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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

APR 20 2005

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

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SANTA BARBARA**
10 **SANTA MARIA DIVISION**

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

15 vs.

16
17 MICHAEL JOE JACKSON,
18 Defendant.

No. 1133603

PEOPLE'S BRIEF
REGARDING EVIDENTIARY
FOUNDATIONS FOR
DOCUMENTS FOUND
DURING THE SEARCH OF
THE HOME OF CO-
CONSPIRATOR F. MARC.
SCHAFFEL

DATE: April 20, 2005
TIME: 8:30 AM
DEPT.: SM2 (Melville)

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22
23 **INTRODUCTION**

24 Pursuant to a search warrant on the home of named co-conspirator F. Marc Schaffel
25 Detectives from the Santa Barbara Sheriff's Office seized the documentary evidence identified
26 as Exhibits 400 through 420. The People seek the admission of these exhibits as proof of the
27 conspiracy alleged in count one of the indictment. Foundations for writings generally involve
28

1 three steps: 1) Authentication; 2) Secondary Evidence Rule and 3) The Hearsay Rule (when
2 applicable.)

3 AUTHENTICATION

4 A writing must be authenticated before the writing or secondary evidence of its
5 content may be received in evidence. (Evidence Code § 1401.) To authenticate a writing the
6 proponent must establish by evidence or other means provided by law facts sufficient to
7 sustain a finding that it is the writing the proponent claims it to be. (Evidence Code § 1400.)
8 A writing may be authenticated by evidence of the genuineness of the handwriting of the
9 maker including opinion testimony of a non-expert who is familiar with the person's
10 handwriting or a handwriting comparison by the trier of fact. (Evidence Code § 1416 et seq.)

11 Evidence Code Section 1410 provides the evidence code does not limit the means
12 by which a writing may be authenticated or proved. For example, circumstantial evidence can
13 be used for authentication. Therefore, in, *People v. Olguin*, the court found that documents
14 could be authenticated based solely upon the contents of the document and the location where
15 the document was found. (*People v. Olguin* (1994) 31 Cal.App.4th 371, 383; See also, *People*
16 *v. Gibson* (2001) 90 Cal. App.4th 1355, 1372-1373.)

17 The people claim that the proffered documents are the records, contracts and e-
18 mails of F. Marc Schaffel. As authentication for this fact the people will show that each of the
19 proffered documents were found in the home of Mr. Schaffel. All of the documents were
20 found in filing cabinets containing other records of Mr. Schaffel. In addition, the People will
21 present testimony from a witness who worked as an assistant to Mr. Schaffel who will testify
22 that Mr. Schaffel was meticulous about storing his records in the filing cabinets where these
23 documents were located. The documents themselves are obviously records of Mr. Schaffel.
24 They are all grouped together among file drawers containing hundreds and hundreds of
25 personal and business documents of Mr. Schaffel. The e-mails are mostly addressed to or sent
26 from Mr. Schaffel and name him by name. Many of them mention the victims by name.
27 Defendant is a party to the written contracts and agreements with Mr. Schaffel. Downloaded
28 e-mails from co-conspirators are found in the same files that are filled with news

1 information about defendant's 2003 public relations crisis with notable labels as "FIRES
2 BURNING." The contents of each of the documents themselves along with the location where
3 they were found will establish irrefutable authentication that these documents are in fact the
4 records, contracts and e-mails of co-conspirator F. Marc Schaffel.

5 **II**
6 **THE SECONDARY EVIDENCE RULE**

7 "The content of a writing may be proved by otherwise admissible secondary
8 evidence." (Evidence Code Section 1521.) While many of the documents do appear to be
9 copies, all of the proffered documents are the actual documents seized from Mr. Schaffel's
10 home. There is no genuine dispute as to contents of these writings and the People are not in
11 possession of the original document when a copy has been offered. The secondary evidence
12 rule allows admission of each of the proffered documents.

13 **III**
14 **HEARSAY AND NON-HEARSAY**

15 The People will provide specific foundations for each exhibit under the rules
16 regarding the hearsay and non-hearsay. The hearsay exceptions that apply to these documents
17 include: 1) Evidence Code Section 1220 – Admission of Party, and 2) Evidence Code Section
18 1223 – Statement in Furtherance of a Conspiracy. In addition, many of the documents will be
19 offered as non-hearsay to circumstantially show among other things: the existence of a
20 conspiracy; the relationship among the coconspirators; knowledge of the coconspirators; the
21 intent of the conspirators and consciousness of guilt.

22 EVIDENCE CODE § 1220 – ADMISSION OF A PARTY

23 Evidence of a statement is not made inadmissible by the
24 hearsay rule when offered against the declarant in an action to which
25 he is a party in either his individual or representative capacity,
26 regardless of whether the statement was made in his individual or
27 representative capacity.

28 The operative element for the admission exception to the hearsay rule is that the
statement is offered against the declarant who is a party to the action. "The hearsay rule does

1 not compel exclusion of *any* statement offered against a party declarant whether or not it can
2 be described as an admission . . . It is true that the heading is irrelevant to the construction.”
3 (*People v. Carpenter* (1999) 21 Cal.4th 1016, 1049.)
4

5 EVIDENCE CODE § 1223 – STATEMENT OF COCONSPIRATORS

6 Statements made by co-conspirators in furtherance of their conspiracy are
7 admissible under an exception to the hearsay rule. Statement offered against a party are
8 admissible under Evidence Code section 1223 if: “(a) The statement was made by the
9 declarant while participating in a conspiracy to commit a crime or civil wrong and in
10 furtherance of the objective of that conspiracy; (b) The statement was made prior to or during
11 the time the party was participating in that conspiracy; and (c) The evidence is offered either
12 after admission of evidence sufficient to sustain a finding of the facts specified in subdivisions
13 (a) and (b) or, in the court’s discretion as to the order of proof, subject to the admission of such
14 evidence.” The declarant need not be unavailable as a witness. (*United States v. Inadi* (1986)
15 475 U.S. 387; and see *People v. Hardy* (1992) 2 Cal.4th 86, 150-151.)

16 The courts require only a *prima facie* showing of the preliminary facts specified in
17 subdivisions (a) and (b). They need not be proven beyond a reasonable doubt. (*People v.*
18 *Olivencia* (1988) 204 Cal.App.3d 1391, 1402; *People v. Jourdain* (1980) 111 Cal.App.3d 396,
19 404; *People v. Earnest* (1975) 53 Cal.App.3d 734, 741.) “The conspiracy may be shown by
20 circumstantial evidence and ‘the agreement may be inferred from the conduct of the defendants
21 mutually carrying out a common purpose in violation of a penal statute.’” (*People v.*
22 *Olivencia, supra*, at pp. 1402-1403; *People v. Longines* (1995) 34 Cal.App.4th 621, 626.)

23 Co-conspirator statements may be received before proof of the preliminary facts.
24 (*In re David B.* (1978) 81 Cal.App.3d 806, 810; *People v. Fratianno* (1955) 132 Cal.App.2d
25 610, 625; see also Evid. Code, § 403(b).) Indeed, this order of proof is more often the rule
26 than the exception. (*People v. Leach* (1975) 15 Cal.3d 419, 430, fn. 10.)
27
28

1 **Exhibit #400**

2 Description: Neverland Valley Entertainment Work Agreement between Michael Jackson and
3 Marc Schaffel dated August 13, 2001

4 This document is offered to show a business and financial relationship between
5 defendant and coconspirator F. Marc Schaffel worth hundreds of thousands of dollar. It is
6 personally initialed by defendant and the People will provide a witness familiar with
7 defendant's signature to authenticate this handwriting. This document is offered against
8 defendant who initialed it and it therefore falls with in the admissions exception to the hearsay
9 rule. It is also offered as non-hearsay to show an ongoing relationship between defendant and
10 co-conspirator F. Marc Schaffel. Witness Rudy Provencio will testify he is familiar with
11 defendant's signature and initials and will authenticate this document.

12 **Exhibit #401**

13 8/13/01 Note from Provencio to Byrne and Agreement conveying rights from Michael Jackson
14 to Marc Schaffel for *What More Can I Give*.

15 These documents are also offered to show a business and financial relationship
16 between defendant and coconspirator F. Marc Schaffel worth a great deal of money. It is
17 personally signed by defendant and the coconspirator F. Marc Schaffel and defendant.. This
18 document is offered against defendant who initialed it and it therefore falls within the
19 admissions exception to the hearsay rule. Rudy Provencio will testify he personally faxed this
20 document for co-conspirator F. Marc Schaffel to Mr. Schaffel's attorney Thomas Byrne. As
21 stated, Mr. Provencio is also familiar with defendant's signature and initials and will
22 authenticate this document.

23 **Exhibit #402**

24 Description: 11/12/01 Neverland Valley Entertainment Balance Sheet for *What More Can I
25 Give* Production.

26 Offered as non-hearsay to provide circumstantial evidence that co-conspirator F.
27 Marc Schaffel worked for defendant in his capacity as director of Neverland Valley
28 Entertainment to produce the song and video production of defendant's song: *What More Can
I Give?*. This document will provide circumstantial corroboration of witness Rudy
Provencio's statements regarding the fact that defendant and F. Marc Schaffel were business
partners and collaborators in this business entity.

29 **Exhibit #403**

30 Description: Fires Brewing *File Tab plus 20 Pages*

31 These documents are all e-mails containing information about the crisis that
32 confronted defendant during the first half of February 2003. The file that these documents

1 were found in has the highly significant label; *FIRES BREWING*. The news articles are mostly
2 sent from a friend of Mr. Schaffel named Kathryn Milofsky. Rudy Provencio will testify that
3 Ms. Milofsky is a media source for Mr. Schaffel that kept him informed about the scope of the
4 disaster that was confronting defendant during this period.

5 Much of this information is corroborative of the testimony of Ann Gabriel and is
6 offered as non-hearsay to show the conspirators knowledge of the scope and the nature of the
7 public relations disaster that defendant was confronting. The knowledge and scope of this
8 crisis is what drove the defendant and the co-conspirators to commit the charged conspiracy.

9 The last e-mail in the file is a communication from co-conspirator Ronald Konitzer
10 and is also offered as a statement in furtherance of the conspiracy.

11 **Exhibit #404**

12 Description: Stuart Backerman File

13 Page 1: 2/6/03 Messages

14 This document is offered to circumstantially show F. Marc Schaffel's knowledge of
15 the scope of the public relations problem by virtue of the phone communications from such
16 notable media and entertainment sources as Connie Chung; Barbara Walters; Larry King;
17 Entertainment Tonight; Good Morning America and Extra. This document is dated
18 immediately after the United States Airing of the Martin Bashear Special on defendant and
19 further shows that co-conspirator F. Marc Schaffel was actively engaged on defendant's behalf
20 to address defendant's public relations crisis.

21 Pages 2-3: MJJ Productions Working Group List

22 This document is offered as non-hearsay circumstantial evidence of co-conspirator
23 F. Marc Schaffel's affiliation with defendant's primary business, MJJ productions and
24 specifically with co-conspirators named in the document. It is also offered as a statement in
25 furtherance of the conspiracy in that it provides contact information for named coconspirators
26 Dieter Wiesner and Ronald Konitzer.

27 **Exhibit #405**

28 Description: 2/8/03 Bell Yard Embargoed Statement of Janet Arvizo

Janet Arvizo has examined this document and testified she never authored or
authorized this statement which is ascribed to her. It is not offered for the truth of the matter
asserted therein and is therefore non-hearsay. It is offered as evidence of the conspiracy to
extort the likeness and similar statements from Ms. Arvizo in the rebuttal video and evidences
consciousness of guilt.

In addition, this document is offered as a statement in furtherance of the conspiracy.
It shows defendant's crisis communications company making a false statement by Ms. Arvizo
and using her as a pawn in this conspiracy. Finally, it corroborates Ms. Arvizo's statements
that her relationship with defendant as a "beautiful loving father, sons and daughter one...."

1 was a message that was scripted by the coconspirators.

2 **Exhibit 406**

3 Pages 1-4: 2/11/03 \$3 Million Contract between FOX and Fire Mountain LLC plus FAX page

4 This contract evinces the existence of *Fire Mountain Services*, defendant's crisis
5 management L.L.C. It is the contract for the rebuttal program in which was supposed to
6 include the video footage extorted from the Arvizo family pursuant to count one of the
7 indictment. This is offered as evidence of the conspiracy, a statement in furtherance thereof
8 and is also offered for its non-hearsay purpose of circumstantially showing coconspirator F.
9 Marc Schaffels involvement in this criminal enterprise by virtue of the fact that this document
10 was found in his possession.

11 Pages 5-9: Proposed Changes to contract for second FOX special including FAX cover from
12 Alvin Malnik to Mark Schaffel

13 Offered as circumstantial evidence of Michael Jackson's personal involvement in
14 the Rebuttal video as well as a continuing personal relationship between co-conspirator F.
15 Marc Schaffel and defendant.

16 Page 10: Note to Michael and Al from Marc

17 Offered as circumstantial evidence of Michael Jackson's personal involvement in
18 the Rebuttal video as well as a continuing personal relationship between co-conspirator F.
19 Marc Schaffel and defendant.

20 Pages 11-14: 4/4/04 FAX and \$4 Million Contract from FOX to Marc Schaffel

21 Offered as circumstantial evidence of Michael Jackson's personal involvement in
22 the Rebuttal video as well as a continuing personal relationship between co-conspirator F.
23 Marc Schaffel and defendant.

24 Page 15: 3/31/03 Authorization for Dieter Wiesner to obtain video footage from Optima
25 Warehouse signed by Michael Jackson

26 Offered as circumstantial evidence of Michael Jackson's personal involvement in
27 the Rebuttal video as well as a continuing personal relationship between co-conspirator F.
28 Marc Schaffel and defendant and coconspirator Dieter Wiesner and defendant.

This document is also offered as a statement in furtherance of the conspiracy

Exhibit 407

Page 1) 2//6/03 e-mail from Ronald to Marc and Stewart RE: Spain Deal

1 This statement is offered as a statement in furtherance of the conspiracy. It is also
2 offered as circumstantial evidence of an ongoing relationship between coconspirators and
3 defendant.

4 Pages 2-3) 2/11/03 e-mail from Ronald to Marc RE: *Money*

5 This e-mail is offered as a statement in furtherance of the conspiracy. It is also
6 offered as circumstantial evidence of an ongoing relationship between coconspirators and
7 defendant.

8 Pages 4-12) 2/24/03 e-mail from Kathryn to Marc/Rudy/Stuart RE: *Corey Feldman urgent*
9 *urgent*; 2/24/03 e-mail from Kathryn to Marc/Rudy/Stuart RE: *notes and quotes feldman*
10 *urgent urgent*

11 This document is offered as circumstantial evidence of coconspirator's knowledge
12 of the crisis facing defendant. These e-mails contain information about the crisis that
13 confronted defendant during the first half of February 2003. The news articles are also sent
14 from a friend of Mr. Schaffel named Kathryn Milofsky. Rudy Provencio will testify that Ms.
15 Milofsky is a media source for Mr. Schaffel that kept him informed about the scope of the
16 disaster that was confronting defendant during this period.

17 **Exhibit 408**

18 Description: Floppy Disc entitled *Foreign Rights Spread Sheet* plus 3 page printout from disc.
19 *Floppy + 3 pages*

20 This foreign rights spread sheet deals with the Fox Rebuttal and show the direct
21 financial gain that F. Marc Schaffel was realizing through the sale of this rebuttal to foreign
22 markets. This document is offered as a statement in furtherance of the conspiracy
23 demonstrating a financial motive for the coconspirators.

24 **Exhibit #409**

25 Description: F. Marc Schaffel's *Christian Robinson* file - Phone Numbers

26 This document is a virtual laundry list of coconspirators. It is offered as non-
27 hearsay circumstantial evidence of co-conspirator F. Marc Schaffel's affiliation with co-
28 conspirators named in the document. It is also offered as a statement in furtherance of the
conspiracy in that it provides contact information for named coconspirators Dieter Wiesner;
Ronald Konitzer; Vinnie Black (Amen); Frank Tyson and Brad Miller. It is especially notable
that victim Gavin Orvizo's (sic) name also appears on this list.

1 **Exhibit #410**

2 Description: F. Marc Schaffel's *Address Book* file

3 Page 1: Phone Numbers Sheet

4 This document is another list of coconspirators that includes the additional names
5 of other parties such as Ann Gabriel and Debbie Rowe. It is offered as non-hearsay
6 circumstantial evidence of co-conspirator F. Marc Schaffel's affiliation with co-conspirators
7 named in the document. It is also offered as a statement in furtherance of the conspiracy in
8 that it provides contact information for named coconspirators Dieter Wiesner; Ronald
9 Konitzer; Vinnie Black (Amen); Frank Tyson and Brad Miller.

10 Page 2: Yellow Pad with Janet and Gavin; Brad Miller and Recorder for phone hand written
11 on it

12 This is a statement in furtherance of the conspiracy. Rudy Provencio will
13 authenticate the handwriting on this document as that of F. Marc Schaffel.

14 Page 3: Yellow Pad with Mark Geragos mobile phone number on it along with adult teen
15 erotica magazine titles and Herb Ritts Book.

16 This is a statement in furtherance of the conspiracy. Rudy Provencio will
17 authenticate the handwriting on this document as that of F. Marc Schaffel.

18 4) 2/13/03 FAX with Mark Geragos appt. written on it and Janet Ventura's name written on it.

19 This is a statement in furtherance of the conspiracy. This document provides
20 circumstantial evidence of a planned meeting of the coconspirators regarding Janet Ventura
21 (Arvizo). The back side of this document has the salient notation - "Take care of Janet and
22 family \$ - fund for children remain a family w/-him Make arrangement for vacation will I
23 soon follow. Rudy Provencio will authenticate the handwriting on this document as that of F.
24 Marc Schaffel.

25 **Exhibit #411**

26 Description: Marc Schaffel's *Enterprise Rental* file - 2/11/03 Rental Agreements for two
27 vehicles.

28 These records are offered as evidence of the conspiracy. Rudy Provencio will
testify that during the conspiracy, two cars were rented to move the Arvizo family around.

Exhibit #412

Description: Marc Schaffel's *Artist Releases* file

Pages 1-2) 2/10/03 FAX with Gabriel Media Model Release

Page 3) Gabriel Media Model Release with WHITE OUT and Model Releases written on Post
it Note

1 These are the model releases from which the final release was fashioned by Vinnie
2 Amen which was signed by Janet Arvizo and her children. These documents were prepared in
3 furtherance of the conspiracy and their presence in F. Marc Schaffel's files provide a
4 circumstantial connection of his involvement in this aspect of the conspiracy. Witness Ann
5 Gabriel has also provided foundational testimony on this document.

6 Pages 4-5) MJJ Productions Release

7 Offered as non-hearsay. This document was found in the same file with the other
8 releases and provides a circumstantial link to defendant and the documents which were made
9 in furtherance of the conspiracy.

10 **Exhibit #413**

11 Marc Schaffel's *Model Releases* file

- 12 1) 2/17/03 Faxed Consent and Release form for Janet Arvizo
- 13 2) 2/17/03 Faxed Consent and Release form for Davellin Arvizo
- 14 3) 2/17/03 Faxed Consent and Release form for Gavin Arvizo
- 15 4) 2/17/03 Faxed Consent and Release form for Star Arvizo
- 16 5) Yellow Page with Arvizo's names written on it
- 17 6) Hand Written Model Release for Janet Ventura Arvizo paper clipped to FAX cover from
18 David LeGrand to Vinnie and 6 releases for the Arvizos
- 19 7) Simplified Model Release for Janet Ventura Arvizo
- 20 8) Simplified Model Release for Star David Arvizo
- 21 9) Simplified Model Release for Gavin Anton Arvizo

22 All of these documents were prepared in furtherance of the conspiracy.

23 **Exhibit #414**

24 This exhibit is withdrawn.

25 **Exhibit 415**

26 Description: Black Notebook - Accounting of Expenses and Receipts from Black Notebook
27 (complete contents)

28 These documents are actual records of expenses for the Fox rebuttal including
expenses for the Arvizo's while they were in the custody and control of the coconspirators.
These documents prove that one of the purposes of the Fox rebuttal was to obtain video
footage of the Arvizos whose name appears repeatedly in throughout the records. These
documents were prepared in furtherance of the conspiracy. In addition, they circumstantially
show one of the purposes of this video was to exploit the Arvizo's for defendant's public
relations purposes by isolating and concealing them from the media and obtaining video
footage of them praising defendant.

1 **Exhibit 416**

2 This exhibit is withdrawn.

3 **Exhibit 417**

4 *David LeGrand* file

5 Pages 1-2: Janet Strategies

6 This document describes the various strategies of the coconspirators on how to
7 defend against the crimes that were committed during the conspiracy. It was obviously
8 prepared in furtherance of the conspiracy.

9 Pages 3-6: 4/3/03 FAX Handling the David Case

10 This is a similar strategy document of the coconspirators on how to deal with David
11 LeGrand who was fired during this same period. Of particular note is the fact that the
12 document mentions that any replacement for "David" will report to "us (Al, MJ, Dieter,
13 Ronald)." This document was also prepared in furtherance of the conspiracy and it provides
14 circumstantial evidence that the inner circle of coconspirators is Al Malnik, Michael Jackson,
15 Dieter Weisner and Ronald Konitzer.

16 Pages 9-10: 2/7/03 FAX from Legrand to marcinla RE: Janet Ventura quote

17 This is an e-mail regarding the victim Janet Arvizo. This e-mail references the
18 quote that was released by Bell Yard noted in Exhibit 405. This document was prepared in
19 furtherance of the conspiracy.

20 Pages 8-9: 2/9/03 e-mail from LeGrand to F. Marc Schaffel RE: Proposed Rebuttal Statement
21 and other urgent PR issue

22 This is an e-mail between Ann Gabriel and F. Marc Schaffel. This e-mail is offered
23 as non-hearsay circumstantial evidence corroborating Ann Gabriel's relationship to the
24 coconspirators as a public relations expert.

25 Page 10: 3/28/03 FAX Memorandum and Acknowledgement 20% for Marc Schaffel

26 This memorandum contemplates an enormous financial windfall to coconspirator F.
27 Mark Schaffel from defendant. It is offered as a statement in furtherance of the conspiracy to
28 show F. Mark Schaffel's relationship to defendant's Fire Mountain LLC and to show Schaffel's
financial motive for doing defendant's bidding.

This document also shows defendant's involvement in Fire Mountain LLC and its
purpose by stating that Fox rebuttal and future Michael Jackson television shows are
contemplated as one of the purposes of Fire Mountain LLC.

11) 3/28/03 Termination Letter for LeGrande signed by Michael Jackson

This letter is offered as an admission against defendant to show that David LeGrand

1 worked for him and was personally fired by him. Defendant's signature will be authenticated
2 by Rudy Provencio.

3 **Exhibit 418**

4 Marc Schaffel's file regarding \$1 Million Dollar payoff

5 Page 1) 3/31/03 Authorization letter from Michael Jackson for \$1 Million Dollars

6 Page 2) 4/2/03 Unsigned receipt for \$1 Million Dollars

7 Page 3) 4/2/03 \$1 Million Dollar Check for Cash

8 Page 4) 4/2/03 Check Stub for \$1 Million Dollar from Petty Cash

9 These documents regard defendant's payoff for the rebuttal film and are offered in
10 furtherance of the conspiracy. They also circumstantially show the nature of the relationship
11 between coconspirator F. Marc Schaffel and defendant.

12 **Exhibit 419**

13 Pages 1-2: 9/11/03 Signed Check to Paul Hugo Neverland Brito Party for \$50,000; 9/11/03

14 Check Stub for \$50,000 check to Paul Hugo

15 Paul Hugo is an associate of F. Marc Schaffel and an unnamed coconspirator who
16 assisted in handling the Arvizo family. Mr. Hugo was a representative of Schaffel who
17 attended the videotaping of the Arvizo family at Hamid Moslehi's home. This uncashed check
18 is offered as circumstantial evidence of the continuing relationship between F. Marc Schaffel
19 and defendant long after the Arvizo family escaped. Rudy Provencio will testify that the Britto
20 Party was a party held at Neverland that was organized by F. Mark Schaffel in the fall of 2003.

21 Page 3: 9/19/03 Copy of Check for \$500,000 Cash Memo MJ Cash – Back of Copy receipt for
22 \$500,000 CASH signed by Gary Hearn

23 Offered as circumstantial evidence to show the continuing relationship months after
24 the Arvizo's escape between defendant and F. Marc Schaffel. This tends to show that –
25 contrary to defendant's opening statement – defendant was in business with F. Marc Schaffel
26 and Schaffel was not a renegade who defendant alienated after the commission of the alleged
27 crimes against the Arvizo family. Because this document was signed for by defendant's
28 assistant Gary Hearn, it is also offered as an authorized admission.

29 **Exhibit 420**

30 Marc Schaffel's file

31 Pages: 1-28 Miscellaneous e-mails

32 These are e-mail communications between the coconspirators which communicate
33 the panic that had engulfed defendant's public relations camp during the month of February,
34 2003. All of the e-mails deal in one way or another with defendant's public relations
35 meltdown. Many of them specifically reference the Arvizo family and the intent on behalf of
36 the coconspirators to use them in the rebuttal film. This evidence is offered as non-hearsay to
37 show the knowledge on behalf of the co- conspirators of the public relations disaster

1 defendant was confronting and which motivated the conspiracy to commit the charged offenses
2 against the Arvizo family.

3 **Exhibit 421**

4 Description: FAX from Al Malnik to Marc Schaffel with 9 page contract regarding Michael
5 Jackson

6 These documents are offered as circumstantial non-hearsay evidence of an ongoing
7 personal and business relationship between defendant and co-conspirator F. Marc Schaffel
8 through April of 2003.

9 **Exhibit 422**

10 Description: Royalty Advance Funding file

11 These documents are offered as circumstantial non-hearsay evidence of an ongoing
12 personal and business relationship between defendant and co-conspirator F. Marc Schaffel
13 from 2001 through 2003. They indicate a relationship of trust involving millions of dollars. In
14 addition the documents signed by defendant are offered as admissions regarding this
15 relationship.

16 **Exhibit 423**

17 Description: Foreign Rights File

18 These documents are offered as circumstantial non-hearsay evidence of defendant's
19 and coconspirator F. Marc Schaffel's financial motive in creating and selling the rebuttal
20 video including the footage that was obtained from the Arvizo family.

21 DATED: April 20, 2005

22 Respectfully submitted,

23 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

24 By: 
25 GORDON AUCHINCLOSS
26 Senior Deputy District Attorney

27 Attorneys for Plaintiff

PROOF OF SERVICE

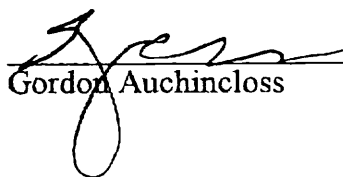
STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) SS

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; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On January 18, 2005, I served the within PEOPLE'S BRIEF REGARDING EVIDENTIARY FOUNDATIONS FOR DOCUMENTS FOUND DURING THE SEARCH OF THE HOME OF CO-CONSPIRATOR F. MARC. SCHAFFEL on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to counsel in court

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

Executed at Santa Barbara, California on this 20th day of January, 2005.


Gordon Auchincloss