

1 KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP  
Howard Weitzman (SBN 38723)  
2 hweitzman@kwikalaw.com  
Dale F. Kinsella (SBN 63370)  
3 dkinsella@kwikalaw.com  
Jonathan P. Steinsapir (SBN 226281)  
4 jsteinsapir@kwikalaw.com  
Zachary T. Elsea (SBN 279252)  
5 zelsea@kwikalaw.com  
808 Wilshire Boulevard, 3<sup>rd</sup> Floor  
6 Santa Monica, California 90401  
Telephone: 310.566.9800  
7 Facsimile: 310.566.9850

8 FREEDMAN + TAITELMAN LLP  
Bryan J. Freedman (SBN 151990)  
9 bfreedman@ftllp.com  
1901 Avenue of the Stars, Suite 500  
10 Los Angeles, California 90067  
Telephone: 310.201.0005  
11 Facsimile: 310.201.0045

12 Attorneys for Optimum Productions and for John  
Branca and John McClain as Executors of the  
13 Estate of Michael J. Jackson

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF LOS ANGELES**  
16

17 OPTIMUM PRODUCTIONS, a California  
18 corporation; and JOHN BRANCA and JOHN  
19 MCCLAIN, in the respective capacities as  
CO-EXECUTORS OF THE ESTATE OF  
MICHAEL J. JACKSON,

20 Plaintiffs,

21 vs.

22 HOME BOX OFFICE, a Division of TIME  
23 WARNER ENTERTAINMENT, L.P., a  
Delaware Limited Partnership, and HOME  
24 BOX OFFICE, INC., a Delaware corporation,  
and DOES 1 through 5, business entities  
25 unknown, and DOES 6 through 10, individuals  
unknown,

26 Defendants.  
27

Case No.

**PETITION TO COMPEL PUBLIC  
ARBITRATION OF CLAIMS OF**

1. **BREACH OF CONTRACT (NON-  
DISPARAGEMENT CLAUSE); AND**
2. **BREACH OF THE COVENANT OF  
GOOD FAITH AND FAIR DEALING**

**AND ALL OTHER RELATED  
ARBITRABLE CLAIMS AND ISSUES**

**Code of Civil Procedure §§ 1281.2, 1290**

1 **INTRODUCTION**

2 Michael Jackson is innocent. Period. In 2005, Michael Jackson was subjected to a trial—  
3 where rules of evidence and law were applied before a neutral judge and jury and where both sides  
4 were heard—and he was exonerated by a sophisticated jury. Ten years after his passing, there are  
5 still those out to profit from his enormous worldwide success and take advantage of his  
6 eccentricities. Michael is an easy target because he is not here to defend himself, and the law does  
7 not protect the deceased from defamation, no matter how extreme the lies are. Michael may not  
8 have lived his life according to society’s norms, but genius and eccentricity are not crimes.  
9 Nothing and no one can rewrite the facts which show that Michael Jackson is indeed innocent of  
10 the charges being levied at him by HBO in its “documentary” *Leaving Neverland*. No one-sided  
11 “documentary” can substitute for a real documentary, or for a trial where both sides are heard,  
12 competent evidence is presented, and witnesses are cross-examined.

13 Those behind this posthumous character assassination are:

14 HBO: a company, recently acquired by AT&T, so desperate for eyeballs that its growing  
15 irrelevance to the cord-cutting generation was crystallized when its chief rival bluntly stated in its  
16 January earnings report that it considers a popular online game to be a more serious competitor  
17 than HBO. In producing this fictional work, HBO ignored its contractual obligations to Michael  
18 and his companies by disparaging both him and the Dangerous World Tour that HBO had  
19 previously profited from immensely.

20 Wade Robson and James Safechuck: two admitted perjurers, one of whom is a self-  
21 described “master of deception,” whose litigations have played out in the courts as a failed  
22 melodrama for more than five years. With more holes in their stories than anyone can count, both  
23 view Michael Jackson, the man who they previously swore was an inspiration and did nothing to  
24 them, as a lottery ticket through accusations never brought during Michael’s life. They never  
25 brought these claims during Michael’s life, because they knew Michael would have held them  
26 both legally accountable for their defamation, just as Michael had held the “reporter” Victor  
27 Gutierrez—who seems to be the true author of these two men’s fictional tales—liable before a jury  
28 for millions of dollars when he falsely made similar claims about Jackson.

1 Dan Reed: the HBO-deployed “documentarian” and director of *Leaving Neverland* who  
2 violated every rule of responsible journalism and documentary filmmaking. He all but embedded  
3 himself with the accusers’ legal team to the point where he refused to devote even one minute of a  
4 240-minute film to any of the mountainous evidence showing that Robson and Safechuck are  
5 lying. He refused to offer any counter-point to their fabrications, and refused to talk to anyone  
6 whose statements might not fit the storyline of the fictional film he was dead-set on making from  
7 the outset. Dan Reed made no attempt to review the legal records from Robson’s and Safechuck’s  
8 litigations with the Estate, where the judge found that Robson had lied under oath during the  
9 litigations on key issues; and where Robson was caught red-handed hiding crucial evidence from  
10 the court, from the Jackson Estate, and even *from his own lawyers*. Reed even ignored the fact that  
11 these men are *still* pursuing claims against the Jackson Estate for hundreds of millions of dollars  
12 so they have hundreds of millions of reasons to lie.

13 While the conduct of the above participants speaks for itself, special emphasis must be  
14 placed on HBO. HBO refused to even meet with representatives of the Jackson Estate—the  
15 primary beneficiaries of which are Michael’s three children—who made no threats but just asked  
16 for a meeting to discuss problems with the “documentary.” HBO is not in search of the truth—  
17 only in search of “content” and “engagement” as its bosses at AT&T have publicly ordered.

18 The real victims here are the primary beneficiaries of the Estate, Michael’s three children,  
19 who are forced to endure this attack on their father, ten years after they buried him, and when he  
20 has no chance to respond.

21 Michael Jackson can never be silenced. His music and artistry live, as does his innocence.  
22 They will long outlast false claims, gossip, and allegations spread by those who seek to make  
23 money off him. In the end, this “documentary” will say much more about HBO than it ever could  
24 about Michael Jackson.

25  
26  
27  
28

1                    **GENERAL ALLEGATIONS REGARDING HBO'S BREACH OF ONGOING**  
2                    **CONTRACTUAL OBLIGATIONS TO THE JACKSON ESTATE**

3                    *The just and proper jealousy with which the law protects the reputation of a living*  
4                    *man forms a curious contrast to its impotence when the good name of a dead man*  
5                    *is attacked. ... The dead cannot raise a libel action, and it is possible to bring*  
6                    *grave charges against their memory without being called upon to justify these*  
7                    *charges in a court of law or to risk penalties for slander and defamation. The*  
8                    *possibilities of injustice are obvious. – “Libeling the Dead,” Glasgow Herald (July*  
9                    *27, 1926), as quoted in Don Herzog, *Defaming the Dead* (Yale Univ. Press 2017)*

10                    **A.        Michael Jackson Was Proven Innocent**

11                    1.        Michael Jackson passed away almost ten years ago on June 25, 2009, as a result of  
12                    a criminal homicide by his “doctor.” Almost exactly four years earlier, on June 14, 2005, Jackson  
13                    was exonerated by a unanimous jury of twelve men and women in Santa Maria, California, on  
14                    discredited charges that he had committed unspeakable acts.

15                    2.        Michael Jackson’s acquittal was not the result of some technical “reasonable  
16                    doubt” argument. The phrase “reasonable doubt” appeared *only once* in Jackson attorney Tom  
17                    Mesereau’s opening statement (at the *very end* of it). Rather, much to the media’s legal experts’  
18                    ridicule at the time, Mesereau *affirmatively assumed the burden of proving Jackson innocent in*  
19                    *the case*. Among his first words to the jury in his opening statement were: “I say to you right now,  
20                    I am going to make some promises in this case, I am going to fulfill them, and I want you to judge  
21                    me accordingly at the end. ***These charges are fake, silly, ridiculous.***” Mesereau left no doubt  
22                    about what he was promising to prove: “***We will prove [that child molestation] never, ever***  
23                    ***happened.***” Three-and-a-half months later, the jury found that Mesereau had kept his promises.  
24                    The jury found that Michael Jackson was no child molester. The jury found that Mesereau was  
25                    right: the charges against Jackson were “fake, silly, and ridiculous.”

26                    3.        The jury that cleared Michael was a diverse mix of American citizens, including  
27                    several *highly educated persons and persons with particular expertise* in the subject matter—e.g.,  
28                    the head of the local Social Services Agency, a former high school principal with a Master’s  
Degree in Counseling, a math teacher with a Master’s Degree in mathematics, a civil engineer, and  
residents of a neighboring military base. And these jurors have confirmed in recent interviews that

1 they would reach the same decision today.

2           4.       Jackson’s 2005 acquittal ended a 12 year crusade by Thomas Sneddon, the former  
3 district attorney for Santa Barbara County. Sneddon looked under every rock and pebble for  
4 supposed “victims” of Jackson. At taxpayer expense, he literally sent investigators all over the  
5 United States and all over the world to follow “leads” about supposed “victims.” Sneddon’s  
6 investigators went to the Philippines, to Australia, to England, etc. Sneddon orchestrated multiple  
7 raids of Jackson’s homes at Neverland Ranch and in Los Angeles over the course of a decade.  
8 They found nothing. As *Rolling Stone*’s Matt Taibbi—no fan of Jackson as his other writings  
9 confirm—explained in an article shortly after the verdict: “Virtually every piece of [Sneddon’s]  
10 case imploded in open court, and the chief drama of the trial quickly turned into a race to see if the  
11 DA could manage to put all of his witnesses on the stand without getting any of them removed  
12 from the courthouse in manacles.”

13           5.       Given Sneddon’s unsupported allegations in the years he chased Jackson, the FBI  
14 also investigated Michael Jackson extensively. The FBI’s 300-page file on Jackson, made  
15 available through the Freedom of Information Act, makes clear that the FBI never found anything  
16 to show that Jackson was a child molester (because he was not).

17           6.       The legal analyst and author, Jeffrey Toobin, explained after the verdict that “you  
18 don’t need a law degree to understand this verdict. It is an absolute and complete victory for  
19 Michael Jackson, utter humiliation and defeat for Thomas Sneddon, the district attorney who has  
20 been pursuing Michael Jackson for more than a decade, who brought a case that was not one that  
21 this jury bought at all. This one’s over.”

22           7.       Sneddon’s crusade against Michael may have been “over” in Toobin’s words, but  
23 the damage it caused to Michael was not.

24           **B.       Michael Jackson’s Legacy and Humanitarian Efforts**

25           8.       Michael Jackson had long been a champion for the rights of children, giving  
26 *hundreds of millions of dollars* to children’s charities during his lifetime, along with a substantial  
27 bequest of tens of millions of dollars to children’s charities in his Will. In light of his commitment  
28 to improving the lives of children around the world, the fact that Michael was chased for twelve

1 years on frivolous molestation charges devastated him. As one writer wrote, he was “an emaciated  
2 mess” at the end of the trial.

3           9.       Michael Jackson had no childhood of his own. From the age of 10, he was the  
4 primary breadwinner for his very large family, and never enjoyed a normal childhood. As he  
5 explained in the only medium (songwriting) where *he could* explain himself: “It’s been my fate to  
6 compensate, for the childhood I’ve never known ... Before you judge me, try hard to love me,  
7 Look within your heart then ask, Have you seen my Childhood?” He was arguably the most  
8 famous person on the planet but possibly also one of the loneliest.

9           10.       Almost immediately after his acquittal, Michael Jackson left the country and  
10 largely disappeared from public life for several years. In early 2009, he reemerged ready to  
11 embark on a comeback with a series of resident shows at London’s O2 Arena to be called “This Is  
12 It.” Despite his ordeals and absence from public life, Michael’s magic had not left him. As we all  
13 saw in the posthumously released film, *Michael Jackson’s This Is It*, documenting his rehearsals  
14 for the O2 shows in London, Michael Jackson could still dance, sing, and enchant an audience in a  
15 way that no one else ever has and no one else ever will again.

16           11.       On June 25, 2009, Michael Jackson passed away. In the wake of Michael’s death,  
17 the public outpouring and mourning throughout the world was unprecedented. AOL called it a  
18 “seminal moment in internet history.” Approximately 15% of Twitter posts (5,000 tweets per  
19 minute) mentioned Jackson after the news broke. To this day, most still vividly recall where they  
20 were when they heard the news that Michael Jackson had died.

21           12.       In Michael Jackson’s death, there was hope that he finally was at peace, and that  
22 his name could no longer be smeared by a media who had spent decades obsessing over him and  
23 selling any story about him, no matter how outrageous. As a then 27-year-old dancer and protégé  
24 of Michael Jackson named Wade Robson summed up the mood of so many in a statement on June  
25 26, 2009, the day after Michael’s death. Michael Jackson is “one of the main reasons I believe in  
26 the pure goodness of human kind ... I will miss him immeasurably.”

27           **C.       HBO, Netflix and the Changing “Pay Television” Business**

28           13.       Meanwhile, about a year before Michael’s death, a company called Netflix began to

1 slowly move away from its highly-successful DVD rent-by-mail business towards an internet  
2 streaming business. To say that its move was successful would be among the greater  
3 understatements of the last decade. In the last several years, Netflix and those following a similar  
4 model like Amazon Prime and Hulu have completely disrupted the Pay Television business.

5 14. Netflix and other streamers are now at the forefront of original content and  
6 documentaries, and have even contracted directly with major movie studios for “first-run” motion  
7 picture content, which was once the entire lifeblood of Pay Television networks like HBO. In  
8 short, Netflix threatens the very survival of Pay Television. None are more threatened than the  
9 longtime pay industry leader, HBO.

10 15. As an entire generation of “cable cutters” has opted for “over the top” services,  
11 HBO has been struggling to play catch up. Nothing crystallized HBO’s growing irrelevance more  
12 than a Netflix earnings report in January stating that Netflix considers the popular online game  
13 Fortnite a more serious competitor than HBO.

14 **D. HBO’s Mandate from AT&T**

15 16. In June 2018, HBO’s parent, Time Warner, was acquired by AT&T.

16 17. AT&T’s CEO for its new “WarnerMedia” division (including Warner Brothers and  
17 HBO), John Stankey directed HBO to win the “streaming wars” and obtain substantially more  
18 content in an obvious recognition of the success of Netflix, Amazon and others. Stankey ordered  
19 HBO’s CEO Richard Plepler: “We need hours a day,” referring to the time he wanted viewers  
20 engaging with HBO content. “It’s not hours a week, and it’s not hours a month. We need hours a  
21 day.” Moreover, according to Vanity Fair, Stankey “made clear that in the current era of mega  
22 scale, HBO on its own is not enough.”

23 18. As the *New York Times* reported, in a July 2018 meeting with Plepler, “Stankey  
24 described a future in which HBO would substantially increase its subscriber base and the number  
25 of hours that viewers spend watching its shows. To pull it off, the network will have to come up  
26 with more content, transforming itself from a boutique operation, with a focus on its signature  
27 Sunday night lineup, into something bigger and broader.”

28 19. Content has been a real problem during Richard Plepler’s tenure as CEO of HBO.

1 With the one exception of *Game of Thrones*, all of the cutting-edge, and now classic, original  
2 content that is associated with HBO—*The Sopranos*, *The Wire*, *Deadwood*, *Six Feet Under*,  
3 *Entourage*, *Sex and the City*, *Curb Your Enthusiasm*, etc.—was from the era when Chris Albrecht  
4 ran HBO. With Albrecht’s departure in 2007, Richard Plepler took over. And Plepler has almost  
5 entirely failed where Albrecht succeeded: original content. With Netflix and others in the industry  
6 now, HBO picked the wrong time to fail in original content.

7         20.       The only HBO show left that can truly drive significant subscribers is *Game of*  
8 *Thrones*. And its final season, with just six episodes, will end in May 2019. After that, HBO will  
9 no longer carry any “must have” content. In short, HBO is facing existential problems.

10        21.       Although recognizing that the programming budget of Netflix and Amazon dwarfs  
11 that of HBO’s, Stankey has refused to commit to substantially increasing HBO’s programming  
12 budget. Without a substantially increased budget, HBO will have to turn to a less expensive way  
13 to create buzz and content.

14        22.       And so Richard Plepler needs content for HBO that will draw streamers, and he  
15 needs to obtain that content inexpensively. In that desperation, Plepler has been willing to violate  
16 just about all of his companies’ internal policies and procedures. As relevant here, Plepler decided  
17 to willfully violate HBO’s obligations to Michael Jackson, obligations that Plepler no doubt knew  
18 about given that he arrived at HBO in early 1992 as Senior VP of Communications and advisor to  
19 the CEO. That was the same year that HBO partnered with Jackson to broadcast a concert from the  
20 Dangerous World Tour, which was by far HBO’s biggest event in the early years of Plepler’s  
21 employment.

22        23.       Like so many before him, Richard Plepler decided to turn on Michael Jackson for  
23 the money. In so doing, he and HBO teamed up with a documentarian that they had worked with  
24 for years, Dan Reed. And they decided to tell the “stories” of two serial perjurers—Wade Robson  
25 and James Safechuck. Those two men’s stories had already been completely discredited in public  
26 lawsuits where they sought hundreds of millions of dollars from the Jackson Estate—lawsuits that  
27 these two men are *still pursuing today*, despite HBO’s patently false protests that the two are not  
28 telling their stories for money. And the good news for HBO was that the script for the

1 documentary had already been written by Robson’s and Safechuck’s *shared* lawyers. The *same*  
2 *lawyer* drafted detailed declarations for both men. The salacious and false details of those  
3 declarations, written by the same lawyer for both men, are then used as the script for the  
4 “documentary.”

5 **E. HBO Covenants to a Broad Non-Disparagement Clause With Jackson**  
6 **In Exchange for a Historic Right to Air Jackson’s Live Concert**

7 24. HBO, on the one hand, and Michael Jackson and his entities, including Plaintiff  
8 Optimum Productions’ predecessor entity, TTC Touring Corporation, on the other, have a  
9 longstanding contractual relationship. Under that relationship, HBO’s production and airing of  
10 *Leaving Neverland* (“the Film”) is not only reckless and irresponsible, it is also a violation of the  
11 express terms of HBO’s and Optimum’s contract.

12 25. Following the release of his fourth studio album as an adult, *Dangerous*, Jackson  
13 appeared at a packed press conference at Radio City Music Hall to announce that he was  
14 embarking on the Dangerous World Tour in order to benefit Jackson’s Heal the World Foundation  
15 and other charity groups.

16 26. Jackson planned live performances on five continents. The tour was ultimately a  
17 huge success, reaching approximately 3.5 million fans through 69 live performances. The tour,  
18 however, did *not* include any performances in the United States.

19 27. Jackson had never previously allowed any complete concerts to be aired or  
20 broadcast on television in the United States. For the Dangerous World Tour, however, Jackson  
21 decided to allow a full two-hour performance to be filmed and aired on television for his tens of  
22 millions of fans in the United States.

23 28. The exclusive right to air the first-ever televised concert performance of the biggest  
24 star in the world was a huge prize for any network. Ultimately, in what was reported by the *New*  
25 *York Times* to be potentially the “largest financial deal for a concert performance on television,”  
26 HBO secured the exclusive right to air Jackson’s Bucharest concert. The terms of the license that  
27 Jackson and Optimum’s predecessor entity granted to HBO were memorialized in a written  
28 contract (the “Agreement”), a copy of which is attached as Exhibit B (only the financial terms

1 have been redacted).

2 29. HBO's Chairman and CEO at the time, Michael Fuchs, touted the television event,  
3 explaining to the *New York Times* that, "With no U.S. tour planned in the near future, this special  
4 HBO event could be the only chance that American audiences will have to see Michael Jackson in  
5 full concert for years."

6 30. HBO aired its two-hour television event, *Michael Jackson in Concert in Bucharest:  
7 The Dangerous Tour*, at 8 p.m. on Saturday, October 10, 1992. As *Variety* reported at the time, the  
8 airing of this concert from the Dangerous Tour was the network's highest-rated special ever, with  
9 approximately 3.7 million U.S. households tuning in to HBO to watch Jackson's performance.

10 31. In addition to monetary consideration, HBO and its team of sophisticated lawyers  
11 agreed to certain covenants in the Agreement to air Jackson's first-ever televised live performance.  
12 Specifically, as "a material inducement to Licensor [TTC Touring Corporation] in granting the  
13 license to HBO" to air Jackson's Bucharest performance, HBO agreed to certain non-  
14 disparagement provisions detailed in an "Exhibit I" to the Agreement.

15 32. By 1992, Michael Jackson was the most popular and most recognizable entertainer  
16 in the world. He had also long been the subject of outrageous tabloid reporting: he slept in a  
17 hyperbaric chamber, he beat his pet chimpanzee, he bought "the elephant man's" bones, etc.  
18 Because of that, it was important to him that the people he did business with not disparage him  
19 and feed these tabloids. There were plenty of other media outlets doing that, and Jackson had no  
20 need for outlets he worked with doing the same.

21 33. In those non-disparagement provisions, HBO promised that "HBO shall not make  
22 any disparaging remarks concerning Performer or any of his representatives, agents, or business  
23 practices or do any act that may harm or disparage or cause to lower in esteem the reputation or  
24 public image of Performer." Other provisions in the Agreement require HBO to notify and consult  
25 with Jackson and Optimum Productions if it wishes to air additional programming about Jackson.

26 34. HBO agreed that the covenants by which HBO promised to be bound would run  
27 both during and "after HBO's contact or HBO's relationship with Licensor and/or Performer."

28 35. Richard Plepler began work at HBO in early 1992 as Senior VP of

1 Communications and advisor to the CEO. Plepler must have known, or should have known, about  
2 HBO’s contract with Jackson, as *Michael Jackson in Concert in Bucharest: The Dangerous Tour*  
3 was the biggest event for HBO that year. Yet in his desperation, Plepler willfully ignored HBO’s  
4 obligations to Michael Jackson.

5 **F. HBO Violates the Agreement’s Non-Disparagement Covenant and Suggests,**  
6 **Among Many Other Things, That Jackson Was Abusing Children In**  
7 **Connection With the Dangerous World Tour**

8 36. On January 25, 2018, at the Sundance film festival, the HBO produced  
9 “documentary” called *Leaving Neverland* (the “Film”) premiered. The Film rehashes long  
10 discredited allegations that Jackson sexually assaulted children several decades ago.

11 37. But the Film is no “documentary” at all. As HBO and the Film’s director, Dan  
12 Reed, have *conceded*, they disregarded every norm of documentary filmmaking and journalistic  
13 integrity in producing this film. Despite the Film’s *four hour* length—ample time for an  
14 exhaustive examination of the facts—HBO and Reed made *no effort* to investigate the veracity of  
15 Robson’s and Safechuck’s claims, nor to scrutinize them in the Film itself. Nor do HBO and Reed  
16 explore the men’s motivations for making their allegations: they are currently pressing claims in  
17 the California courts against the Jackson Estate *for hundreds of millions of dollars*. HBO and Reed  
18 also do not bother to point out that these men *were caught lying under oath repeatedly in their*  
19 *litigations with the Jackson Estate* (set aside the fact that they also had previously testified for  
20 Jackson in criminal proceedings and explained that no inappropriate conduct between them and  
21 Jackson occurred). The trial judge found one of Robson’s lies so incredible that the trial judge  
22 disregarded Robson’s sworn declaration and *found that no rational trier of fact could possibly*  
23 *believe Robson’s sworn statements*. Specifically, Robson falsely swore under oath that he did not  
24 know about the Jackson Estate until March 2013, despite having met with John Branca, the Co-  
25 Executor of the Jackson Estate in 2011 trying unsuccessfully to pitch himself to direct a Jackson-  
26 themed Cirque du Soleil show. When Robson learned about the existence of the Jackson Estate  
27 was *the key issue* on his attempt to get around the statute of limitations. Yet in his efforts to try to  
28 sue the Estate for hundreds of millions of dollars, Robson had no problem lying under oath about

1 the key issue, as the trial judge found. HBO and Reed interviewed *no other witnesses*, despite the  
2 fact that several witnesses have contradicted Robson’s and Safechuck’s claims.

3 38. Indeed, HBO and Reed failed to contact two named persons who are identified in  
4 the film as supposed victims of Jackson’s abuse. Yet since the Film was announced, both of these  
5 other men have publicly and prominently stated that the Film’s allegations that they were abused  
6 are utterly false. In fact, *one person mentioned repeatedly by name* in the Film as a supposed  
7 “victim” of Jackson’s who “replaced” Robson has called the Film “a work of fiction.” That person  
8 was *never* contacted by HBO or Reed to respond to what the Film says *about him*.

9 39. HBO’s Film violates the plain words of Agreement with Jackson and Optimum:  
10 The Film makes false and “disparaging remarks concerning [Michael Jackson] [and] disparage[s]  
11 or cause[s] to lower in esteem the reputation or public image of [Michael Jackson].”

12 40. Worse still is HBO’s duplicity with respect to *the very tour from which it profited*.  
13 The Film expressly alleges that Jackson was abusing children *in connection with and on the*  
14 *Dangerous World Tour*. For example, during one scene of the Film, Wade Robson’s mother, Joy  
15 “Joey” Robson, explains that she got very upset with Michael when he told her that he would not  
16 be taking Wade on the Dangerous World Tour. Mrs. Robson continues that she was especially  
17 upset because Michael had taken another boy and his family on the tour. Footage of the boy and  
18 Jackson on the Dangerous World Tour is then shown. Wade Robson then says that that is when he  
19 realized he had been “replaced” by that boy, i.e., any reasonable viewer would interpret that to  
20 mean that Michael Jackson was sexually abusing the boy on the Dangerous World Tour. That  
21 young man, *mentioned by name repeatedly in the Film*, has publicly stated that the Film is “a  
22 work of fiction,” and has stated repeatedly and eloquently that Michael Jackson never did anything  
23 inappropriate with him on the Dangerous World Tour, or at *any* other time. The Film effectively  
24 ignores that.

25 41. To summarize, HBO profited off the Dangerous World Tour by airing a concert  
26 from the tour and promoting Michael Jackson’s talents. Now, HBO is profiting off the Dangerous  
27 World Tour by airing a “documentary” that falsely claims Michael Jackson was abusing children  
28 on the same tour. It is hard to imagine a more direct violation of the non-disparagement clause.

1           42.     HBO decided to willfully violate its commitments and covenants to Jackson and his  
2 entities. In violation of both basic norms of documentary journalism and the explicit terms of the  
3 Agreement, HBO has disparaged Jackson’s legacy by airing a one-sided hit piece against Jackson  
4 based *exclusively* on the false accounts of two proven, serial perjurers.

5           43.     The fact that HBO’s CEO, Richard Plepler was fully aware of HBO’s contractual  
6 relationship with Jackson and Optimum and yet willfully ignored them is inexcusable. HBO’s  
7 airing of the film, including its double-faced depiction of the Dangerous World Tour, constitutes a  
8 malicious and willful breach of the anti-disparagement covenants in the Agreement.

9           44.     As Richard Plepler himself once said, “A lie goes halfway around the world before  
10 the truth puts its boots on, and we bear some responsibility for that.” Indeed.

11           **G.     Wade Robson and James Safechuck**

12           45.     HBO’s and Plepler’s willful violation of their non-disparagement obligations to  
13 Jackson and Optimum are made the worse given that the Film relies *solely* on the word of two  
14 serial perjurers.

15           46.     Wade Robson and James Safechuck are admitted perjurers. They previously  
16 testified that Jackson never touched them inappropriately in any manner whatsoever. By 2013 and  
17 2014, they were in financial dire straits. Safechuck was in serious need of money, the failed  
18 dreams of a successful acting and music career having long since passed him by. For his part,  
19 Robson was at the end of his choreography career. He had burned so many bridges that the only  
20 thing he had left was his connection with Michael Jackson. But in 2011, the Jackson Estate had  
21 turned him down for the lead choreography job in a Cirque du Soleil show, a job that he told  
22 Cirque he “wanted badly.” By 2012, Robson’s wife was threatening to divorce him because of his  
23 inability to work.

24           47.     So, in 2013 and 2014, Robson and Safechuck changed their stories. No doubt  
25 reading reports from *Forbes* and others, and seeing programs like *60 Minutes* that reported on the  
26 unprecedented success of the Jackson Estate—stories that all ran in the year before these men  
27 changed their stories—Robson and Safechuck filed suits against the Jackson Estate.

28           48.     Having claimed to have perjured themselves repeatedly prior to filing their suits

1 against the Jackson Estate—and claiming to want to now “speak only the truth”—Robson and  
2 Safechuck still could not keep their stories straight after filing suit. Robson, in particular, *was*  
3 *caught committing perjury repeatedly in 2013 through 2017*, in his litigations against the Estate.

4 For just a few examples among many that the Estate discovered:

5           a.       The trial judge in Robson’s initial case against the Estate found one of  
6 Robson’s lies—on *the* key issue in that case, i.e., when he learned about the Estate for  
7 statute of limitations purposes—so clear that the judge took the *extraordinary step* of  
8 disregarding Robson’s sworn statements on a summary judgment motion. ***The judge found***  
9 ***that no rational fact-finder could possibly believe Robson’s sworn statement*** (i.e., his lie  
10 under oath) given the *unequivocal evidence* to the contrary and issued judgment in the  
11 Estate’s favor as a result.

12           b.       In another of the many, many lies in which Robson was caught during his  
13 litigations with the Jackson Estate, he swore under oath in 2016 that he had but *one written*  
14 *communication* with anyone about his abuse allegations from May 2012 until the date of  
15 his sworn statement. Another Wade Robson fabrication. Through third party discovery—  
16 largely from Robson’s mother, Joey, and his sister Chantal—it was revealed that Robson  
17 had *thousands* of such communications, talking to anyone and everyone about his evolving  
18 story of “abuse” (many of the communications were inquiries to his mother where he told  
19 her he was asking her to help him reconstruct “my story with Michael”). In fact, Robson  
20 had even written a book about his supposed abuse by Jackson in the year before filing his  
21 lawsuit—which he hid from the Jackson Estate *and hid from his own attorneys*. When  
22 shopping his book in late 2012 and early 2013, Robson communicated with numerous  
23 publishers about his supposed abuse (contrary to his lie under oath that he had had only  
24 *one* written communication about his “abuse”). Robson first met with his lawyers about  
25 filing a lawsuit against the Jackson Estate in March 2013, just a few weeks after being told  
26 by his book agent that no one was interested in publishing Robson’s ludicrous story.

27           49.       More precisely, no one was interested in publishing Robson’s fabricated and  
28 internally inconsistent tale *until* HBO, Channel 4 (UK), and Dan Reed came along.

1           50.     In all, owing to HBO’s and Reed’s willful blindness, the Film neglects to subject  
2 the accusations against Jackson to *any scrutiny whatsoever*, and it ignores the countless facts and  
3 circumstances evincing that these stories have been trumped up by Robson, Safechuck, and their  
4 shared litigation attorneys as part of an ongoing campaign of lawsuits where they are attempting to  
5 recover hundreds of millions of dollars in damages against the Jackson Estate and affiliated  
6 companies for the *supposed* abuse they suffered.

7           51.     A critical consideration by HBO of Robson and his accusations against Jackson  
8 would have revealed the absurdity of these claims. When Jackson faced criminal prosecution in  
9 2005 for a now-discredited accusation of abuse as to which he was fully exonerated, an adult  
10 Robson testified *under oath* that Jackson had not molested him or engaged in any other  
11 inappropriate behavior. Robson never wavered in the face of withering cross-examination from  
12 one of our State’s finest prosecutors (a senior deputy to Sneddon).

13           52.     Many other times in the past, Robson similarly spoke out to defend Jackson and  
14 deny that he was abused. Robson maintained his support of Jackson even after the singer’s death.  
15 Consistent with his belief in Michael’s innocence, for years after Jackson’s death, Robson  
16 solicited work relating to Jackson—for a Jackson tribute on *So You Think You can Dance*; from  
17 Kenny Ortega asking whether he could help on the film *Michael Jackson’s This Is It*; on an MTV  
18 tribute produced by Janet Jackson; and from the Jackson Estate itself in 2011 on a Jackson-themed  
19 Cirque du Soleil show, all so that he could further honor his friend and mentor, and make money  
20 doing it. Had he actually been horrifically abused as he now claims, why would he want to spend  
21 at least a year of his life dedicated to creating a show centered around his abuser’s life and art?

22           53.     Wade Robson has proudly declared himself in writing to be a “master of  
23 deception.” At her deposition, his own mother said that she agreed, explaining that Wade should  
24 “have had an Oscar” because of his ability to stare people in the face and spin lies. Mrs. Robson is  
25 right of course: Wade Robson should win an Oscar for his acting in *Leaving Neverland*.

26           54.     Although Robson and Safechuck now claim to want to speak the truth publicly to  
27 help out other “victims,” their prior actions show otherwise. Robson first filed his lawsuit “under  
28 seal” in the hope that the Estate would quickly pay him off before it could be unsealed and made

1 public. The Estate had no interest in being extorted, and the suit was then unsealed.

2 55. Safechuck followed the same dubious playbook. He *had also testified under oath*  
3 *years before that Jackson did not molest him*. Not until decades later, when Safechuck saw  
4 Robson on the *Today Show* in May 2013 discussing his multi-million dollar lawsuit against the  
5 Jackson Estate, did Safechuck suddenly discover that he had been abused as a child. Hoping to  
6 cash in as well, Safechuck hired *the same attorneys* who represent Robson and filed copycat  
7 claims for abuse, again seeking hundreds of millions of dollars in damages.<sup>1</sup>

8 **H. Dan Reed and His Idea to Make a Documentary About Michael Jackson**

9 56. A real documentarian would have explored the above, including the many lies in  
10 which Robson and Safechuck were caught *even after* they supposedly discovered their “truth” in  
11 2013 and 2014 respectively. A real “documentarian” would have explored the financial  
12 motivations of these two men, including the fact that they continue to seek hundreds of millions of  
13 dollars from the Jackson Estate and only brought their claims when they were in serious financial  
14 trouble (in Robson’s case because the Estate refused to hire him as lead choreographer for a  
15 Cirque show). Yet the “documentarian” hired by HBO had no interest in the truth.

16 57. Dan Reed is a self-described “documentarian” who has a history of making  
17 documentaries about salacious sexual topics, such as like *Babies: Britain’s Super Sperm Donors*  
18 and *Celebrity Sexploitation*. Reed became especially well known for producing a film glorifying a  
19 vigilante “pedophile hunter” who once entrapped a man online who had been suffering from  
20 severe depression due to the breakup of his marriage, financial strains, and the separation from his  
21 son. After the subject of Reed’s film orchestrated the man’s arrest, the suspect committed suicide.

22 58. According to an interview, Dan Reed was looking for subjects for a documentary  
23 when a friend asked him, “What are the big, unresolved stories that everyone’s heard of?”

24

25 <sup>1</sup> The sheer frivolousness of Safechuck’s lawsuits led them to be thrown out so early that  
26 he had fewer chances to lie under oath. He successfully avoided having his deposition taken or  
27 producing any documents. Nevertheless, his sworn declaration in support of his lawsuit contained  
28 numerous *proven lies*. One need only check Wikipedia and the record of Jackson’s 2005 trial in  
Santa Maria to see that Safechuck was lying about several issues.

1 According to Reed, the friend then said, “What about Michael Jackson? That’s a big story and no  
2 one really knows what happened.” Of course, as explained above, we do know what happened.  
3 The FBI investigated Michael Jackson and found nothing. A district attorney in Santa Barbara  
4 County prosecuted Jackson, and it was a total failure. The jury completely exonerated Jackson.

5 59. But Reed and HBO ignored the facts of the prior allegations. Rather, they turned  
6 their focus to two men alone—Wade Robson and James Safechuck, who as discussed above, have  
7 lied repeatedly under oath (both before and after filing their lawsuits) and whose motivation for  
8 making allegations is seeking hundreds of millions against the Jackson Estate (claims that they are  
9 continuing to press today).

10 60. And Reed and HBO knew exactly what graphic story they could tell. Robson and  
11 Safechuck had laid out their accusations in writing against Jackson in *vivid* detail, i.e., all the lurid  
12 “shocking” details of their abuse were in public declarations *written by their shared lawyers*. The  
13 fact that stories are told in lurid and salacious detail does not make them true, as some in the media  
14 apparently believe. This is especially the case when the stories were first written out by lawyers  
15 *whose very job it is to litigate child sexual abuse cases*.

16 **I. HBO Turns a Blind Eye to Facts Made Available To Them**

17 61. HBO and Reed willfully disregarded *mountains of other evidence* eviscerating  
18 Robson’s and Safechuck’s credibility, all of which the Jackson Estate would have provided if the  
19 filmmakers had sought a comment on these claims, which they did not.

20 62. HBO and Reed never approached the Estate, Jackson’s family, Jackson’s friends or  
21 children, or anyone else, to scrutinize Robson’s and Safechuck’s claims. The two inter-related  
22 reasons they kept their hit piece secret are rather obvious: (1) They knew that Robson’s and  
23 Safechuck’s stories would collapse on scrutiny; and (2) They knew that if the Jackson Estate had  
24 known such a documentary was coming, they could have had time to prepare for it with a piece of  
25 their own. This is also why neither was identified in the announcement of the Film; and it was *the*  
26 *Estate* in its initial public statement that “outed” the subjects of the Film.

27 63. In a perhaps naïve hope that HBO would do the right thing, the Jackson Estate  
28 wrote Richard Plepler a detailed, ten-page letter explaining many (but far from all) of the problems

1 with the Film and the two men at the center of it. The Jackson Estate did not make threats; it just  
2 asked to sit down with HBO so that it could be heard before the documentary aired on HBO.<sup>2</sup>

3 64. HBO never even had the decency to respond to the letter. The day after sending the  
4 letter, however, HBO's programming President Casey Bloys arrogantly told the press that:

5 "There are no plans to take a meeting [with the Jackson Estate]. We are airing the  
6 'documentary' and the letter is not going to change that."

7 65. Casey Bloys explained that he and HBO had decided *not to even explore potential*  
8 *credibility problems with the Film* because "it's a very powerful documentary." Any halfway  
9 decent filmmaker can make a "powerful documentary" about anything if the filmmaker *admittedly*  
10 *refuses* to consider the credibility of the persons in the documentary. A "documentary" that  
11 *willfully ignores any evidence contrary to its thesis* can of course still be a "powerful  
12 documentary." But at the same time, any such "powerful documentary" would have more in  
13 common with tabloid sensationalism than with *bona fide* journalism. We challenge HBO and the  
14 public to name a *reputable* documentarian and a *reputable* network that would willfully refuse to  
15 discuss such serious accusations *with no one other than the accusers*. Name one.

16 66. Other than ethics and journalistic norms, the main check on making a "powerful  
17 documentary" with false accusations, without talking to anyone other than the accusers and their  
18 families, is the law of defamation. And *that* is the heart of the issue. As noted at the beginning of  
19 this pleading, it has long been the rule in Anglo-American law that there is no civil liability for  
20 defamation of the deceased. HBO and Dan Reed are using that very unfortunate rule of law to  
21 ignore all norms of journalism, and to justify *their abject refusal to talk to anyone* who might  
22 discredit Robson and Safechuck's made-up stories.

23 67. Casey Bloys bragged to a publication that the Film had been vetted by HBO's  
24 "many lawyers." We assume HBO's "many lawyers" did two minutes of legal research to discover  
25 that HBO had nothing to worry about—*you can literally say anything about a dead person and*

---

26  
27 <sup>2</sup> That letter is attached as Exhibit A to this Petition. Notably, every single assertion in it  
28 can be backed up by source documents for anyone interested in actually learning the truth.

1 *you face no civil liability whatsoever.* You do not need Westlaw to understand that; Google will  
2 suffice. The fact that HBO’s lawyers figured that out is nothing for Casey Bloys to brag about.

3 68. But HBO’s “many lawyers” missed their non-disparagement obligations to Jackson  
4 and Optimum. And HBO cannot just “blame the lawyers” for this mistake. Its CEO, Richard  
5 Plepler was almost certainly aware of why the Film violated obligations HBO had to Michael  
6 Jackson, yet Plepler appears to have willfully ignored those obligations. Sadly, Plepler’s mandate  
7 from AT&T, and his need to find content no matter what, seems to have led him to ignore the  
8 company’s obligations and basic ethics and decency.

9 **J. HBO Refuses to Communicate with Petitioners**

10 69. The Agreement includes a mandatory arbitration clause. It reads as follows:

11 (iv) Arbitration. Any dispute arising out of, in connection with or  
12 relating to this Agreement shall be submitted for binding and final  
13 arbitration before a retired judge of the Superior Court of the state of  
14 California for the County of Los Angeles who shall be mutually  
15 selected by the parties. In the event that the parties cannot agree on  
16 the selection of such a retired judge within 30 days after one of the  
17 parties notifies the other in writing that there is any such dispute to  
18 be resolved, each party shall select such a retired judge, and the two  
19 retired judges so selected shall then select a third retired judge who  
20 shall serve as the sole judge in connection with such dispute. If the  
21 two party-appointed judges are unable to select a third judge within  
22 30 days after their appointment, the sole retire judge in connection  
23 with such dispute shall be selected by the Superior Court of the State  
24 of California for the County of Los Angeles. The retired judge so  
25 selected shall conduct the arbitration in conformity with the rules of,  
26 and as if it were conducted by, the American Arbitration  
27 Association.

20 70. On February 7, 2019, through their counsel, the Co-Executors of the Estate of  
21 Michael Jackson and Optimum Productions sent a letter to HBO’s Chief Executive Officer  
22 regarding *Leaving Neverland*. Though HBO was surely already aware of them, the letter  
23 catalogued the many glaring deficiencies with and recklessness of the Film, as well as the  
24 mountain of evidence disproving the false story peddled by Robson and Safechuck.

25 71. In the letter, counsel for the Co-Executors of the Jackson Estate and Optimum  
26 Productions requested a meeting with HBO to discuss a solution. HBO has never responded.  
27 Rather, *HBO stated publicly and in no uncertain terms that it will not communicate with the*  
28 *Jackson Estate or its related entities with respect to any issues relating to the Film.* As noted

1 above, HBO’s Casey Bloys made it unequivocally clear that HBO has no interest in the truth or in  
2 discussing the film with Petitioners.

3 72. HBO has therefore completely shut down Petitioners’ attempt to reach out to HBO  
4 and request arbitration of this dispute.

5 73. HBO’s spin machine may argue that the Jackson Estate is only demanding  
6 arbitration in order to shroud proceedings in secret. False. The Jackson Estate is demanding  
7 arbitration because that is what its contract with HBO requires. Unlike HBO, Michael Jackson, his  
8 successors, and affiliated companies keep their promises. They agreed to arbitrate and that is what  
9 they will do. However, in order to alleviate the predictable nonsense that will come from HBO’s  
10 spin machine that the Jackson Estate only wants an arbitration so that proceedings are shrouded in  
11 secrecy, the Jackson Estate expressly requests that HBO agree to a *public* arbitration. Indeed, the  
12 Robson and Safechuck litigations were carried out in the public courts, and all of the *false,*  
13 *graphic and detailed* statements about how Jackson supposedly abused Robson and Safechuck—  
14 which have caused such a stir in the press—were all available in the public records. Had HBO  
15 actually looked at the public records of the lawsuits, it would have discovered that, along with the  
16 fact that the credibility of Robson and Safechuck were absolutely devastated in the trial court.  
17 Unfortunately, however, it is obvious HBO did no diligence at all.

18 **PARTIES, JURISDICTION AND VENUE**

19 74. Jurisdiction is proper in the Superior Court of the State of California for the County  
20 of Los Angeles pursuant to section 410.10 of the Code of Civil Procedure. Venue is proper in Los  
21 Angeles County, California, pursuant to section 1292 of the Code of Civil Procedure because the  
22 agreement was made in Los Angeles County, the arbitration clause calls for performance in Los  
23 Angeles County, and all parties do substantial business in Los Angeles County.

24 75. Petitioner Optimum Productions (“Optimum”) is a California corporation.  
25 Optimum is the successor in interest to TTC Touring Corporation (“TTC”), a California  
26 corporation. TTC and Optimum merged in or around December 2010, with Optimum as the  
27 successor corporation. A true and correct copy of the “Agreement of Merger” on file with the  
28 California Secretary of State is attached hereto as Exhibit C. Petitioners John Branca and John

1 McClain are the duly-appointed and currently-serving Co-Executors of the Estate of Michael  
2 Jackson, and are parties in that capacity.

3 76. Respondent Time Warner Entertainment, L.P., is a Delaware limited partnership.  
4 As of 1992, “Home Box Office” was a Division of Time Warner Entertainment, L.P. Respondent  
5 Home Box Office, Inc., is a Delaware corporation. On information and belief, it is the successor-  
6 in-interest to the “Home Box Office” Division of Time Warner Entertainment, L.P.

7 77. Respondent Does 1 through 5 are business entities whose identities or roles are  
8 unknown who induced the two named Respondents to breach their contractual obligations to  
9 Petitioners and intentionally or negligently interfered with those obligations.

10 78. Respondent Does 6 through 10 are individuals whose identities or roles are  
11 unknown who induced the two named Respondents to breach their contractual obligations to  
12 Petitioners and intentionally or negligently interfered with those obligations.

13 **FIRST CAUSE OF ACTION TO BE ARBITRATED: BREACH OF CONTRACT**

14 **(Against all Defendants)**

15 79. Petitioners incorporate by reference all prior allegations of this pleading.

16 80. Petitioner Optimum’s predecessor entity, TTC, entered into a valid and enforceable  
17 contract with “Home Box Office” a Division of Respondent Time Warner Entertainment, L.P. A  
18 true and correct copy of the Agreement is attached hereto as Exhibit B. Michael Jackson was an  
19 intended third party beneficiary of the Agreement.

20 81. Petitioners John Branca and John McClain are the duly-appointed and currently-  
21 serving Co-Executors of the Estate of Michael Jackson, and have therefore succeeded to Michael  
22 Jackson’s rights under the Agreement.

23 82. On information and belief, Respondent Home Box Office, Inc., is the successor-in-  
24 interest to the “Home Box Office” Division of Respondent Time Warner Entertainment, L.P., and  
25 has therefore succeeded to the obligations of the “Home Box Office” Division of Respondent  
26 Time Warner Entertainment, L.P.

27 83. Respondents have breached their obligations to Petitioners under the Agreement for  
28 the reasons set out above, including but not limited to by disparaging Michael Jackson and

1 disparaging the Dangerous World Tour.

2 84. Petitioners have performed all their material obligations under the Agreement,  
3 which may be dependent upon the breached obligations, except as may have been excused or  
4 waived.

5 85. Respondents' breaches of the Agreement have caused damages to Petitioners in an  
6 amount to be prove in an arbitration, with such damages potentially exceeding \$100 million  
7 should Respondents' succeed in the damage they are intending to cause to the legacy of Michael  
8 Jackson and the businesses associated with the Jackson Estate.

9 **SECOND CAUSE OF ACTION TO BE ARBITRATED:**

10 **BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**

11 **(Against all Defendants)**

12 86. Petitioners incorporate by reference all prior allegations of this pleading.

13 87. In the Agreement, as in every contract or agreement, there is an implied promise of  
14 good faith and fair dealing such that each party will not do anything to unfairly interfere with the  
15 right of any other party to receive the benefits of the contract.

16 88. Respondents have breached the duty of good faith and fair dealing by unfairly  
17 interfering with Petitioners' right to receive the benefits of the Agreement.

18 89. Petitioners have performed all their material obligations under the Agreement,  
19 which may be dependent upon the breached duty of good faith and fair dealing, except as may  
20 have been excused or waived.

21 90. Respondents' breaches of the duty of good faith and fair dealing have caused  
22 damages to Petitioners in an amount to be prove in an arbitration, with such damages potentially  
23 exceeding \$100 million should Respondents' succeed in the damage they are intending to cause to  
24 the legacy of Michael Jackson and the businesses associated with the Jackson Estate.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Petitioners pray for relief against Respondent as follows:

27 1. That the Court compel HBO to participate in a non-confidential arbitration  
28 consistent with the terms of the Agreement to arbitrate claims for breach of the non-disparagement

1 clause in the Agreement and breach of the covenant of good faith and fair dealing therein. In that  
2 arbitration, the Jackson Estate will seek all damages proximately caused by HBO's reprehensible  
3 disparagement of Michael Jackson, which could exceed \$100 million should HBO succeed in the  
4 damage it is intending to cause to the legacy of Michael Jackson. Petitioners further pray that the  
5 arbitrator award punitive damages in the maximum amount permissible if and when Petitioners  
6 show their entitlement to such damages.

7 DATED: February 21, 2019

KINSELLA WEITZMAN ISER  
KUMP & ALDISERT LLP

8

9

10

By:                   /s/Howard Weitzman                    
Howard Weitzman  
Attorneys for Optimum Productions and John  
Branca and John McClain as Executors of the  
Estate of Michael J. Jackson

11

12

13

14

15

10386.00347/623076

16

17

18

19

20

21

22

23

24

25

26

27

28

# **EXHIBIT A**



**Howard Weitzman**

Direct Dial: (310) 566-9811

Direct Fax: (310) 566-9871

E-Mail: [hweitzman@kwikalaw.com](mailto:hweitzman@kwikalaw.com)

February 7, 2019

**VIA E-MAIL AND OVERNIGHT DELIVERY**

Richard Plepler  
Chief Executive Officer  
Home Box Office, Inc.  
1100 Avenue of the Americas - 15th Floor  
New York, NY 10036  
(212) 512-1960  
E-Mail: [richard.plepler@hbo.com](mailto:richard.plepler@hbo.com)

Re: Michael Jackson

Dear Mr. Plepler:

We are counsel to the Co-Executors of the Estate of Michael J. Jackson, as well as various wholly-owned entities which own intellectual property and other intangible rights associated with the late Michael Jackson (collectively the “Estate” or the “Jackson Estate”).

We write regarding *Leaving Neverland*, an admittedly one-sided, sensationalist program—referred to as a “documentary” by HBO and others—that HBO apparently funded and intends to air this Spring. The Estate first learned about this program in early January when its premiere at Sundance was announced in the press. As you must know, contrary to all norms of documentary filmmaking, the Estate was *never* contacted by the supposed “documentarian,” Dan Reed (or anyone else associated with the program) to provide the Estate’s views on, and responses to, the absolutely false claims that are the subject matter of the program. Likewise, no one else who might offer evidence to contradict the program’s premise was consulted either, as Dan Reed has publicly admitted.

When the program was first announced, HBO and its producing partners did not disclose the identities of the two subjects of the documentary, but referred to them only as “two men.” However, from even the brief descriptions of the “two men” in the announcement, the Estate knew exactly who they were: Wade Robson and James Safechuck. The Estate knew this not because it had any inside “sources” about the documentary—it had none—but because these two men have been peddling their false “story” for years now, most notably in a series of failed legal actions against the Estate. The Estate did not hesitate to advise the media of their identity. The Estate was one-hundred percent confident that there were no other purported “victims” who this documentary could be about (because, contrary to Robson’s and

Safechuck's lawyers' predictions when they first filed their lawsuits for hundreds of millions of dollars in 2013, no "flood" of further identifiable "victims" ever came forward beyond these two). HBO and its producing partners were then forced to acknowledge that the Estate had "guessed right" and that the two subjects of the film were indeed those two admitted perjurers who had filed lawsuits against the Estate, all of which have now been dismissed with prejudice (but as noted below are pending on appeal).

The Estate spent years litigating with Robson and Safechuck, and had *four different lawsuits* by these two men *dismissed with prejudice*. (Today, Robson owes the Estate almost seventy thousand dollars in court costs, and Safechuck owes the Estate several thousand dollars as well.) In those litigations, the Estate discovered troves of information about Robson and Safechuck that made it unequivocally clear that they had no credibility whatsoever. We discuss some of that information below, but the information discussed in this letter is just the tip of the iceberg on these two. Had HBO actually complied with the most basic of journalistic ethics—rather than just accept their salacious allegations at face value—it would have discovered so much more long before it ever got involved in this disgraceful project. Obviously, *that* is the reason that Dan Reed and HBO's producing partners *initially tried to hide the identities of Robson and Safechuck*. This ambush was carried out because Dan Reed knew that Michael Jackson's family and friends, his Estate, and his millions of fans who are *deeply knowledgeable* about the case would have discredited Robson and Safechuck before filming began.

### **HBO Is Being Used As Part of Robson's and Safechuck's Litigation Strategy**

Robson and Safechuck are pursuing appeals of the judgments against them, appeals that will probably be heard this year. As *many* other press outlets noted when their lawsuits were still pending in the trial court, Robson, Safechuck, and their shared attorneys have long engaged in a deliberate campaign to try their case in the media, most often through leaks of false information to some of the most salacious online tabloids. Had HBO done any research into this, it would have easily discovered that every year or so while the litigation was pending, before a major issue was to be decided, the tabloids would suddenly be full of false claims being peddled by Robson's and Safechuck's attorneys about Michael Jackson. The trial court never let this avalanche of false claims affect it, and we have no doubt that the Court of Appeal will not be affected by it either. That said, Robson's and Safechuck's lawyers will continue attempting to try their cases in the media.

As noted, Robson and Safechuck are now appealing the dismissal of their multi-million dollar lawsuits. Not coincidentally, their appeals are likely to be heard later this year. HBO's "documentary" is simply just another tool in their litigation playbook, which they are obviously using in a (very misguided) effort to somehow affect their appeals. Sadly, it appears that HBO—a once great and respected network—has now been reduced to the pay television version of *Hard Copy* (with a little mix of *The Jerry Springer Show*). Most pathetically, HBO has been reduced to a pawn in part of Robson's and Safechuck's attorneys' litigation strategy.

### **HBO and Dan Reed Intentionally Chose Not to Interview Anyone Who Would Detract From Their Story**

*Leaving Neverland* rehashes accusations against the late Michael Jackson of committing the most heinous crimes any person can be accused of in modern society. Given the seriousness of those allegations, one would have expected that HBO and its producing partners would contact: (1) the Jackson family; (2) persons who worked with Jackson during the relevant time period; (3) other young men and women who spent time with Jackson as children (including ones mentioned by name in the “documentary”); (4) friends of Michael Jackson who knew him for his whole life; (5) the many persons who know Safechuck and Robson well but do not believe them; (6) Tom Mesereau and his investigator, Scott Ross, who Robson happily met with for hours in 2005 to tell them about his experiences with Michael, with Mesereau finding Robson so credible that he made Robson the first witness for the defense in Jackson’s 2005 trial; and (7) the Estate, who spent years litigating *the very claims* discussed in the “documentary” by Safechuck and Robson. Yet, shockingly, HBO and its producing partners *never attempted to contact* any of these people. The fact that HBO and its producing partners did not even deign to reach out to any of these people to explore the credibility of the false stories Robson and Safechuck told violates all norms and ethics in documentary filmmaking and journalism. It is a disgrace.

In fact, Dan Reed admitted in the question and answer session at Sundance that he *never* even attempted to contact the many, many other young men and women who spent time with Jackson as children, yet continue to defend him to this very day. And at least two of these young men are *referenced by name in the film* with the implications that they “replaced” Robson and Safechuck as Jackson’s “abuse victims.” Both have gone on record since the documentary was announced to explain that they were never abused by Jackson. One of them, who Robson *explicitly* claimed in the film “replaced” him, has released several “tweets” denouncing the documentary as a work of fiction. Yet neither of them—among the many others who spent time with Jackson as children—were ever approached by Dan Reed and HBO.

In other words, HBO’s “documentary” is based *solely* on the word of two admitted perjurers. HBO and its partner, Dan Reed, never even attempted to explore whether these two men might not be telling the truth. We have read reports that these two men are supposedly “credible” in the documentary because they tell their story so fluidly. Yet they have been practicing their stories and rehearsing their lines (which changed throughout the litigation as discussed below) for years now. Thus, it is no surprise that these two men—who have also both acted professionally—tell their false story well. The bottom line is that any halfway skilled filmmaker could make a “documentary” telling any outrageous story about a dead man if they can just find two people willing to tell that story *and then not challenge those two at all*. That is particularly the case when one of the men—Wade Robson—is a self-described “master of deception”; and his own mother testified under oath that he should “have had an Oscar” given how good a liar he is (as discussed below).

### **In Interviews, Dan Reed Is Using HBO in Order to Bolster the Credibility of the Program Despite Making Blatantly False Statements in Those Same Interviews**

Notably, HBO's reputation is being used as one of the main reasons that the "documentary" should be taken seriously. The producer of this program, Dan Reed, is telling the media that one of *the principal reasons* the documentary is credible is because of HBO's reputation. When asked whether an attorney had vetted the film, he responded, "that's what happens on every single film I make or, to my knowledge, that anyone makes, *certainly for HBO.*"<sup>1</sup> The usual checks on filmmakers are ethical and normative ones, such as fact-checking (e.g., are their stories consistent? *see* below), investigating the motivations of people (e.g., do they have a financial motivation to say what they are saying?), talking to others with knowledge who may have something different to say, etc. But as is apparent from our discussion below, HBO apparently no longer cares about these ethical and normative checks on documentary filmmaking and journalism anymore. If HBO does care about such things, this documentary will never air on HBO.

In the same interviews where he touts HBO's involvement as a reason for his "documentary's" supposed "credibility," Mr. Reed has also made *blatantly false statements* about Robson and Safechuck in an effort to bolster their credibility. For example, in the same *Huffington Post* interview discussed above, Mr. Reed agrees with the interviewer that "one of the most impactful things in the documentary is the way [Robson's and Safechuck's] stories align ... even though they didn't know each other until now." In another interview, Reed "confirms" that "for legal reasons, [Robson and Safechuck] were kept apart, long before you even approached them about making the movie." Reed expands on that and says that this was done so "they couldn't exchange stories. Sundance was the first time [as adults] that they'd met. It's the first time they've had any significant time together."<sup>2</sup> *This is utterly false.* In Robson's 2016 deposition, he testified that he had spoken to Safechuck in 2014, the year Safechuck filed his lawsuit against the Estate. When asked what the two men had spoken about, Robson refused to answer the question—his attorney instructed him to remain silent because Robson's and Safechuck's common attorneys were involved in the conversations between the two men in 2014. Accordingly, we can never know what they talked about and how they aligned their stories with their attorneys' help. Given that they were both seeking hundreds of millions of dollars against the Estate, they had hundreds of millions of reasons for aligning their stories.

---

<sup>1</sup> [https://www.huffingtonpost.com/entry/leaving-neverland-michael-jackson-dan-reed\\_us\\_5c500044e4b0d9f9be689ab0](https://www.huffingtonpost.com/entry/leaving-neverland-michael-jackson-dan-reed_us_5c500044e4b0d9f9be689ab0)

<sup>2</sup> <https://www.rollingstone.com/movies/movie-features/leaving-neverland-director-dan-reed-michael-jackson-interview-785817/>

In any event, the idea that two men who are represented by the same attorneys for the last six years would have stories that “align” is hardly surprising. You really cannot be so naïve that you would not understand this.

Finally, we must note that we can only assume that the legendary Sheila Nevins had nothing to do with the decision to go forward with this “documentary.” It is a shame that she is no longer involved in these types of decisions for HBO. That HBO, the once iconic network, would fund, produce and distribute this pathetic and untruthful vehicle for these admitted liars to revisit false allegations made *as part of their effort to revive their dismissed lawsuits* is just plain sad.

### **Robson and Safechuck Were Repeatedly Caught Lying During Their Failed Lawsuits Against the Jackson Estate**

Wade Robson testified *in detail* as an adult before a jury in 2005 that Michael Jackson never did anything wrong with or to him. He was then subjected to a withering cross-examination by Ron Zonen, one of California’s most-seasoned prosecutors. Yet, despite that, Wade Robson never wavered. Moreover, even after his testimony, there are many videos of him (readily available online) where he praises Michael Jackson as an inspiration and denies that Michael ever molested him.

But even setting that aside, Robson was also caught *lying repeatedly* in the dismissed litigations with the Estate. For example, in order to try to get around the statute of limitations for monetary claims against the Estate, Robson testified under oath that “[p]rior to March 4, [2013,] I did not understand or was even aware that an Estate [of Michael Jackson] had been opened for administration.” That was a lie. In truth, Robson had personally met with John Branca, one of the Estate’s executors, at Mr. Branca’s office in 2011 in a (failed) effort to solicit work with the Estate on a Michael Jackson-themed *Cirque du Soleil* show. Prior to meeting with Mr. Branca, Robson’s talent agent told him that he had to contact “John Branca, the person in charge of MJ’s estate.” Not surprisingly, the trial judge dismissed Robson’s claims against the Estate, finding that *no rational person* could believe Robson’s declaration that he did not know about Michael Jackson’s Estate until March 4, 2013 when he, in fact, had met with John Branca, the Co-Executor of the Estate. In plain English, the judge found that Robson had lied in his sworn declaration. (The idea that Robson would want to spend years of his life creating and directing a Michael Jackson-themed show, when he was in fact a victim of horrendous abuse by Jackson, is itself hard to take seriously.)

Robson’s meeting with Mr. Branca was hardly the first time that he tried to capitalize on his relationship with Michael Jackson after Michael’s death when he thought it would help him make money. In the days after Michael’s death, Robson released a statement praising Michael as “*one of the main reasons I believe in the pure goodness of human kind.*” He then tried to solicit work from Kenny Ortega, the director of *Michael Jackson’s This Is It*, to help work on the movie. Robson was able to secure work with Janet Jackson, in her 2009 MTV Video Music Awards tribute to Janet’s late brother Michael. In videos behind the scenes

of the tribute show (easily found online), Robson is seen praising Michael Jackson in the most effusive terms.

During the litigation with Jackson's companies, Robson was also caught trying to hide evidence before his cases were dismissed. For example, Robson *lied under oath* and stated that, other than one brief email in late 2012, he had had "*no written communications*" with anyone (other than his attorneys) about his newly-concocted allegations that he was abused by Jackson. This turned out to be a complete and utter lie. Robson had actually shopped a book about his allegations in the year prior to filing his lawsuit—a book he tried to hide from the Estate. That book told a completely different story of how he was first abused by Jackson. When asked about some of these discrepancies at his deposition, Robson explained that his memories had "evolved" since writing the draft of the book in late 2012 and early 2013. He explained that "post disclosing the abuse in 2012 and beginning that healing journey, they've evolved as far as I remember more details about scenarios. As it goes along, you know, it evolves, *details get added to.*"<sup>3</sup>

Moreover, despite lying under oath in his lawsuit that he had had "*no written communications*" with anyone about his supposed abuse, he was eventually ordered by the trial court to produce all such documents. Robson produced hundreds (if not thousands) of written communications (emails, texts, etc.) with his family and friends about his false abuse allegations. He never explained why he lied and said he had *no* such communications.

Most notably, many of these communications were with his mother where he *admittedly* was trying to reconstruct his own "memories" of the time period when he was supposedly abused—i.e., in his own words, to "add" the "details" that he did not know when he was drafting his book. In one email, he lists over twenty different questions to his mother asking her about the specific details of his interactions with Michael Jackson. Some of these include: "Can you explain all that you remember of that first night at Neverland? What happened when we drove in what did we do? And that first weekend at Neverland?" Notably, in the "documentary," Robson now recounts "his" supposed "memories" of these events in great detail. But Mr. Reed and Robson never explain that he had to first ask his mother scores of questions before he could tell his story. Indeed, despite telling the story of his first night at Neverland in the documentary as if it is his own memory, at his deposition, he admitted that he "did not know" if his memory of that night "came from [his] own recollection or [if] it was told to [Robson] by someone else."

Simply put, Robson is an *admitted perjurer* who proudly called himself (in his draft book) a "master of deception." Robson is such a good liar that *his own mother* testified under

---

<sup>3</sup> We would be happy to provide you with any source documents, such as depositions, documents produced in discovery, etc. It is a shame Mr. Reed and your colleagues at HBO were not interested in such documents when producing their "documentary."

oath at her deposition that she could not tell when he was lying; she even *volunteered* that “**he should have had an Oscar**” given how convincing his lies were. It may just be that he deserves an Oscar for HBO’s “documentary” as well.

Robson’s fabricated story, of course, is that Jackson’s abuse caused him to have two self-described nervous breakdowns in 2011 and 2012. Those breakdowns, according to Robson, caused him to realize that he had been abused by Jackson decades before. But there is a much more simple explanation for Robson’s breakdowns. He has a family history of suicidal, major depression on his father’s side. Robson’s father committed suicide in 2002. Robson’s first cousin on his father’s side committed suicide in 2012. Unfortunately, major depression is a very heritable disease. Thus, it is no surprise that Robson had these breakdowns. And it is even less surprising that he has continued to have breakdowns given that when Robson saw a psychiatrist in 2011 he was prescribed anti-depressant medication. But he *refused to ever take that medication*. To be clear, we ascribe no “fault” or “weakness” whatsoever to those who suffer or who have suffered from clinical depression. That said, we must note Robson’s mental illness, and his abject and stubborn refusal to get appropriate medical treatment for it, *because* Robson’s claim is that his “nervous breakdowns” are *strong evidence* of his abuse by Jackson. But those breakdowns are much more easily explained by Robson’s family history of major depression and his own (apparent) diagnosis of depression *for which he stubbornly and irrationally refused to take the medication prescribed to him* by a medical doctor to treat it.

As for Safechuck, by his own admission, he did not “realize” that he had been abused until after he saw Robson on the *Today Show* in May 2013 being interviewed by Matt Lauer about Robson’s newly-concocted story of abuse. All of a sudden, Safechuck realized that he had been abused. He then contacted Robson’s lawyers and filed copycat lawsuits against the Estate for millions of dollars. And like Robson, he too had testified under oath that Jackson never did anything inappropriate with him. His two cases against the Estate were also dismissed.

Safechuck’s frivolous lawsuits were dismissed so early in the proceedings that significant discovery was never taken in his case, and he was able to avoid having his deposition taken and producing documents. But even in his sworn declarations in the litigations, there are clear signs that he is lying and trying to construct a false story of abuse from his vague memories of his interactions with Jackson. For example, Safechuck claimed in his sworn declaration that he was first abused on the Paris leg of the *Bad Tour*, which he correctly identifies as taking place in late June 1988 (as a simple Wikipedia search would reveal). He later says that after the *Bad* tour ended, Michael flew him out to New York “in February 1989” where Michael was performing at the Grammy’s. Safechuck states in his declaration that he was abused on this New York trip for the Grammy’s. However, the Grammy’s were not in New York in 1989; they were in Los Angeles that year (and in 1990). And Michael did not perform at the Grammy’s in 1989. However, Michael *did* perform at the Grammy’s in New York in *February 1988*, i.e., *before* Safechuck claims he was first abused

in June 1988. Yet he somehow claims that he was abused on a New York trip to the Grammy's *that occurred before he claims he was first abused*. Safechuck's "error" here is obviously reflective of an effort to create a story of abuse out of whole cloth. Or in other words, Safechuck is just making it up as he goes along.

In the "documentary" and in his declaration for the litigation, Safechuck spins a tale about how he refused to testify for Jackson in 2005, despite threats from Jackson and his legal team. Setting aside the absurdity of Jackson and his sophisticated legal team trying to convince an unwilling and unstable witness to testify on such a sensitive issue, Safechuck's story is demonstrably false. In particular, Safechuck declares that Michael and his legal team called him "*towards the end of the criminal trial*" trying to pressure him to testify. But this statement cannot be true. Early on in the trial, the Judge precluded the prosecution from allowing *evidence* regarding alleged molestation of Safechuck and others because the "evidence" of such molestation was unreliable. The exceptions were that the Judge did allow testimony from certain disgruntled workers that they had heard that Michael had molested Wade Robson, Macaulay Culkin and Brett Barnes. That is why *those three specifically* testified, and all of them denied the molestation (including Robson of course), and were subject to cross-examination by prosecutors but did not waver. And *that is why* Jackson and his attorneys would *not* have ever tried to pressure an unwilling and unstable Safechuck to testify, particularly "towards the end of the criminal trial" as Safechuck so falsely claims in the documentary and under oath.

\* \* \*

Given all of this, which are facts readily available to anyone doing minimal due diligence, why would HBO produce a documentary based solely on the words of these two liars and director/producer Dan Reed? Why would HBO produce this documentary *without even seeking comment and response* from the Jackson Estate who spent years successfully litigating these false allegations with Robson and Safechuck? Is there any other artist who HBO would do this to? Is there any other artist who HBO would not even seek comment from when making such serious accusations?

Michael Jackson was subjected to a decade-long investigation by an overly-zealous, ethically-challenged, and ultimately disgraced prosecutor in Santa Barbara County, Tom Sneddon, who looked anywhere and everywhere for supposed "victims" of Jackson's. Yet, he never found those "victims." Indeed, the 2005 criminal trial of Jackson was a complete farce, and Michael Jackson was completely exonerated. As anyone who has studied that trial knows, the jury utterly repudiated the prosecution's case. In both his opening and closing statements, Jackson's attorney, Tom Mesereau, took the unusual step of telling the jury that they should acquit Jackson because Mesereau and his team *had proven Jackson innocent*. In other words, he did not try the case as a "reasonable doubt" case. Mr. Mesereau tried the case with the purpose and goal of proving Jackson innocent. And he did exactly that. As recently as 2017, several jurors were re-interviewed about the case in light of Robson's about-face, and they all agreed that they would still acquit Jackson today. The jurors have been interviewed many

times; they are articulate bright people, not the gullible idiots that Dan Reed tries to paint them as in his “documentary.” Yet HBO is relying on the uncorroborated stories of two admitted perjurers over the weight of the American justice system.

Of course, the tabloid media’s fascination with Michael Jackson and telling more-and-more ridiculous stories about him is nothing new. The great American intellectual, James Baldwin, wrote about “the Michael Jackson cacophony” all the way back in 1985 when the media first began subjecting him to “the jaws of a carnivorous success.” As Baldwin saw it, Michael “will not swiftly be forgiven for having turned so many tables, for he damn sure grabbed the brass ring, and the man who broke the bank at Monte Carlo has nothing on Michael.” By 1985, when Baldwin wrote those words, Michael Jackson was a 27-year-old African-American from Gary, Indiana who had “turned the tables” on the entire power structure in the music business. Leveraging his unprecedented success, Michael insisted that MTV and mainstream radio play his music and that of other African-American artists like him. Michael also insisted that his record company assign him ownership of his own master recordings. In other words, Michael Jackson, the young artist, insisted on controlling his own art and not leaving it to the whims of big business. And more still—the 27 year-old Michael did not just own his own music publishing, he had the gall to outbid other more established players in the industry for one of the crown jewels of music publishing, the ATV catalogue (which famously included the Beatles catalogue).

We suspect that even James Baldwin could not have imagined that his words would still ring so true today, over thirty years later. Michael Jackson has yet to “be forgiven for having turned so many tables” even ten years after he left this world forever. Even the once great HBO—who had partnered with Michael to immense success—is subjecting the deceased Michael Jackson to “the jaws of a carnivorous success” in death, devoting *four hours* of its programming to the words of two serial perjurers, whose sole agenda has been to extract money from Jackson’s rightful heirs and chosen beneficiaries.

That HBO has now joined the tabloid media’s “Michael Jackson cacophony”—ten years after his death—is truly sad. We know that HBO is facing serious competitive pressures from Netflix, Amazon and other more modern content providers, but to stoop to this level to regain an audience is disgraceful. We know HBO and its partners on this documentary will not be successful. We know that this will go down as the most shameful episode in HBO’s history. We know that Michael’s devoted fans, and all good people in the world, will not swiftly forgive HBO for its conduct.

Richard Plepler  
February 7, 2019  
Page 10

Mr. Plepler, as you yourself said in late 2017: “A lie goes halfway around the world before the truth puts its boots on.”<sup>4</sup> The media coverage alone of this disgraceful “documentary” has proven you right.

We would be happy to meet with HBO to discuss a solution. We have plenty of further information and witnesses that would expose these two for who they are. If HBO wants to maintain its industry position as a valid source of news and fact, it owes an obligation to the public—not to mention the deceased Michael Jackson with whom HBO had previously partnered with during his lifetime—to actually investigate these matters.

Barring that, this “documentary” will say a lot more about HBO than it ever could about Michael Jackson.

Very truly yours,

/s/

Howard Weitzman

HW/JPS

cc: Jonathan P. Steinsapir, Esq.  
Bryan Freedman, Esq.  
Eve Konstan, Esq. General Counsel, HBO  
Glenn Whitehead, Esq., EVP, Business & Legal Affairs, HBO

10386.00347/618197

---

<sup>4</sup> <https://deadline.com/2017/10/hbo-richard-plepler-confederate-backlash-vaanity-fair-summit-1202181519/>

# **EXHIBIT B**



MICHAEL JACKSON  
Jack792.1a  
VE073192(2)

As of July 22, 1992

TTC Touring Corp.  
c/o Greenberg, Glusker, Fields, Claman & Machtlinger  
1900 Avenue of the Stars  
Suite 2000  
Los Angeles, CA 90067

Attention: Sandra A. Dewey, Esq.

RE: MICHAEL JACKSON IN CONCERT

Gentlemen:

The following shall confirm the terms and conditions of the agreement between Home Box Office, a Division of Time Warner Entertainment Company, L.P. ("HBO") and TTC Touring Corp. ("Licensor") for the above-mentioned program.

Performer: Michael Jackson.

Program: An approximately 120 minutes in length in-concert program featuring Performer (the "Program"), which Licensor shall record at Performer's live concert in Bucharest, Romania currently scheduled for October 1, 1992 (the "Performance"). The Program shall thereafter be delivered to HBO for exhibition by HBO on October 10, 1992 (or at such later date as set forth in the "Cancellation" paragraph below). The Program shall contain up to approximately ten (10) minutes (but in no event more than twelve (12) minutes) of footage (which shall include, if it is used, the video, approximately three (3) minutes in length, featuring Performer which is shown at the beginning of the Performance before Performer appears on stage) other than in-concert footage of Performer during the Performance (the "Non-Concert Footage"); provided that (i) the entirety of the Non-Concert Footage shall be placed immediately at the beginning of the Program; and (ii) the remainder of the Program shall consist solely of uninterrupted in-concert footage of Performer during the Performance.

Delivery: The Program shall be delivered to HBO no later than October 8, 1992; provided that Licensor shall use reasonable efforts to deliver the Program earlier (the "Delivery Date"). The Program shall be held by HBO for the sole purpose of preparing for HBO's use hereunder such videotapes of the Program as HBO requires. HBO is not granted the right to own the Program. After delivery of

TTC Touring Corp.  
As of July 22, 1992

the Program, HBO may not alter or edit the Program in any way. If there are technical or legal reasons why the Program requires alteration or editing, HBO shall immediately notify Licensor of such problems, and Licensor shall be responsible for the immediate correction thereof. Within thirty (30) days after the Exhibition Date (as hereinafter defined), HBO shall return to Licensor all videotapes of the Program in its possession and any promotional or advertising materials delivered to HBO by Licensor in connection with this Agreement; provided that HBO may keep a videotape for archival purposes only.

**Rights:** Licensor hereby irrevocably licenses to HBO, its successors and assigns, the exclusive rights to exhibit the Program one time only on each transmission feed (without overlap) on the HBO programming service without regard to the number of channels comprising such service by means of Non-Standard Television in the Territory on October 10, 1992 (or at such later date as set forth in the "Cancellation" paragraph below (the "Exhibition Date")) and at no other time.

**License Fee:** In consideration for the license granted by Licensor to HBO hereunder, HBO shall pay to Licensor [REDACTED], payable as follows:

- (i) one third (1/3) by wire transfer within five (5) days after Licensor's execution and delivery of this Agreement;
- (ii) one third (1/3) two weeks prior to the Delivery Date; and
- (iii) one third (1/3) within five (5) days after the Delivery Date.

**Holdbacks:** (A) Neither Performer, nor Licensor, nor any entity or person owned or controlled by Performer and/or Licensor shall cause, authorize, or permit any exhibition, distribution, promotion, publicity or advertisement of the Program, any portion thereof, or any outtakes from the videotaping of the Performance, as follows:

- (i) in the Territory, by means of Non-Standard Television, during the twelve (12) month period immediately following the Exhibition Date (the "Holdback Period");
- (ii) in the Territory, by means of Standard Television until after the Holdback Period;

TTC Touring Corp.  
As of July 22, 1992

(iii) in the Territory, by means of Non-Theatrical Distribution, until after the Holdback Period;

(iv) in the Territory, by means of Consumer Video Devices until thirty (30) days after the Exhibition Date; and

(v) outside the Territory by means of any media until one (1) day after the Exhibition Date; provided that it is understood and agreed between the parties hereto that Licensor has entered into an arrangement with Radio Vision International, Inc. pursuant to which Radio Vision International, Inc. has been granted the right to record the Performance and to authorize the broadcast of such recordation twice in certain territories in Europe only (once "live" and once during the six (6) month period following the live broadcast).

(B) Notwithstanding anything to the contrary contained in clause (A), above, Performer or Licensor shall have the right to cause, authorize and permit the exhibition, promotion, publicity or advertisement of the following:

(i) Excerpts from Performer's 1992/1993 tour for purposes of advertising or promoting the 1992/1993 tour or the sale of Performer's records; provided that, no one excerpt or clip of such footage shall exceed two (2) songs in the aggregate;

(ii) a "making of" documentary of Performer's 1992/1993 tour containing not more than twenty (20) minutes of concert footage from Performer's 1993/1993 tour; provided, that such documentary shall not be promoted, advertised or exhibited in the Territory by any means or media until three (3) months after the Exhibition Date;

(iii) any outtakes from the Program, to be used solely in connection with Performer's commercial endorsements (except as set forth in clause (iv) below), not to exceed thirty (30) seconds in length each; and

(iv) any outtakes from the Program, to be used solely in connection with mini documentaries about Performer (except as set forth in clause (iii), above), provided that such outtakes shall not exceed (A) thirty (30) seconds in length each and (B) five (5) minutes in length in the aggregate, for inclusion in each such mini documentary.

**Cancellation:** (1) If the Performance is canceled for any reason within Licensor's or Performer's control, or within the control of

TTC Touring Corp.  
As of July 22, 1992

any employee, agent, representative or designee of either of them, Licensor shall, within ten (10) business days after receipt of an invoice therefor, reimburse HBO for any portion of the License Fee heretofore paid. For purposes of this Agreement, any strike, epidemic, act of God, illness, injury or any other condition beyond Licensor's or Performer's control causing a cancellation (each, a "Force Majeure Event") shall be deemed an event beyond Licensor's and Performer's control. (ii) If the Performance is canceled as a result of any Force Majeure Event, neither Licensor nor HBO shall have any liability whatsoever to the other; provided, that if and only if the Performance and the videotaping thereof are not rescheduled (as set forth in this paragraph), Licensor shall, within ten (10) business days after receipt of an invoice, reimburse HBO for any portion of the License Fee heretofore paid which has not been expended or irrevocably committed by Licensor on the actual production of the Program by the date of cancellation of the Performance. Licensor shall account to HBO in writing simultaneously with said reimbursement for any amounts so expended. Notwithstanding the foregoing, Licensor shall have the right to reschedule the videotaping of the Program during one of the performances during Performer's 1992/1993 tour; provided that the Exhibition Date must be within two (2) weeks following October 10, 1992; and provided further that the venue of such rescheduled performance shall be subject to HBO's approval.

As used throughout this Agreement:

"Non-Standard Television" means any and all forms of television exhibition, whether now existing or developed in the future, other than exhibitions by means of Standard Television, Consumer Video Devices, and Non-Theatrical Distribution. Non-Standard Television shall include, without limitation, exhibition by means of cable, wire or fibre of any material, "over-the-air pay" or STV in any frequency band, any and all forms of regular or occasional scrambled broadcast for taping, master antenna, satellite master antenna, low power television, closed-circuit television, single and multi-channel multi-point distribution service, and direct to TVRO satellite transmission, and radio (only for purposes of simulcast), all on a subscription, pay-per-view, license, rental, sale or any other basis.

"Standard Television" means television distributed by a UHF or VHF television broadcast station, the video and audio portions of which are intelligibly receivable without charge by means of standard home roof-top or television set built-in antennas.

TTC Touring Corp.  
As of July 22, 1992

"TVRO" means a television earth station capable of receiving satellite transmissions.

"Consumer Video Devices" means any form of video device, now existing or hereafter devised, including video discs and video cassettes, for exhibition by means of a playback device causing a visual image of the Program on the screen of a television receiver or any comparable device, whether now existing or hereafter developed, located in consumer homes, including, without limitation, distribution for sale or rent, on a retail subscription, club, mail order or other direct consumer basis.

"Non-Theatrical Distribution" means distribution of the Program by any means or method to educational and/or institutional organizations, airlines for in flight and trains for in-transit distribution, ships-at-sea, remote corporate locations and U.S. military bases.

"Territory" means the United States of America, its territories, possessions and commonwealths.

**Promotional Activities:** For purposes of advertising, promoting and publicizing the Program, HBO shall have the right to: (i) use and authorize others to utilize Performer's name, approved likeness; approved recorded singing voice and approved recorded speaking voice; provided, that Performer's recorded singing and/or speaking voice as contained in the Performance and in any interviews conducted by HBO with Performer are hereby deemed approved; and provided further that all other approvals must be obtained from Licensor, and shall be given within five (5) business days of receipt by Licensor of HBO's submission for approval of such likeness and recorded singing and/or speaking voice and failure by Licensor to respond within such five (5) business day period shall be deemed approval; (ii) require Licensor to provide a reasonable number of photographs of Performer; and (iii) screen and utilize audio/visual materials as are reasonably available to Licensor or Performer (as well as clips from the Program) for purposes of creating and airing commercials and on-air promotion. In the event that HBO shall determine that such audio/visual materials are not sufficient, Licensor agrees to videotape additional materials as requested by HBO of Performer on stage, subject to Performer's availability; provided that HBO shall be responsible for reimbursing Licensor for out-of-pocket expenses incurred in videotaping such additional materials. After the Exhibition Date and until the expiration of the Holdback Period, for purposes of advertising, promoting and publicizing the fact that the Program and Performer have appeared on the HBO programming service (but not

TTC Touring Corp.  
As of July 22, 1992

for the purpose of directly soliciting new subscribers, e.g., in connection with a specific special offer or an "800" or "900" telephone number), HBO shall have the right to use (i) excerpts from the Program, each excerpt not to exceed ten (10) seconds in length; provided, however, that Licensor shall have the right to approve (A) such excerpt(s), provided that Licensor shall supply at least five (5) minutes in the aggregate of such excerpts (consisting solely of Performer's performance in the Program) on or before the Exhibition Date and (B) the material which contains any such excerpt(s) (which approval of such material shall not be unreasonably withheld); and (ii) Performer's name and/or approved likeness in printed promotional or advertising material, provided that Licensor shall have the right to approve the material which contains any such name and/or likeness. In connection with Licensor's approval of material created by HBO and containing excerpts from the Program, the name and/or likeness of Performer, such approval shall be notified to HBO no later than five (5) business days of receipt by Licensor of HBO's submission for approval; and provided further that failure by Licensor to respond within such five (5) business day period shall be deemed approval.

**Copyright:** Licensor shall be the sole and exclusive owner of all right, title and interest in, to and with respect to the Program including, without limitation, the copyright therein and thereto. Licensor shall register or cause to be registered the copyright in the Program in the United States Copyright Office and shall protect the copyright in the Program throughout the Territory. Licensor shall deliver to HBO an executed and notarized Memorandum of Exclusive License, in the form attached hereto. For such purpose only, HBO is hereby irrevocably appointed the attorney-in-fact of Licensor to execute, verify, acknowledge and deliver any and all such instruments which Licensor shall fail or refuse to execute, verify, acknowledge or deliver within ten (10) business days. HBO shall deliver to Licensor copies of any documents or instruments executed, verified, acknowledged and delivered by HBO as attorney-in-fact of Licensor.

**Licensor's Representations and Warranties:** Licensor represents and warrants that:

(1) The Program, any element thereof, or any advertising, promotional or publicity material supplied by Licensor hereunder will not contain any language or material which, to the best of Licensor's knowledge, is libelous, slanderous or defamatory and will not, to the best of Licensor's knowledge, violate, infringe upon, or give rise to any adverse claim with respect to, any common law or other right whatsoever (including, without

TTC Touring Corp.  
As of July 22, 1992

limitation, any copyright, trademark, service mark, literary, dramatic, comedic, musical or photoplay right, right of privacy or publicity or contract right) of any person, firm or corporation, or violate any applicable law;

(ii) Licensor has the right to enter into this Agreement, to grant the rights herein licensed and to perform fully all of its obligations hereunder;

(iii) Licensor has acquired all rights necessary to Licensor's license of rights to HBO hereunder including, without limitation, music synchronization rights, music master recording rights, still photos, film or videotape footage licenses or other appropriate licenses of all elements of the Program; and

(iv) None of the rights herein licensed to HBO has been transferred to any third party; to the best of Licensor's knowledge, said rights are free of any liens, claims and encumbrances whatsoever in favor of any other party; and to the best of Licensor's knowledge, there are no claims, litigation or other proceedings pending or threatened which would adversely affect HBO's rights hereunder.

**HBO's Representations and Warranties:** HBO represents and warrants that it has the right to enter into this Agreement and perform fully all of its obligations hereunder.

**Indemnification:** (i) Licensor shall indemnify and hold harmless HBO, its parent, subsidiary and affiliated companies, distributors, assigns, licensees and the respective shareholders, directors, officers, employees and agents of the foregoing (the "HBO Indemnified Parties") from and against any and all claims, actions, suits, costs, liabilities, judgments, obligations, losses, penalties, expenses or damages (including, without limitation, reasonable outside legal fees and expenses) of whatsoever kind and nature imposed on, incurred by or asserted against any of the HBO Indemnified Parties arising out of any breach by Licensor of any representation, warranty or covenant made, or obligation assumed, by Licensor pursuant to this Agreement. The provisions of this subsection (i) shall apply, without limitation, to claims brought by HBO against Licensor.

(ii) HBO shall indemnify and hold harmless Licensor, its parent, subsidiary and affiliated companies, distributors, assigns, licensees and the respective shareholders, directors, officers, employees and agents of the foregoing (the "Licensor Indemnified Parties") from and against any and all claims, actions, suits,

TTC Touring Corp.  
As of July 22, 1992

costs, liabilities, judgments, obligations, losses, penalties, expenses or damages (including, without limitation, reasonable outside legal fees and expenses) of whatsoever kind and nature imposed on, incurred by or asserted against any of the Licensor Indemnified Parties arising out of (A) any breach by HBO of any representation, warranty or covenant made, or obligation assumed, by HBO pursuant to this Agreement; (B) any use by HBO of any advertising or promotional materials not approved by Licensor or Performer; or (C) the production, exploitation or exhibition of any materials created by HBO. The provisions of this subsection (ii) shall apply, without limitation, to claims brought by Licensor against HBO.

**Miscellaneous:**

(1) Notices. All notices and other communications between the parties hereto shall be in writing and deemed received (i) when delivered in person or by telex or electronic means, or (ii) five (5) days after deposited in the United States mails, postage prepaid, certified or registered mail, addressed to the other party at the address set forth below (or at such other address as such other party may supply by written notice):

**Licensor ("Licensor's Address"):**

TTC Touring Corp.  
c/o Greenberg, Glusker, Fields, Claman & Machtinger  
1900 Avenue of the Stars  
Suite 2000  
Los Angeles, CA 90067

Attention: Bertram Fields, Esq. and  
Sandra A. Dewey, Esq.

with copies to:

MJJ Productions, Inc.  
10960 Wilshire Boulevard, Ste. 2206  
Los Angeles, California 90024

Attention: Ms. Norma Staikos

Breslauer, Jacobson, Rutman & Sherman  
10345 Olympic Boulevard  
Los Angeles, California 90064

Attention: Mr. Richard Sherman

TTC Touring Corp.  
As of July 22, 1992

HBO:

Home Box Office, a Division of  
Time Warner Entertainment Company, L.P.  
1100 Avenue of the Americas  
New York, New York 10036

Attention: Senior Vice President, Business Affairs

with a separate copy delivered to:

Senior Vice President and General Counsel

(ii) Confidential Information. It is understood that HBO shall comply with the confidentiality provisions set forth in Exhibit I attached hereto and incorporated herein by this reference.

(iii) Governing Law. This Agreement should be governed by, and construed in accordance with, the laws of the State of California, applicable to contracts entered into and to be fully performed therein.

(iv) Arbitration. Any dispute arising out of, in connection with or relating to this Agreement shall be submitted for binding and final arbitration before a retired judge of the Superior Court of the State of California for the County of Los Angeles who shall be mutually selected by the parties. In the event that the parties cannot agree on the selection of such a retired judge within 30 days after one of the parties notifies the other in writing that there is any such dispute to be resolved, each party shall select such a retired judge, and the two retired judges so selected shall then select a third retired judge who shall serve as the sole judge in connection with such dispute. If the two party-appointed judges are unable to select a third judge within 30 days after their appointment, the sole retired judge in connection with such dispute shall be selected by the Superior Court of the State of California

TTC Touring Corp.  
As of July 22, 1992

for the County of Los Angeles. The retired judge so selected shall conduct the arbitration in conformity with the rules of, and as if it were conducted by, the American Arbitration Association.

Very truly yours,

HOME BOX OFFICE, A division of  
Time Warner Entertainment Company, L.P.

  
By: \_\_\_\_\_

ACCEPTED AND AGREED TO:

TTC TOURING CORP.

  
By: \_\_\_\_\_  
Federal ID # \_\_\_\_\_

## MEMORANDUM OF EXCLUSIVE LICENSE

KNOW ALL PERSONS BY THESE PRESENTS;

In consideration of Ten Dollars, receipt of which is hereby acknowledged, paid by Home Box Office, a Division of Time Warner Entertainment Company, L.P. ("HBO"), and for other good and valuable consideration, the undersigned ("Licensor") does hereby irrevocably license to HBO, its successors and assigns, the exclusive rights to distribute the television program tentatively entitled "MICHAEL JACKSON IN CONCERT" (the "Program") as follows:

Licensor hereby irrevocably licenses to HBO, its successors and assigns, the exclusive rights to exhibit the Program one time only on each transmission feed (without overlap) on the HBO programming service without regard to the number of channels comprising such service by means of Non-Standard Television in the Territory (the "Exhibition Date").

Licensor shall not cause, authorize, license or permit any exhibition, distribution, promotion, publicity or advertisement of the Program, or any portion thereof, as follows:

(i) in the Territory, by means of Non-Standard Television, during the twelve (12) month period immediately following the Exhibition Date (the "Holdback Period"), subject to the terms and provisions of a certain arrangement between Licensor and Fox/MTV;

(ii) in the Territory, by means of Standard Television, until after the Holdback Period;

(iii) in the Territory, by means of Non-Theatrical Distribution, until after the Holdback Period;

(vi) in the Territory, by means of Consumer Video Devices, until thirty (30) days after the Exhibition Date; and

(v) outside the Territory by means of any media, until one (1) day after the Exhibition Date; provided that it is understood and agreed between the parties hereto that Licensor has entered into an arrangement with Radio Vision International, Inc. pursuant to which Radio Vision International, Inc. has been granted the right to record the September 29th concert and to authorize the broadcast of such recordation thereof twice in certain territories

in Europe only (once "live" and once during the six month period following the live broadcast).

"Non-Standard Television" means any and all forms of television exhibition, whether now existing or developed in the future, other than exhibitions by means of Standard Television, Consumer Video Devices and Non-Theatrical Distribution. Non-Standard Television shall include, without limitation, exhibition by means of cable, wire or fibre of any material, "over-the-air pay" or STV in any frequency band, any and all forms of regular or occasional scrambled broadcast for taping, master antenna, satellite master antenna, low power television, closed-circuit television, tape, cassette and disc distribution (excluding Consumer Video Devices), single and multi-channel multi-point distribution service, and direct to TVRO satellite transmission, and radio (only for purposes of simulcast) all on a subscription, pay-per-view, license, rental, sale or any other basis.

"Standard Television" means television distributed by a UHF or VHF television broadcast station, the video and audio portions of which are intelligibly receivable without charge by means of standard home roof-top or television set built-in antennas.

"TVRO" means a television earth station capable of receiving satellite transmissions.

"Consumer Video Devices" means any form of video device, now existing or hereafter devised, including video discs and video cassettes for exhibition by means of a playback device causing a visual image of the Program on the screen of a television receiver or any comparable device, whether now existing or hereafter developed, located in consumer homes, including, without limitation, distribution for sale or rent, on a retail subscription, club, mail order or other direct consumer basis.

"Non-Theatrical Distribution" means distribution of the Program by any means or method to educational, institutional organizations, airlines for in flight and trains for in-transit distribution, ships-at-sea, remote corporate locations and U.S. military bases.

"Territory" means the United States of America, its territories, possessions and commonwealths.

This memorandum of exclusive license is executed in accordance with and is subject to the terms and conditions of the license

agreement dated as of July 22, 1992 between the undersigned and HBO (the "Agreement") relating to the license to HBO of the above-mentioned rights in the Program. All capitalized terms used herein and not defined shall have the meanings set forth in the Agreement.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed by its duly authorized officer on the 29th day of July, 1992.

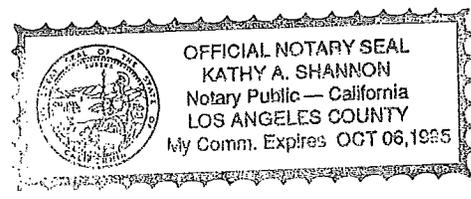
TTC TOURING CORP.

By [Signature]

STATE OF California )  
COUNTY OF Los Angeles ; ss.:

On the 29th day of July, 1992 before me personally came Richard Sherman, to me known, who, being by me duly sworn, did depose and say that he/she resides at 10345 04th Ave Blvd; that he/she is the secretary of TTC Touring Corp., the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the board of directors of said corporation.

Kathy A. Shannon  
Notary Public



## EXHIBIT I

to

Agreement between Home Box Office  
and TIC Touring Corp. dated as of  
July 22, 1992

**CONFIDENTIALITY PROVISIONS:**

Prior to and/or during HBO's contact or relationship with Licensor, HBO (which shall be deemed to include HBO's officers, directors, agents and employees) may be given access to or become acquainted with Performer and/or with "Confidential Information" (as such term is defined below) which is of great value to Licensor and Performer. HBO further acknowledges that maintaining the confidentiality of all such Confidential Information is critically important to Licensor and Performer, and that HBO's agreement to these confidentiality provisions is a material inducement to Licensor in granting the license to HBO which is the subject of this agreement.

HBO shall not, in any manner nor at any time (either during or after HBO's contact or HBO's relationship with Licensor and/or Performer), use or disclose, directly or indirectly, even in the course of casual discussions, to anyone other than representatives of Licensor or other persons designated by Licensor any of the following described information (the "Confidential Information"): any information, data, documents, or other materials of any kind or nature in any way related to Performer from any source or for any reasons, including without limitation, as acquired by HBO in the course of HBO's contact with Licensor and Performer. Confidential Information shall also include, without limitation, any information relating to Licensor's business affairs or operations, the business affairs, operations and/or personal life of Performer, the business affairs, operations and/or private lives of any and all members of Performer's family, and/or the business affairs or operation of any and all entities in which Performer has a controlling interest, which information is generally not known to the public. Confidential Information shall also include, without limitation, any and all photographs, films, videos, music or other recordings, including negatives, prints or copies thereof, relating to Performer or his likeness or any of his corporations and/or other entities, and/or corporations or other entities doing business or in any way related to Performer, and/or any of his or their activities. All such Confidential Information shall be deemed to be private, secret and sensitive and shall be kept confidential and secret unless Licensor otherwise advises HBO in writing in each instance. HBO acknowledges that Confidential Information may be contained in written materials, in written or verbal communications, and/or in HBO's unwritten knowledge.

HBO shall not photograph, tape, film or otherwise record (i) the voice or any likeness or activities of Performer, (ii) any concert performances or other musical performances of Performer, or rehearsals therefor, or (iii) any other activities related to Performer, without Licensor's written consent in each instance, and HBO acknowledges that any such photographs, tapes, film or other recordings, if approved in writing, shall be owned by Licensor and shall be deemed Confidential Information.

HBO shall not, without Licensor's prior written consent in each instance, publish, directly or indirectly, or cause or induce the publication of, any Confidential Information, including, without limitation, give any interviews, write or prepare or assist in the preparation of any books, articles, programs or any other oral or written communications concerning Performer or any corporations or entities doing business with or in any way related to Performer and/or any of his or their activities. HBO understands and acknowledges that if HBO has any question as to whether a particular piece of information is confidential, HBO is obligated to obtain Licensor's written approval prior to disclosing any such information. HBO shall not make any disparaging remarks concerning Performer or any of his representatives, agents or business practices or do any act that may harm or disparage or cause to lower in esteem the reputation or public image of Performer or any person, firm or corporation related to or doing business with Performer.

HBO acknowledges and agrees that HBO does not have, nor shall HBO at any time claim, any interest whatsoever in the name "Michael Jackson" or in any name similar thereto or in any goodwill associated therewith. Further, any and all Confidential Information, including, without limitation, any and all pictures, photographs, tapes, music, recordings, records, documents or other information relating to any entertainment services, or other services performed by Performer or by any other firm or corporation doing business with or in any way related to Performer, whether prepared by HBO or otherwise coming into HBO's possession or control, shall be and remain Licensor's and/or Performer's sole and exclusive property, free of any claim or interest of any third party, and shall not be removed, reproduced, summarized, copied, excerpted or utilized in any manner whatsoever without Licensor's prior written consent in each instance. HBO hereby irrevocably and perpetually assigns to Licensor and/or Performer all rights, title and interest of every kind or nature, both tangible and intangible, in or arising out of such Confidential Information or other material which is created by HBO (including, without limitation, any photographs, videos and/or recordings of Performer) to the extent that Licensor and/or Performer do not already own such rights. HBO agrees to immediately return all such Confidential Information to Licensor immediately on discovery of possession thereof, or following request therefor by Licensor.

HBO acknowledges that a breach of the provisions of these confidentiality provisions will cause Licensor and/or Performer irreparable harm for which there is no adequate remedy at law, and therefore, in addition to any and all other rights or remedies available to Licensor and/or Performer, Licensor and/or Performer shall be entitled to injunctive relief and all other remedies provided in such event by law or equity. Such remedies shall include, without limitation, the right to prevent dissemination of any Confidential Information before such Confidential Information is published. In the event of any unauthorized publication of Confidential Information, Licensor and/or Performer shall automatically own the copyright thereto.

HBO agrees to indemnify and hold Licensor, Performer and any of its and his corporations or other entities harmless from and against any claims, losses, liabilities, damages and expenses (including, without limitation, attorneys' fees and related costs) incurred by the foregoing parties as a result of HBO's breach, or the breach of HBO's agents, employees or representatives, of any covenants, representations or warranties contained herein.

In the event that either party to this agreement brings an action to enforce the terms of these confidentiality provisions or to declare rights with respect to such provisions, the prevailing party in such action shall be entitled to an award of costs of litigation, including attorneys' fees and related costs, to be paid by the losing party in such amount as may be determined by the court having jurisdiction in such action.

# **EXHIBIT C**

01052044

THE COMPLETE MERGER FILING IS UNDER  
CORPORATE NUMBER 1211598

1309469 OUT

**FILED** *EW*  
in the office of the Secretary of State  
of the State of California

Agreement of Merger

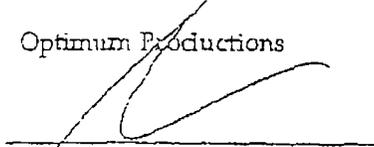
**DEC 29 2010**

This Agreement of Merger is entered into between Optimum Productions, a California corporation (herein "Surviving Corporation") and TTC Touring Corp. a California corporation (herein "Merging Corporation").

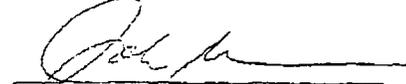
1. Merging Corporation shall be merged into Surviving Corporation.
2. The outstanding shares of Merging Corporation shall be canceled without consideration.
3. The outstanding shares of Surviving Corporation shall remain outstanding and are not affected by the merger.
4. Merging Corporation shall from time to time, as and when requested by Surviving Corporation, execute and deliver all such documents and instruments and take all such action necessary or desirable to evidence or carry out this merger.
5. The effect of the merger and the effective date of the merger are as prescribed by law.

IN WITNESS WHEREOF the parties have executed this Agreement.

Optimum Productions

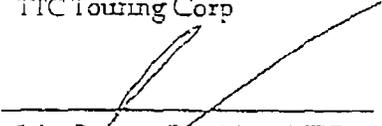


John Branca, President/CEO



John McClain, Secretary/CFO

TTC Touring Corp



John Branca, President/CEO



John McClain, Secretary/CFO