

1 Michael D. Nasatir (Calif. Bar No. 38121)
2 William J. Genego (Calif. Bar No. 103224)
3 Nasatir, Hirsch, Podberesky & Genego
4 2115 Main Street
5 Santa Monica, California 90405
6 Telephone: 310-399-3259
7 Telecopier: 310-392-9029/8260

8 Attorneys for Movant
9 Holthouse, Carlin & Van Trigt LLP

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAR - 2 2005

GARY M. BLAIR, Executive Officer
BY Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SANTA OF SANTA BARBARA

12 Santa Maria Division

13 PEOPLE OF THE STATE OF)
14 CALIFORNIA)

Case No. 1133603

15 vs.)

16 Notice of Motion and Motion to Quash
17 Subpoena Duces Tecum;
18 Memorandum In Support of Motion

19 MICHAEL JOE JACKSON)

20 Defendant.)

Honorable Rodney S. Melville

Date: TBA

Time: 8:30 a.m.

Place: SM 8

21 HOLTHOUSE, CARLIN & VAN)
22 TRIGT,)

23 Movant.)

24 To the Clerk of the above designated department of the Superior Court of the
25 State of California for the County of Santa Barbara, and to Thomas W. Sneddon,
26 Jr., District Attorney for the County of Santa Barbara, and his deputy in this
27 matter, Senior Deputy District Attorney Gordon Auchincloss:

28 PLEASE TAKE NOTICE that Holthouse, Carlin & Van Trigt, LLP
(“Movant”), by counsel, hereby moves the Court to quash the February 23, 2005
subpoena duces tecum served upon Movant by the District Attorney and that
Movant notices the motion for a hearing on a date to be announced by the Court.

1 The grounds for the requested relief include the following:

2 1) the subpoena fails to satisfy the requirements of Code of Civil
3 Procedure 1985 or otherwise to establish good cause for production of the
4 subpoenaed documents, and because it is overbroad and burdensome;

5 2) the subpoena violates Movant's state and federal constitutional
6 rights against unreasonable searches and seizures;

7 3) alternatively, enforcement of the subpoena should be stayed until
8 those persons who may have a claim of privilege to raise with respect to the
9 documents have had an opportunity to review the documents and assert any
10 applicable privileges.

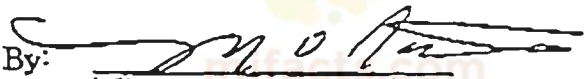
11 The motion is based on this notice, the following memorandum, the
12 attached exhibit, the declaration of Michael D. Nasatir, the files and records of the
13 case and such further argument and evidence as may be presented at the hearing
14 on the motion.

15 Respectfully submitted,

16 Nasatir, Hirsch, Podberesky & Genego

17 Dated: 3/2/05

18 By:


19 Michael D. Nasatir, Esq.

20 Counsel for Movant
21 Holthouse Carlin & Van Trigt LLP

I.

Factual Background

The District Attorney for Santa Barbara County has served a subpoena duces tecum issued February 23, 2005 styled with the caption of this case (People v. Michael Joe Jackson), on Holthouse, Carlin & Van Tright ("Movant"). Exhibit A (telecopier transmission page and subpoena duces tecum issued February 23, 2005, with accompanying material). The description of the records the subpoena seeks appears to be identical to the records the District Attorney sought by means of a subpoena issued February 3, 2005 (and which Movant moved to quash in a motion filed on or about February 9, 2005) with the notable exception that the prefatory phrase "any and all" has been added in the first sentence. Specifically, the subpoenaed documents, as described by the affidavit of Deputy District Attorney Gordon Auchincloss accompanying the subpoena are the following:

ANY AND ALL STATEMENT OF ASSETS AND LIABILITIES AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. STATEMENT OF REVENUES AND LIABILITIES AS OF 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BALANCES FOR ALL ASSET, LIABILITY AND EQUITY ACCOUNTS AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BALANCES FOR ALL REVENUE AND EXPENSE ACCOUNTS AS OF 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. ACCOUNTS PAYABLE CHECK REGISTERS, IN DETAIL BY VENDOR, FOR THE 2000, 2001 AND 2002 CALENDAR YEARS, THROUGH TERMINATION. UNPAID ACCOUNTS PAYABLE AND ACCRUED LIABILITIES BALANCES, IN DETAIL BY VENDOR, AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BANK STATEMENTS FOR ALL ACTIVE DEPOSITS, COLLECTION AND LOAN COLLATERAL ACCOUNTS, AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. PERIODIC STATEMENTS REPORTING MUSIC PUBLISHING ACTIVITY RELATED TO THE SONY/ATV AND MIJAC CATALOGS, INCLUDING STATEMENTS RECEIVED FROM 12/31/99 THROUGH TERMINATION. REPORTS OR STATEMENTS PROVIDING EVIDENCE OF VALUE FOR ANY MUSIC PUBLISHING CATALOGS, REAL ESTATE OR OTHER REAL PROPERTY, RECEIVED FROM 12/31/99 THROUGH TERMINATION.

1 Exhibit A, p. 3

2 The affidavit accompanying the February 3 subpoena (which is the subject of
3 Movant's previous motion) stated the "documents are material to the proper
4 presentation of this case by reason of the following facts: To prove motive on behalf
5 of the defendant for the charged offenses and to corroborate the victims of the
6 charged offenses." See Exhibit B, p. 5 (telecopier transmission page and subpoena
7 duces tecum issued February 3, 2005, with accompanying material). The statement
8 in the affidavit accompanying the February 23 subpoena as to why the "documents
9 are material to the proper presentation" of the case reiterates and expands upon the
10 District Attorney's contention that the documents are material to prove motive, but
11 no longer contends the documents are material to corroborate the complaining
12 witnesses.

13 Counsel for the Movant has been informed the Defendant objects to the
14 production of the subpoenaed documents on grounds which include violation of his
15 rights of privacy and confidentiality and other claims of privilege, and that the
16 Defendant has or intends to file a motion to quash the subpoena on those grounds.
17 See Declaration of Michael D. Nasatir. Movant's counsel has also been informed
18 and believes the Defendant has objected to financial evidence on relevancy grounds
19 and that the Court ruled on January 28, 2005, that the District Attorney cannot use
20 detailed financial evidence to show motive. Declaration of Michael D. Nasatir.

21 II.

22 Argument

23 A. The Subpoena Must Be Quashed Because It Fails to Establish Good Cause, Is
24 Overbroad and Burdensome, and Seeks Material That May Be Privileged

25 1. Introduction

26 Penal Code "Sections 1326 and 1327 set forth the procedure for either the
27 prosecution or the defendant to obtain discovery records possessed by third parties."
28

1 *People v. Superior Court (Barrett)* (2000) 80 Cal. App.4th 1305, 1315, 96 Cal.
2 Rptr.2d 264. As the Court in *Barrett* confirmed, "The issuance of a subpoena duces
3 tecum . . . is purely a ministerial act and does not constitute legal process in the
4 sense that it entitles the person on whose behalf it is issued to obtain access to the
5 records described therein until a judicial determination has been made that the
6 person is legally entitled to receive them." *Barrett*, 80 Cal. App.4th at 1316,
7 quoting, *People v. Blair* (1979) 25 Cal.3d 640, 651, 159 Cal. Rptr. 818.

8 A criminal subpoena issued by a prosecutor must comply with Code of Civil
9 Procedure (CCP) section 1985(b). *People v. York* (1980) 108 Cal. App.3d 779, 789-
10 792, 166 Cal. Rptr. 717; *Johnson v. Superior Court for Santa Barbara County* (1968)
11 258 Cal. App.2d 829, 837, 66 Cal. Rptr. 134; *People v. Brinson* (1961) 191 Cal.
12 App.2d 253, 12 Cal. Rptr. 625; see also *People v. Superior Court (Broderick)* (1991)
13 231 Cal. App.3d 584, 587-88, 282 Cal. Rptr. 416 (assuming without discussion that
14 subpoena duces tecum issued by prosecution is subject to CCP); but see, *M.B. v.*
15 *Superior Court* (2002) 103 Cal. App.4th 1384, 127 Cal. Rptr.2d 454.¹

16
17 ¹ The court of appeal in *M.B. v. Superior Court* (2002) 103 Cal. App.4th 1384,
18 127 Cal. Rptr.2d 454, in upholding a subpoena duces tecum issued by a grand jury,
19 ruled that the subpoena was not subject to CCP section 1985, and concluded, in
20 dictum, that "the affidavit requirement [of CCP section 1985] does not apply to
21 either criminal trials or criminal grand jury proceedings." *Id.*, at 1394, 462. The
22 court distinguished the cases holding CCP section 1985 applicable to a criminal
23 trial subpoena on the ground that all but one had been decided before *Pitchess*,
24 which it relied on as support for its conclusion, explaining that the Court in
25 *Pitchess* ruled that the requirements of CCP section 1985 were not applicable to a
26 subpoena issued by a criminal defendant for police officer personnel records. *M.B.*,
27 103 Cal. App.4th at 1394, citing, *Pitchess v. Superior Court* (1974) 11 Cal.3d 531,
28 113 Cal. Rptr. 897.

24 As explained by the court in *Pacific Lighting Leasing Co. v. Superior Court*
25 (1976) 60 Cal. App.3d 552, 131 Cal. Rptr. 559, the Court in *Pitchess* was discussing
26 "the right of an accused to seek discovery in the course of preparing his defense to a
27 criminal prosecution," which it noted was "a judicially created doctrine evolving in
28 the absence of guiding legislation." *Pacific Lighting*, 60 Cal. 3d 561, quoting,
Pitchess, 11 Cal.3d at 535-37. Moreover, the Court's holding that a defendant was
not required to meet the specificity requirements of CCP section 1985 in order to

(continued...)

1 Section 1985(b) requires that the subpoena be accompanied by affidavit
2 showing good cause and materiality for production of the subpoenaed items.
3 Specifically, CCP section 1985(b) provides as follows:

4 A copy of an affidavit shall be served with a subpoena duces
5 tecum issued before trial, showing good cause for the production
6 of the matters and things described in the subpoena, specifying
7 the exact matters or things desired to be produced, setting forth
8 in full detail the materiality thereof to the issues involved in the
9 case, and stating that the witness has the desired matters or
10 things in his or her possession or under his or her control.

11 CCP § 1985(b).

12 Even if CCP 1985(b) were deemed not to govern a criminal subpoena duces
13 tecum issued by the prosecution, case law requires that, given the privacy and
14 Fourth Amendment interests implicated by a third party subpoena duces tecum, the
15 subpoena comply "with the normal requirement that the party seeking discovery of
16 documents furnish 'factual data by the required affidavit' justifying disclosure."
17 *Pacific Lighting*, 60 Cal. 3d at 567, quoting, *Johnson v. Superior Court*, 258 Cal.
18 App.2d at 837. Indeed, this is the standard a defendant must satisfy where the
19 request does not implicate Fifth Amendment concerns. *Pacific Lighting*, 60 Cal.
20 App.3d at 567 "The right to discovery by a subpoena duces tecum of third party

21
22 ¹(...continued)

23 establish good cause for enforcement of a subpoena for police officer personnel
24 records was based on constitutional concerns specific to a defendant, and the
25 decision was limited to "an accused in a criminal case . . ." *Pacific Lighting*, 60 Cal.
26 3d 562, quoting, *Pitchess*, 11 Cal.3d at 535-37 ("Were a court to require strict
27 adherence to the provisions of CCP 1985 and 2036(a), it is likely that Fifth
28 Amendment problems would develop in many instances. Therefore, in contrast to
the formal requirements for civil discovery, an accused in a criminal prosecution
may compel discovery by demonstrating that the requested information will
facilitate the ascertainment of the facts and a fair trial." (internal quotations and
citations omitted)(emphasis added))

1 records" requires a "showing 'the requested information will facilitate the
2 ascertainment of the facts and a fair trial.'" *Barrett*, 80 Cal. App.4th at 1316,
3 quoting, *Pitchess*, 11 Cal.3d at 536. As the court in *Barrett* noted, "[a] subpoena
4 duces tecum that makes a blanket demand for [third party] documents and amounts
5 to nothing more than a fishing expedition is subject to being quashed." *Barrett*, 80
6 Cal. App.4th at 1320, n.7, citing, *People v. Serrata* (1976) 62 Cal. App.3d 9, 15, 133
7 Cal. Rptr. 144.

8 A third party served with a subpoena duces tecum may also contest the
9 subpoena on the grounds that it is overbroad. *M.B. v. Superior Court*, 103 Cal.
10 App.4th at 1387, n.4; *Barrett*, 80 Cal. App.4th at 1320, n.7 (in prosecution for prison
11 murder occurring in 1996, court of appeal directed defendant and the District
12 Attorney "to address whether the request for prison records dating back to January
13 1992 was overbroad" and after determining it was premature to consider
14 overbreadth in the writ proceeding, added that "[t]he issue . . . is one that the trial
15 court should consider if raised in further proceedings below.")

16 In addition to the objections to the subpoena that the third party has the
17 right to assert, where the materials sought by the subpoena may be subject to a
18 privilege held by another, the custodian has an obligation to take steps to preserve
19 the opportunity to invoke that privilege. *People v. Superior Court (Laff)* (2001), 25
20 Cal.4th 703, 713, 107 Cal. Rptr.2d 323 ("[T]he custodian of materials protected by
21 an evidentiary privilege owes a duty to the holder of the privilege to claim the
22 privilege and to take actions necessary to ensure that the materials are not
23 disclosed improperly." (citation omitted)).

24 ///

25 ///

26 ///

27

28

1 2. The Subpoena Fails to Establish Good Cause, Is Overbroad and Seeks
2 Material That May Be Privileged

3 (a) The Affidavit Fails to Establish Good Cause

4 The affidavit fails to establish good cause under either CCP 1985 or the
5 standards that are otherwise applicable by case law to a third party subpoena duces
6 tecum for production of the subpoenaed documents for at least three separate and
7 related reasons. First, the motive theory of materiality as stated in the affidavit
8 accompanying the subpoena fails to establish the required good cause because it
9 simply advances a financial motive theory of materiality without connecting that
10 theory, either as to time or data, with the subpoenaed documents. Second, the
11 affidavit fails to establish good cause because it does not address much less explain
12 in detail how the subpoenaed documents could be considered material in light of the
13 Court's January 28 ruling that the District Attorney cannot use detailed financial
14 evidence to show motive. See Declaration of Michael D. Nasatir. Third, the broad
15 and expansive descriptive categories employed by the affidavit, including such
16 terms as "any and all" and "through termination," preclude a finding that good
17 cause has been established as good cause necessarily entails detailed specificity as
18 to the items subpoenaed. See CCP § 1985(b) (affidavit must "specify[] the exact
19 matters or things desired to be produced, setting forth in full detail the materiality
20 thereof...")

21 In sum, the February 3 subpoena was an impermissible and unjustified
22 "fishing expedition," and the District Attorney's indirect response to Movant's
23 motion to quash the February 3 subpoena on that ground by issuing a broader
24 subpoena is of no avail because it merely explains why the District Attorney wants
25 to go fishing, and fails to provide the information needed to establish good cause.

26 (b) The Subpoena Is Unreasonable and Overbroad

27 Separate and apart from the failure to establish good cause, the subpoena
28

1 also must be quashed because it infringes upon Movant's state and federal
2 constitutional rights to be free from unreasonable searches and seizures. The
3 subpoena is rendered unreasonable as to Movant because its use of terms such as
4 "any and all" and "through termination," are so overbroad and expansive as to be
5 burdensome.

6 (c) Defendant's Claims of Privilege Must Be Preserved

7 As noted above, to the extent Movant is a custodian holding records as to
8 which Defendant has a privacy interest, Movant is authorized and obligated to take
9 steps to preserve the opportunity for Defendant to invoke any claims of privilege he
10 may have with respect to the documents. *People v. Superior Court (Laff)*, 25
11 Cal.4th at 713. Counsel for the Movant has been informed the Defendant objects to
12 the production of the subpoenaed documents on grounds which include violation of
13 his rights of privacy and confidentiality and other claims of privilege, and that the
14 Defendant has or intends to file a motion to quash the subpoena on those grounds.
15 Declaration of Michael D. Nasatir. Accordingly, Movant requests the Court order
16 the production and disclosure of the documents be stayed until claims of privilege
17 can be invoked by any interested parties and adjudicated by the Court at an in
18 camera hearing.

19 III.

20 Conclusion

21 For all the foregoing reasons, the Court should order the subpoena quashed
22 or, alternatively, order that its enforcement be stayed to allow claims of privilege to
23 be asserted and adjudicated.

24 Respectfully submitted,

25 Nasatir, Hirsch, Podberesky & Genego

26 By: 

27 Michael D. Nasatir, Esq.
28 Counsel for Movant
Holtzhouse Carlin & Van Trigt LLP

DECLARATION OF MICHAEL D. NASATIR

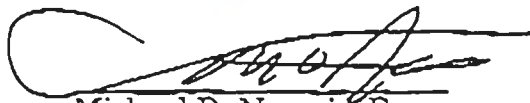
I, Michael D. Nasatir, declare:

1. I am an attorney at law duly licensed to practice law in the courts of the State of California. This declaration is submitted in support of the foregoing motion to quash the subpoena duces tecum issued February 23, 2005 directed to Holthouse, Carlin & Van Trigt, LLP.

2. I have been informed the Defendant in the above captioned action objects to the production of the subpoenaed documents on grounds which include violation of his rights of privacy and confidentiality and other claims of privilege, and that the Defendant has or intends to file a motion to quash the subpoena on those grounds.

3. I have been informed and on that basis believe the Defendant has objected to financial evidence on relevancy grounds and that the Court ruled on January 28, 2005, that the District Attorney cannot use detailed financial evidence to show motive.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct this 2nd day of March, 2005, at Santa Monica, California.



Michael D. Nasatir, Esq.

EXHIBIT A

SUBPOENA FOR APPEARANCE OF WITNESS

THE SUPERIOR COURT, STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA
Santa Maria Division

The People Of The State Of California VS. MICHAEL JOE JACKSON

DUCES TECUM

TO: HOLTHOUSE CARLIN & VAN TRIGT
ATTN: SUBPOENA COMPLIANCE DEPT.
1601 CLOVERFIELD BOULEVARD, STE. 300 SOUTH
SANTA MONICA, CA 90404

HEARING DATE: March 9, 2005 at 09:00
DEPT: 8
JUDGE: Rodney Melville

REPORT TO: Santa Barbara Superior Court
312-G East Cook Street
Santa Maria, CA 93454

TYPE OF HEARING: Superior Court Jury Trial
REPORT NO: 03-5670
COURT NO: 1133603
DA NO: 03-12-098996
DDA NAME: THOMAS W. SNEDDON, JR.
OFFENSE DATE: 02/07/2003
VIOLATION: PC288(A)

YOU ARE: Not required to appear in person if you produce the records described in the accompanying affidavit. If you received this subpoena by mail **PLEASE CONTACT THE WITNESS COORDINATOR IMMEDIATELY.** This can be done between 8:00 a.m. to 5:00 p.m. M-F either in person at the above address, or by phone at the # below. Please have your driver's license # or ID # available. If you have small children, please make arrangements for childcare prior to your court date.

FOR CASE STATUS INFORMATION:

Please call the Witness Coordinator's Office prior to your actual appearance to confirm the court schedule at: (805) 346-7529

Witness may be entitled to witness fees and mileage. If you reside outside Santa Barbara County contact the Witness Coordinator for assistance.

DATE ISSUED: February 23, 2005



Thomas W. Sneddon, Jr., District Attorney
County of Santa Barbara

SECTION 1331 & 1331.5 PENAL CODE: A WITNESS MAY, IN LIEU OF APPEARANCE AT THE TIME SPECIFIED IN THE SUBPOENA, AGREE TO APPEAR AT ANOTHER TIME. DISOBEDIENCE TO A SUBPOENA, OR REFUSAL TO BE SWORN TO TESTIFY AS A WITNESS MAY BE PUNISHED BY THE COURT OR MAGISTRATE AS A CONTEMPT

I hereby certify that at _____ (AM)(PM) on _____ 200_, I served the within subpoena by delivering a copy of the subpoena personally to _____. Date: _____
By: _____ Reason not served _____

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
By: GORDON AUCHINCLOSS, State Bar #150251
SR. DEPUTY DISTRICT ATTORNEY
312-D E. COOK STREET
SANTA MARIA, CA 93454
TELEPHONE: (805) 346-7529

ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

V.

MICHAEL JOE JACKSON,

Defendant.

) CASE NO.: 1133603

) D.A. NO.: 03-12-098996

) SUBPOENA DUCES TECUM

) AND DECLARATION IN

) SUPPORT THEREOF

I, GORDON AUCHINCLOSS, SR. DEPUTY DISTRICT ATTORNEY of the County of Santa Barbara, State of California, being sworn, say:

That he is the attorney for Plaintiff in this action; that the cause has been duly set down for trial or hearing on the 9TH day of March, 2005, at 8:30 a.m. in Department 8 of the Superior Court.

That Affiant is informed and believes, and upon such information and belief alleges, that HOLTHOUSE CARLIN & VAN TRIGT has in their possession or under their control the following documents:

PLEASE PRODUCE ANY AND ALL STATEMENT OF ASSETS AND LIABILITIES AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. STATEMENT OF REVENUES AND LIABILITIES AS OF 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BALANCES FOR ALL ASSET, LIABILITY AND

EQUITY ACCOUNTS AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BALANCES FOR ALL REVENUE AND EXPENSE ACCOUNTS AS OF 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. ACCOUNTS PAYABLE CHECK REGISTERS, IN DETAIL BY VENDOR, FOR THE 2000, 2001 AND 2002 CALENDAR YEARS, AND THROUGH TERMINATION. UNPAID ACCOUNTS PAYABLE AND ACCRUED LIABILITIES BALANCES, IN DETAIL BY VENDOR, AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. BANK STATEMENTS FOR ALL ACTIVE DEPOSIT, COLLECTION AND LOAN COLLATERAL ACCOUNTS, AS OF 12/31/99, 12/31/00, 12/31/01, 12/31/02 AND THROUGH TERMINATION. PERIODIC STATEMENTS REPORTING MUSIC PUBLISHING ACTIVITY RELATED TO THE SONY/ATV AND MIJAC CATALOGS, INCLUDING STATEMENTS RECEIVED FROM 12/31/99 THROUGH TERMINATION. REPORTS OR STATEMENTS PROVIDING EVIDENCE OF VALUE FOR ANY MUSIC PUBLISHING CATALOGS, REAL ESTATE OR OTHER REAL PROPERTY, RECEIVED FROM 12/31/99 THROUGH TERMINATION.

Affiant believes and so states that the above documents are material to the proper presentation of this case by reason of the following facts:

I am informed and believe that defendant Michael Jackson was facing a dire financial crisis at the time of the charged offenses. This crisis was publicly known and widely reported. I am also informed and believe that Michael Jackson faces a crushing amount of personal debt amounting to well over 275 million dollars which will be due and payable in December of this year.

I am informed and believe that Michael Jackson's present and future earning as an entertainer are directly connected to his public image and that his public image was decimated by the international airing of the Martin Bashir documentary entitled, "Living with Michael Jackson."

This documentary prominently featured the thirteen year old victim in the pending child molestation case. The footage showed Jackson holding hands and smuggling with this boy on a couch as he talked about his preference for having young children sleep in his bedroom.

I am informed and believe that Michael Jackson was motivated to commit the charged offense of conspiracy to commit child abduction, false imprisonment and extortion in order to control the victim and his family for his own public relations purposes.

I am informed and believe that Michael Jackson was motivated by this financial crisis to do whatever was necessary to preserve his public image. The preservation of this image was directly linked to the preservation of his financial empire and provided motivation for him to commit the charged conspiracy.

WHEREFORE, Affiant prays that a Subpoena Duces Tecum issue.

DATED: FEBRUARY 23, 2005

THOMAS W. SNEDDON, JR.
DISTRICT ATTORNEY

By: 

GORDON AUCHINCLOSS
Sr. Deputy District Attorney

Subscribed and sworn to before me this

23rd day of February, 2005

GARY M. BLAIR, County Clerk

By: 

SHAMRA LIMON
Deputy Clerk

MARNIE B. PINSKER
Assistant Director

DAVID M. SAUNDERS
Chief Investigator



CHRISTIE STANLEY
Assistant District Attorney

ERICA A. HANSON
Chief Trial Deputy

COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

To assist you in preparing your records, we have prepared this information sheet so that you can comply with the legal requirements prescribed by law, Section 1560-1564 of the Evidence Code.

Within 5 days of receipt of this Subpoena Duces Tecum, the recipient must:

- 1) Prepare a copy of all records described in the subpoena;
- 2) Complete the attached affidavit;
- 3) The affidavit and copy of records are then sealed in an envelope which must be

labeled with the following information from this subpoena duces tecum:

People v.; MICHAEL JOE JACKSON
DA #: 03-12-098996
SC# 1133603

- 4) This sealed and labeled envelope is then sealed in an outer envelope and addressed to the Clerk of the Court named in the subpoena;
- 5) The records may then be mailed or otherwise delivered to the Clerk of the Court, Criminal Division, 312 E. Cook Street, Santa Maria, CA 93454;

Should you have any questions, please call Shamra Limon at (805)346-7529.

Thank you for your cooperation and assistance in this matter.

Sincerely,

Shamra Limon
Witness Coordinator

☐ Santa Barbara Office
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
FAX (805) 568-2455

☐ Lompoc Office
115 Civic Center Plaza
Lompoc, CA 93436
(805) 737-7760
FAX (805) 737-7732

☐ Santa Maria Office
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7540
FAX (805) 346-7588

DECLARATION/AFFIDAVIT

I _____, am the duly authorized custodian of the records described in the Subpoena Duces Tecum, a copy of which is attached to this affidavit. The copy of records enclosed herewith is a true and correct copy of the records described in the attached Subpoena Duces Tecum which are in my possession. The said records were prepared by _____ in the ordinary course of business at or near the time of the act, condition or event described in said records.

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

Executed on _____, 20____ at _____
California.

Affiant's signature

EXHIBIT B

THOMAS W. SNEEDON, JR.
District Attorney

MARNIE D. PINSKER
Assistant Director

DAVID M. SAUNDERS
Chief Investigator



PATRICK J. MCKINLEY
Assistant District Attorney

CHRISTIE STANLEY
Assistant District Attorney

ERIC A. HANSON
Chief Trial Deputy

February 3, 2005

COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

Holthouse Carlin & Van Trigt
ATTN: Subpoena Compliance Dept
1601 Cloverfield Boulevard, Suite 300 South
Santa Monica, CA 90404

Re: *The People of the State of California vs. Michael Joe Jackson*

Dear Sir/Madam:

Enclosed please find a Subpoena Duces Tecum. To assist you in preparing your records, we have developed this information sheet. Within 5 days of receipt of this Subpoena Duces Tecum, the custodian of records must:


- (1) Prepare a copy of all records described in the subpoena
- (2) Complete the enclosed declaration
- (3) Seal the declaration and the copy of records in an envelope that has been provided with the case number, case name, and date of hearing. (Use envelope #1.)
- (4) This sealed and labeled envelope is then to be sealed in an outer envelope and addressed as designated below. (Use envelope #2.)

Carrie Wagner for Judge Melville
Superior Court of California
County of Santa Barbara
Santa Maria Civil Division
312 East Cook Street
Santa Maria, CA 93454

- (5) The records may then be mailed or otherwise delivered to the addressee indicated above before the scheduled hearing date of February 16, 2005, at 8:30 a.m.

If you have any questions, please contact me at (805) 568-2372. Thank you for your cooperation and assistance.

Very truly yours,


GORDON AUCHINCLOSS
Senior Deputy District Attorney

Enclosures

☐ Santa Barbara Office
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
FAX (805) 568-2453

☐ Lompoc Office
115 Civic Center Plaza
Lompoc, CA 93476
(805) 737-7760
FAX (805) 737-7732

☐ Santa Maria Office
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7510
FAX (805) 346-7588

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA

THOMAS W. SNEDDON, JR.
DISTRICT ATTORNEY

SUBPOENA FOR APPEARANCE OF WITNESS

THE SUPERIOR COURT, STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA
Santa Maria Division

The People Of The State Of California VS. MICHAEL JOE JACKSON

DUCES TECUM

TO: HOLTHOUSE CARLIN & VAN TRIGT
ATTN. SUBPOENA COMPLIANCE DEPT.
1601 Cloverfield Boulevard, Suite 300 South
Santa Monica, CA 90404

HEARING DATE: February 16, 2005 at 08:30 a.m.
DEPT. 2
JUDGE: Rodney Melville

REPORT TO: Santa Barbara Superior Court
312-G East Cook Street
Santa Maria, CA 93454

TYPE OF HEARING: Jury Trial
REPORT NO:
COURT NO: 1133603
DA NO: 03-12-098996
DDA NAME: GORDON AUCHINCLOSS
OFFENSE DATE: 02/07/2003
VIOLATION: PC288

YOU ARE: Not required to appear in person if you produce the records described in the accompanying affidavit. If you received this subpoena by mail **PLEASE CONTACT THE WITNESS COORDINATOR IMMEDIATELY.** This can be done between 8:00 a.m. to 5:00 p.m., Monday through Friday, by phone at the number below. Please have your driver's license number or ID number available. If you have small children, please make arrangements for childcare prior to your court date.

FOR CASE STATUS INFORMATION:

Please call the Witness Coordinator prior to your actual appearance to confirm the court schedule at:
(805) 346-7529

Witness may be entitled to witness fees and mileage. If you reside outside Santa Barbara County contact the Witness Coordinator for assistance.

DATE ISSUED: February 2, 2005



Thomas W. Sneddon, Jr., District Attorney
County of Santa Barbara

SECTION 1331 & 1331.5 PENAL CODE: A WITNESS MAY, IN LIEU OF APPEARANCE AT THE TIME SPECIFIED IN THE SUBPOENA, AGREE TO APPEAR AT ANOTHER TIME. DISOBEDIENCE TO A SUBPOENA, OR REFUSAL TO BE SWORN TO TESTIFY AS A WITNESS, MAY BE PUNISHED BY THE COURT OR MAGISTRATE AS A CONTEMPT.

I hereby certify that at _____ (AM)(PM) on _____ 200_, I served the within subpoena by delivering a copy of the subpoena personally to _____. Date: _____
By: _____ Reason not served _____

1 THOMAS W SNEDDON, JR., DISTRICT ATTORNEY
2 County of Santa Barbara
3 By: GORDON AUCHINCLOSS, State Bar # 150251
4 Senior Deputy District Attorney
1112 Santa Barbara Street, Santa Barbara, CA 93101
Telephone: (805) 568-2300

5 Attorney for Plaintiff

6
7 SUPERIOR COURT, STATE OF CALIFORNIA
8
9 FOR THE COUNTY OF SANTA BARBARA
10 Santa Maria Division

11 THE PEOPLE OF THE STATE OF CALIFORNIA,
12 Plaintiff,

13 vs.

14 MICHAEL JOE JACKSON,

15 Defendant

DA No. 03-12-098996
Court No. 1133603

AFFIDAVIT FOR
SUBPOENA DUCES TECUM

17 I, GORDON AUCHINCLOSS, Senior Deputy District Attorney of Santa Barbara
18 County, California, being sworn, says:

19 That I am the attorney for Plaintiff in the action; that the cause has been duly set down
20 for trial or hearing on February 16, 2005, at 08:30 a.m., in the Superior Court.

21 That Affiant is informed and believes, and upon such information and belief alleges,
22 that HOLTHOUSE CARLIN & VAN TRIGT has in their possession or under their control, the
23 following documents: Statement of Assets and Liabilities as of 12/31/99, 12/31/00, 12/31/01,
24 12/31/02 and through termination. Statement of Revenues and Liabilities as of 12/31/00,
25 12/31/01, 12/31/02 and through termination. Balances for all Asset, Liability and Equity
26 accounts as of 12/31/99, 12/31/00, 12/31/01, 12/31/02 and through termination. Balances for
27 all Revenue and Expense accounts as of 12/31/00, 12/31/01, 12/31/02 and through termination.
28 Accounts Payable Check Registers, in detail by vendor, for the 2000, 2001 and 2002 calendar

1 years, and through termination. Unpaid Accounts Payable and Accrued Liabilities Balances, in
2 detail by vendor, as of 12/31/99, 12/31/00, 12/31/01, 12/31/02 and through termination. Bank
3 statements for all active deposit, collection and loan collateral accounts, as of 12/31/99,
4 12/31/00, 12/31/01, 12/31/02 and through termination. Periodic statements reporting music
5 publishing activity related to the Sony/ATV and MJAC catalogs, including statements
6 received from 12/31/99 through termination. Reports or statements providing evidence of
7 value for any music publishing catalogs, real estate or other real property, received from
8 12/31/99 through termination.

9 Affiant believes and so states the above documents are material to the proper presentation
10 of this case by reason of the following facts: To prove motive on behalf of the defendant for
11 the charged offenses and to corroborate the victims of the charged offenses.

12 Wherefore, Affiant prays that a Subpoena Duces Tecum be issued.

13
14 DATED: February 2, 2005

15
16 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

17
18 By: *Patty A. Auchincloss*
19 GORDON AUCHINCLOSS
20 Senior Deputy District Attorney
21
22
23
24
25
26
27
28

DECLARATION OF CUSTODIAN OF RECORDS

I, _____ say:
(name)

1. I am the duly authorized CUSTODIAN OF THE RECORDS for this business and I am a qualified witness with authority to certify these records.
2. The copies enclosed in this inner envelope are true copies of all the records described in the subpoena duces tecum.
3. The records were prepared by the personnel of this business in the ordinary course of business at or near the time of the act, condition, or event.

Date records sent: _____

DECLARATION OF CUSTODIAN OF RECORDS (NO RECORDS)

I, _____ say:
(name)

I am the duly authorized CUSTODIAN OF THE RECORDS who has authority to certify records for the within business.

After a diligent search, I declare that this business has none of the following records:

I declare under penalty of perjury, that the following is true and correct and that this declaration is executed at:

_____, on _____
City and State Date

Signature of Custodian

Name of Company

Michael D. Nasatir (Calif. Bar No. 38121)
William J. Genego (Calif. Bar No. 103224)
Nasatir, Hirsch, Podberesky & Genego
2115 Main Street
Santa Monica, California 90405
Telephone: 310-399-3259
Telecopier: 310-392-9029/8260

Attorneys for Movant
Holthouse, Carlin & Van Trigt LLP

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA OF SANTA BARBARA
Santa Maria Division

PEOPLE OF THE STATE OF
CALIFORNIA

vs.

MICHAEL JOE JACKSON

Defendant.

HOLTHOUSE, CARLIN & VAN
TRIGT,

Movant.

Case No. 1188603

PROOF OF SERVICE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2115 Main Street, Santa Monica, California 90405.

On March 2, 2005, I served the foregoing document described as: NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM; MEMORANDUM IN SUPPORT OF MOTION, on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Gordon Auchincloss, Esq.
Senior Deputy District Attorney
1112 Santa Barbara Street
Santa Barbara, California 93101

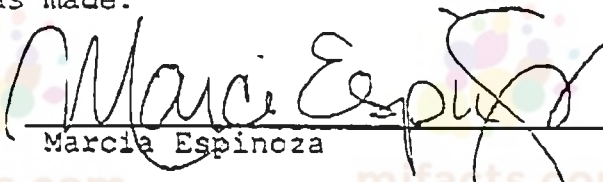
X (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Santa Monica, California

____ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on March 2, 2005 at Santa Monica, California.

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 those direction the service was made.


Marcia Espinoza