

1 MORNING SESSION, THURSDAY, APRIL 11, 2001 12:00 NOON.

2 (Proceedings had in open court, out of the
3 presence of the Jury. The Defendant was present by way of
4 telephone.)

5 THE COURT: Please be seated. Good morning
6 everybody.

7 MR. MORFORD: Good morning, Your Honor.

8 MR. SMITH: Good morning, Your Honor.

9 THE COURT: Congressman, are you on the line?

10 THE CLERK: Can you hear us?

11 MR. TRAFICANT: Hello. Hello.

12 THE CLERK: Hello.

13 THE COURT: Hi, Congressman. Can you hear me
14 now?

15 MR. TRAFICANT: I thought the jury had a
16 question. I didn't know you were going to bring the jury
17 in for session.

18 THE COURT: The jury isn't in for a session.
19 The jury did have a question. You have the right
20 information.

21 MR. TRAFICANT: Well, is the jury present
22 there now?

23 THE COURT: No.

24 MR. TRAFICANT: What is the question?

25 THE COURT: I'm about to read it,

1 Congressman. I just want to make sure you could hear me.

2 MR. TRAFICANT: I can hear you.

3 THE COURT: Very well.

4 The question is, "In deciding RICO Count 10,
5 act one, relating to Bucci," and then there's a
6 parentheses, "for example," end parentheses, "what is
7 meant," and then there's a parentheses, "page 37, part 3,
8 paragraph A" -- that refers to the indictment in the
9 case --

10 MR. TRAFICANT: Page 37, part 3, paragraph
11 A --

12 THE COURT: "Paragraph A." And then it says,
13 "Do we need to agree on all," underlined, "overt acts or
14 just one," underlined, "as in the original Count 1?"

15 That's the entire question, and I'll give
16 both sides an opportunity to respond to that question.

17 Congressman, I don't know if you have a copy
18 of the --

19 MR. TRAFICANT: I don't have a copy of
20 anything here.

21 I don't give a damn what you do. That's for
22 the record.

23 Now, I just want to know what the issue is,
24 and I want to know what you're ruling and what you're
25 telling this jury, and at what stage this jury is, because

1 you know how this case has been mishandled completely, and
2 I am so upset that you just do what you want to do.

3 I object to anything now that you do.

4 THE COURT: Thank you. I'll let the
5 government respond.

6 MR. MORFORD: Your Honor --

7 MR. TRAFICANT: I can't hear him. Why don't
8 you tell him to bring his people close to desk level so I
9 can hear?

10 MR. MORFORD: Can you now hear me,
11 Congressman?

12 MR. TRAFICANT: Not very well.

13 MR. MORFORD: How is this?

14 MR. TRAFICANT: Can you hear me?

15 MR. MORFORD: Yes, I can. Can you hear me
16 now?

17 MR. TRAFICANT: Speak up.

18 MR. MORFORD: Can you hear me now?

19 MR. TRAFICANT: I will respond after you.

20 MR. MORFORD: Can you hear me now?

21 MR. TRAFICANT: Are you getting loud with me
22 on the phone?

23 THE COURT: Congressman, if you want to come
24 down here, we'll --

25 MR. TRAFICANT: I said I could hear you a

1 couple minutes ago.

2 THE COURT: You indicated you did not want to
3 come, but if you want to be down here, come.

4 MR. MORFORD: Racketeering act one charges a
5 substantive bribe and not a conspiracy to commit bribery,
6 and therefore, they don't need to find any overt act at
7 all. They merely need to find what's in the Court's
8 instruction for a bribery offense.

9 MR. TRAFICANT: So in other words, all
10 they've got to do is believe that I've been bribed, and
11 there's a conspiracy count, according to the Judge's
12 instructions, they must hold against me.

13 Is that the question here? I'm asking the
14 Judge.

15 THE COURT: I read the question to you, and
16 I'll be happy to read it again.

17 MR. TRAFICANT: I want to know your answer.
18 I don't want to know what the question is.

19 You conspire with somebody to do something,
20 and if they're still dealing with the Bucci case, then I
21 don't know where the hell they are in this case. Because
22 if they have anything to believe about the Buccis, we've
23 got a problem with this jury, and I want to know where we
24 are.

25 I'm over here, and I'm spending four days

1 waiting by a telephone, and quite frankly, I'm getting
2 tired of it. I think it's time you instruct this jury to
3 make their decisions, because I think your instructions
4 were such that if they didn't follow your instructions that
5 they couldn't rule. And I think this jury has been
6 limited, I think they should be allowed to rule on what
7 they believe is truth and nontruth, and what they believe
8 in their heart to be the case, period.

9 THE COURT: Thank you very much.

10 MR. TRAFICANT: I can't hear you.

11 THE COURT: I said thank you very much.

12 MR. TRAFICANT: Now, what is your decision?

13 THE COURT: I'll tell you as soon as I make
14 it, sir.

15 Anything further from the government?

16 MR. MORFORD: No, Your Honor. It would just
17 want to let them know that it's a substantive bribery --

18 MR. TRAFICANT: There is no conspiracy with
19 the Buccis. That's been brought out through testimony.
20 And I disagree with the fact you will not make available to
21 them written testimony.

22 THE COURT: Congressman, the government was
23 in the middle of a sentence. I'm going to ask him to
24 finish.

25 MR. TRAFICANT: I can't hear you.

1 THE COURT: Okay.

2 MR. MORFORD: Your Honor, it would be our
3 position that they should be instructed that overt -- or
4 racketeering act one is a substantive bribery. In the
5 instruction that the Court gave as to the elements of a
6 substantive bribery are the elements that have to be proven
7 beyond a reasonable doubt.

8 MR. TRAFICANT: Now --

9 MR. MORFORD: And that there is no overt act
10 requirement in that instruction.

11 MR. TRAFICANT: Now, my response is what the
12 government gave them was a bunch of bullshit, and I think
13 the jury recognizes it, and I think you should free the
14 jury to make up their minds about right and wrong.

15 THE COURT: Thank you. This will conclude
16 this part of this.

17 MR. TRAFICANT: I can't hear you.

18 THE COURT: This will conclude this part of
19 this conversation, and we will bring the jury out and give
20 them an instruction. We'll keep you on the line. Okay?

21 THE CLERK: All rise for the jury.

22 (Jury in courtroom at 12:09 p.m.)

23 THE COURT: Good morning.

24 JURORS: Good morning.

25 THE COURT: Please be seated. Well, you

1 asked a very good question, Ladies and Gentlemen. We're
2 going to give you an answer to the question.

3 Congressman Traficant is here, but by
4 telephone. And because he's on a telephone, it's sort of
5 like a conference call. We have to make sure he can hear
6 from time to time.

7 We've had an opportunity for both sides to
8 respond to your question. I'm now going to read the
9 question into the record. And what I've sent my clerk back
10 to get is something which is basically a simplification of
11 the elements of bribery.

12 The question was a very good one that you
13 asked. I'm going to read it so that the record shows your
14 question. "In deciding RICO Count 10, act one, relating to
15 Bucci, for example, what is meant, page 37, part 3,
16 paragraph A," and there you're referring to the superseding
17 indictment in the case. "Do we need to agree on all overt
18 acts or just one as in the original Count 1?"

19 And that was a good question, and in order
20 to -- although bribery is described in your instructions
21 back on C 14, it seems to me that it would assist you in
22 having the elements broken down, and so we're going to
23 prepare for you something that takes those elements and
24 spells them out.

25 We do distinguish in your instructions

1 between illegal gratuity and bribery, but because your
2 question relates to this aspect of it, racketeering act one
3 alleges a substantive bribery charge. In order to find
4 that racketeering act one was committed, you need not find
5 that the defendant committed any of the overt acts alleged
6 in Count 1.

7 You must find that each and every element of
8 the crime of bribery has been proven beyond a reasonable
9 doubt by the government. And those are suggested right
10 there in your instructions, but I'm going to give them to
11 you, and then what I'll provide to you with your question
12 coming back to you is what they are. I think I can do it
13 orally here, but we'll do it for you in writing so that you
14 have a sheet to add to your instructions.

15 The three essential elements that have to be
16 proven by the government beyond a reasonable doubt are,
17 one: That the defendant demanded, sought, or received
18 something of value as described in the indictment.

19 Two: The defendant was at that time a public
20 official of the United States or was acting on behalf of
21 the United States.

22 And three: The defendant demanded, sought,
23 or received the item of value corruptly in return for being
24 influenced in the performance of any official act."

25 And you will find those are familiar words to

1 you because they're in your instructions, but your question
2 properly prompts a special response, and so we'll make it
3 to you in writing, and it will be brought back to you right
4 away. But I don't need to keep you out here while we do
5 that.

6 So thank you very much for your continuing
7 attention, and we will ask you to go back and continue your
8 deliberations, and this will follow quickly.

9 THE CLERK: All rise for the jury.

10 (The jury exited the courtroom.)

11 THE CLERK: This Honorable Court is now
12 adjourned.

13 THE COURT: Thank you very much. Thank you,
14 Congressman.

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1 AFTERNOON SESSION, THURSDAY, APRIL 11, 2002 4:25 P.M.

2 THE COURT: Bring in the jury.

3 THE CLERK: All rise for the jury.

4 (The jury entered the courtroom.)

5 THE COURT: Let the record show that all
6 parties are present in court, pro se Defendant Congressman
7 James A. Traficant, Jr., and the United States as
8 represented by counsel.

9 Members of the Jury, have you reached
10 verdicts?

11 JURY FOREPERSON: We have reached a verdict.

12 THE COURT: Thank you. Will you please hand
13 your verdicts up to my clerk?

14 THE COURT: Congressman Traficant, please
15 rise.

16 Members of the Jury, I'm going to read each
17 of these verdict forms, and I want you to listen carefully
18 as I read what's reported on these forms.

19 As to Count 1 of the indictment, that is
20 conspiracy to violate the federal bribery statute, we the
21 jury find that Defendant James A. Traficant, Jr. is guilty.
22 This verdict form is signed by all 12 jurors.

23 So say you Members of the Jury?

24 JURY FOREPERSON: Yes.

25 THE COURT: Do you want the jury to be

1 polled?

2 MR. TRAFICANT: (The Defendant shook his head
3 in the negative.)

4 THE COURT: Is this your verdict, Ladies and
5 Gentlemen?

6 JURORS: Yes.

7 THE COURT: Thank you. As to Count 2 of the
8 indictment, that is, conspiracy to violate the illegal
9 gratuity provision of the federal bribery statute, we the
10 jury find that James A. Traficant, Jr., is guilty. And
11 this is signed by all Members of the Jury.

12 Ladies and Gentlemen, is that your verdict?

13 JURORS: Yes.

14 THE COURT: Do you want them to be polled?

15 MR. TRAFICANT: (The Defendant shook his head
16 in the negative.)

17 THE COURT: As to Count 3 of the indictment,
18 that is, conspiracy to violate the illegal gratuity
19 provision of the Federal Bribery Statute, we the jury find
20 that James A. Traficant, Jr., is guilty. This is signed by
21 all 12 Members of the Jury.

22 Ladies and Gentlemen, is that your verdict?

23 JURORS: Yes.

24 THE COURT: Would you like them to be polled?

25 MR. TRAFICANT: No.

1 THE COURT: As to Count 4 of the indictment,
2 that is, conspiracy to violate the illegal gratuity
3 provision of the Federal Bribery Statute, we the jury find
4 that James A. Traficant, Jr., is guilty, signed by all
5 Members of the Jury.

6 Is that your verdict, Ladies and Gentlemen?

7 JURORS: Yes.

8 THE COURT: Would you like them to be polled?

9 MR. TRAFICANT: No.

10 THE COURT: As to Count 5 of the indictment,
11 that is, receiving an illegal gratuity, we the jury find
12 that James A. Traficant, Jr. is guilty, signed by all
13 Members of the Jury.

14 Is that your verdict, Ladies and Gentlemen?

15 JURORS: Yes.

16 MR. TRAFICANT: (The Defendant shook his head
17 in the negative.)

18 THE COURT: "No" to polling.

19 As to Count 6 of the indictment, that is,
20 obstruction of justice, we the jury find that James A.
21 Traficant, Jr., is guilty. That's signed by 12 Members of
22 the Jury.

23 Is that your verdict, Ladies and Gentlemen?

24 JURORS: Yes.

25 MR. TRAFICANT: (The Defendant shook his head

1 in the negative.)

2 THE COURT: No polling.

3 As to Count 7 of the indictment, that is,
4 conspiracy to defraud the United States, we the jury find
5 that James A. Traficant, Jr., is guilty. And this is
6 signed by 12 Members of the Jury.

7 Ladies and Gentlemen, is that your verdict?

8 JURORS: Yes.

9 THE COURT: Poll?

10 MR. TRAFICANT: (The Defendant shook his head
11 in the negative.)

12 THE COURT: Okay.

13 As to Count 8 of the indictment, that is,
14 willfully filing a false tax return for the tax year 1998,
15 we the Jury find that James A. Traficant, Jr., is guilty.

16 This is signed by all Members of the Jury.
17 Is that your verdict, Ladies and Gentlemen?

18 JURORS: Yes.

19 THE COURT: Would you like them polled?

20 MR. TRAFICANT: (The Defendant shook his head
21 in the negative.)

22 THE COURT: As to Count 9 of the indictment,
23 that is, willfully filing a false tax return for tax year
24 1999, we the Jury find that James A. Traficant, Jr. is
25 guilty, signed by all Members of the Jury.

1 Is that your verdict, Ladies and Gentlemen?

2 JURORS: Yes.

3 THE COURT: Would you like them to be polled?

4 MR. TRAFICANT: (The Defendant shook his head
5 in the negative.)

6 THE COURT: As to Count 10 of the indictment,
7 that is, participation in the affairs of an enterprise
8 through a pattern of racketeering activity, we the Jury
9 find that James A. Traficant, Jr., is guilty, signed by all
10 Members of the Jury.

11 Is that your verdict, Ladies and Gentlemen?

12 JURORS: Yes.

13 THE COURT: And there is on this a special
14 RICO verdict form, which I will read. As to alleged
15 racketeering act, I'll read the ones that were checked as
16 committed by the jury:

17 One: Bribery relating to Bucci.

18 Two: Illegal gratuity relating to Bucheit.

19 Four: Illegal gratuity relating to Cafaro.

20 Five: Illegal gratuity relating to Sugar,
21 1999.

22 Seven: Illegal gratuity relating to
23 Sinclair.

24 Nine: Mail fraud relating to Buccella.

25 Ten: Mail fraud relating to Traficanti.

1 Eleven: Mail fraud relating to Rovnak.

2 Ladies and Gentlemen, is that your verdict on
3 Count 10?

4 JURORS: Yes.

5 THE COURT: Both sections?

6 JURORS: Yes.

7 THE COURT: Do you wish them to be polled?

8 MR. TRAFICANT: No.

9 THE COURT: Thank you.

10 Ladies and Gentlemen, because of your finding
11 on Count 10, you have a little bit more work to do, one
12 more task to perform in this court.

13 What I'm going to do now is give you a brief
14 recess, and then we will bring you back out and give you
15 instructions on the next phase of a RICO charge which has
16 to do with forfeiture.

17 So we'll let you go back now, and then we'll
18 re-bring you out shortly, very shortly. Okay? Thank you
19 very much.

20 THE CLERK: All rise for the jury.

21 (The jury exited the courtroom.)

22 THE COURT: I'm going to ask that the
23 alternates, as well, be escorted out. We'll bring you back
24 in for the instructions.

25 (The alternative jurors exited the

1 courtroom.)

2 THE COURT: Okay. Everyone can be seated.
3 And Congressman, if you would stand, I'll take these one by
4 one.

5 Based upon the verdicts in this case, the
6 verdict of the jury finding you guilty, first of the
7 offense of conspiracy to violate the Federal Bribery
8 Statute, the Court adjudges you guilty of that offense.
9 That's Count 1.

10 As to Count 2, conspiracy to violate the
11 illegal gratuity provision of the Federal Bribery Statute,
12 the Court will find you guilty of that as it is related in
13 Count 2 of the indictment, as in Count 3 of the indictment,
14 and as in Count 4 of the indictment.

15 As to Count 5 of the indictment, based on the
16 verdict of this jury, the Court will find you or adjudge
17 you guilty of receiving an illegal gratuity.

18 On the same basis, on the basis of reading
19 the verdict form from the jury, Count 6, obstruction of
20 justice, the Court adjudges you guilty of obstruction of
21 justice, and guilty, as the jury found in Count 7, of
22 conspiracy to defraud the United States.

23 The Court adjudges you guilty of willfully
24 filing a false tax return for the tax year 1998, based on
25 the verdict of the jury, and for 1999, based on Count 9 of

1 the indictment and the verdict of the jury.

2 And as to Count 10, participation in the
3 affairs of an enterprise through a pattern of racketeering
4 activity, based upon the verdict of the jury, the Court
5 will adjudge you guilty of those.

6 We'll continue you on bond until there's a
7 presentence investigation and report, and your sentencing
8 will be on Thursday, June 27th, 2002. And at that time
9 you'll be given all of your appeal rights. You also will
10 be able to allocute or talk to the Court.

11 There will be a presentence investigation
12 report that will be provided to you when it's ready, and
13 you have an opportunity to make objections to it or not, as
14 you choose. Sometimes those are resolved before
15 sentencing. If they aren't, then they can be resolved at
16 the sentencing hearing.

17 Now what we're going into is a series of
18 instructions and some discussion of RICO forfeiture, so you
19 can be seated, sir, and we will move to that stage of this.

20 I want to bring both the jury back out and
21 the alternates back out. So we'll get them from their
22 separate places, and I'll allow you to make whatever
23 comments you want to make before having instructions for
24 the jury and what their responsibilities are regarding
25 forfeiture. Okay?

1 You can bring the jury out.

2 (The jury entered the courtroom.)

3 THE COURT: We can all be seated. We're
4 waiting for the alternates.

5 (The alternate jurors entered the courtroom.)

6 THE COURT: You will find on your seats a
7 copy of -- it's a very short copy of an instruction. These
8 are supplemental instructions on RICO forfeiture. And
9 because of the verdict on Count 10, this becomes something
10 additional that you need to turn your attention to. We'll
11 let the government and the defendant make whatever remarks,
12 if any, they want to make, and then I'll give you the
13 instructions just as we did before, which is to say, I'm
14 going to sit here and read them all to you word by word,
15 and then we'll send you back.

16 Thank you. Mr. Morford?

17 MR. KALL: Thank you, Your Honor.

18 THE COURT: Mr. Kall. Congressman, you can be
19 seated. Thank you.

20 MR. KALL: Ladies and Gentlemen, as the Judge
21 will instruct you, the final issue for your consideration
22 is the issue of forfeiture. As part of the indictment,
23 Congressman Traficant is accused of having received
24 proceeds or property as a result of his racketeering
25 activity. By your verdict, you have found him guilty on

1 Count 10, the RICO count, and have found that he conducted
2 the affairs of the charged enterprise, his congressional
3 office, through a pattern of racketeering activity. And
4 you returned special verdicts finding him guilty as to
5 racketeering acts as to Bucci, Bucheit, Cafaro, David Sugar
6 for 1999; Allen Sinclair, kickbacks; George Buccella,
7 Anthony Traficanti, and Richard Rovnak, acts of mail fraud.

8 It is your final responsibility to determine
9 the value, if any, of the property and proceeds that
10 Congressman Traficant received as a result of this
11 racketeering activity.

12 In making this determination, the government
13 is relying on the same evidence that you heard over the
14 course of the nine-week trial and that we presented to you,
15 and the same evidence that you used to find the Congressman
16 guilty of the RICO count.

17 In determining whether he received property
18 or proceeds as a result of the racketeering activity, we
19 would like to ask you to please recall the following
20 evidence that you heard.

21 As to racketeering act one, the Bucci count,
22 you will recall by seeing Exhibit 2-6 in Mr. Bucci's
23 testimony that the Buccis forgave a bill for some \$12,985,
24 and that would be proceeds that he received.

25 You will also recall Mr. Bucci and a number

1 of the Bucci farm workers testifying about substantial work
2 and improvements being done at the Congressman's farm after
3 that, including bringing up to 30 truckloads of sawdust,
4 work doing regrading, slagging in the driveway, and roads
5 in back of the farmhouse, hauling away stumps and garbage,
6 giving a two or \$3,000 lawnmower to the Congressman,
7 loaning him a truck, sending farm worker Joe Alteiro out
8 there for several months.

9 And value of that, we would submit, would be
10 at least \$10,000, putting the value for racketeering act
11 one of the property and proceeds received being at least
12 \$22,985.

13 As to racketeering act two, the work done by
14 the carpenters hired by Pete Bucheit, you've seen the
15 checks and you heard the testimony of Dave Manevich. And
16 totaling up the value of those checks as to Mr. Manevich
17 for the work that was done out at the Congressman's farm
18 comes to a total of \$26,994, and those checks were in
19 Exhibit 7-37.

20 You will also recall hearing the testimony of
21 Tom Passewitz, the electrician that was hired by Aey
22 Electric to do work at Congressman Traficant's farm. Aey
23 Electric was paid by the Bucheits for that work, and you
24 will also recall the testimony of Leisel Bucheit that they
25 were never paid by the Congressman for that work.

1 Taking those two items together, the value of
2 the property or proceeds received as to racketeering act
3 two would be at least \$30,000.

4 As to racketeering act four, dealing with
5 J.J. Cafaro and the U.S. Aerospace Group, you heard
6 testimony that the value of the boat repairs was at least
7 \$26,000, that Mr. Cafaro gave at least -- gave the sum of
8 \$13,000 cash to Congressman Traficant, putting down at
9 least \$39,000.

10 If you also include the welder and the
11 generator at Exhibits 8-43 and 8-46, the welder was \$2,250,
12 the generator was \$2,714, that puts the value of the
13 property and proceeds for racketeering act four to be at
14 least \$44,000.

15 As to racketeering act five for Dave Sugar,
16 he testified that the value of the work done at the farm
17 was between 10 to \$12,000. Taking the conservative number
18 there, we would ask that you find property or proceeds as
19 to \$10,000 for that racketeering act.

20 Finally, as to the Allen Sinclair kickbacks,
21 he testified he gave \$2,500 a month to the Congressman for
22 a period of 13 months, coming to a total of \$32,500.

23 Given the difficulty of putting a value on
24 the work done by Traficanti, Rovnak and Buccella, we're not
25 going to ask you to return any verdict of forfeiture as to

1 those racketeering acts.

2 But as you total up what I've just described,
3 the work done by Bucci, Bucheit, Cafaro, Sugar in 1999, and
4 the kickbacks given by Allen Sinclair, the government would
5 ask you to return a verdict of forfeiture in the amount of
6 at least \$139,000.

7 Thank you.

8 THE COURT: Thank you. Congressman?

9 MR. TRAFICANT: I accept your verdict, but if
10 you recall, the testimony of Susan Bucci said that the
11 Bucci family owed me money.

12 Number two, on Pete Bucheit, the last
13 statement of his daughter was, she never knew if the amount
14 was paid or not, only her father knew, and they did not
15 call her father.

16 Quite frankly, the Judge after my closing
17 arguments allowed the prosecution to open up DiBlasio and
18 Bucheit, which I objected to, and she overruled. And quite
19 frankly, it was a very unfair process.

20 Pete Bucheit, until today, no one knows
21 whether he was paid or not. So if you listened carefully
22 to the testimony, she said she did not know if that account
23 was paid. Pete Bucheit was their witness; he wasn't called
24 to court.

25 The third one is Cafaro. You had three

1 witnesses on the welder, the generator. You had
2 photographs. You had two witnesses that claimed that
3 Mr. Cafaro did not leave the building with me. He didn't
4 give me the \$13,000.

5 He said he lied in the previous trial under
6 oath, but it wasn't perjury; but I guess you accepted
7 Cafaro's statements.

8 Second of all, you now see this table
9 surrounded by the investigators of the United States
10 Government. Not one of them offered testimony against me,
11 because they were scared to death of my cross-examination.

12 Fourth of all, Sugar, he declared \$70,500 on
13 his income tax, and they assessed his total work at
14 somewhere between 10,000. They're asking for \$10,000,
15 where he claimed \$7,500 in income tax.

16 Sinclair said he bought a house for \$275,000.
17 I don't know if you looked at the evidence, but he had a
18 mortgage for \$276,000. When do you buy a home without
19 putting down a down payment?

20 In addition, my employee bought a brand new
21 Buick van, leased a new car, spent \$50,000 on advertising.
22 Thirty-two, five.

23 What the government has asked for the
24 government has gotten. And you are the jury, and you made
25 that decision, but I will say this to you: That whatever

1 you do and whatever action you take, you go ahead and take
2 it, because I will accept it.

3 But I will say one thing about trial and what
4 you've done: You've allowed a trial of the most severe
5 criminal nature to be resolved by circumstantial evidence.
6 And I understand it, I understand the government, I
7 understand the country very well. And whatever you decide,
8 I'll live by it and take whatever legal grounds I can take.

9 Thank you for your time.

10 THE COURT: Ladies and Gentlemen, I'll read,
11 and you can read along, or you can simply listen if you'd
12 like. You'll have those instructions with you.

13 Members of the Jury: As you know, Count 10
14 of the indictment charged Defendant Traficant with having
15 violated Title 18, United States Code, Section 1962, by
16 participating through a pattern of racketeering activity in
17 the affairs of an enterprise, the activities of which
18 affected interstate commerce.

19 Since you have determined by your verdict
20 that Defendant Traficant did violate this section as
21 charged in Count 10, you must now decide whether Defendant
22 Traficant must forfeit certain properties as alleged in
23 Count 10 as being subject to forfeiture under Section
24 1963(a)(1) and (3) of Title 18 of the United States Code.

25 That part of the law provides that anyone who

1 violates this section may be required as part of the
2 penalty to forfeit to the United States any interest
3 acquired or maintained in violation of the section, or any
4 property constituting or derived from any proceeds which
5 the person obtained directly or indirectly from
6 racketeering activity in violation of Section 1962.

7 The term "forfeiture" means to be divested or
8 deprived of the ownership of something as a penalty for the
9 commission of a crime. A part of the indictment describes
10 in particular the interest and proceeds allegedly subject
11 to forfeiture to the United States, and you'll have a copy
12 of that portion of the indictment with you in the jury room
13 for your study during your supplemental deliberations.

14 With regard to forfeiture, you're instructed
15 that to be entitled to such forfeiture, the government must
16 have proved each of the following elements beyond a
17 reasonable doubt:

18 First: That the property or proceeds sought
19 to be forfeited constituted an interest acquired by
20 Defendant Traficant.

21 Second: That such interest was acquired by
22 Defendant Traficant as a result of the conduct of the
23 enterprise's affairs through the pattern of racketeering
24 activity, or constituted or was derived from proceeds which
25 the defendant obtained directly or indirectly from

1 racketeering activity committed by Defendant Traficant as
2 charged in Count 10, in violation of Title 18, United
3 States Code, Section 1962(c).

4 In your consideration of the forfeiture
5 claims, you're instructed that your previous determination
6 that Defendant Traficant was guilty of having committed the
7 offense alleged in Count 10 is final and conclusive, and
8 you must not seek to discuss or determine anew his guilt or
9 innocence.

10 You are further instructed that all of the
11 instructions previously given to you concerning your
12 consideration of the evidence, the credibility or
13 believability of the witnesses, the government's burden of
14 proof beyond a reasonable doubt, your duty to deliberate
15 together, and the necessity of a unanimous verdict, will
16 all continue to apply during your supplemental
17 deliberations concerning the forfeiture claim.

18 The specific instructions I gave you earlier
19 concerning Count 10 and the definition of the terms
20 "enterprise" and "pattern of racketeering activity" also
21 continue to apply.

22 With respect to these claims of forfeiture,
23 you'll be provided a special verdict form for your
24 convenience and use.

25 Here it is. It has the familiar format. Up

1 at the top is the name of the case and the caption, and so
2 forth. And down below that -- oh, and there's a title,
3 "Special verdict for Count 10, RICO forfeiture, 18 U.S.C.
4 1963." And then it reads, "As to Count 10 of the
5 indictment, do you unanimously find that James A.
6 Traficant, Jr. has property or proceeds subject to
7 forfeiture?"

8 There's a "yes" and a "no." And then in
9 italics, as you're familiar with, there is some
10 instructions at the bottom of this page. It says, "If your
11 answer to the above question was no, stop here, and do not
12 complete the next question."

13 It also says, "If your answer to the above
14 question was yes, then turn the page and complete the next
15 question."

16 And the next question is, "What is the value
17 of the property or proceeds that you unanimously find to be
18 subject to forfeiture?" And there's a blank space for you
19 to fill in the value.

20 Then all the signature lines follow, with one
21 for the foreperson, and the date.

22 So you're familiar with our form, and this is
23 the last form to be done. It's a special verdict form.

24 You'll take this verdict form to the jury
25 room, and when you've reached unanimous agreement as to the

1 claim of forfeiture, you complete the form and contact the
2 clerk.

3 Thank you.

4 THE CLERK: All rise for the jury.

5 (The jury retired to deliberate.)

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7 (6:30 p.m.)

8 THE COURT: The record should show that the
9 parties are present in court, the pro se defendant
10 Congressman James Traficant, and the United States
11 represented by counsel.

12 Members of the Jury, have you reached your
13 special verdict?

14 JURY FOREPERSON: We have, Your Honor.

15 THE COURT: Thank you. Could you hand it up,
16 please? Members of the Jury, listen to the verdict as
17 recorded carefully. Thank you. Congressman?

18 As to Count 10 of the indictment, do you
19 unanimously find that James A. Traficant, Jr. has property
20 or proceeds subject to forfeiture?

21 The answer is yes.

22 What is the value of the property or proceeds
23 that you unanimously find to be subject to forfeiture?

24 The sum recorded is \$96,000.

25 This verdict form is signed by all jurors.

1 Ladies and Gentlemen, is that your verdict?

2 JURORS: Yes.

3 THE COURT: Do you want them to be polled,
4 sir? Congressman?

5 MR. TRAFICANT: No, I don't want them to be
6 polled at all.

7 THE COURT: Thank you.

8 MR. TRAFICANT: But I do have a question.
9 Does this jury have any jurisdiction over fines, or is that
10 the jurisdiction of the Court?

11 THE COURT: No. That's something that will
12 be considered at the time of sentencing.

13 MR. TRAFICANT: Will that be subject to
14 forfeiture?

15 THE COURT: All of the things that will be
16 before the Court at sentencing will be presented to you in
17 the papers that come to you before sentencing.

18 MR. TRAFICANT: Now I want to make a
19 statement to the Court.

20 THE COURT: Okay. Well, what I want to do
21 before you do that is proceed with the regular proceedings
22 with the jurors and the alternates, then you can make a
23 statement to the Court.

24 MR. TRAFICANT: You've had 11 of my witnesses
25 that weren't allowed to address this jury, and denying my

1 tapes that they weren't allow to hear.

2 Are you going to release them before I can
3 speak again? Is that your statement?

4 THE COURT: Well, the jury has returned their
5 verdict in your case, sir.

6 MR. TRAFICANT: They have after not
7 hearing --

8 THE COURT: And they're entitled to be
9 released, and I am going to release them, and also the
10 alternates.

11 MR. TRAFICANT: I want to speak to the jury
12 before they're released, because I believe they set a
13 precedent in the United States --

14 THE COURT: Well, you can take that up as you
15 go forward with whatever you want to go forward with, but
16 they returned their verdict. We accepted their verdict,
17 you were adjudged guilty under that verdict, and now we've
18 had the forfeiture returned.

19 MR. TRAFICANT: Well, then I do have a
20 question of the jury.

21 THE COURT: Well, you don't put questions to
22 this jury.

23 MR. TRAFICANT: You said do I want to poll
24 the jury.

25 THE COURT: I did, and you said you didn't.

1 MR. TRAFICANT: The government said they
2 wanted \$139,000 in forfeitures, and they come back with
3 \$96,000. I want to know which of the \$33,000 was not, in
4 fact, found by the jury.

5 THE COURT: Congressman, I'm about to
6 discharge these men and women from their duty.

7 MR. TRAFICANT: Do what you're going to do.

8 THE COURT: They're not responsible to answer
9 your questions at this point in the proceedings.

10 MR. TRAFICANT: Do what you're going to do.

11 THE COURT: Thank you. Members of the Jury,
12 and also your colleagues, the alternates, who are here with
13 us today, on behalf of the public and the parties in the
14 case, and myself, accept our deep appreciation for your
15 thoughtfulness, for your perseverance, for your careful
16 attention, and for your service.

17 When we started this out all together, I
18 think when you were prospective jurors, I talked about our
19 recognition, those of us who serve here in the courts, of
20 the necessary but great inconvenience that is occasioned by
21 jury service. These are not only necessary, but as you've
22 learned better than many people who have an opportunity to
23 do difficult public duties that we perform, we have these
24 responsibilities as Americans. You help guarantee the rule
25 of law. You help guarantee social order and precious

1 rights under the Constitution.

2 This right to a trial by jury is rare across
3 human experience. It is fundamental really to our
4 200-year-old system of government under law and justice.

5 And the other thing we talked about when we
6 began was we enjoy all these rights and liberties. We
7 enjoy the social order which government under law permits
8 us to have in this country, and we enjoy these blessings of
9 liberty and justice that our 200-year-old, more than
10 200-year-old Constitution protects, but these were hard-won
11 rights and liberties. And the promises are one thing,
12 these 200-year-old promises, that's one thing, and they're
13 high minded, but the actual men and women who day in and
14 day out make justice real under these promises, that's
15 another story, and you've lived it.

16 So your verdicts have come in, your service
17 has ended. You're now released from those odd rules that
18 you've had to live under week after week. You now can
19 speak if you wish to speak about this case. On the other
20 hand, you need never speak about it if that's your choice.
21 You've met the high calling, and now you're going to be
22 free of these strange rules that govern you.

23 Just remember to speak, if you speak, for
24 yourselves and not for your colleagues, and know that you
25 go away from here having functioned as part of the Court

1 where the duty and the hours were long, but you performed
2 exceedingly well. And it was a pleasure and a great
3 privilege for me to serve with you on the court.

4 Please go back now to the jury room, all of
5 you together, including the alternates, and relax a little
6 so we can move everybody out of the Court area here in a
7 reasonable way, and then we will dismiss you from the
8 court, but you're discharged from your duties as of now.

9 Thank you very much.

10 THE CLERK: All rise for the jury.

11 (Proceedings concluded.)

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C E R T I F I C A T E

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19 I certify that the foregoing is a correct transcript
20 from the record of proceedings in the above-entitled
21 matter.

22

23

Heidi Blueskye Geizer, RMR, CRR Date

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