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FILED
 SUPERIOR COURT of CALIFORNIA
 COUNTY of SANTA BARBARA

NOV 05 2004

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** Unsealed
 pursuant to
 6/16/05 court
 order*

UNDER SEAL & IN CAMERA

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 15 FOR THE COUNTY OF SANTA BARBARA
 16 SANTA MARIA DIVISION
 17

18 THE PEOPLE OF THE STATE OF CALIFORNIA,)
 19 Plaintiff,)
 20 vs.)
 21 MICHAEL JOSEPH JACKSON)
 22 Defendant.)

CASE NO. 1133603

MR. JACKSON'S OPPOSITION TO
 MOTION TO QUASH CHANDLER
 SUBPOENA AND DECLARATION OF
 COUNSEL

TIME: 1:30 p.m.
 DATE: November 10, 2004
 PLACE: Department SM-2

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I.

INTRODUCTION

Mr. Michael Jackson submits this Opposition to Motion to Quash in response to the Motion to Quash filed by subpoenaed party Ray Chandler (hereafter "petitioner"). Mr. Jackson's Objection and Opposition is based on the following grounds:

(1) Petitioner is not a journalist nor engaged in any news gathering activities as a reporter, editor, publisher, or person connected with or employed upon a newspaper, magazine, or other periodical publication, and he is not entitled to protection under the Shield law;

(2) Petitioner is a "witness" to the 1993-94 events who cannot withhold unpublished information, and he is acting as a recently admitted attorney who is promoting his brother and nephew.

(3) Petitioner's objections to Mr. Jackson's subpoena are without foundation because there is no invasion of privacy, no overbreath, and no undue burden in requiring petitioner to respond to the subpoenas.

A. Service of the Subpoena Duces Tecum and Trial Subpoena.

On September 19, 2004, Mr. Jackson served the subpoenaed party with two (2) subpoenas. The first was a Subpoena Duces Tecum where the response was due on October 5, 2004. (Exhibit "B" to the petitioner's memo). The second was a subpoena for personal appearance at trial, and the production of documents where the response is due on January 31, 2005. (Also Exhibit "B" to petitioner's memo).

On October 25, 2004, the subpoenaed party served a Motion to Quash and Application for In Camera Review. The motion challenged the subpoena because the subpoenaed party seeks protection under the California Shield Law contained in Evidence Code section 1070. However, petitioner is not a journalist. Rancho Publications v. Superior Court, 68 Cal. App. 4th 1538, 1544 (1999)(Shield Law protects only journalists directly involved in news gathering for a publisher, newspaper, or other media organization). He is an attorney who has never engaged in news gathering or otherwise worked for a news organization, and under the definitions contained in Article I, section 2(b) to the California Constitution and evidence Code section 1070, he does not satisfy section 1070's definition of a journalist, which is a:

1 “publisher, editor, reporter, or other person connected with or employed upon a newspaper,
2 magazine, or other periodical publication, or by a press association or wire service, or any person
3 who has been so connected or employed.”

4 In addition, petitioner was a witness to the events in 1993 and 1994 when his brother, Evan
5 Chandler, and his nephew, Jordan Chandler, made claims against Michael Jackson. By his own admission
6 he does not gather news because he is a recently licensed attorney who practices law in Santa Barbara, and
7 on both the cover of his book and his is self-promotion web site, he states he was a witness to the events of
8 which he writes. He does not qualify as a reporter nor a journalist for Shield Law protection. Delaney v.
9 Superior Court, 50 Cal. 3d 785, 805-06 (1990)(journalist that witnesses events must disclose unpublished
10 information regarding events).

11 B. Petitioner is an Attorney who is Neither a Journalist Nor Engaged in News Gathering Activities.
12 Petitioner’s web side, www.allthatglitters.com, states:

13 Raymond Chandler was born in New York City in 1946. He attended SUNY Stony Brook,
14 where he earned a B.A. in 1968 and a B.S. in 1975. After moving to Santa Barbara, California in
15 1976, he worked in the construction field for twenty years. He earned his J.D. from the Santa
16 Barbara College of Law and was admitted to the bar in 2001. He currently practices law in Santa
17 Barbara. (Exhibit “1”).

18 Petitioner has never been involved in the news gathering business and does not do so today.
19 According to his Objection to Mr. Jackson’s subpoena he has no documents showing any compensation,
20 employment, or remuneration as a journalist. (Objection, p. 4, lines 5-7). He was nothing more than a
21 witness to events in 1993 and 1994. He is a recently admitted attorney as of 2001 who is actively engaged
22 in promoting his nephew and brother based on the events he claims to have witnessed.

23 Petitioner’s own web site states that he is a witness to the events:

24 “The 1993 Michael Jackson scandal has remained a closely held secret for over ten years.
25 Other than speculation and innuendo, the facts have never been revealed--until now. Inside All That
26 Glitters, Ray Chandler, the boy's uncle, provides the hard evidence. From the day the boy met
27 Michael, through six months of frenzied publicity, and into the scarring years that followed, **this is**
28 **a story told by one who witnessed the events as they unfolded**, and he has the proof to back it up.

1 Did the King of Pop sexually molest a thirteen-year-old boy in 1993? In this account, the master of
2 reinvention is unmasked.” (Exhibit “2”)(emphasis added).

3 In his declaration attached to his motion, petitioner states:

4 “From late August through December 0f 1993, I lived in the home of Evan and Jordan
5 chandler in Los Angeles. During that time I talked extensively with Evan Chandler, Jordan
6 chandler, June Chandler (Jordan’s mother), and other persons directly and indirectly connected with
7 the molestation allegations.” (Chandler Dec., p. 1, lines 10-13).

8 Petitioner is a witness to the events of which are relevant to this legal proceeding. Under both
9 Rancho Publications v. Superior Court, 68 Cal. App. 4th 1538, 1545 (1999) and Delaney v. Superior Court,
10 50 Cal. 3d 785, 805-06 (1990), petitioner is a witness and cannot withhold information which is the subject
11 of the subpoena. Mr. Jackson requests the court require production of the subpoenaed materials.

12 In his Memorandum, petitioner requests the court to delay ruling on his motion until it determines
13 the admissibility of the allegations involving the 1993 case. (Petitioner Memo, p. 9,lines 15-16). While
14 petitioner is correct there has been no determination by the court regarding whether such matters will be
15 admissible, Mr. Jackson is in the position of having to prepare for trial. In the past two (2) weeks, the
16 government has disclosed approximately 22,000 documents relating to 1993 case, and it is necessary for
17 Mr. Jackson to conduct his defense in a reasonable manner, which necessitates information from petitioner.

18 Petitioner challenges the relevance of the subpoenaed documents by claiming they have nothing to
19 do with the current case. (Chandler Memo, p. 3, lines 1-2). However, with the government disclosing
20 22,000 pages of information regarding that case, with petitioner being a witness to the events involving that
21 case, and petitioner having documents and statements from the persons involved in that case, the
22 subpoenaed documents are beyond question relevant and material to this proceeding.

23 **B. Basis for Opposition to Motion to Suppress.**

24 Petitioner is not a journalist nor engaged in any news gathering activities as a reporter, editor,
25 publisher, or person connected with or employed upon a newspaper, magazine, or other periodical
26 publication, and he is not entitled to protection under the Shield law. Petitioner is a “witness” to the 1993-
27 94 events who cannot withhold unpublished information, and he is acting as a recently admitted attorney
28 who is promoting his brother and nephew. Petitioner’s objections to Mr. Jackson’s subpoena are without

1 foundation because there is no invasion of privacy, no overbreath, and no undue burden in requiring
2 petitioner to respond to the subpoenas.

3 II.

4 **PETITIONER IS AN ATTORNEY WHO IS PROMOTING HIS BROTHER AND NEPHEW AS A**
5 **“WITNESS” TO THE 1993-94 EVENTS, AND HE IS NOT A JOURNALIST WHO HAS**
6 **ENGAGED IN ANY NEWS GATHERING ACTIVITIES AS A REPORTER**

7 **A. Petitioner is an Attorney Who Has Never Engaged in News Gathering and he is Not a**
8 **Journalist.**

9 **1. Petitioner is not a reporter, publisher, or persons connected with a newspaper,**
10 **magazine or other publication.**

11 Petitioner is an attorney who has never been engaged in the news gathering business, and he has
12 never been a publisher, editor, reporter, or other person connected with or employed upon a newspaper,
13 magazine, or other periodical publication, or by a press association or wire service, which are the minimum
14 and mandatory prerequisites to claiming privilege under the Shield Law contained in Article I, sections 2(b)
15 of the California Constitution and Evidence Code section 1070. Petitioner is not a reporter. He is a self-
16 styled attorney advocating his brother and his nephew in one of the most flagrant efforts to violate this
17 court’s January 26, 2004, Protective Order.

18 The California Shield Law adopted by the voters in 1980, was incorporated into the California
19 Constitution, article I, section 2(b), which provides:

20 "A publisher, editor, reporter, or other person connected with or employed upon a
21 newspaper, magazine, or other periodical publication, or by a press association or wire service, or
22 any person who has been so connected or employed, shall not be adjudged in contempt by a judicial,
23 legislative, or administrative body, or any other body having the power to issue subpoenas, for
24 refusing to disclose the source of any information procured while so connected or employed for
25 publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any
26 unpublished information obtained or prepared in gathering, receiving or processing of information
27 for communication to the public."

28 " ...

1 "As used in this subdivision, 'unpublished information' includes information not
2 disseminated to the public by the person from whom disclosure is sought, whether or not related
3 information has been disseminated and includes, but is not limited to, all notes, outtakes,
4 photographs, tapes or other data of whatever sort not itself disseminated to the public through a
5 medium of communication, whether or not published information based upon or related to such
6 material has been disseminated."

7 The provisions of the Shield Law were codified by the Legislature into Evidence Code section
8 1070, which is virtually identical to the Constitutional provision and provides:

9 "(a) A publisher, editor, reporter, or other person connected with or employed upon a
10 newspaper, magazine, or other periodical publication, or by a press association or wire service, or
11 any person who has been so connected or employed, cannot be adjudged in contempt by a judicial,
12 legislative, administrative body, or any other body having the power to issue subpoenas, for refusing
13 to disclose, in any proceeding as defined in Section 901, the source of any information procured
14 while so connected or employed for publication in a newspaper, magazine or other periodical
15 publication, or for refusing to disclose any unpublished information obtained or prepared in
16 gathering, receiving or processing of information for communication to the public.

17 "(b) Nor can a radio or television news reporter or other person connected with or employed
18 by a radio or television station, or any person who has been so connected or employed, be so
19 adjudged in contempt for refusing to disclose the source of any information procured while so
20 connected or employed for news or news commentary purposes on radio or television, or for
21 refusing to disclose any unpublished information obtained or prepared in gathering, receiving or
22 processing of information for communication to the public.

23 "(c) As used in this section, 'unpublished information' includes information not
24 disseminated to the public by the person from whom disclosure is sought, whether or not related
25 information has been disseminated and includes, but is not limited to, all notes, outtakes,
26 photographs, tapes or other data of whatever sort not itself disseminated to the public through a
27 medium of communication, whether or not published information based upon or related to such
28 material has been disseminated.

1 Evidence Code section 1070 identifies a radio or television new reporter or other person connected
 2 with or employed by a radio or television station as an additional person entitled to protection under the
 3 Shield Law. The critical factor is the employment in the news media as a journalist engaged in news
 4 gathering activities, and as petitioner states in his Objection to Mr. Jackson's subpoena, he has no
 5 documents showing any compensation or remuneration for his activities as a journalist or reporter.
 6 (Objection, p. 4, lines 5-6). It does not apply to attorneys who self-publish books to advocate for their
 7 brother and nephew.

8 **2. The Shield Law provides petitioner no protection because he is a witness who is not**
 9 **a journalist.**

10 Petitioner acknowledges in his declaration that he lived with the participants of the 1993 case
 11 through the events that gave rise to the case. He claims he is a witness to the events. He is not a news
 12 gatherer and he is not a journalist entitled to Shield Law protection.

13 In Rancho Publications v. Superior Court, 68 Cal. App. 4th 1538 (1999), a hospital brought an action
 14 for defamation against a local newspaper and various individuals who had published an "advertorial,"
 15 which is an advertisement editorial, accusing the hospital of fraud, self-dealing, sexual misconduct, and
 16 mismanagement. The hospital issued a subpoena against the newspaper attaching a copy of the advertorials
 17 and demanding production of documents pertaining to the advertisements. The newspaper moved to quash
 18 based on the right to privacy under California Constitution, article I, section I, and the media shield law in
 19 Evidence Code section 1070. The trial court denied the motion finding there was a broad discovery right
 20 and there was no right to privacy when somebody takes out an advertisement in a newspaper. The court
 21 held the shield law did not apply to "advertorials" because the intent of the law was to protect the integrity
 22 of the news gathering process of journalists. The trial court adjudged the newspaper in contempt when it
 23 refused to comply with the subpoena. The Court of Appeal issued a writ finding there was no shield law
 24 protection for the advertorial authors because they were not journalists, but that there was a right to privacy
 25 of the advertorial authors who wished to keep their identities a secret. Id. at 1547. The purpose of the
 26 California Shield Law is "to promote the free flow of information to the public by prohibiting courts from
 27 holding the media in contempt for refusing to disclose unpublished new sources or information received
 28

1 from such sources.” Id. at 1543 (emphasis added). Courts have repeatedly stated the privilege applies to
2 the “media.” Id., citing Delaney v. Superior Court, 50 Cal. 3d 785, 794-96 (1990).

3 “[T]he shield law provides no protection for information obtained by a journalist not directly
4 engaged in ‘gathering, receiving or processing’ news.” Id. at 1544, quoting Delaney v. Superior
5 Court, 50 Cal. 3d 785, 798 n. 8 (1990).

6 Off duty reporters who witness a crime while going home from work cannot claim the benefit of the shield
7 law because they were not involved in news gathering activities. Id. The reporter must be engaged in a
8 legitimate journalistic purpose. Id. at 1545. The person claiming a privilege has the burden of showing
9 their entitlement to the privilege. Id. at 1546. The advertorial authors failed to make that showing.
10 However, the court held the identities of the authors’ were private. While the subpoena was otherwise
11 appropriate, it had to be tailored so as not to obtain the authors’ identities.

12 Petitioner is an off-duty brother and uncle who happened to be present when an event took place
13 that he now seeks to glorify through a self-published account that advocates his brother and his nephew.
14 He is in no manner a reporter, and he has never been engaged in the news gathering business, nor has he
15 ever been a publisher, editor, reporter, or other person connected with or employed upon a newspaper,
16 magazine, or other periodical publication, or by a press association or wire service. He is not eligible nor
17 qualified for protection under the Shield Law.

18 **3. Petitioner self-published his book to promote his brother and nephew.**

19 Petitioner is not a reporter nor a news media employee who gathers news, and no news media or
20 publisher would accept his book for publication. Instead, he self published his book in the same manner as
21 if a witnesses decided to pass out leaflets or mimeographed copies of the witnesses statements about events
22 the witness observed. Petitioner’s self-aggrandize efforts to promote his brother and nephew are done as an
23 attorney and he is not entitled to Shield Law protection.

24 Petitioner’s book is published by Windsong Press, which is a subsidy publisher who only publishes
25 books that are fully paid for and financed by the individual requesting publication. (Exhibit “3”). It is no
26 more or no less than if petitioner had photocopies his materials and started to distribute them. He is not
27 engaged in any journalistic or news gathering activity for any publisher, newspaper, or other media
28 organization.

1 Windsong Press, Ltd., is run by Brian Frederiksen, and publishes Arnold Jacob's "Song and Wind."
 2 The company sells breathing devices designed to assist in the playing of musical instruments, books, and
 3 some educational materials. They are a subsidy publisher designed for individuals to self-publish their
 4 manuscript. They have no distribution network or system, and the individual who publishes their book is
 5 responsible for their own efforts to seel or distribute their materials. (Exhibit "3).

6 Despite being subpoenaed as a witness to this proceeding, he has repeatedly flaunted this Court and
 7 the January 23, 2004, Protective Order, by self-promoting himself as an insider connected to a brother who
 8 was the father of a young man who claimed Michael Jackson molested him more than 11 years ago. He
 9 does not qualify as a reporter nor a journalist for Shield Law protection. His self-publication of materials
 10 recounting an event he witnessed does not constitute news gathering or a journalistic activity.

11 **B. Petitioner is a Witness who Cannot Withhold Unpublished Information**

12 Petitioner acknowledges he is a witness to the events giving rise to the 1993 case. As a witness, he
 13 cannot withhold unpublished information regarding the events he witnessed. Mr. Jackson's right to a fair
 14 trial outweigh any claims of his right to withhold such information.

15 In Delaney v. Superior Court, 50 Cal. 3d 785 (1990), defendant was charged with possession of
 16 brass knuckles in violation of Penal code section 12020(a). He was arrested by police officers who were
 17 accompanied by a Los Angeles Times reporter and photographer who witnessed the entire arrest where
 18 defendant, who was seated on a park bench, was approached by the police officer who asked his permission
 19 to search his person. The police claimed defendant consented while defendant claimed he did not. Four
 20 days following the arrest, the reporter published an article concerning her research and gathered news of the
 21 Long Beach Police Department task force that was responsible for defendant's and other suspect's arrest.
 22 Their article did not include any information on whether defendant had consented to the search. The
 23 defendant moved to suppress the search, and he subpoenaed the newspaper reporters to testify at the
 24 suppression hearing. The journalists moved to quash contending they could not be forced to answer
 25 questions regarding whether the defendant consented to the search citing the Shield Law that made
 26 privileged any unpublished information from disclosure. The court denied the motion to quash. The
 27 reporters took the witness stand, but refused to testify about their observations of the search or whether
 28 defendant consented to the search. The court cited both reporters for contempt. The Court of Appeals

1 granted a petition for writs of habeas corpus and found the shield law provided immunity for the
2 journalists. The Supreme Court agreed with the trial court and reversed the Court of Appeal, finding the
3 reporters were witnesses to an event, and a criminal defendant's right to a fair trial outweighs the reporter's
4 right to withhold unpublished observations of a relevant event or crime. *Id.* at 805-06.

5 "The reporters themselves concede, as the must, that the shield law's protection is overcome
6 in a criminal proceeding on a showing that nondisclosure would deprive the defendant of his federal
7 constitutional right to a fair trial. Although this court has not decided a case involving application
8 of the shield law in a criminal prosecution, the principle is beyond question. (*CBS, inc. v. Superior*
9 *Court, supra*, 85 Cal. App. 3d 241, 151; *Hallissy v. Superior Court, supra*, 200 Cal.App. 3d 1038;
10 *Playboy Enterprises, Inc. v. Superior Court, supra*, 154 Cal. App.3d 14, 25-25 (defendant seeking
11 identity of anonymous informant). The incorporation of the shield law into the California
12 Constitution cannot restrict a criminal defendant's federal constitutional right to a fair trial.
13 (*Mulkey v. Redman* (1966) 64 Cal.2d 529, 533, *aff'd* (1967) 387 U.S. 369 (explaining the
14 California constitutional amendment adopted by ballot must conform to the United States
15 Constitution). " *Id.* at 805-06.

16 The courts should apply a test that requires a criminal defendant to demonstrate a reasonable possibility that
17 evidence sought will materially assist his defense. *Id.* at 808. The needs of a criminal defendant to develop
18 all relevant facts in the adversary system is both fundamental and comprehensive, and the court should not
19 unreasonably preclude a defendant from developing all facts, within the framework of the rules of evidence.
20 *Id.* The defendant's showing need not be detailed or specific, but it must rest on more than mere
21 speculation. He need not show the evidence will lead to his exoneration, but only that there is a reasonable
22 possibility the information will materially assist his defense. *Id.* at 809.

23 Petitioner is a witness to the events of which he writes. As a witness he cannot hide behind the
24 Shield Law and Mr. Jackson's rights to a fair trial outweigh his efforts to keep relevant and material
25 evidence away from Mr. Jackson. Mr. Jackson has made a showing there is a reasonable possibility that the
26 evidence sought will materially assist his defense, and the court should require compliance with the
27 subpoena.

28 **C. The Information Sought is Not Available from Other Sources and the Objection**

is not Appropriate in Criminal Proceedings.

Petitioner contends there are other sources who might be an equal source of information that is in petitioner's possession such as his website or Jordan Chandler. (Chandler Memo, p. 4, lines 10-28). However, the unpublished information which petitioner seeks to withhold is, by definition, not published on his website. Further, he makes no showing of what Jordan chandler does or does not have in his possession or whether Jordan Chandler is amenable to process.

The alternative source analysis under the Shield Law in civil cases does not have application in criminal cases. In Delaney v. Superior Court, 50 Cal. 3d 785, 812-13 (1990), the court stated:

"For all the foregoing reasons, we conclude that a universal and inflexible alternative-source requirement is inappropriate in a criminal proceeding. In considering whether the requirement is appropriate in a given case, the trial court should consider the type of information being sought (e.g., names of potential witnesses, documents, a reporter's eyewitness observations), the quality of the alternative source, and the practicality of obtaining the information from the alternative source. The trial court must also consider the other balancing factors set forth above: whether the information is confidential or sensitive, the interests sought to be protected by the shield law, and the importance of the information to the criminal defendant. In short, whether an alternative-source requirement applies will depend on the facts of each case. Id. at 812-13.

None of the alternative source factors are present here. None of the information is confidential because parts of it have been disclosed by petitioner's own admission. Disclosure of the information would not infringe on petitioner's future new gathering activities because he is an attorney, not a reporter, and he was a witnesses to the events, not a journalist employed in the media. The information is of high importance to Mr. Jackson because it contains taped interviews with the complaining witness of which no other source exists for them, and which relate to the more than 22,000 documents the prosecution has disclosed to Mr. Jackson relating to the Jordan Chandler matter.

D. Petitioner's Individual Objections to Mr. Jackson's Subpoena are Without Foundation.

1. Documents relating to Jordan Chandler.

Mr. Jackson first request seeks:

1 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning Jordan
2 Chandler relationship with Michael Jackson since January 1, 1992."

3 Petitioner states that newspapers, public pleadings, and magazine articles are not necessary to be
4 produced. Mr. Jackson agrees, and he does not seek such documents. Rather, he seeks information that is
5 not publically available.

6 Petitioner states that "production will be allowed subject to this Court's ruling on the Motion to
7 quash filed concurrently with these Objections and this court's in camera review of the documents."
8 (Objection, p. 2, lines 6-7).

9 Mr. Jackson sees no need for an in camera review of the documents. However, whatever the court's
10 views or desires on this matter will be satisfactory to Mr. Jackson. An In Camera review will likely be a
11 tremendous waste of time and effort because the volume of the government's 22,000 documents will have
12 to be compared to what petitioner has, and there is nothing sensitive, private, or proprietary in anything
13 petitioner might have.

14 **2. Contracts with Tellem Worldwide.**

15 Mr. Jackson's second request seeks contracts between petitioner and Tellem Worldwide. Petitioner
16 states he has not such documents. There is no further need for the court's examination of this matter.

17 **3. Discussions with Tellem Worldwide.**

18 Mr. Jackson's third request seeks discussions between petitioner and Tellem Worldwide. Petitioner
19 states he has not such documents. There is no further need for the court's examination of this matter.

20 **4. Communications with Third Parties mentioning Michael Jackson.**

21 Mr. Jackson's fourth request seeks:

22 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any
23 communication, correspondence, notes, letters, or memoranda, or discussion between you and any
24 person, business, or other entity since January 1, 1992, where Michael Jackson has been mentioned
25 or discussed."

26 Petitioner claims the request is overboard. He gives no explanation of why it is overboard. The
27 request asks for his communications to third parties mentioning Michael Jackson, and he neither identifies
28 any burden or overbreath that would prohibit disclosure.

1 Petitioner claims disclosure of communications to third parties is an invasion of privacy. By
2 definition a communication to a third party is a disclosure. There is no privacy interest possibly involved.

3 Petitioner also claims protection of the Shield Law. However, as discussed above, petitioner is not
4 entitled to such protection because he is a witness and he is not a journalist.

5 Petitioner claims the information will not lead to admissible evidence. However, that is not the
6 standard in criminal discovery because he need only show a "reasonable possibility the information will
7 materially assist his defense. Delaney v. Superior Court, 50 Cal. 3d 785, 809 (1990). With the government
8 having produced 22,000 pages relating to the events of 1993 and 1994, there is no question that the
9 information in petitioner's possession will materially assist Mr. Jackson's defense.

10 **5. Communications to law enforcement agencies.**

11 Mr. Jackson's fifth request seeks:

12 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any
13 communication, correspondence, notes, letters, or memoranda, or discussion between you and any
14 law enforcement agency, governmental entity, police personnel, sheriff's personnel, child protective
15 services personnel, or any of their REPRESENTATIVES, whether federal, state, or local, since
16 January 1, 1992, where Michael Jackson or Jordan Chandler has been mentioned or discussed.

17 Petitioner claims such documents "are not relevant to the subject matter at hand and none of these
18 documents contain any information regarding any claims of child molestation or defenses to such claims."
19 (Objection, p. 3, lines 18-20). However, Mr. Jackson has demonstrated such information will materially
20 assist his defense. Delaney v. Superior Court, 50 Cal. 3d 785, 809 (1990). More important, witness
21 statements to law enforcement are always relevant and material to a criminal matter.

22 Witness statements are always relevant to the proceeding. Penal Code section 1054.1(f).
23 Thompson v. Superior Court, 53 Cal. App. 4th 480, 488 (1997). Any interview or statements a witness has
24 made with law enforcement, and any writing regarding that interview, should be disclosed to the defendant.
25 Funk v. Superior Court, 52 Cal. 2d 423, 424 (1959). The courts have gone to great lengths to assure that
26 statements a person has made to law enforcement are disclosed to a defendant. Izazaga v. Superior Court,
27 54 Cal. 3d 456, 377; Hubbard v. Superior Court, 66 Cal. App. 4th 1163, 11167 (1997).

1 Petitioner has made statements to law enforcement regarding Michael Jackson. Mr. Jackson is
2 entitled to those witness statements. Withholding such information would obstruct his defense in this case.

3 **6. Documents regarding compensation.**

4 Mr. Jackson's sixth request seeks documents regarding compensation for the writing of petitioner's
5 manuscript. Petitioner states he has not such documents. There is no further need for the court's
6 examination of this matter.

7 However, the court should note that the absence of a contract, compensation, and payments is strong
8 evidence that petitioner is not engaged in news gathering. He is not a journalist, and he is not "employed"
9 in the news gathering or media business.

10 **7. Communication with Jordan Chandler.**

11 Mr. Jackson's seventh request seeks communications between petitioner and Jordan Chandler.
12 Petitioner states he has not such documents. There is no further need for the court's examination of this
13 matter.

14 **8. Communications with Evan Chandler.**

15 Mr. Jackson's eighth request seeks:

16 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any
17 discussions, letters, notes, communications, contracts, agreements, or correspondence between you
18 and Evan Chandler, or any of his REPRESENTATIVES, where the subject of Michael Jackson or
19 Jordan Chandler was discussed or mentioned since January 1, 1992."

20 Petitioner claims the request is overboard. (Objection, p. 4, lines 27-28). Why the request is
21 overboard is not identified. Mr. Jackson has a right to have communications between witnesses to the 1993
22 and 1994 events and the accusers. There is no basis for petitioner's objection.

23 Petitioner claims the request is an invasion of privacy. However, not only does Mr. Jackson interest
24 in a fair trial outweigh any claim of privacy, Delaney v. Superior Court, 50 Cal. 3d 785. 809 (1990), but
25 also by definition the communications and information was disclosed to a third party. There is no privacy
26 interest involved.

27 Petitioner claims the documents are protected by the Shield Law. However, not only does Mr.
28 Jackson's right to a fair trial outweigh any such claim, but also as discussed above petitioner is not a

1 journalist and he is a witness who is not engaged in news gathering. Rancho Publications v. Superior
2 Court, 68 Cal. App. 4th 1538, 1544 (1999).

3 **9. Discussions with other witnesses.**

4 Mr. Jackson's ninth request seeks:

5 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning
6 manuscripts, manuscript drafts, research notes, interview notes, interview audio and video
7 recordings, correspondence with witnesses, and discussions with witnesses concerning or relating to
8 the book "All that Glitters: The Crime and the Cover Up" by Raymond Chandler.

9 Petitioner claims the request is overboard and burdensome. (Objection, p. 5, lines 9-10). However,
10 petitioner does not identify what the overbreadth might be, nor the burden involved. If there are a large
11 number of documents, Mr. Jackson will accommodate petitioner and go to examine the document wherever
12 they might be.

13 Petitioner claims the request invades his privacy. However, these documents have no privacy
14 protection because they are by definition materials generated with and from third parties. Further, Mr.
15 Jackson has demonstrated a "reasonable possibility the information will materially assist his defense,"
16 which outweighs petitioner's privacy concerns. Delaney v. Superior Court, 50 Cal. 3d 785, 809 (1990).

17 Petitioner claims disclosure is prevented by the Shield Law. However, as discussed above,
18 petitioner is not a journalist. He is an attorney promoting the interests of his brother and nephew in a self-
19 published book which is not a commercial venture because he does not have one documents that shows any
20 remuneration or compensation for his publication. Petitioner is not entitled to Shield Law protection.

21 **10. Contracts regarding printing or distribution**

22 Mr. Jackson's tenth request seeks:

23 "All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any
24 contract, agreement, or arrangement for the printing, distribution, promotion, or sale of the book
25 "All that Glitters: The Crime and the Cover Up" by Raymond Chandler."

26 Petitioner claims the information is not relevant to the subject matter at hand. While that is the
27 incorrect standard, the material is in fact relevant because it demonstrates petitioner is not engaged in any
28 journalistic activity and he is not a reporter or journalist.

1 Petitioner claims the documents would invade his privacy and reveal personal financial information.
2 Mr. Jackson is not interested in his personal financial information. Rather, he is interested in
3 demonstrating petitioner is not a reporter or journalist.

4 Petitioner has made no specification of what financial matters would be involved in these
5 documents. Mr. Jackson will accommodate any matters that deal with personal finances because he is not
6 interested in any such documents. He is only interested in documents that have a "reasonable possibility
7 the information will materially assist his defense," which outweighs petitioner's privacy concerns.
8 Delaney v. Superior Court, 50 Cal. 3d 785, 809 (1990).

9 III.

10 CONCLUSION

11 For the foregoing reasons, Mr. Michael Jackson requests petitioner's Motion to Quash be denied.

12
13 DATED: November 5, 2004 Respectfully submitted,

14 Thomas A. Mesereau, Jr.
15 Susan Yu
16 COLLINS, MESEREAU, REDDOCK & YU

17 Robert M. Sanger
18 SANGER & SWYSEN

19 Brian Oxman
20 OXMAN & JAROSCAK

21 By: 

22 R. Brian Oxman
23 Attorneys for Defendant
24 MICHAEL JOSEPH JACKSON
25
26
27
28

DECLARATION OF BRIAN OXMAN

I, Brian Oxman, declare and say:

1. I am an attorney at law admitted to practice before all the Courts of the State of California and I am an attorney for Michael Jackson. I submit this declaration in support of Mr. Jackson's Opposition to Motion to Quash Chandler Subpoena.

2. On September 19, 2004, Mr. Jackson served the subpoenaed party with two (2) subpoenas. The first was a Subpoena Duces Tecum where the response was due on October 5, 2004. (Exhibit "B" to the petitioner's memo). The second was a subpoena for personal appearance at trial, and the production of documents where the response is due on January 31, 2005. (Also Exhibit "B" to petitioner's memo).

3. On October 25, 2004, the subpoenaed party served a Motion to Quash and Application for In Camera Review. The motion challenged the subpoena because the subpoenaed party seeks protection under the California Shield Law contained in Evidence Code section 1070. However, petitioner is not a journalist. Rancho Publications v. Superior Court, 68 Cal. App. 4th 1538, 1544 (1999)(Shield Law protects only journalists directly involved in news gathering for a publisher, newspaper, or other media organization). He is an attorney who has never engaged in news gathering or otherwise worked for a news organization, and under the definitions contained in Article I, section 2(b) to the California Constitution and evidence Code section 1070, he does not satisfy section 1070's definition of a journalist, which is a:

"publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed."

4. In addition, petitioner was a witness to the events in 1993 and 1994 when his brother, Evan Chandler, and his nephew, Jordan Chandler, made claims against Michael Jackson. By his own admission he does not gather news because he is a recently licensed attorney who practices law in Santa Barbara, and on both the cover of his book and his is self-promotion web site, he states he was a witness to the events of which he writes. He does not qualify as a reporter nor a journalist for Shield Law protection. Delaney v. Superior Court, 50 Cal. 3d 785, 805-06 (1990)(journalist that witnesses events must disclose unpublished information regarding events),.

1 5. Petitioner's web side, www.allthatglitters.com, states:

2 Raymond Chandler was born in New York City in 1946. He attended SUNY Stony Brook,
3 where he earned a B.A. in 1968 and a B.S. in 1975. After moving to Santa Barbara, California in
4 1976, he worked in the construction field for twenty years. He earned his J.D. from the Santa
5 Barbara College of Law and was admitted to the bar in 2001. He currently practices law in Santa
6 Barbara. (Exhibit "1").

7 6. Petitioner has never been involved in the news gathering business and does not do so today.

8 According to his Objection to Mr. Jackson's subpoena he has no documents showing any compensation,
9 employment, or remuneration as a journalist. (Objection, p. 4, lines 5-7). He was nothing more than a
10 witness to events in 1993 and 1994. He is a recently admitted attorney as of 2001 who is actively engaged
11 in promoting his nephew and brother based on the events he claims to have witnessed.

12 7. Petitioner's own web site states that he is a witness to the events:

13 "The 1993 Michael Jackson scandal has remained a closely held secret for over ten years.
14 Other than speculation and innuendo, the facts have never been revealed--until now. Inside All That
15 Glitters, Ray Chandler, the boy's uncle, provides the hard evidence. From the day the boy met
16 Michael, through six months of frenzied publicity, and into the scarring years that followed, **this is**
17 **a story told by one who witnessed the events as they unfolded**, and he has the proof to back it up.
18 Did the King of Pop sexually molest a thirteen-year-old boy in 1993? In this account, the master of
19 reinvention is unmasked." (Exhibit "2")(emphasis added).

20 8. In his declaration attached to his motion, petitioner states:

21 "From late August through December 0f 1993, I lived in the home of Evan and Jordan
22 chandler in Los Angeles. During that time I talked extensively with Evan Chandler, Jordan
23 chandler, June Chandler (Jordan's mother), and other persons directly and indirectly connected with
24 the molestation allegations." (Chandler Dec., p. 1, lines 10-13).

25 9. Petitioner is a witness to the events of which are relevant to this legal proceeding. Under both
26 Rancho Publications v. Superior Court, 68 Cal. App. 4th 1538, 1545 (1999) and Delaney v. Superior Court,
27 50 Cal. 3d 785, 805-06 (1990), petitioner is a witness and cannot withhold information which is the subject
28 of the subpoena. Mr. Jackson requests the court require production of the subpoenaed materials.

1 10. In his Memorandum, petitioner requests the court to delay ruling on his motion until it
2 determines the admissibility of the allegations involving the 1993 case. (Petitioner Memo, p. 9, lines 15-
3 16). While petitioner is correct there has been no determination by the court regarding whether such
4 matters will be admissible, Mr. Jackson is in the position of having to prepare for trial. In the past two (2)
5 weeks, the government has disclosed approximately 22,000 documents relating to 1993 case, and it is
6 necessary for Mr. Jackson to conduct his defense in a reasonable manner, which necessitates information
7 from petitioner.

8 11. Petitioner challenges the relevance of the subpoenaed documents by claiming they have nothing
9 to do with the current case. (Chandler Memo, p. 3, lines 1-2). However, with the government disclosing
10 22,000 pages of information regarding that case, with petitioner being a witness to the events involving that
11 case, and petitioner having documents and statements from the persons involved in that case, the
12 subpoenaed documents are beyond question relevant and material to this proceeding.

13 12. Petitioner is not a reporter nor a news media employee who gathers news, and no news media
14 or publisher would accept his book for publication. Instead, he self published his book in the same manner
15 as if a witnesses decided to pass out leaflets or mimeographed copies of the witnesses statements about
16 events the witness observed. Petitioner's self-aggrandize efforts to promote his brother and nephew are
17 done as an attorney and he is not entitled to Shield Law protection.

18 13. Petitioner's book is published by Windsong Press, which is a subsidy publisher who only
19 publishes books that are fully paid for and financed by the individual requesting publication. (Exhibit "3").
20 It is no more or no less than if petitioner had photocopies his materials and started to distribute them. He is
21 not engaged in any journalistic or news gathering activity for any publisher, newspaper, or other media
22 organization.

23 14. Windsong Press, Ltd., is run by Brian Frederiksen, and publishes Arnold Jacob's "Song and
24 Wind." The company sells breathing devices designed to assist in the playing of musical instruments,
25 books, and some educational materials. They are a subsidy publisher designed for individuals to self-
26 publish their manuscript. They have no distribution network or system, and the individual who publishes
27 their book is responsible for their own efforts to seel or distribute their materials. (Exhibit "3").
28

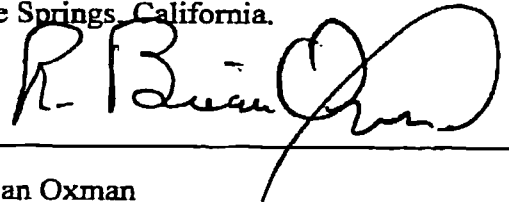
1 15. Despite being subpoenaed as a witness to this proceeding, he has repeatedly flaunted this Court
2 and the January 23, 2004, Protective Order, by self-promoting himself as an insider connected to a brother
3 who was the father of a young man who claimed Michael Jackson molested him more than 11 years ago.
4 He does not qualify as a reporter nor a journalist for Shield Law protection. His self-publication of
5 materials recounting an event he witnessed does not constitute news gathering or a journalistic activity.

6 16. Petitioner is not a journalist nor engaged in any news gathering activities as a reporter, editor,
7 publisher, or person connected with or employed upon a newspaper, magazine, or other periodical
8 publication, and he is not entitled to protection under the Shield law. Petitioner is a "witness" to the 1993-
9 94 events who cannot withhold unpublished information, and he is acting as a recently admitted attorney
10 who is promoting his brother and nephew. Petitioner's objections to Mr. Jackson's subpoena are without
11 foundation because there is no invasion of privacy, no overbreath, and no undue burden in requiring
12 petitioner to respond to the subpoenas.

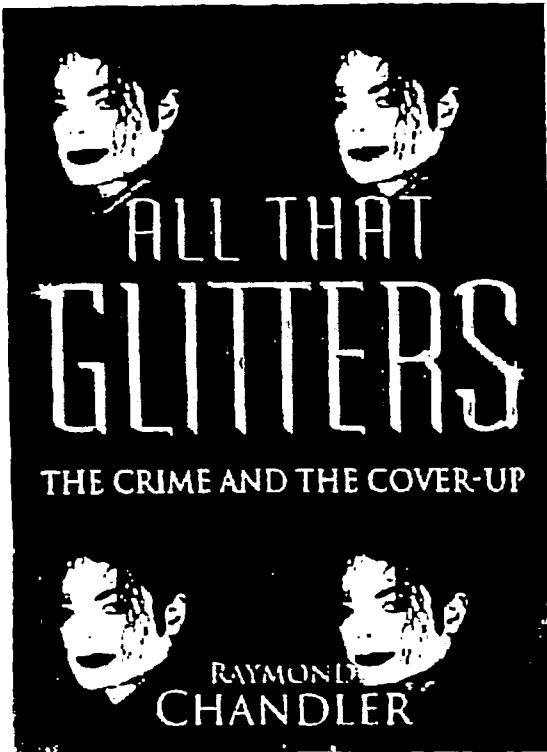
13 I declare under penalty of perjury under the laws of the State of California the foregoing is true and
14 correct.

15 Executed this 5th day of February, 2004, at Santa Fe Springs, California.

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R. Brian Oxman



About Raymond Chandler

Raymond Chandler was born in New York City in 1946. He attended SUNY Stony Brook, where he earned a B.A. in 1968 and a B.S. in 1975. After moving to Santa Barbara, California in 1976, he worked in the construction field for twenty years. He earned his J.D. from the Santa Barbara College of Law and was admitted to the bar in 2001. He currently practices law in Santa Barbara.



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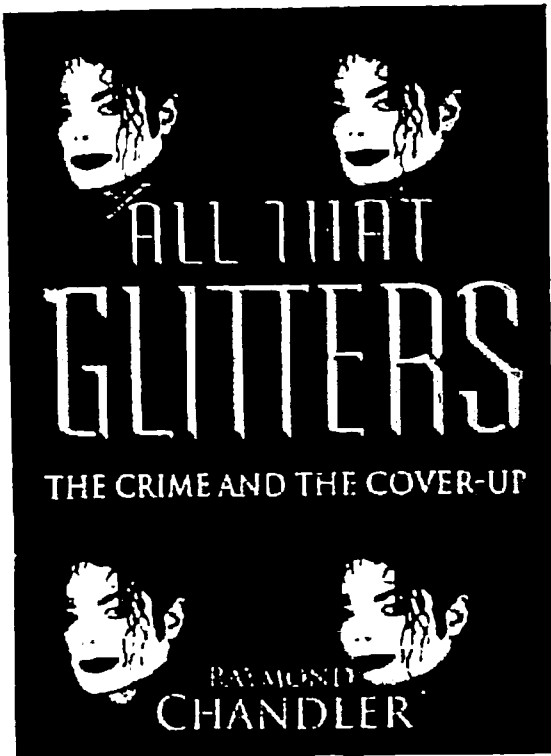
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EXHIBIT "1"

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All That Glitters

The 1993 Michael Jackson scandal has remained a closely held secret for over ten years. Other than speculation and innuendo, the facts have never been revealed--until now. Inside All That Glitters, Ray Chandler, the boy uncle, provides the hard evidence. From the day the boy met Michael, through six months frenzied publicity, and into the scarring years that followed, this is a story told by one who witnessed the events as they unfolded, and he has the proof to back it up. Did the King of Pop sexually molest a thirteen-year-old boy in 1993? In this account, the master of reinvention is unmasked.



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EXHIBIT "2"



**WindSong
Press
Limited**



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About WindSong Press

WindSong Press, Limited was formed in 1996 by Brian Frederiksen for the publication of *Arnold Jacobs: Song and Wind*. Currently in the fifth printing, the first printing was three months! WindSong Press is half educational and half business with funds from merchandise used to finance educational activities preserving the Jacobs legacy.

Shortly we sold the breathing devices Mr. Jacobs used in his studio. Mouthpieces, rims and buzz aids were added including Mr. Jacobs' ideas to use delrin for rims and the holes in buzz aids. We worked with Mr. Jacobs for the reproduction of the Resistance Compound Gauge, a tool he used for decades. www.WindSongPress.com online in 1997. Articles, Biographies, audio and video files, and transcripts of music have been added. We have added secure online ordering.

October 7, 1998 was a sad day for musicians with the passing of Arnold Jacobs. For us, he was our Honorary Chairman of the Board. The torch had passed to his students to carry on the Jacobs tradition. We worked with the Jacobs family to create the *Arnold and Gize Collection* of books, recordings, photos and other material used by Mr. Jacobs. Brass players worldwide published tributes which we have on our website. Another tribute, the *Por Artist* CD was produced by Summit Records.

As we exhibited at shows, we noticed a trend in the music business towards micro-releases. We first started with Ed Kleinhammer's *Mastering the Trombone* and have since added a dozen companies. In 2002 the reissue of *The Chicago Symphony Trombone and Tuba* recording arrived and, on the lighter side, we made t-shirts with the *J.W York and Son*.

Through electronic medium, in 2003 Mr. Jacobs' masterclasses continue through *Arnold Almost Live*. Two presentations, *The Performer* and *Breathing for Wind Instruments* shown for the National Flute Association and at four regional conferences for the *International Tuba Euphonium Association*. In 2004 we will bring the Jacobs Legacy outside North America presenting *Arnold Jacobs Almost Live* in Melbourne, Australia. Three more presentations have been produced, *SONG (and wind)*, *The Tongue and Embouchure*, and *Ask Mr. Jacobs*.

Most importantly, we are continuing the Jacobs tradition for future generations.

EXHIBIT "3"

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PROOF OF SERVICE BY MAIL AND FAX

I, Maureen Jaroscak declare and say:

I am an attorney at law admitted to practice before all the courts of the state of California and I am an attorney for Mr. Michael Jackson in the above-entitled action. My business address is 14126 East Rosecrans Blvd., Santa Fe Springs, California 90670. I m over 18 years and not a party to the above-entitled action. On November 5th, 2004, I served the following:

EX PARTE APPLICATION TO FILE UNDER SEAL

MR. JACKSON'S OPPOSITION TO MOTION TO QUASH CHANDLER SUBPOENA

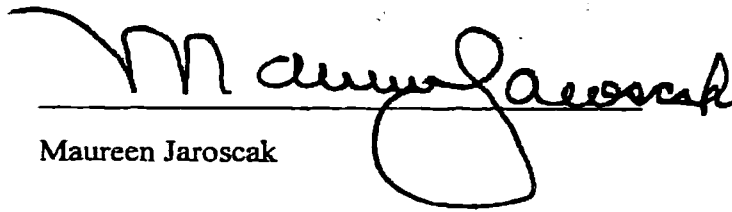
on the interested parties by placing a true copy of the document in a sealed envelope, and depositing it in the United States Mail with first class postage fully prepaid at La Mirada, California, and addressed as follows:

Herb Fox
15 West Carrillo Street
Suite 211
Santa Barbara, CA 93101
Fax No. (805) 899-2121

In addition, on this same date, I served a copy of the document by fax to the above-indicated number by transmitting a true copy of it by facsimile pursuant to Rule 2003 of the California Rules of Court, and no error was reported by the machine. Pursuant to Rule 2008(e), I had the machine print a record of the transmission, and a copy of that record is attached to this declaration.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed this 5th day of November, 2004, at Santa Fe Springs, California.


Maureen Jaroscak