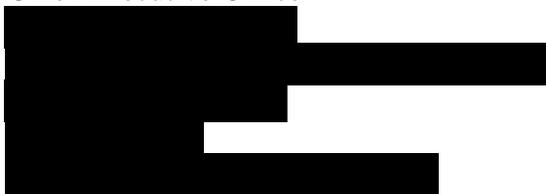


February 7, 2019

VIA E-MAIL AND OVERNIGHT DELIVERY

Richard Plepler
Chief Executive Officer



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.*"¹ 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."² *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.

¹ https://www.huffingtonpost.com/entry/leaving-neverland-michael-jackson-dan-reed_us_5c500044e4b0d9f9be689ab0

² <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.*"³

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

³ 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.

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Mr. Plepler, as you yourself said in late 2017: “A lie goes halfway around the world before the truth puts its boots on.”⁴ 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

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