

MAY 02 2005

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

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1105 Santa Barbara Street
Santa Barbara, CA 93101

6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND 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 MICHAEL JOE JACKSON,
17 Defendant.

No. 1133603

TRIAL BRIEF REGARDING
THE TESTIMONY OF
FINANCIAL EXPERT
DUROSS O'BRYAN

DATE: May 2, 2005
TIME: 8:30 AM
DEPT.: SM2 (Melville)

18
19
20
21 The People will ask forensic accountant Duross O'bryan questions regarding
22 defendant's finances leading up to and shortly after February of 2003 to show his motive
23 to commit the conspiracy charged in count one of the indictment. Mr. O'bryan will
24 testify that defendant's spending had outstripped his income by millions of dollars for
25 several years prior to 2003 and was warned repeatedly about the problem by his financial
26 advisors. Defendant paid for this deficit by accruing loans from the Bank of America that
27 exceeded \$220 million in 2003.
28

1 Mr. O'bryan will testify about defendant's two major assets and the two loans from
2 Bank of America that encumbers those assets. Defendant's most valuable asset is a half
3 interest in the Sony ATV catalogue of music copy writes (including the Beatles) which
4 secures approximately \$200 million in loans.

5 Defendant's second major asset is a collection of music copy writes known as the
6 MIJAK catalogue. This catalogue secures approximately \$78 million in loans but is
7 worth considerably less. As such, this loan is also secured by an 18 million deed of trust
8 on Neverland Ranch.

9 Based upon defendant's own financial records provided by the defense, Mr.
10 O'bryan will testify regarding his review of correspondence from defendant's financial
11 advisors. Both of the Bank of America loans are due and payable on December 15,
12 2005. Based upon an agreement with Sony, defendant may sell his rights to the Sony
13 catalogue for a fixed sum of \$200 million at that time. Finally Mr. O'bryan will testify
14 that defendant's capital gains tax liability for selling these two catalogues would exceed
15 \$50 million.

16 In summary, Mr. O'bryan will testify that virtually all of defendant's revenue
17 providing assets will need to be completely liquidated in order to satisfy loans caused by
18 years excessive spending by defendant. Based upon defendant's own records, he will be
19 close to insolvency and accrue capital gains taxes exceeding 50 million dollars when
20 these loans become due in 2005. Mr. O'bryan will testify that each of these factors were
21 in place in February 2003 and communicated at that time to defendant and his advisors.

22 CONCLUSION

23 The stated purpose of this evidence is to show that in February of 2003, defendant
24 was aware of an impending financial disaster, that his only hope to survive this crisis was
25 to resurrect his waning career and that the fallout from the Martin Basheer special was
26 effectively terminating that career. All of this fueled a panic that drove defendant to
27 engage in a desperate attempt to control the negative media by manipulating and
28

1 controlling the Arvizo family. In addition, this liquidity crisis explains why defendant
2 wanted to profit from the selling of the rebuttal film contrary to the advice of Ann Gabriel
3 that this would be perceived negatively by the media.¹

4 The court has indicated this evidence is admissible but expressed concern
5 regarding the complexity of testimony that may involve "boxes" of information. The
6 People have tailored this testimony to address the courts concerns. First, Mr. O'bryan
7 will focus his discussion on less than ten letters and memoranda. In addition, Mr.
8 O'bryan has prepared a power-point presentation containing only his expert opinions and
9 the documents he relied upon in drawing his conclusions. This will streamline this
10 testimony considerably and allow a direct examination of approximately one and a half
11 hours.

12 DATED: May 2, 2005

13 Respectfully submitted,

14 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

15 BY:

16 
17 GORDON AUCHINCLOSS
18 Deputy District Attorney

19
20
21
22
23
24
25
26
27
28

¹ See Exhibit 401 showing a one million dollar cash kickback from Schaffel to defendant on April 2, 2003.

1
2
3
4
5
6 STATE OF CALIFORNIA)
7) SS
8 COUNTY OF SANTA BARBARA)

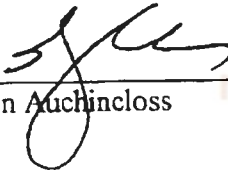
PROOF OF SERVICE

9 I am a citizen of the United States and a resident of the County aforesaid; I am over the
10 age of eighteen years and I am not a party to the within-entitled action. My business address is:
11 District Attorney's Office; Courthouse; 1105 Santa Barbara Street, Santa Barbara, California
12 93101.

13 On June 24, 2004, I served the within TRIAL BRIEF REGARDING THE
14 TESTIMONY OF FINANCIAL EXPERT DUROSS O'BRYAN; on Defendant, by
15 THOMAS A. MESEREAU, JR., and ROBERT SANGER, by personal service.

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

17 Executed at Santa Barbara, California on this 2nd day of May, 2005.

18 
19 _____
20 Gordon Auchincloss