**T6**

**Forfeiture Proceedings**

(To be given before supplemental evidentiary proceedings or supplemental arguments of counsel)

Members Of The Jury: Your verdict in this case doesn’t complete your jury service as it would in most cases because there is another matter you must now consider.

You must decide whether the Defendant[s], \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, should forfeit certain [money or] property to the United States as a part of the penalty for the crime charged in Count \_\_\_\_\_ of the indictment.

In a portion of the indictment not previously discussed or disclosed to you, it is alleged that the Defendant[s] got certain [money or] property from committing the offense charged in Count \_\_\_\_\_. In view of your verdict finding the Defendant[s] guilty of that offense, you must also decide whether the [money or] property should be forfeited to the United States.

To “forfeit” a thing is to be divested or deprived of the ownership of it as a part of the punishment allowed by the law for certain criminal offenses.

To decide whether [money or] property should be forfeited, you should consider all the evidence you have already heard plus any additional evidence that will be presented to you after these instructions.

A copy of the forfeiture allegations of the indictment will be given to you to consider during your supplemental deliberations. It describes in particular the [money or] property allegedly subject to forfeiture to the United States.

[List or summarize the items subject to forfeiture]

To be entitled to the forfeiture of any of those items, the Government must have proved [beyond a reasonable doubt] [by a preponderance of the evidence]:

Option No. 1

(Forfeitures under 18 USC § 982)

First: That the [money or] property to be forfeited constitutes the proceeds the Defendant obtained directly or indirectly as the result of the crime charged in Count \_\_\_\_\_ of the indictment;

**OR**

Second: That the [money or] property to be forfeited [was derived from] [traceable to] the proceeds the Defendant obtained directly or indirectly as the result of the crime charged in Count \_\_\_\_\_ of the indictment.

Option No. 2

(RICO - 18 USC § 1963)

First: That the [sum of money or proceeds] [property] sought to be forfeited constituted an interest acquired by the Defendant, as charged;

Second: That the interest [was acquired by the Defendant as a result of the conduct of the enterprise’s affairs through the pattern of racketeering activity] [constituted or was derived from proceeds that the Defendant obtained, directly or indirectly, from racketeering activity] committed by the Defendants as charged in Count \_\_\_\_\_ in violation of Title 18, United States Code, § 1962.

Option No. 3

(Child Pornography - 18 USC § 2253)

First: That the property to be forfeited is a visual depiction, or other matter containing a visual depiction, that was [produced] [transported] [received] in violation of [cite statutory offense of conviction].

**OR**

Second: That the property to be forfeited constituted, or is traceable to, gross profits or other proceeds obtained from the offense Defendant was convicted of.

**OR**

Third: That the property to be forfeited was used or intended to be used to commit or to promote committing the offense Defendant was convicted of.

Option No. 4

(Drug Offenses - 21 USC § 853)

First: That the property to be forfeited constitutes, or was derived from, the proceeds the Defendant obtained, directly or indirectly, as the result of committing the offense charged in Count \_\_\_\_\_ of the indictment,

**OR**

Second: That the property to be forfeited was used, or was intended to be used, in any manner or part, to commit or to help commit, the offense charged in Count \_\_\_\_\_ of the indictment.

[Before you can find that the Defendant must forfeit any property under either of those standards, you must unanimously agree upon which of the two standards should be applied in forfeiting a particular asset.]

[Proof “beyond a reasonable doubt” has the same meaning that I explained to you in my instructions at the end of the trial.]

**OR**

[A “preponderance of the evidence” simply means an amount of evidence that is enough to persuade you that a claim or contention is more likely true than not true.]

[To be “derived” from something means that the [money or] property under consideration must have been formed or developed out of the original source so as to be directly descended from that source.]

[To be “traceable” to something means that the [money or] property under consideration must have followed an ascertainable course or trail in successive stages of development or progress from the original source.]

[To “facilitate” the commission of an offense means to aid, promote, advance, or make easier, the commission of the act or acts constituting the offense. There must be more than an incidental connection between the property and the offense for you to find that the property facilitated, or was intended to facilitate, committing the offense. But the property doesn’t have to be essential to committing the offense, nor does the property have to have been used exclusively to commit the offense or as the exclusive means of committing the offense. Property used to facilitate an offense can be in virtually any form.]

While deliberating concerning the issue of forfeiture you must not reexamine your previous determination regarding the Defendant’s guilt. But all the instructions previously given to you concerning your consideration of the evidence, the credibility of the witnesses, your duty to deliberate together, your duty to base your verdict solely on the evidence without prejudice, bias, or sympathy, and the necessity of a unanimous verdict, will continue to apply during these supplemental deliberations. [The specific instructions I gave you earlier concerning Count \_\_\_\_\_ and the definitions of the terms “enterprise” and “pattern of racketeering activity” also continue to apply.]