

TRANSCRIPT OF TELEPHONE CONVERSATION BETWEEN RUSSELL AND CHRIS

This is Case No. 088083. It is December 3, 2008 at 13:25 hours, Agent Wagner.

Chris [answering machine]: Hi, you have reached Chris. Please leave your name and number and I will get back to you as soon as possible. Thank you. [To leave a voice message, press 1 or just wait for the tone. To send a numeric page, press 2 now. At the tone, please record your voice message. When you are finished recording, you may hang up or press pound for more options.]

Russell: Hey, Chris. It's Russell. Give me a call back. Hey, I'm on one of the sites. Let's see, the number is (650) 462-9037. Just give me a call there because I don't get good reception on my cell phone down here.

[Russell dialing]

Chris [answering machine]: Hi, you have reached Chris. Please leave your name and number and I will get back to you as soon as possible. Thank you. To leave a voice message, press 1 or just wait for the tone. To send a [Russell hangs up.]

Russell: This is Russell.

Chris: Hey, Russell, this is Chris. Sorry I just got off the other line.

Russell: Well, I knew you might be going in a meeting and I didn't know if ahh...I called you about ten minutes after.

Chris: Yeah, I have been busy. It has been kind of an unusually busy week. So what's ahh..did you have a chance to chat with folks and see where people stand and whether or not they are open to just having some cool level-headed discussions.

Russell: Well, yeah, I talked to Dave and Jim, and I mean I sat down with them extensively yesterday and you know, quite frankly, you know, I've got these issues with you going around talking to my employees and stuff. I mean I went out to some of the properties yesterday, Chris. In the properties, there are flyers on the door, and, you know, I guess I don't see how this is going to stop. I mean, you know, if we sit down and meet or do whatever...

Chris: Yeah, I guarantee you I can...I am in a position now to control most of what, you know, Yucca or some of these...all the other groups, you know, are doing. I had stepped in because it was disorganized and I have that ability and you guys have to trust me that I can stop that. You know, people are listening to me. They know I am a numbers driven guy. You know, I am actually in these meetings telling these guys...you know, we have people in some of these groups that think that they don't want to see this end until there is like...there

are criminal prosecutions. That is what they are screaming for and I am telling people "you know what, you got to remember what this is all about. It is about trying to maintain some affordable housing stock in the area and also allowing Page Mill to make a reasonable profit." You know, I respect that and you know whether you...there is some kind of deal where maybe there can be ahh...you know, in exchange for, you know, allowing some commercial development or, you know, that you guys can make some commitment to doing some high density affordable housing, maybe Stanford can play a role in that, whether it is situated here on this side or you can help...but on the other hand...that is the kind of thing that I think that [loud noise drowns out talking briefly] are...I mean that is what I would like to see. A lot of other people are...just at this point they are so pissed off that they want to run this out...you know they want to run this out and say, "Hey, let's try to get these guys on accounting fraud or things like that." You know, I am not going to comment on that, but that is not what I...my goal is to see a brokered solution and to do that in good faith and to...

Russell: Well, you know...I mean I think, Chris, what I would like to do is...I mean we had earlier discussions and, I mean I just as soon get you out of the picture. I mean, you know, if Dave and Jim, if we got to pay you the money you asked for, let's just get you out of the picture.

Chris: No, that's not what it is about. It has never been about that and...

Russell: I mean, you are continuing to disgrace me, you know, and our company, you know, with going around and posting these things, but that seems to be what it is about at this point and I would just as soon accommodate you in your request, get you out of the picture, and I want, you know, to move on. I had talked to my employees out there. I mean I got to calm them down. You are giving them flyers and all the other stuff. I got tenants coming in. You are driving around the neighborhood. [Chris speaks in the background but cannot hear what he is saying.] I just as soon give you the twenty grand.

Chris: That's not...that's not on the table and it has never been about personal settlement. It never ever has been about that and, you know, if you have been...you know, reasonable...you know, it has been easy...fairly easy to deal with you and I appreciate that. You know, when Jim came in, you know, I didn't go into science to make money. That is not what it is about. It is about seeing all the stories...

Russell: Yeah, but that's...that's what you mentioned. I mean you said, "hey, maybe we buy you guys out and we get you out and you go down the road and all of this stuff disappears."

Chris: Okay, just let me finish. That was exploratory for all of the people in the neighborhood. You know, does...there is a developer in San Francisco who goes after these types of properties and he sits down and they offer just \$10,000 up front. That was...you know, why don't we rather than going so aggressively with the litigation...you know, why don't we just sit down and say...you know we respect your dignity...and I mean I say that on behalf of all tenants, you know, the 5,000 or so that are involved...

Russell: I mean I respect your dignity here, but I mean, you know I went and talked to these guys and they said, "look, it may be easier just to get Chris out of the picture. Let's just pay him," you know, and...pay you the money and you head on down the road and these problems disappear. [Chris talking in the background while Russell speaks—cannot hear what he is saying.]

Chris: That is not what I am interested in...and that is why I was so upset when Jim implied that. That is just not...you know, maybe we are on a different...that is just not the kind of person I am. I am not driven by money at all.

Russell: Well, I mean, I know you mentioned that the other day, but, I mean, you also said that look if we can...see I don't think you can control these problems.

Chris: I can.

Russell: I don't think you can control the press. I don't think that is going to happen...I mean, and now you are telling me you kind of changed your mind...I mean I thought that if we did pay you, you were going to go down the road and that would stop the flyers, that would stop all the troubles, that would stop you talking to my employees and it would fix it going long term [Again, Chris talking in the background while Russell speaks—cannot hear what he is saying.]

Chris: Okay, let me just...let me just step in here. The flyers would stop. I have more things ready to roll out over the next two to three weeks. All of the resources are in place. I can stop that and I said "look, talk to these guys." I'm not asking for cash. It is not about me. It's about just sitting down and saying "hey, is there a solution." You know, I know you guys are tired of it as well, you know. All the tenants are tired of it. I see the stories. You know, I see this...it's a human tragedy unfolding over here. It is not an exaggeration. I've seen it. I've been door to door. You know, I...these people...

Russell: But that's what I can't do, Chris. I mean I...you know, I can't have you going door to door. I can't have you walking onto other properties, interrupting people's right to a quiet and private enjoyment of their house. You are knocking on doors.

Chris: Your tenants are coming to me.

Russell: No, I find that difficult. I mean after you are putting a notice on each of their doors.

Chris: Well, I am not going to...I mean the response to that was overwhelming. I mean everybody appreciated that so I'm not...any...you know...

Russell: It seems to me if you can make this...if you can make this go away and if I pay you to do that like you requested, then it would stop. [Again, Chris talks in the background while Russell is talking—cannot hear what he is saying.]

**Chris:** I am not going to be...I'm not going to be bought off, that is not what it is about. It never has been.

**Russell:** You can get bought off, you can go...you said the other day you would give the money away. I don't know...I mean if I pay it to you, you can do whatever you want with it.

**Chris:** Russell, in good conscience, after having seen all of the stories and talked to people and seen what is happening in this neighborhood, I have never been a money guy and I...there is no...even if I took cash like that and gave it to community legal services, you think I am going to walk away from the 4,000 people who still live in this neighborhood who are...are...are struggling to put food on the table?

**Russell:** Well, I am just going back to the earlier conversation where you said "look, if you can buy us out like you bought out the people in University Circle when that was done..."

**Chris:** That was with respect to everybody that's here...that is feeling like they are being forced out. That it has never been about me and when Jim made that implication, you know, that is when...if you guys want somebody to blame about the level of activity and how I've gotten involved, and believe me, the resources that are online now to roll-out over the next four weeks, it has been designed to wratch up the intensity, you know...

**Russell:** Okay, so Chris...

**Chris:** There is a lot more on line at a national level as well, alright, so I am in a position to do that. All I am asking you guys is to sit down in good faith and respecting your rights to make a reasonable profit on this deal, also respect the tenant's rights and the city's rights to preserve its affordable housing stock, you know....

**Russell:** I mean, where I have a problem is here...you know...okay we sit down and we meet and we say "okay, here's what we can do," but how are you going to make this go away? I don't see how you, Chris Lund, can have enough...you have enough control over the press, these groups, Yucca...

**Chris:** Russell, who do you think is driving the press? Me. I'm driving it.

**Russell:** Really?

**Chris:** I have got the stories. I...but you know these community organizations, their heart has been in the right place. After that conversation with Jim, where he was so insulting, after you...I actually felt pretty good after talking to you, and Jim was so insulting in calling my...you know, this is...all...I have been involved in this for many, many months on a low level with the petition drive just to help people out because I was concerned about the people. It is my neighborhood too right?

Russell: Right, no I....

Chris: People who are...you know, there were some bad players here and you guys have made some improvements and that's great, but there are also a lot of hard working families here that just want to feed their kids and you know...

Russell: I appreciate all that, but, you know, what I did is I went and talked to Dave and Jim and said, "look, Chris, he is doing this" and I was going kind of along the theory that okay you told us that if we paid you \$20,000, that was the number I had out there, I don't know if it was \$25,000, but now, you know, and now unfortunately I have to go back to them and tell them that you changed your mind.

Chris: No, it has never...No, that...it has not changed my mind, that has never been...It has never been about me. The talk about voluntary vacate agreements was about using that as a potential solution to get you guys what you wanted and also to help the community out.

Russell: I mean, I think I...I think we explained, or at least Jim explained at the time, that's not our intent. We don't need to pay anybody off. We're not doing a land development deal here. We're apartment owners.

Chris: I know you are intending to flip...I know who the...

Russell: No, I think you have a lot of supposition, and you have a lot of opinions, but I don't think you know.

Chris: Okay, look, I'll let you in on what is going to roll out here, alright? The one thing you need to understand about me and I think you guys underestimated from the get go because I have an East Palo Alto address...

Russell: No, I don't think that's at all the case, Chris. I respect you. I think you are a very intelligent guy. You have obviously gone to a better school than I went to and I mean I think that you are very intelligent, but I mean obviously I am sitting here right now and I am kind of like okay, if I deal with you and I continue to deal with you and we sit down and have a meeting, you know, what is going to happen? I mean what is going to happen going forward? Because I don't think you can control this stuff. [Again, Chris speaks in the background while Russell is talking.]

Chris: Russell, you have to trust me on...you just have to trust me on two things. Number one, I am driving the majority of what is happening now, alright? In terms of the talks with your investors, alright? In terms of what is happening on the accounting front, in terms of talking to former partners on the executive team, in terms of lining up the local media coverage, in terms of lining up the regional media coverage, in terms of lining up the New York Times and the coverage that is going to come on that. I am driving that, all of it, and if you guys...I have...you know, this is...you have to know that I am a data driven

person, right? I am trained as a scientist. I am not an average person. Anything that I get involved in, it's going to be meticulous and I am going to have it documented. I've got all the numbers on historic vacancy rates. I've got a 500 apartment subsample on your current vacancy rates. It's going to be a numbers driven thing. I can tell you exactly what you're going to sell the portfolio for. I know what the business...

Russell: How can...how can you say that in this current marketplace. How can you say...how can anybody sell anything. I guess I'm just more concerned what's going to happen going forward, you know, if I don't somehow cooperate with you. It's ridiculous. [Again, Chris speaks in the background as Russell speaks, cannot hear what he is saying.]

Chris: Okay, the other thing...I'm telling you that I can control that. I'm the one who has been driving it and again it is not about me walking away with \$20,000. I don't care about the money, not at all. It's about the community and that is always what it has been about and the fact that you implied or not you, but Jim implied...if you guys on the team want somebody to blame about the fact that I stepped in, taken charge of this and brought both resources on a number of levels in terms of contacts in the business community as well as political resources on a much bigger playing field than I think you guys are used to operating in, you know, it has always been about doing what's right for the community.

Russell: Well, I mean that's what we have been in the business of doing. I mean that is what we have been in the business of doing. You look at all the things you said in our meetings about the positive things we have done in the neighborhood. [Again, Chris speaking in the background-cannot understand what he is saying.]

Chris: I'm not saying "here, give all these people \$20,000," I'm just saying sit down and talk, you know, off the record, just be reasonable and again I want to reiterate, I respect you guys' right to make a fair profit. I'm not saying just walk away and not...I know you have this limited partnership. I know who some of those people are. I know you have obligations, but you got to understand, I have taken charge of this situation, I have been cultivating the relationships and the resources for the past six months. When Jim made those comments, I decided to step in...

Russell: Well, now wait a minute, you were the one who threw out the \$20,000 number.

Chris: Again, no...that was...and it was only...that was an example as to what...and there is another guy in San Francisco when he does these things, when he comes in, that he offers everybody involved \$10,000. It was on behalf of the community....

Russell: That is not at all what you said. I mean, as I remember, you said the University Circle people got twenty grand and that would be...if we were to pay that, that was going to resolve this.

Chris: No, I did say they were paid twenty grand and I did not say that that's what I want or that if I did get that, that I would...that's....not at all, and that is why...

**Russell:** Well, unfortunately that is not what I heard. I mean, now I...now I kind of feel like, you know...

**Chris:** The fact that you guys implied that is the reason I got involved, because you question my rationale for getting into it and it has always been about what is right for the community. You know....

**Russell:** Yeah, but I see this as kind of a personal vendetta at this point, you know, um, and it's causing me difficulty, and I guess I was just trying to accommodate you in your request.

**Chris:** Well, you can go back to these guys, ahh...It has never been about that and I don't...it doesn't matter...

**Russell:** No, I don't want to insult you, you know, I'm...obviously I'm trying to see what we can do to work this out.

**Chris:** Okay, I'll just say this and then I've got meetings to get to.

**Russell:** I know, I know...

**Chris:** It has never been about this. If you guys came to me and said here's two hundred grand, five hundred...that's not...it's not an unstarter. It has never been about that. I don't care about the money. I care about people sitting down and having a rational conversation that allows, you know...

**Russell:** Okay, well....

**Chris:** You guys make a reasonable profit and that's it, and if we can't get there, then I am going to tell you the pressure that is going to be brought to bear both locally and on a national level, the political pressure, the contacts I have, I will put that into play if I have to...

**Russell:** Okay, well, whose...in this meeting, who is going to sit down? If we want to have a sit down...I know you mentioned....

**Chris:** We could just start with me. That's fine.

**Russell:** Okay, so you, myself and Jim and we will get David.

**Chris:** I don't want to deal with Jim. Jim is...that's not...he can sit in, but he was so insulting last time that....

**Russell:** Well, he's our chief counsel so he is going to have to be there, I mean there is no way...

Chris: Well he needs to be...I mean if he is going to be there, he needs to be reined in. I don't want a repeat of last....

Russell: Well, I mean, I think though as I said previously, when you said that you know...I guess all we heard was you want \$20,000 and our problems go away, and I think that maybe got him going cause he felt, okay, here is a shake-down in the process, where are we going with this and, you know...

Chris: It has never been about that and like I said, it doesn't matter how much money you guys put on the table for me as an individual, that's not what it is about.

Russell: Okay, so if we sit down with you, will you stop going, you know, going after Calpers?

Chris: I will put a temporary hold on it.

Russell: Okay, you will put a temporary hold on that. You will talk to your people...you can control Calpers and their decisions.

Chris: No, but I can control the...I have Calpers...I know they have contractual obligations with you in this fund, I know what the fund is, I've got all of that information. It's all well documented. I have Calpers on the hook based on a UN document that they signed.

Russell: I've read that whole thing. I don't think that even applies here.

Chris: No, well it certainly does and they are sensitive to it so...you know, there are...there are...

Russell: I think Calpers has got a lot of other things on its plate right now. What are going to do...

Chris: I think every pension fund has got things burning with the financial crisis, I understand that, but there...you guys just need to realize that...don't underestimate the amount of resources that can be brought to bear.

Russell: Okay, so when can you sit down? I will make this happen. I mean, is it Thursday now? Is it Thursday or Wednesday? Wednesday, Thursday? I don't...

Chris: Tomorrow. We can meet tomorrow.

Russell: Tomorrow?

Chris: I can...I will hold off on the next...what's going to roll out the next day. I will hold off on that.

Russell: Okay, I tell you what. I will call you back. Let's see, when is your next meeting? Where you are in your next meeting?

Chris: What, it's 2 now?

Russell: Yeah, I don't want to hold you up for your meetings.

Chris: I'm going to be talking to some folks in a conference call so....

Russell: You've got my number or I can call you back. I'll call you back and leave a message. I've got to check my schedule and I've got to find out....I know, I know, and I appreciate your candidness... [Again, Chris is speaking in the background-cannot make out what he is saying]

Chris: I appreciate you being...acting as an intermediary. I do...you know, I believe you're a decent guy, I do, and I just want to be clear. This is not a meeting about...it has never been about the money for me. If the inference was drawn when I said "hey, why don't you guys just offer voluntary vacate agreements" and, you know, it's never been about that, and it doesn't matter how much money goes on the table, that's not what this conversation is about. I just want to see a little bit of good faith.

Russell: Alright. Well, I mean...we will sit down with you in good faith, we will hear what you got to say, as I said, I'm just very skeptical as to what you've kind of started here, that you can control and maybe as much as you think you can, because that obviously at this point I just really feel personally you are hurting my business practices. I mean, I have to calm down employees...

Chris: I mean you are entitled that...

Russell: Yeah, I mean...

Chris: On my side, I personally feel like you are hurting the 5,500 tenants that live in this neighborhood. You know, it is people who are disadvantaged...

Russell: Well, I mean, I got to get...I got to get on the phone with the weekly reporter I met yesterday, Ganedy, Ganedy or whatever. I mean how can we stop him? Apparently, he called our office yesterday and he said he is going public with a story today, so how does he get stopped? That's going to run.

Chris: But I have other resources on a national level that are ready to roll out that I guarantee you if things on the business wire...you guys need to know...number one, this is not about the money for me, number two, I have control of the situation and you have to take me seriously...

Russell: I'm taking you seriously.

**Chris:** I'm not saying that as a threat. I just want to be candid about it. There is a strategy that's in place that I spent a long time developing. The resources have been committed, these things are going to roll out in stages. We will take a breather after each one comes out, see how you guys feel, see if we can make some headway, you know, quietly, off the record. If we can't, then the next stage will roll out. There has been a lot of work that has gone into it.

**Russell:** With an overall strategy, you are ruining my business. Well, I don't know...

**Chris:** Making people aware of what the tragedy that happens in this neighborhood on a daily basis...

**Russell:** Okay, I'm going to call you back. I'll check my schedule. I know you got to get in your meeting. [both parties talking at the same time—cannot make out what they are saying.]

**Chris:** I'm still optimistic about it.

**Russell:** Okay, alright.

**Chris:** Let's try operating in that...

**Russell:** I know, Chris, that's what we will try to do.

**Chris:** Thank you.

**Russell:** Thanks, bye.