attorney General's Office. In time, I learned that she obtained it from that Office. However, I was told that the Attorney General's Office agreed to give it to the HCDAO on the condition that the HCDAO not give it to PPGC. Mitchell told me that she would try to obtain the footage by other means. I never asked how she planned to do that. I assumed that she would ask Daleiden for it directly.

Mitchell told me on December 1, 2015, that Daleiden was represented locally by Murphy Klasing. Mitchell said that Klasing told her that he would produce the unedited video footage to the HCDAO. She also said that she would tell him that she intended to give it to me. She did not tell me, nor did I consider, that Klasing would produce it pursuant to a grand jury subpoena.

The HCDAO produced to me what it asserted was the unedited video footage on December 18, 2015. I gave it to Katie Beth Gottlieb, general counsel for PPGC, to review. By December 22, 2015, I became concerned that some of the video footage that Daleiden produced to the HCDAO was protected by a temporary restraining order (TRO) that was issued by a federal district court in California as the result of litigation between the National Abortion Federation (NAF) and Daleiden. I immediately brought that concern to Mitchell's attention. She told me on December 23 that Klasing told her that his client had assured him that none of the video footage that Klasing produced to the HCDAO was covered by the TRO. By December 28, I continued to have a good faith concern that Daleiden's production of some video footage might be in violation of the TRO. I notified the HCDAO of that concern and gave Mitchell's contact information to Derek Foran, counsel for NAF.

At no time during the course of the HCDAO investigation did I inquire about, nor did any HCDAO prosecutor reveal to me, any aspect of any grand jury activity. I knew that such information was confidential and could not be disclosed. I did not know if prosecutors were presenting the results of their investigation to a grand jury. I did not know what witnesses, if any, were testifying before a grand jury. Not until after the indictments were issued did I learn that a grand jury had been "held over" beyond its term to continue its investigation into this matter.

The motion to quash alleges that, "throughout the instant grand jury proceedings, prosecutors provided some or all of the evidence produced to the grand jury—including the TRO videos and other material produced by Daleiden—to the target of its investigation, [PPGC]" (MTQ at 2). To this day, I do not know what evidence HCDAO prosecutors presented to the grand jury. The only tangible thing that could be described as "evidence" that I recall receiving from the HCDAO during this investigation was the unedited video footage recorded by Daleiden. However, I did not know and did not ask how the HCDAO obtained that material. For all I knew, Daleiden produced it to the HCDAO voluntarily without a grand jury subpoena because it was my understanding that he had produced it voluntarily to the Attorney General's Office before there were any investigations. I did not know then and do not know now if the HCDAO ever presented any of that video footage to a grand jury. I do not know to what the motion refers when it asserts that "other material produced by Daleiden" was provided to PPGC.

The motion to quash also asserts that I made statements to the media after the indictments were issued that "confirmed that [I] 'explicitly pushed prosecutors' to charge Mr. Daleiden and Sandra Merritt" (MTQ at 2). Throughout the investigation, I made several comments to prosecutors and law enforcement agents related to my belief that the evidence established that Daleiden and Merritt had committed crimes when they used false driver's licenses to enter PPGC on April 9,

2015, and when Daleiden thereafter offered to purchase fetal tissue from PPGC for valuable consideration. I did not have to make that point very forcefully because I believed that it was self-evident to the entire prosecution team.

For most of the investigation, PPGC did not know the true identity of Merritt because she had used a false name ("Susan Tennenbaum") when she visited PPGC on April 9, 2015. The HCDAO prosecutors told me that they did not know her identity. Sometime during early January, I learned of her true identity as the result of depositions that she gave in a civil lawsuit in state court in California on December 29, 2015, and that Daleiden gave on December 30. I provided her identifying information to the HCDAO on January 10, 2016. I did not wait until after I knew of her true identity to advise prosecutors of my belief that she committed a crime when she used a false driver's license to enter PPGC.

Mitchell called me on the phone on the afternoon of January 25, 2016, to notify me that a grand jury had decided to take no action against PPGC. At first, it was not clear to me if that meant that PPGC had been "no-billed" or if it meant that the grand jury did not even vote on whether to indict PPGC. I questioned her about what that meant. I knew that a "no-bill" would be a public record on file with the district clerk's office. Because I knew that Mitchell was prohibited from revealing anything that the grand jury told her, I asked her if there would be a "no-bill" of PPGC or any of its employees on file with the district clerk. She said that

there would not be any "no-bills." I then asked her if the absence of any "true bills" and "no-bills" meant that the grand jury did not even vote on whether to indict PPGC and any of its employees. She repeated that there would not be any "true bills" or "no-bills" on file with the clerk and that I should understand what that meant. I inferred from her response that the grand jury had not even voted on whether to indict PPGC or any of its employees. I then asked her if either Daleiden or Merritt had been indicted. She replied that she could not yet answer that question but said that the HCDAO would be issuing a press release later that afternoon that would address the outcome of the entire investigation. Mitchell emailed me the press release at 3:30 that afternoon. That was the first that I learned that Daleiden and Merritt had been indicted. Before then, I did not know that they had become targets of the HCDAO investigation.

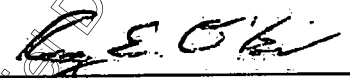
The motion to quash asserts that I "colluded" with the HCDAO prosecutors (MTQ at 3-4). PPGC and I cooperated with the investigation by producing records, answering questions, making employees available for interviews, and giving prosecutors and law enforcement agents a tour of the PPGC facility so they could see first-hand the array of lawful health services that PPGC provides. I do not know what counsel for Daleiden is implying when they assert that I "colluded" with the HCDAO. If they claim that I violated any law by cooperating with the investigation, that assertion is false. Furthermore, to my knowledge, no HCDAO

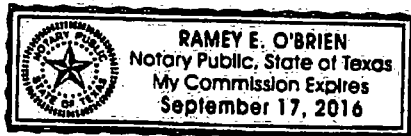
prosecutor or law enforcement agent who participated in the investigation violated any law, much less any grand jury confidentialities, in their dealings with me.

This affidavit is true and correct.


Josh Schaffer

SUBSCRIBED AND SWORN TO before me on May 17, 2016.


Notary Public in and for the
STATE OF TEXAS



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