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**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA

MAR 04 2005

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11 Attorneys for Defendant  
MICHAEL JOSEPH JACKSON

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION  
14

15 THE PEOPLE OF THE STATE OF )  
16 CALIFORNIA, )

Case No. 1133603

17 Plaintiffs, )

REPLY TO DISTRICT ATTORNEY'S  
OPPOSITION TO MOTION TO QUASH  
SUBPOENAS ISSUED TO HOLTHOUSE  
CARLIN AND VAN TRIGT AND  
BERSTEIN, FOX, WHITMAN & CO.;  
DECLARATION OF ROBERT M. SANGER

18 vs. )

19 MICHAEL JOSEPH JACKSON, )

20 Defendant. )

Honorable Rodney S. Melville

Date: March 11, 2005

Time: 8:30 am

Dept: SM 8

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28 REPLY TO DISTRICT ATTORNEY'S OPPOSITION TO MOTION TO QUASH SUBPOENAS ISSUED TO  
HOLTHOUSE CARLIN AND VAN TRIGT AND BERSTEIN, FOX, WHITMAN & CO.

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, declare:

1. I am an attorney at law duly licensed to practice law in the courts of the State of California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael Jackson.

2. The court ruled, on January 28, 2005, that the District Attorney cannot use evidence of indebtedness or poverty to show motive. The Court reserved ruling on whether the District Attorney would be allowed to present general testimony from an entertainment management expert regarding the impact of "Living with Michael Jackson" on Mr. Jackson's finances, pending an Evidence Code Section 402 hearing.

3. The statement that "[t]he Court finds that general testimony as it relates to this particular situation may be admissible . . .," in the minute order, relates to the proposed testimony by an entertainment management expert, and not to evidence of indebtedness.

4. Despite the Court's ruling, the District Attorney continues to issue subpoenas seeking this inadmissible information. Holthouse, Carlin & Van Trigt, Mr. Jackson's former accountants, have received two subpoenas from Mr. Auchincloss. The first subpoena was issued on February 3, 2005 and the second subpoena was issued on February 23, 2005. Bernstein, Fox, Whitman & Company, Mr. Jackson's current accountants, have received two subpoenas duces tecum from Mr. Auchincloss. The first subpoena was issued on February 3, 2005 and the second subpoena was issued on February 23, 2005. The District Attorney has also issued at least three subpoenas to Bank of America seeking similar information.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct this 4<sup>th</sup> day of March, 2005, at Santa Maria, California.



FOR Robert M. Sanger

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 THE SUBPOENA SHOULD BE QUASHED

4 The court ruled, on January 28, 2005, that the District Attorney cannot use evidence of  
5 indebtedness or poverty to show motive. The Court reserved ruling on whether the District  
6 Attorney would be allowed to present general testimony from an entertainment management  
7 expert regarding the impact of "Living with Michael Jackson" on Mr. Jackson's finances. The  
8 statement that "[t]he Court finds that general testimony as it relates to this particular situation  
9 may be admissible . . ." in the minute order, relates to the proposed testimony by an  
10 entertainment management expert, and not to evidence of indebtedness. (Declaration of Robert  
11 M. Sanger.)

12 As argued in the motions to quash, the law is very clear that evidence of indebtedness or  
13 poverty may not be introduced to show a financial motive to commit a crime. The introduction  
14 of such evidence is reversible error. (*People v. Carrillo* (2004) 119 Cal. App. 4th 94, 97.)

15 Despite the Court's ruling that the prosecution will not be allowed to introduce evidence  
16 of indebtedness to show motive to engage in a conspiracy, the District Attorney continues to  
17 issue subpoenas to Mr. Jackson's current and former accounts that specifically seeks records  
18 regarding indebtedness. Holthouse, Carlin & Van Trigt, Mr. Jackson's former accountants,  
19 have received two subpoenas from Mr. Auchincloss. The first subpoena was issued on February  
20 3, 2005 and the second subpoena was issued on February 23, 2005. Bernstein, Fox, Whitman &  
21 Company. Mr. Jackson's current accountants, have received two subpoenas duces tecum from  
22 Mr. Auchincloss. The first subpoena was issued on February 3, 2005 and the second subpoena  
23 was issued on February 23, 2005. Additionally, the prosecution has issued at least three  
24 subpoenas to Bank of America seeking similar information. (Declaration of Robert M. Sanger.)

25 The District Attorney now, for the first time, claims that the records sought by the  
26 subpoenas are relevant to "defendant's relationship with various individuals alleged to be his co-

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REPLY TO DISTRICT ATTORNEY'S OPPOSITION TO MOTION TO QUASH SUBPOENAS ISSUED TO  
HOLTHOUSE CARLIN AND VAN TRIGT AND BERSTEIN, FOX, WHITMAN & CO.

1 conspirators." (Opposition, pages 3-4.) There is no supporting declaration to support this theory  
2 and there is no explanation of how these records are supposedly to the alleged co-conspirators.  
3 This theory was not alleged in Mr. Auchincloss' affidavits, attached to the subpoenas, and should  
4 not be considered by this Court.

5 As argued above, the prosecution is seeking detailed financial evidence to show  
6 indebtedness, that the Court has ruled to be inadmissible. The District Attorney's proposed  
7 solution that Mr. Jackson seek a protective order with regard to "trade secrets," once the  
8 materials have been delivered to the Court (Opposition, pages 4-5), ignores the fact that there is  
9 no justification for subpoenaing these materials in the first place.

10 In accordance with the Court's previous order, the Court should quash all subpoenas that  
11 seek inadmissible evidence of indebtedness.

12 II.

13 CONCLUSION

14 Therefore, based on the reasons set forth above, Mr. Jackson requests that the Court  
15 quash the subpoena duces tecum, or, in the alternative, issue a protective order declaring that the  
16 subpoenaed records are inadmissible at trial, must be returned to the subpoenaed party, and that  
17 all copies in the possession of the District Attorney or law enforcement must be destroyed.


18 Dated: March 4, 2005

COLLINS, MESEREAU, REDDOCK & YU  
Thomas A. Mesereau, Jr.  
Susan C. Yu

20 SANGER & SWYSEN  
Robert M. Sanger

22 OXMAN & JAROSCAK  
Brian Oxman

24 By:  
For

  
Robert M. Sanger  
Attorneys for Defendant  
MICHAEL JOSEPH JACKSON

28 REPLY TO DISTRICT ATTORNEY'S OPPOSITION TO MOTION TO QUASH SUBPOENAS ISSUED TO  
HOLTHOUSE CARLIN AND VAN TRIGT AND BERSTEIN, FOX, WHITMAN & CO.

**PROOF OF SERVICE**

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On March 4, 2005, I served the foregoing document REPLY TO DISTRICT ATTORNEY'S OPPOSITION TO MOTION TO QUASH SUBPOENAS ISSUED TO HOLTHOUSE CARLIN AND VAN TRIGT AND BERNSTEIN, FOX, WHITMAN & CO.; DECLARATION OF ROBERT M. SANGER on the interested parties in this action by depositing a true copy thereof as follows:

District Attorney of the County of Santa  
Barbara  
Tom Sneddon  
Gerald Franklin  
Ron Zonen  
Gordon Auchincloss  
312 East Cook Street  
Santa Maria, CA 93454  
Fax - 805-568-2398

       **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

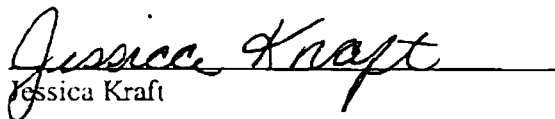
       **BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at the above-referenced numbers.

  **X**   **BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.

  **X**   **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

       **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed March 4, 2005, at Santa Barbara, California.

  
\_\_\_\_\_  
Jessica Kraft