THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
1105 Santa Barbara Street
Santa Barbara, CA 93101
Telephone: (805) 568-2300
FAX: (805) 568-2398

Unsealed pursuant to 6/16/05 court order

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

SANTA MARIA DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. MICHAEL JOE JACKSON, Defendant.	No. 1133603 PLAINTIFF'S MOTION IN LIMINE FOR ADMISSION OF EXPERT TESTIMONY ON DEFENDANT'S FINANCES DATE: January 28, 2005 TIME: 9:30 AM DEPT.: SM2 (Melville)

FILED UNDER SEAL

INTRODUCTION

The Evidence Code authorizes the use of expert opinion testimony where it is "[r]elated to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact . . ." (Evid. Code, § 801(a).)

According to Evidence Code section 720(a), "A person is qualified to testify as an expert if he has special knowledge, skill, experience, training or education sufficient to qualify him as an expert on the subject to which his testimony relates." Moreover, the qualification of

an expert witness is ordinarily a matter addressed to the sound discretion of the trial court. (*People* v. *Axell* (1991) 235 Cal.App.3d 836, 859; *Evans* v. *Ohanesian* (1974) 39 Cal.App.3d 121, 127.) A reviewing court must give considerable latitude to the lower court in determining qualifications of an expert, and the lower court's ruling will not be disturbed on appeal unless a manifest abuse of discretion is shown. (*People* v. *Kelly* (1976) 17 Cal.3d 24, 39; *People* v. *Page* (1991) 2 Cal.App.4th 161, 187.)

On the issue of motive, the People will introduce evidence at trial that defendant was facing a serious financial crisis at the time of the charged offenses. To this end, the People seek to introduce the testimony of forensic accountant, Duross Obrien who has conducted an extensive analysis of defendant's financial records and a to-be-determined expert from the entertainment industry.

I.
EXPERT TESTIMONY FROM A FORENSIC ACCOUNTANT SHOWING DEFENDANT'S FINANCIAL CRISIS IS APPROPRIATE AND NECESSARY TO GIVE THE JURY INSIGHT INTO DEFENDANT'S MOTIVE TO COMMIT THE CHARGED OFFENSE IN COUNT I OF THE INDICTMENT

Duross O'Bryan's testimony will summarize the state of Mr. Jackson's financial affairs before during and after the charged offenses based upon his review of documents provided from defendant through defense discovery, defendant's bank records; court documents and other sources relevant to this inquiry.

The airing of "Living with Michael Jackson," which prominently featured defendant cuddling the victim in this case and talking about sleeping with little boys, was devastating to defendant's already vulnerable public image. Because defendant's public image is his "stock in trade," the financial impact of a public perceiving defendant to be engaging in illegal conduct with children threatened to destroy what was left of defendant's withering financial empire. As such, defendant had a powerful motive to isolate and control the victim and his family for two purposes. First to prevent the press from interviewing the victim and his family thereby exacerbating an already critical situation and second, to use this family in a public

relations ploy by obtaining video footage of them praising defendant and professing the innocence and wholesomeness of his behavior. Defendant's success in both of these endeavors was due in part to his very strong motivation to prevent his ailing financial empire from crumbling into nothingness.

II.
EXPERT TESTIMONY FROM A ENTERTAINMENT EXPERT SHOWING DEFENDANT'S LOSS OF FUTURE EARNINGS BASED UPON "LIVING WITH MICHAEL JACKSON" IS APPROPRIATE AND NECESSARY TO GIVE THE JURY INSIGHT INTO DEFENDANT'S MOTIVE TO COMMIT THE CHARGED OFFENSE IN COUNT I OF THE INDICTMENT

To further explain the devastating impact of the television show, "Living with Michael Jackson" on defendant's current **and future** finances, the People seek to introduce an appropriate expert in the entertainment industry. The previously planned expert in this area is unavailable and the People are currently identifying a replacement. This expert will be called upon to chart the fortunes of defendant's career as a worldwide celebrity in pop music. In addition to mapping the rise and fall of defendant's popularity in the music industry, this expert will explain the tangible effect on defendant's marketability after the airing of "Living with Michael Jackson" and its effect on his earning power. This expert will also provide the jury with insight into the tremendous loss of tens of millions in future earnings defendant would suffer if the public perceived him to be a child molester. Expert testimony from this witness will will help show defendant was motivated to control and isolate the victim and his family not only to preserve his current wealth but also to maintain the prospect for enormous future earnings defendant could expect if his public image was protected.

CONCLUSION

It is anticipated that the direct testimony of these expert witnesses will require less than one hour each. The People respectfully request that this highly relevant and necessary expert testimony be admitted to help the jury understand the how the broadcast of showing of

"Living with Michael Jackson" motivated defendant to commit the acts alleged in count one of the indictment.

DATED: January 18, 2005

THOMAS W. SNEDDON, JR.
District Attorney

By: _____
Gordon Auchincloss, Senior Deputy
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA)
) SS
COUNTY OF SANTA BARBARA)

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On January 18, 2005, I served the within PLAINTIFF'S MOTION IN LIMINE FOR ADMISSION OF EXPERT TESTIMONY ON DEFENDANT'S FINANCES; on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, BRIAN OXMAN and GIBSON, DUNN & CRUTCHER, LLP , by faxing a true copy to counsel at the facsimile number shown with the address of each on the attached Service List, and then by causing to be mailed a true copy to each counsel at that address.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Barbara, California on this 18th day of January, 2005.

Cris Linz

SERVICE LIST

SERVICE LIST

THOMAS A. MESEREAU, JR.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: (310) 284-3133
Attorney for Defendant Michael Jackson

OXMAN & JAROSCAK
Brian Oxman State Bar Number 072172
14126 East Rosecrans
Santa Fe Springs, CA 90670
Tel.:(562)921-5058, Fax: (562) 921-2298
Co-counsel for Defendant

ROBERT SANGER, ESQ.
Sanger & Swysen, Lawyers
233 E. Carrillo Street, Suite C
Santa Barbara, CA 93001
FAX: (805) 963-7311
Co-counsel for Defendant