

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

2 EUMI L. CHOI (WVBN 0722)
3 Chief, Criminal Division

4 ROBIN L. HARRIS (CSBN 123364)
KYLE F. WALDINGER (ILSB 6238304)
5 Assistant United States Attorneys

6 450 Golden Gate Avenue Box 36055
San Francisco, CA 94102
7 Telephone: (415) 436-6767

8 Attorneys for Plaintiff

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 UNITED STATES OF AMERICA,)
15 Plaintiff,)
16 v.)
17 AMR MOHSEN,)
18 Defendant.)
19)
20)

CR 03-0095 WBS

**UNITED STATES' PROPOSED
JURY INSTRUCTIONS**

21 The United States submits the following jury instructions for the trial in the above-
22 captioned case. The government has also included special proposed instructions which
23 are tailored to the charges in Phase One of this trial.

24 The government requests that the Court give the following standard instructions from
25 the Ninth Circuit Manual of Model Criminal Jury Instructions, 2003 Edition (as
26 amended):
27
28

2. INSTRUCTIONS IN THE COURSE OF TRIAL	
2.4	Stipulations of Fact. <i>[if applicable]</i>
3. INSTRUCTIONS AT THE END OF TRIAL	
3.1	Duties of Jury to Find Facts and Follow Law.
3.2	Charge Against Defendant Not Evidence—Presumption of Innocence—Burden of Proof.
3.3	Defendant’s Decision Not to Testify. <i>[if applicable]</i>
3.4	Defendant’s Decision to Testify. <i>[if applicable]</i>
3.5	Reasonable Doubt—Defined.
3.6	What Is Evidence.
3.7	What Is Not Evidence.
3.8	Direct and Circumstantial Evidence.
3.9	Credibility of Witnesses.
4.17	Opinion Evidence, Expert Witness.
4.18	Summaries Not Received in Evidence. <i>[if applicable]</i>
4.19	Charts and Summaries in Evidence. <i>[if applicable]</i>
8.16	Conspiracy—Elements.
8.20	Conspiracy—Liability for Substantive Offense Committed by Co-conspirator (<i>Pinkerton</i> Charge)
8.110	Perjury—Testimony (18 U.S.C. § 1621).
5.5	Willfully—Defined
8.111	Subornation of Perjury (18 U.S.C. § 1622).
8.101	Mail Fraud—Scheme to Obtain Money or Property by False Promises (18 U.S.C. § 1341).
5.6	Knowingly—Defined
3.17	Intent to Defraud—Defined.
Special	Obstruction of Justice (18 U.S.C. § 1503)
5.5	Corruptly—Defined
5.1	Aiding and Abetting.
4. INSTRUCTIONS CONCERNING JURY DELIBERATIONS	
7.1	Duty to Deliberate.

1 **2. INSTRUCTIONS DURING THE COURSE OF TRIAL**

2
3 **2.4 STIPULATIONS OF FACT** *(if necessary)*

4 The parties have agreed to certain facts that have been stated to you. You should
5 therefore treat these facts as having been proved.
6

7
8 **3. INSTRUCTIONS AT THE END OF TRIAL**

9
10 **3.1 DUTIES OF JURY TO FIND FACTS AND FOLLOW LAW**

11 Members of the jury, now that you have heard all the evidence, it is my duty to
12 instruct you on the law which applies to this case. A copy of these instructions will be
13 available in the jury room for you to consult.

14 It is your duty to find the facts from all the evidence in the case. To those facts you
15 will apply the law as I give it to you. You must follow the law as I give it to you whether
16 you agree with it or not. And you must not be influenced by any personal likes or
17 dislikes, opinions, prejudices, or sympathy. That means that you must decide the case
18 solely on the evidence before you. You will recall that you took an oath promising to do
19 so at the beginning of the case.

20 In following my instructions, you must follow all of them and not single out some and
21 ignore others; they are all equally important. You must not read into these instructions or
22 into anything the court may have said or done any suggestion as to what verdict you
23 should return—that is a matter entirely up to you.
24

25 **3.2 CHARGE AGAINST DEFENDANT NOT**
26 **EVIDENCE—PRESUMPTION OF**
27 **INNOCENCE—BURDEN OF PROOF**

28 The indictment is not evidence. The defendant has pleaded not guilty to the charges.
The defendant is presumed to be innocent and does not have to testify or present any

1 evidence to prove innocence. The government has the burden of proving every element
2 of the charges beyond a reasonable doubt.

3
4 **3.3 DEFENDANT’S DECISION NOT TO TESTIFY** *(if applicable)*

5 A defendant in a criminal case has a constitutional right not to testify. No
6 presumption of guilt may be raised, and no inference of any kind may be drawn, from the
7 fact that the defendant did not testify.

8
9 **3.4 DEFENDANT’S DECISION TO TESTIFY** *(if applicable)*

10 The defendant has testified. You should treat this testimony just as you would the
11 testimony of any other witness.

12
13 **3.5 REASONABLE DOUBT—DEFINED**

14 Proof beyond a reasonable doubt is proof that leaves you firmly convinced that the
15 defendant is guilty. It is not required that the government prove guilt beyond all possible
16 doubt.

17 A reasonable doubt is a doubt based upon reason and common sense and is not based
18 purely on speculation. It may arise from a careful and impartial consideration of all the
19 evidence, or from lack of evidence.

20 If after a careful and impartial consideration of all the evidence, you are not convinced
21 beyond a reasonable doubt that the defendant is guilty, it is your duty to find the
22 defendant not guilty. On the other hand, if after a careful and impartial consideration of
23 all the evidence, you are convinced beyond a reasonable doubt that the defendant is
24 guilty, it is your duty to find the defendant guilty.

25
26 **3.6 WHAT IS EVIDENCE**

27 The evidence from which you are to decide what the facts are consists of:

28 (1) the sworn testimony of any witness;

- 1 (2) the exhibits which have been received into evidence; and
2 (3) any facts to which all the lawyers have stipulated.

3
4 **3.7 WHAT IS NOT EVIDENCE**

5 In reaching your verdict you may consider only the testimony and exhibits received
6 into evidence. Certain things are not evidence and you may not consider them in deciding
7 what the facts are. I will list them for you:

- 8 1. Arguments and statements by lawyers are not evidence. The lawyers are not
9 witnesses. What they have said in their opening statements, closing arguments and
10 at other times is intended to help you interpret the evidence, but it is not evidence.
11 If the facts as you remember them differ from the way the lawyers state them, your
12 memory of them controls.
- 13 2. Questions and objections by lawyers are not evidence. Attorneys have a duty to
14 their clients to object when they believe a question is improper under the rules of
15 evidence. You should not be influenced by the question, the objection, or the
16 court's ruling on it.
- 17 3. Testimony that has been excluded or stricken, or that you have been instructed to
18 disregard, is not evidence and must not be considered. In addition some testimony
19 and exhibits have been received only for a limited purpose; where I have given a
20 limiting instruction, you must follow it.
- 21 4. Anything you may have seen or heard when the court was not in session is not
22 evidence. You are to decide the case solely on the evidence received at the trial.

23
24 **3.8 DIRECT AND CIRCUMSTANTIAL EVIDENCE**

25 **(with illustrative example provided in Comment to Instruction 3.8)**

26 Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact,
27 such as testimony of an eyewitness. Circumstantial evidence is indirect evidence, that is,
28 proof of a chain of facts from which you could find that another fact exists, even though it

1 has not been proved directly. You are to consider both kinds of evidence. The law
2 permits you to give equal weight to both, but it is for you to decide how much weight to
3 give to any evidence.

4 By way of example, if you wake up in the morning and see that the sidewalk is wet,
5 you may find from that fact that it rained during the night. However, other evidence, such
6 as a turned-on garden hose, may explain the water on the sidewalk. Therefore, before you
7 decide that a fact has been proved by circumstantial evidence, you must consider all the
8 evidence in the light of reason, experience, and common sense.

9

10

3.9 CREDIBILITY OF WITNESSES

11 In deciding the facts in this case, you may have to decide which testimony to believe
12 and which testimony not to believe. You may believe everything a witness says, or part
13 of it, or none of it.

14 In considering the testimony of any witness, you may take into account:

- 15 1. the opportunity and ability of the witness to see or hear or know the things testified
16 to;
- 17 2. the witness' memory;
- 18 3. the witness' manner while testifying;
- 19 4. the witness' interest in the outcome of the case and any bias or prejudice;
- 20 5. whether other evidence contradicted the witness' testimony;
- 21 6. the reasonableness of the witness' testimony in light of all the evidence; and
- 22 7. any other factors that bear on believability.

23 The weight of the evidence as to a fact does not necessarily depend on the number of
24 witnesses who testify.

25

26

4.17 OPINION EVIDENCE, EXPERT WITNESS

27 You have heard testimony from persons who, because of education or experience, are
28 permitted to state opinions and the reasons for their opinions.

1 Opinion testimony should be judged just like any other testimony. You may accept it
2 or reject it, and give it as much weight as you think it deserves, considering the witness'
3 education and experience, the reasons given for the opinion, and all the other evidence in
4 the case.

5
6 **4.18 SUMMARIES NOT RECEIVED IN EVIDENCE** *(if applicable)*

7 Certain charts and summaries have been shown to you in order to help explain the
8 facts disclosed by the books, records, and other documents which are in evidence in the
9 case. They are not themselves evidence or proof of any facts. If they do not correctly
10 reflect the facts or figures shown by the evidence in the case, you should disregard these
11 charts and summaries and determine the facts from the underlying evidence.

12
13 **4.19 CHARTS AND SUMMARIES IN EVIDENCE**

14 Certain charts and summaries have been received into evidence. Charts and
15 summaries are only as good as the underlying supporting material. You should, therefore,
16 give them only such weight as you think the underlying material deserves.

17
18 **8.16 CONSPIRACY—ELEMENTS**

19 The defendant is charged in Count One of the indictment with conspiring to commit
20 perjury and to obstruct justice, in violation of Sections 1621(1) and 1503 of Title 18 of
21 the United States Code. In order for the defendant to be found guilty of that charge, the
22 government must prove each of the following elements beyond a reasonable doubt:

23 *First*, beginning on or about March 29, 1988, and ending on or about May 10, 2000,
24 there was an agreement between two or more persons to commit at least one crime as
25 charged in the indictment;

26 *Second*, the defendant became a member of the conspiracy knowing of at least one of
27 its objects and intending to help accomplish it;

28 *Third*, one of the members of the conspiracy performed at least one overt act for the

1 purpose of carrying out the conspiracy, with all of you agreeing on a particular overt act
2 that you find was committed.

3 I shall discuss with you briefly the law relating to each of these elements.

4 A conspiracy is a kind of criminal partnership—an agreement of two or more persons
5 to commit one or more crimes. The crime of conspiracy is the agreement to do something
6 unlawful; it does not matter whether the crime agreed upon was committed.

7 For a conspiracy to have existed, it is not necessary that the conspirators made a
8 formal agreement or that they agreed on every detail of the conspiracy. It is not enough,
9 however, that they simply met, discussed matters of common interest, acted in similar
10 ways, or perhaps helped one another. You must find that there was a plan to commit at
11 least one of the crimes alleged in the indictment as an object of the conspiracy with all of
12 you agreeing as to the particular crime which the conspirators agreed to commit.

13 One becomes a member of a conspiracy by willfully participating in the unlawful plan
14 with the intent to advance or further some object or purpose of the conspiracy, even
15 though the person does not have full knowledge of all the details of the conspiracy.
16 Furthermore, one who willfully joins an existing conspiracy is as responsible for it as the
17 originators. On the other hand, one who has no knowledge of a conspiracy, but happens
18 to act in a way which furthers some object or purpose of the conspiracy, does not thereby
19 become a conspirator. Similarly, a person does not become a conspirator merely by
20 associating with one or more persons who are conspirators, nor merely by knowing that a
21 conspiracy exists.

22 An overt act does not itself have to be unlawful. A lawful act may be an element of a
23 conspiracy if it was done for the purpose of carrying out the conspiracy. The government
24 is not required to prove that the defendant personally did one of the overt acts.

25

26

27

28

**8.20 CONSPIRACY—LIABILITY FOR SUBSTANTIVE OFFENSE
COMMITTED BY CO-CONSPIRATOR (*PINKERTON* CHARGE)**

Each member of the conspiracy is responsible for the actions of the other conspirators performed during the course and in furtherance of the conspiracy. If one member of a conspiracy commits a crime in furtherance of a conspiracy, the other members have also, under the law, committed that crime.

Therefore, you may find the defendant guilty of obstruction of justice as charged in Count nineteen of the indictment if the government has proved each of the following elements beyond a reasonable doubt:

1. a person named in Count Nineteen [*Aly Mohsen*] of the indictment committed the crime of obstruction of justice as alleged in that count;
2. the person [*Aly Mohsen*] was a member of the conspiracy charged in Count One of the indictment;
3. the person [*Aly Mohsen*] committed the crime of obstruction of justice in furtherance of the conspiracy;
4. the defendant was a member of the same conspiracy at the time the offense charged in Count Nineteen was committed; and
5. the offense fell within the scope of the unlawful agreement and could reasonably have been foreseen to be a necessary or natural consequence of the unlawful agreement.

**8.110 PERJURY—TESTIMONY
(18 U.S.C. § 1621)**

The defendant is charged in Counts Two, Three and Four of the Indictment with perjury in violation of Section 1621 of Title 18 of the United States Code. In order for the defendants to be found guilty of each charge, the government must prove each of the following elements beyond a reasonable doubt:

First, with respect to each count, the defendant orally testified under oath:

- With respect to Count Two, Amr Mohsen testified that he had never delivered the original notebooks to an independent expert for testing;
- With respect to Count Three, Amr Mohsen testified that the original notebooks had never been out of his possession, other than the limited periods of time to make copies by both his and QuickTurn’s lawyers;
- With respect to Count Four, Amr Mohsen testified that June 1989 was the last time he had put pen to paper in the 1988 Notebook;

Second, with respect to each count, the testimony was false;

Third, with respect to each count, the false testimony was material to the matters before the district court;

Fourth, with respect to each count, the defendant acted willfully, that is deliberately and with knowledge that the testimony was false.

All of you must agree as to which statement was false.

The testimony of one witness is not enough to support a finding that the testimony of defendant Amr Mohsen was false. There must be additional evidence—either the testimony of another person or other evidence—which tends to support the testimony of falsity. The other evidence, standing alone, need not convince you beyond a reasonable doubt that the testimony was false. But after considering all of the evidence on the subject, you must be convinced beyond a reasonable doubt that the testimony was false.

**8.111 SUBORNATION OF PERJURY
(18 U.S.C. § 1622)**

Defendant Amr Mohsen is charged in Count Ten of the Indictment with subornation of perjury, in violation of Section 1622 of Title 18 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant persuaded Aly Mohsen to testify falsely in proceedings before the United States District Court for the Northern District of California;

Second, Aly Mohsen falsely testified under oath that he had witnessed certain entries in the 1988 Notebook on the dates falsely reflected in that notebook;

Third, the false testimony was material to the matters before the district court; and

Fourth, Aly Mohsen knew the testimony was false.

All of you must agree as to which statement was false.

MATERIALITY DEFINED—PERJURY AND SUBORNATION OF PERJURY

A statement is “material” in the context of a perjury or subornation of perjury charge if it has a natural tendency to influence, or is capable of influencing, the decision of the decision-making body to which it was addressed. The “materiality” of a false statement is tested at the time the alleged false statement was made. Later proof that a truthful statement would not have helped the decision-making body does not render false testimony immaterial. The government need not prove that the perjured testimony actually influenced the relevant decision-making body. Further, to be material a false statement need only be relevant to any subsidiary issue under consideration by the decision-making body. In a civil case, the decision-making body is the fact-finder to whom the statement is addressed. In a civil case, a fact-finder can be a Judge to whom the parties have submitted any matter which requires the Judge to make a factual inquiry to resolve the particular matter submitted. In a civil case, a fact-finder can also be a jury if the statements were introduced to a civil jury.

1 **Authority:** 9th Cir. Model Jury Instr. 8.110, 8.111; *Kungys v. United States*, 485 U.S.
2 759, 770 (1988); *United States v. McKenna*, 327 F.3d 830, 839 (9th Cir.
3 2003); *United States v. Lococo*, 450 F.2d 1196, 1199 n.3 (9th Cir. 1972)
4 (“Materiality is tested as of the time the investigation is being made.”); *see*
5 *also* Order of 12/05/2005, at 9.

6 **5.5 WILLFULLY—DEFINED**
7 **(from comment)**

8 Wilfulness requires that an act be done knowingly and intentionally, not through
9 ignorance, mistake or accident.

10
11 **Authority:** *United States v. Morales*, 108 F.3d 1031, 1036 (9th Cir. 1997) (citing
12 MANUAL OF MODEL CRIMINAL JURY INSTRUCTIONS FOR THE NINTH
13 CIRCUIT, § 5.05 (1995))

14 **8.101 MAIL FRAUD—SCHEME TO**
15 **OBTAIN MONEY OR PROPERTY**
16 **BY FALSE PROMISES**
17 **(18 U.S.C. § 1341)**

18 The defendant Amr Mohsen is charged in Counts Eleven through Eighteen of the
19 Indictment with mail fraud, in violation of Section 1341 of Title 18 of the United States
20 Code. In order for the defendant to be found guilty of that charge, the government must
21 prove each of the following elements beyond a reasonable doubt:

22 *First*, the defendant made up a scheme or plan for obtaining money or property by
23 making false statements, with all of you agreeing on at least one particular false statement
24 that was made;

25 *Second*, the defendant knew that the statements were false;

26 *Third*, the statements were material, that is they would reasonably influence a person
27 to part with money or property;

28 *Fourth*, the defendant acted with the intent to defraud; and

Fifth, the defendant used, or caused to be used, the mails or private commercial
interstate carriers to carry out or attempt to carry out an essential part of the scheme.

1 A mailing is caused when one knows that the mails will be used in the ordinary course
 2 of business or when one can reasonably foresee such use. It does not matter whether the
 3 material mailed was itself false or deceptive so long as the mail was used as a part of the
 4 scheme, nor does it matter whether the scheme or plan was successful or that any money
 5 or property was obtained.

6 3.17 INTENT TO DEFRAUD—DEFINED

7 An intent to defraud is an intent to deceive or cheat.
 8

9 5.6 KNOWINGLY — DEFINED

10 An act is done knowingly if the defendant is aware of the act and does not act through
 11 ignorance, mistake, or accident. The government is not required to prove that the
 12 defendant knew that his acts were unlawful. You may consider evidence of the
 13 defendant’s words, acts, or omissions, along with all the other evidence, in deciding
 14 whether the defendant acted knowingly.
 15

16 MATERIALITY—DEFINED MAIL FRAUD

17 Your “materiality” inquiry will be different in the context of the mail fraud charges
 18 than it is in the context of the perjury and subornation of perjury charges. For the mail
 19 fraud charges, the “materiality” determination that you will have to make requires you to
 20 determine whether the false statements alleged by the government would reasonably
 21 influence a person (including corporate entities) to part with money or property.
 22 Materiality is tested at the time the alleged false statement is made. The government is
 23 not required to establish that anyone was defrauded or sustained a monetary loss. Further,
 24 in determining whether a statement is “material” with respect to a mail fraud charge, it
 25 does not matter whether the scheme to defraud was successful or not.

26 **Authority:** 9th Cir. Model Jury Instr. 8.101; *United States v. Utz*, 886 F.2d 1148,
 27 1150–51 (9th Cir. 1989), *cert. denied*, 497 U.S. 1005 (1990). *United States*
 28 *v. Telink*, 910 F.2d 598, 598-600 (9th Cir. 1990); *United States v. Vaughn*,
 797 F.2d 1485, 1493 (9th Cir. 1986).

OBSTRUCTION OF JUSTICE

The defendant is charged in Count Nineteen of the indictment with obstruction of justice, in violation of Section 1503 of Title 18 of the United States Code. In order for each defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant endeavored to influence, obstruct, or impede the due administration of justice;

Second, the defendant acted corruptly, that is, with the purpose of obstructing justice.

The government need not prove that the defendant actually obstructed justice. It is sufficient that the government prove that the defendant endeavored to obstruct justice. “Endeavor” means any effort undertaken to obstruct or impede justice.

Authority: 18 U.S.C. § 1503; *United States v. Rasheed*, 663 F.2d 843, 851 (9th Cir. 1981) (“We hold that the word ‘corruptly’ as used in [§ 1503] means that the act must be done with the purpose of obstructing justice.”); *United States v. Fleming*, 215 F.3d 930, 936 (9th Cir. 2000) (“One need not succeed in obstructing justice to be convicted of violating § 1503: ‘an “endeavor” suffices.’” The crime of obstruction of justice under § 1503 is therefore analogous to inchoate offenses like attempt and conspiracy. Factual impossibility is not a defense to an inchoate offense.”) (*citing United States v. Aguilar*, 515 U.S. 593, 599 (1995)); *Kong v. United States*, 216 F.2d 665, 668 (9th Cir. 1954) (definition of “endeavor”).

3.16 CORRUPTLY— DEFINED

“Corruptly” means that the act must be done with the purpose of obstructing justice.

Authority: Comment to Jury Instr. 3.16; *United States v. Rasheed*, 663 F.2d 843, 851 (9th Cir. 1981) (“We hold that the word ‘corruptly’ as used in [§ 1503] means that the act must be done with the purpose of obstructing justice.”)

5.1 AIDING AND ABETTING

The defendant may be found guilty of the crime of obstruction of justice, even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the

1 government must prove beyond a reasonable doubt:

2 *First*, the crime of obstruction of justice was committed by someone;

3 *Second*, the defendant knowingly and intentionally aided, counseled, commanded,
4 induced or procured that person to commit each element of the crime of obstruction of
5 justice;

6 *Third*, the defendant acted before the crime was completed.

7 It is not enough that the defendant merely associated with the person committing the
8 crime, or unknowingly or unintentionally did things that were helpful to that person, or
9 was present at the scene of the crime.

10 The evidence must show beyond a reasonable doubt that the defendant acted with the
11 knowledge and intention of helping that person commit obstruction of justice as alleged
12 in Count 19.

13 The government is not required to prove precisely which person actually committed
14 the crime of obstruction of justice and which person aided and abetted.

15
16 **CONTEMPT**

17 The defendant is charged in Count Twenty with contempt of court in violation of 18
18 U.S.C. § 401(3). The government must prove each of the following elements beyond a
19 reasonable doubt:

20 First, that there was an order, decree, rule or command of the Court;

21 Second, the defendant disobeyed or resisted the order, decree, rule or command of the
22 Court.

23
24 **4. INSTRUCTIONS CONCERNING JURY DELIBERATIONS**

25
26 **7.1 DUTY TO DELIBERATE**

27 When you begin your deliberations, you should elect one member of the jury as your
28 foreperson. That person will preside over the deliberations and speak for you here in

1 court.

2 You will then discuss the case with your fellow jurors to reach agreement if you can do
3 so. Your verdict, whether guilty or not guilty, must be unanimous.

4 Each of you must decide the case for yourself, but you should do so only after you have
5 considered all the evidence, discussed it fully with the other jurors, and listened to the
6 views of your fellow jurors.

7 Do not be afraid to change your opinion if the discussion persuades you that you
8 should. But do not come to a decision simply because other jurors think it is right.

9 It is important that you attempt to reach a unanimous verdict but, of course, only if
10 each of you can do so after having made your own conscientious decision. Do not change
11 an honest belief about the weight and effect of the evidence simply to reach a verdict.

12

13 **7.2 CONSIDERATION OF EVIDENCE**

14 Your verdict must be based solely on the evidence and on the law as I have given it to
15 you in these instructions. However, nothing that I have said or done is intended to suggest
16 what your verdict should be—that is entirely for you to decide.

17

18 **7.3 USE OF NOTES**

19 Some of you have taken notes during the trial. Whether or not you took notes, you
20 should rely on your own memory of what was said. Notes are only to assist your memory.
21 You should not be overly influenced by the notes.

22

23 **7.4 JURY CONSIDERATION OF PUNISHMENT**

24 The punishment provided by law for this crime is for the court to decide. You may not
25 consider punishment in deciding whether the government has proved its case against the
26 defendant beyond a reasonable doubt.

27

28

7.5 VERDICT FORM

A verdict form has been prepared for you. [Any explanation of the verdict form may be given at this time.] After you have reached unanimous agreement on a verdict, your foreperson will fill in the form that has been given to you, sign and date it and advise the bailiff that you are ready to return to the courtroom.

7.6 COMMUNICATION WITH COURT

If it becomes necessary during your deliberations to communicate with me, you may send a note through the Court Security Officer, signed by your foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing, and I will respond to the jury concerning the case only in writing, or here in open court. If you send out a question, I will consult with the lawyers before answering it, which may take some time. You may continue your deliberations while waiting for the answer to any question. Remember that you are not to tell anyone—including me—how the jury stands, numerically or otherwise, on the question of the guilt of the defendant, until after you have reached a unanimous verdict or have been discharged.