

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CRIMINAL TERM - PART: 59

- - - - - X

THE PEOPLE OF THE STATE OF NEW YORK,

Indict. No.
71543-2023

-against-

CHARGE

DONALD J. TRUMP,

FALSIFYING BUSINESS
RECORDS 1ST DEGREE

DEFENDANT.

JURY TRIAL

- - - - - X

100 Centre Street
New York, New York 10013
May 29, 2024

B E F O R E:

HONORABLE JUAN M. MERCHAN
JUSTICE OF THE SUPREME COURT

A P P E A R A N C E S:

FOR THE PEOPLE:

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Jury Charge

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1 SERGEANT: All rise.

2 Part 59 is now in session. The Honorable Juan
3 Merchan presiding.

4 THE CLERK: This is The People of the State of
5 New York against Donald J. Trump. Indictment 71543 of
6 2023.

7 Appearances starting with the People, please.

8 MR. STEINGLASS: For the People, ADAs Joshua
9 Steinglass, Matthew Coangelo, Susan Hoffinger, Becky
10 Mangold, Christopher Conroy and Katherine Ellis.

11 Good morning.

12 THE COURT: Good morning.

13 MR. BLANCHE: Todd Blanche, and I am joined by
14 Emil Bove, Susan Necheles and Kendra Wharton on behalf of
15 President Trump to my left.

16 Good morning.

17 THE COURT: Good morning.

18 Good morning, Mr. Trump.

19 I believe that you were both presented with the
20 proposed verdict sheet and I see that, Mr. Steinglass, you
21 initialed it on behalf of the People.

22 Mr. Bove, you initialed it on behalf of the
23 Defense. Is that right?

24 MR. BLANCHE: Yes.

25 MR. STEINGLASS: Yes.

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1 THE COURT: Anything that we need to go over
2 before we bring at jury out?

3 MR. STEINGLASS: Very briefly.

4 As we were comparing a verdict sheet to the
5 charge, we noticed a minor omission.

6 On Page 40, for the 34th Count to be consistent
7 with the other counts, we believe it should say after the
8 date, bearing check number 003006.

9 THE COURT: That was for the 34th Count, right?

10 MR. STEINGLASS: Yes, Judge.

11 Thank you.

12 THE COURT: Anything else?

13 All right.

14 Let's get the jury, please.

15 SERGEANT: All rise.

16 Jury entering.

17 (Whereupon, the jurors entered the courtroom
18 and were properly seated.)

19 THE COURT: You may be seated.

20 THE CLERK: Do all parties stipulate that all
21 jurors are present and properly seated?

22 MR. STEINGLASS: Yes.

23 MR. BLANCHE: Yes.

24 THE CLERK: Thank you.

25 THE COURT: Good morning, Jurors.

Jury Charge

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1 Members of the Jury, I will now instruct you on
2 the law. I will first review the general principles of law
3 that apply to this case and all criminal cases.

4 You have heard me explain some of those
5 principles at the beginning of the trial. I am sure you
6 can appreciate the benefits of repeating those instructions
7 at this stage of the proceedings.

8 Next, I will define the crimes charged in this
9 case, explain the law that applies to those definitions and
10 spell out the elements of the charged crimes.

11 Finally, I will outline the process of jury
12 deliberations.

13 These instructions will take about an hour, and
14 you will not receive copies of them. You may however,
15 request that I read them back to you in whole or in part as
16 many times as you wish, and I will be happy to do so.

17 During these instructions, I will not summarize
18 the evidence. If it is necessary, I may refer to portions
19 of the evidence to explain the law that relates to it. My
20 reference to evidence, or my decision not to refer to
21 evidence, expresses no opinion about the truthfulness,
22 accuracy or importance of any particular evidence.

23 In fact, nothing I have said in the course of
24 this trial was meant to suggest that I have an opinion
25 about this case. If you have formed an impression that I

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1 do have an opinion, you must put it out of your mind and
2 disregard it.

3 The level of my voice or intonation may vary
4 during these instructions. If I do that, it is done to
5 help you to understand. It is not done to communicate any
6 opinion about the law or the facts of the case or of
7 whether the Defendant is guilty or not guilty.

8 It is not my responsibility to judge the evidence
9 here. It is yours. You are the judges of the facts, and
10 you are responsible for deciding whether the Defendant is
11 guilty or not guilty.

12 Remember, you have promised to be a fair juror.
13 A fair juror is a person who will simply keep their promise
14 to be fair and impartial and who will not permit the
15 verdict to be influenced by bias or prejudice in favor of
16 or against the person who appeared in this trial on account
17 of that person's race, color, national origin, ancestry,
18 gender, gender identity or expression, religion, religious
19 practice, age, disability or sexual orientation.

20 And further, a fair juror must be mindful of any
21 stereotypes, attitudes about people or about groups of
22 people that the juror may have and must not allow those
23 stereotypes or attitudes to affect their verdict.

24 As I have explained, we all develop and hold
25 unconscious views on many subjects. Some of those

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1 unconscious views may come from stereotypes and attitudes
2 about people or groups of people that may impact on a
3 person's thinking and decision-making without that person
4 even knowing it.

5 As a juror, you are asked to make a very
6 important decision about another member of the community.

7 I know you would not want to make that decision
8 based on such stereotypes or attitudes, that is, on what we
9 call implicit biases and it would be wrong for you to do
10 so.

11 A fair juror must guard against the impact of
12 such stereotypes or attitudes. You can do this by asking
13 yourselves during your deliberations whether your views and
14 conclusions would be different if the Defendant, witnesses
15 or others that you have heard about or seen in court were
16 of a different race, color, national origin, ancestry,
17 gender, gender identity or expression, religious practice,
18 age or sexual orientation, or if they did not have a
19 disability.

20 If the answer is yes, then, in keeping with your
21 promise to be fair, reconsider your views and conclusions
22 along with the other jurors, and make sure your verdict is
23 based on evidence and not on stereotypes or attitudes.
24 Justice requires no less.

25 Jurors, you will recall that during jury

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1 selection you agreed that you would set aside any personal
2 opinions or bias you might have in favor of or against the
3 Defendant, and that you would decide this case fairly on
4 the evidence and on the law.

5 Again, I direct you to decide this case on the
6 evidence and the law as it relates to the Defendant here on
7 trial.

8 You must set aside any personal opinions or bias
9 you might have in favor of or against the Defendant, and
10 you must not allow any such opinions to influence your
11 verdict.

12 Remember, also, in your deliberations, you may
13 not consider or speculate about matters relating to
14 sentence or punishment. If there is a verdict of guilty,
15 it will be my responsibility to impose an appropriate
16 sentence.

17 When you judge the facts, you are to consider
18 only the evidence.

19 The evidence in this case includes:

20 The testimony of the witnesses, the exhibits that
21 were received in evidence, and the stipulations agreed to
22 by the parties.

23 Remember, a stipulation is information the
24 parties have agreed to present to the jury as evidence,
25 without calling a witness to testify.

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1 Testimony which was stricken from the record or
2 to which an objection was sustained must be disregarded by
3 you.

4 Exhibits that were received in evidence, are
5 available, upon your request, for your inspection and
6 consideration.

7 Exhibits that were just seen during the trial, or
8 marked for identification but not received in evidence, are
9 not evidence, and are thus not available for your
10 inspection and consideration.

11 Testimony based upon those exhibits that were not
12 received in evidence may be considered by you. It is just
13 the exhibit itself is not available for your inspection and
14 that may not be considered.

15 In evaluating the evidence, you may consider any
16 fact that is proven and any inference which may be drawn
17 from such fact.

18 To draw an inference means to infer, find,
19 conclude that a fact exists or does not exist based upon
20 proof of some other fact or facts.

21 So, for example, suppose you go to bed one night
22 and it is not raining, and when you wake up in the morning,
23 you look out your window. You do not see rain, but you see
24 that the street and sidewalk are wet, and that people are
25 wearing raincoats and carrying umbrellas. Under those

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1 circumstances, it may be reasonable to infer, and that is
2 conclude, that it rained during the night.

3 In other words, the fact of it having rained
4 while you were asleep is an inference that might be drawn
5 from the proven facts of the presence of the water on the
6 street and sidewalk, and people in raincoats and carrying
7 umbrellas.

8 An inference must only by drawn from a proven
9 fact or facts, and then, only if the inference flows
10 naturally, reasonably and logically from the proven fact or
11 facts, not if it is speculative.

12 Therefore, in deciding whether to draw than
13 inference, you must look at and consider all the facts in
14 light of reason, common sense, and experience.

15 As you know, certain exhibits were admitted into
16 evidence with some portions blacked out or redacted. Those
17 redactions were made to remove personal identifying
18 information and to ensure that only relevant admissible
19 evidence was put before you.

20 You may not speculate as to what material was
21 redacted or why, and you may not draw any inference,
22 favorable or unfavorable against either party, from the
23 fact that certain material has been redacted.

24 You may recall that I instructed you several
25 times during the trial that certain exhibits were being

1 accepted into evidence for a limited purpose only, and that
2 you were not to consider that evidence for any other
3 purpose.

4 Under the law we refer to that as a limiting
5 instruction. I will now remind you of some of the limiting
6 instructions you were given during that trial.

7 You will recall that you heard testimony that
8 while David Pecker was an executive at AMI, AMI entered
9 into a Non-Prosecution Agreement with Federal prosecutors,
10 as well as the Conciliation Agreement with the Federal
11 Election Commission, the FEC. I remind you that evidence
12 was permitted to assist you, the jury, in assessing David
13 Pecker's credibility and to help provide context for some
14 of the surrounding events. You may consider that testimony
15 for those purposes only.

16 Neither the Non-Prosecution Agreement, nor the
17 Conciliation Agreement is evidence of the Defendant's
18 guilt, and you may not consider them in determining whether
19 the Defendant is guilty or not guilty of the charged
20 crimes.

21 You also heard testimony that the Federal
22 Election Commission conducted an investigation into the
23 payment to Stormy Daniels and of responses submitted by
24 Michael Cohen and his attorneys to the investigation. That
25 evidence was permitted to assist you, the jury, in

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1 assessing Michael Cohen's credibility and to help provide
2 context for some of the surrounding events. You may
3 consider that evidence for those purposes only.

4 Likewise, you will recall that you heard
5 testimony that Michael Cohen pled guilty to violating the
6 Federal Election Campaign Act, otherwise known as FECA. I
7 remind you that evidence was permitted to assist you, the
8 jury, in assessing Mr. Cohen's credibility as a witness and
9 to help provide context for some of the events that
10 followed. You may consider that testimony for those
11 purposes, only.

12 Neither the fact of the FEC investigation, Mr.
13 Cohen and his attorney's responses or the fact that Mr.
14 Cohen pleaded guilty, constitutes evidence of the
15 Defendant's guilt and you may not consider them in
16 determining whether the Defendant is guilty or not guilty
17 of the charged crimes.

18 You will recall that certain Wall Street Journal
19 news articles were accepted into evidence during the trial.
20 I remind you now that the articles were accepted and may be
21 considered by you for the limited purpose of demonstrating
22 that the articles were published on or about a certain date
23 and to provide context for the other evidence.

24 The exhibits may not be considered by you as
25 evidence that any of the assertions contained in the

1 articles is actually true.

2 There were other exhibits which contained hearsay
3 and were not accepted for the truth of the matter asserted
4 but for another purpose.

5 For example, there were several National Enquirer
6 headlines and an invoice from Investor Advisory Services
7 which is People's 161 in evidence. Those were accepted for
8 the limited purpose of demonstrating that the articles were
9 published and the document created.

10 There were also some text messages that were
11 accepted with a similar limitation.

12 For example, People's Exhibit 171-A with respect
13 to Gina Rodriguez's texts only and 257 with respect to
14 Chris Cuomo's texts only.

15 Those text messages were accepted for the limited
16 purpose of providing context for the responses by Dylan
17 Howard and Michael Cohen.

18 The exhibits which were accepted into evidence
19 with a limiting instruction are 152, 153-A, 153-B, 153-C,
20 161, 171-A, 180, 181 and 257.

21 If you have any additional questions or need
22 clarification as to which exhibits were accepted into
23 evidence with limitations, just send me a note with your
24 question and I will be happy to clarify.

25 We now turn to the fundamental principles of our

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1 law that apply in all criminal trials: The presumption of
2 innocence, the burden of proof and the requirement of proof
3 beyond a reasonable doubt.

4 Throughout these proceedings, the Defendant is
5 presumed to be innocent. As a result, you must find the
6 Defendant not guilty, unless, on the evidence presented at
7 this trial, you conclude that the People have proven the
8 Defendant guilty beyond a reasonable doubt.

9 In determining whether the People have satisfied
10 their burden of proving the Defendant's guilt beyond a
11 reasonable doubt, you may consider all of the evidence
12 presented, whether by the People or by the Defendant.

13 In doing so, however, remember that, even though
14 the Defendant introduced evidence, the burden of proof
15 remains on the People.

16 The fact that the Defendant did not testify is
17 not a factor from which any inference unfavorable to the
18 Defendant may be drawn.

19 The Defendant is not required to prove that he is
20 not guilty. In fact, the Defendant is not required to
21 prove or disprove anything. To the contrary, the People
22 have the burden of proving the Defendant guilty beyond a
23 reasonable doubt. That means, before you can find the
24 Defendant guilty of a crime, the People must prove beyond a
25 reasonable doubt every element of the crime including that

1 the Defendant is the person who committed that crime.

2 The burden of proof never shifts from the People
3 to the Defendant.

4 If the People failed to satisfy their burden of
5 proof, you must find the Defendant not guilty, and if the
6 People satisfy their burden of proof you must find the
7 Defendant guilty.

8 What does our law mean when it requires proof of
9 guilt beyond a reasonable doubt?

10 The law uses the term of proof beyond a
11 reasonable doubt to tell you how convincing the evidence of
12 guilt must be to permit a verdict of guilty.

13 The law recognizes that in dealing with human
14 affairs, there are very few things in this world that we
15 know with absolute certainty. Therefore, the law does not
16 require the People to prove a defendant guilty beyond all
17 possible doubt.

18 On the other hand, it is not sufficient to prove
19 that the Defendant is probably guilty. In a criminal case,
20 the proof of guilt must be stronger than that. It must be
21 beyond a reasonable doubt.

22 A reasonable doubt is an honest doubt of the
23 Defendant's guilt for which a reason exists based upon the
24 nature and the quality of the evidence. It is an actual
25 doubt, not an imaginary doubt. It is a doubt that a

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1 reasonable person, acting in a matter of this importance
2 would be likely to entertain because of the evidence that
3 was presented or because of the lack of convincing
4 evidence.

5 Proof of guilt beyond a reasonable doubt is proof
6 that leaves you so firmly convinced of the Defendant's
7 guilt that you have no reasonable doubt of the existence of
8 any element of the crime or of the Defendant's identity as
9 the person who committed the crime.

10 In determining whether the People have proven the
11 Defendant's guilt beyond a reasonable doubt, you should be
12 guided solely by a full and fair evaluation of the
13 evidence.

14 After carefully evaluating the evidence, each of
15 you must decide whether that evidence convinces you beyond
16 a reasonable doubt of the Defendant's guilt.

17 Whatever your verdict may be, it must not rest
18 upon baseless speculation. Nor may it be influenced in any
19 way by bias, prejudice, sympathy, or by a desire to bring
20 an end to your deliberations or to avoid an unpleasant
21 duty.

22 If you are not convinced beyond a reasonable
23 doubt that the Defendant is guilty of a charged crime, you
24 must find the Defendant not guilty of that crime, and if
25 you are convinced beyond a reasonable doubt that the

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1 Defendant is guilty of a charged crime, you must find the
2 Defendant guilty of that crime.

3 As judges of the facts, you alone determine the
4 truthfulness and accuracy of the testimony of each witness.

5 You must decide whether a witness has told the
6 truth and was accurate, or instead, testified falsely or
7 was mistaken.

8 You must also decide what importance to give to
9 the testimony you accept as truthful and accurate. It is
10 the quality of the testimony that is controlling, not the
11 number of witnesses who testified.

12 If you find that any witness has intentionally
13 testified falsely as to any material fact, you may
14 disregard that witness's entire testimony. Or, you may
15 disregard so much of it as you find was untruthful, and
16 accept so much of it as you find to have been truthful and
17 accurate.

18 There is no particular formula for evaluating the
19 truthfulness and accuracy of another person's statements or
20 testimony. You bring to this process all of your varied
21 experiences. In life, you frequently decide the
22 truthfulness and accuracy of statements made to you by
23 other people. The same factors used to make those
24 decisions, should be used in this case when evaluating
25 testimony.

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1 Some of the factors that you may wish to consider
2 in evaluating testimony of a witness are as follows:

3 Did the witness have an opportunity to see or
4 hear the events about which he or she testified?

5 Did the witness have the ability to recall those
6 events accurately?

7 Was the testimony of the witness plausible and
8 likely to be true, or was it implausible and not likely to
9 be true?

10 Was the testimony of the witness consistent or
11 inconsistent with other testimony or evidence in the case?

12 Did the manner in which the witness testified
13 reflect upon the truthfulness of that witness's testimony?

14 To what extent, if any, did the witness's
15 background, training, education or experience affect the
16 believability of that witness's testimony.

17 Did the witness have a conscious bias, hostility
18 or some other attitude that affected the truthfulness of
19 the witness's testimony?

20 Did the witness show an, unconscious bias, that
21 is, a bias that the witness may have even unknowingly
22 acquired from stereotypes and attitudes about people or
23 groups of people, and if so, did that unconscious bias
24 impact that witness's ability to be truthful and accurate.

25 You may consider whether a witness had, or did

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1 not have, a motive to lie.

2 If I witness had a motive to lie, you may
3 consider whether and to what extent, if any, that motive
4 affected the truthfulness of that witness's testimony.

5 If a witness did not have a motive to lie, you
6 may consider that as well in evaluating the witness's
7 truthfulness.

8 You may consider whether a witness hopes for or
9 expects to receive a benefit for testifying. If so, you
10 may consider whether and to what extent it affected the
11 truthfulness of the witness's testimony.

12 You may consider whether a witness has any
13 interest in the outcome of the case, or instead, whether
14 the witness has no such interest.

15 You are not required to reject the testimony of
16 an interested witness, or to accept the testimony of a
17 witness who has no interest in the outcome of the case.

18 You may, however, consider whether an interest in
19 the outcome, or the lack of such interest, affected the
20 truthfulness of the witness's testimony.

21 You may consider whether a witness has been
22 convicted of a crime or has engaged in criminal conduct,
23 and if so, whether and to what extent it affects your
24 evaluation of the truthfulness of that witness's testimony.

25 You are not required to reject the testimony of a

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1 witness who has been convicted of a crime or who has
2 engaged in criminal conduct, or to accept the testimony of
3 a witness who has not.

4 You may, however, consider whether a witness's
5 criminal conviction or conduct has affected the
6 truthfulness of the witness's testimony.

7 You may consider whether a witness made
8 statements at this trial that are inconsistent with each
9 other.

10 You may also consider whether a witness made
11 previous statements that are inconsistent with his or her
12 testimony at trial.

13 You may consider whether a witness testified to a
14 fact here at trial that the witness omitted to state at a
15 prior time, when it would have been reasonable and logical
16 for the witness to have stated that fact. In determining
17 whether it would have been reasonable and logical for the
18 witness to have stated the omitted fact, you may consider
19 whether the witness's attention was called to the matter,
20 and whether the witness was specifically asked about it.

21 If a witness has made such inconsistent
22 statements or omissions, you may consider whether and to
23 what extent they affect the truthfulness or accuracy of
24 that witness's testimony here at this trial.

25 The contents of a prior inconsistent statement

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1 are not proof of what happened. You may use evidence of a
2 prior inconsistent statement only to evaluate the
3 truthfulness or accuracy of the witness's testimony here at
4 trial.

5 You may consider whether a witness's testimony is
6 consistent with the testimony of other witnesses or with
7 other evidence in the case.

8 If there were inconsistencies by or among
9 witnesses, you may consider whether they were significant
10 inconsistencies related to important facts, or instead were
11 the kind of minor inconsistencies that one might expect
12 from multiple witnesses to the same event.

13 You have heard testimony about the prosecution
14 and defense counsel speaking to a witness about the case
15 before the witness testified at this trial.

16 The law permits the prosecution and defense
17 counsel to speak to a witness about the case before the
18 witness testifies, and the law permits the prosecutor and
19 defense counsel to review with the witness the questions
20 that will or may be asked at trial, including the questions
21 that may be asked on cross-examination.

22 You have also heard testimony that a witness read
23 or reviewed certain materials pertaining to this case
24 before the witness testified at trial. The law permits a
25 witness to do so.

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1 Speaking to a witness about his or her testimony
2 and permitting the witness to review materials pertaining
3 to the case before the witness testifies is a normal part
4 of preparing for trial.

5 It is not improper as long as it is not suggested
6 that the witness depart from the truth.

7 The People have the burden of proving beyond a
8 reasonable doubt, not only that a charged crime was
9 committed, but that the Defendant is the person who
10 committed that crime.

11 Thus, even if you are convinced beyond a
12 reasonable doubt that a charged crime was committed by
13 someone, you cannot convict the Defendant of that crime
14 unless your also convinced beyond a reasonable doubt that
15 he is the person who committed that crime.

16 Under our law, Michael Cohen is an accomplice
17 because there is evidence that he participated in a crime
18 based upon conduct involved in the allegations here against
19 the Defendant.

20 Our law is especially concerned about the
21 testimony of an accomplice who implicates another in the
22 commission of a crime, particularly when the accomplice has
23 received, expects or hopes for a benefit in return for his
24 testimony.

25 Therefore, our law provides that a defendant may

1 not be convicted of any crime upon the testimony of an
2 accomplice, unless it is supported by corroborative
3 evidence tending to connect the Defendant with the
4 commission of that crime.

5 In other words, even if you find the testimony of
6 Michael Cohen to be believable, you may not convict the
7 Defendant solely upon that testimony unless you also find
8 that it was corroborated by other evidence tending to
9 connect the Defendant with the commission of the crime.

10 The corroborative evidence need not, by itself,
11 prove that a crime was committed or that the Defendant is
12 guilty. What the law requires is that there be evidence
13 that tends to connect the Defendant with the commission of
14 the crime charged in such a way as may reasonably satisfy
15 you that the accomplice is telling the truth about the
16 Defendant's participation in that crime.

17 In determining whether there is the necessary
18 corroboration, you may consider whether there is material,
19 believable evidence, apart from the testimony of Michael
20 Cohen, which itself tends to connect the Defendant to the
21 commission of the crime.

22 You may also consider whether there is material,
23 believable evidence, apart from the testimony of Michael
24 Cohen, which, while it does not itself tend to connect the
25 Defendant with the commission of the crime charged, it

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1 nonetheless so harmonizes with the narrative of the
2 accomplice as to satisfy you that the accomplice is telling
3 the truth about the Defendant's participation in the crime
4 and thereby tends to connect the Defendant to the
5 commission of the crime.

6 I will now instruct you on the law applicable to
7 the charged offenses. That offense is falsifying business
8 records in the first degree, 34 counts.

9 Our law recognizes that two or more individuals
10 can act jointly to commit a crime, and that in certain
11 circumstances, each can be held criminally liable for the
12 acts of the others. In that situation, those persons can
13 be said to be, acting in concert with each other.

14 Our law defines the circumstance under which one
15 person may be criminally liable for the conduct of another.

16 That definition is as follows:

17 When one person engages in conduct which
18 constitutes an offense, another is criminally liable for
19 such conduct when, acting with the state of mind required
20 for the commission of that offense, he or she solicits,
21 requests, commands, importunes, or intentionally aids such
22 person to engage in such conduct.

23 Under that definition, mere presence at the scene
24 of a crime, even with knowledge that the crime was taking
25 place, or mere association with a perpetrator of a crime,

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1 does not by itself make a defendant criminally liable for
2 that crime.

3 In order for the Defendant to be held criminally
4 liable for the conduct of another which constitutes an
5 offense, you must find beyond a reasonable doubt:

6 First, that he solicited, requested, commanded
7 importuned, or intentionally aided that person to engage in
8 that conduct.

9 And second, that he did so with the state of mind
10 required for the commission of the offense.

11 If it is proven beyond a reasonable doubt that
12 the Defendant is criminally liable for the conduct of
13 another, the extent or degree of the defendant's
14 participation in the crime does to the matter.

15 A defendant proven beyond a reasonable doubt to
16 be criminally liable for the conduct of another in the
17 commission of crime is as guilty of the crime as if the
18 Defendant, personally, had committed every act constituting
19 that crime.

20 The People have the burden of proving beyond a
21 reasonable doubt that the Defendant acted in the state of
22 mind required for the commission of the crime, and either
23 personally, or by acting in concert with another person,
24 committed each of the remaining elements of the crime.

25 Your verdict on each count you consider, whether

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1 guilty or not guilty, must be unanimous. In order to find
2 the Defendant guilty, however, you need not be unanimous on
3 whether the Defendant committed the crime personally, or by
4 acting in concert with another, or both.

5 The First Count is falsifying business records in
6 the first degree:

7 Under our law, a person is guilty of falsifying
8 business records in the first degree when, with intent to
9 defraud that includes an intent to commit another crime or
10 to aid or conceal the commission thereof, that person:

11 Makes or causes a false entry in the business
12 records of an enterprise.

13 The following terms used in that definition have
14 a special meaning under our law:

15 Enterprise means any entity of one or more
16 persons, corporate or otherwise, public or private, engaged
17 in business, commercial, professional, industrial, social,
18 political or governmental activity.

19 Business record means any writing or article,
20 including computer data or a computer program, kept or
21 maintained by an enterprise for the purpose of evidencing
22 or reflecting its condition or activity.

23 Intent means conscious objective or purpose.

24 Thus, a person acts with intent to defraud when
25 his or her conscious objective or purpose is to do so.

Jury Charge

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1 Intent does not require premeditation. In other
2 words, intent does not require advance planning. Nor is it
3 necessary that the intent be in a person's mind for any
4 particular period of time.

5 The intent can be formed, and need only exist, at
6 the very moment the person engages in prohibited conduct or
7 acts to cause the prohibited result, and not at any earlier
8 time.

9 The question naturally arises as to how to
10 determine whether a defendant had the intent required for
11 the commission of a crime.

12 To make that determination in this case, you must
13 decide if the required intent can be inferred beyond a
14 reasonable doubt from the proven facts.

15 In doing so, you may consider the person's
16 conduct and all of the circumstances surrounding that
17 conduct, including, but not limited to, to the following:

18 What, if anything, did the person do or say?

19 What result, if any, followed the person's
20 conduct?

21 And was that result the natural, necessary and
22 probable consequence of that conduct.

23 Therefore, in this case, from the facts you find
24 to have been proven, decide whether you can infer beyond a
25 reasonable doubt that the Defendant had the intent required

Jury Charge

4841

1 for the commission of this crime.

2 As I previously explained, a person acts with
3 intent to defraud when his or her conscious objective or
4 purpose is to do so.

5 In order to prove an intent to defraud, the
6 People need not prove that the Defendant acted with the
7 intent to defraud any particular person or entity. A
8 general intent to defraud any person or entity suffices.

9 Intent to defraud is also not constricted to an
10 intent to deprive another of property or money and can
11 extend beyond economic concerns.

12 For the crime of falsifying business records in
13 the first degree, the intent to defraud must include an
14 intent to commit another crime or to aid or conceal the
15 commission thereof.

16 Under our law, although the People must prove an
17 intent to commit another crime or to aid or conceal the
18 commission thereof, they need not prove that the other
19 crime was, in fact, committed, aided, or concealed.

20 The People allege that the other crime the
21 Defendant intended to commit, aid, or conceal is a
22 violation of New York Election Law Section 17-152.

23 Section 17-152 of the New York Election Law
24 provides that any two or more than persons who conspire to
25 promote or prevent the election of any person to a public

Jury Charge

4842

1 office by unlawful means and which conspiracy is acted upon
2 by one or more of the parties thereto, shall be guilty of
3 conspiracy to promote or prevent an election.

4 Under our law, a person is guilty of such a
5 conspiracy when, with intent that conduct be performed that
6 would promote or prevent the election of a person to public
7 office by unlawful means, he or she agrees with one or more
8 persons to engage in or cause the performance of such
9 conduct.

10 Knowledge of a conspiracy does not by itself make
11 the Defendant a co-conspirator. The Defendant must intend
12 that conduct be performed that would promote or prevent the
13 election of a person to public office by unlawful means.
14 Intent mean conscious objective or purpose.

15 Thus, a person acts with the intent that conduct
16 be performed that would promote or prevent the election of
17 a person to public office by unlawful means when his or her
18 conscious objective or purpose is that such conduct be
19 performed.

20 Evidence that Defendant was present when others
21 agreed to engage in the performance of a crime does not by
22 itself show that he personally agreed to engage in the
23 conspiracy.

24 (Whereupon, Principal Court Reporter, Susan
25 Pearce-Bates was relieved by Senior Court Reporter Lisa

Jury Charge

4843

Kramsky.)

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(The following proceedings are continued from the preceding page.)

THE COURT: (Continuing.)

Although you must conclude unanimously that the Defendant conspired to promote or prevent the election of any person to a public office by unlawful means, you need not be unanimous as to what those unlawful means were.

In determining whether the Defendant conspired to promote or prevent the election of any person to a public office by unlawful means, you may consider the following:

One, violations of the Federal Election Campaign Act, again, otherwise known as FECA;

Two, the falsification of other business records; or, three, violation of tax laws.

The first of the People's theories of "unlawful means," which I will now define for you is the Federal Election Campaign Act.

Under the Federal Election Campaign Act, it is unlawful for an individual to willfully make a contribution to any candidate with respect to any election for Federal office, including the office of President of the United States, which exceeds a certain limit.

In 2015 and 2016, that limit was \$2,700.

It is also unlawful under the Federal Election

Jury Charge

4845

1 Campaign Act for any corporation to willfully make a
2 contribution of any amount to a candidate or candidate's
3 campaign in connection with any Federal election, or for any
4 person to cause such a corporate contribution.

5 For purposes of these prohibitions, and expenditure
6 made in cooperation, consultation or concert with, or at the
7 request or suggestion of, a candidate or his agents shall be
8 considered to be a contribution to such candidate.

9 The terms "contribution" and "expenditure" include
10 anything of value, including any purchase, payment, loan, or
11 advance, made by any person for the purpose of influencing
12 any election to Federal office.

13 Under Federal law, a third party's payment of a
14 candidate's expenses is deemed to be a contribution to the
15 candidate, unless, the payment would have been made
16 irrespective of the candidacy.

17 If the payment would have been made even in the
18 absence of the candidacy, the payment should not be treated
19 as a contribution.

20 FECA's definitions of "contribution" and
21 "expenditure" do not include any cost incurred in covering
22 or carrying a news story, commentary, or editorial by a
23 magazine, periodical publication, or similar press entity so
24 long as such activity is a normal, legitimate press
25 function.

1 This is called the Press Exemption.

2 For example, the term "legitimate press function"
3 includes solicitation letters seeking new subscribers to a
4 publication.

5 The second of the People's theories of "unlawful
6 means," which I will define for you now is the falsification
7 of other business records.

8 Under New York Law, a person is guilty of
9 Falsifying Business Records in the Second Degree when with
10 intent to defraud, he or she makes or causes a false entries
11 in the business records of an enterprise.

12 I previously defined for you the terms enterprise,
13 business records and intent to defraud.

14 For purposes of determine whether Falsifying
15 Business Records in the Second Degree was an unlawful means
16 used by a conspiracy to promote or prevent an election here,
17 you may consider:

18 One, the bank records associated with Michael
19 Cohen's account formation paperwork for Resolution
20 Consultants -- for Resolution Consultants LLC and Essential
21 Consultants LLC accounts;

22 Two, the bank records associated with Michael
23 Cohen's wire to Keith Davidson;

24 Three, the invoice from Investor Advisory Services,
25 Inc., to Resolution Consultants LLC;

Jury Charge

4847

1 And, four, the 1099-Miscellaneous forms that The
2 Trump Organization issued to Michael Cohen.

3 The People's third theory of "unlawful means,"
4 which I will define for you now, is a violation of Tax Laws.

5 Under New York State and New York City Law, it is
6 unlawful to knowingly supply or submit materially false or
7 fraudulent information in connection with any tax return.

8 Likewise, under Federal law, it is unlawful for a
9 person to willfully make any tax return, statement, or other
10 document that is fraudulent or false as to any material
11 matter, or that the person does not believe to be true or
12 correct as to every material matter.

13 Under these Federal, State and Local Laws, such
14 conduct is unlawful, even if it does not result in
15 underpayment of taxes.

16 In order for you to find the Defendant guilty of
17 the crime of Falsifying Business Records in the First
18 Degree, under count one of the indictment, the People are
19 required to prove, from all of the evidence in the case,
20 beyond a reasonable doubt, each of the following two
21 elements:

22 First, that on or about February 14th, 2017, in the
23 County of New York and elsewhere, the Defendant, personally,
24 or by acting in concert with another person or persons, made
25 or caused the false entry in the business records of an

1 enterprise, specifically, an invoice from Michael Cohen
2 dated February 14th, 2017, marked as a record of the Donald
3 J. Trump Revocable Trust, and kept and maintained by The
4 Trump Organization;

5 And, two, that the Defendant did so with intent to
6 defraud that included an intent to commit another crime or
7 to aid or conceal the commission thereof.

8 If you find the People have proven beyond a
9 reasonable doubt each of those two elements, you must find
10 the Defendant guilty of this crime.

11 If you find that the People have not proven beyond
12 a reasonable doubt either one or both of those elements, you
13 must find the Defendant not guilty of this crime.

14 You have now heard me define the law for count one.
15 There are 33 remaining counts in the indictment. Each for
16 Falsifying Business Records in the First Degree and each
17 occurring in New York County.

18 The only difference is that each count pertains to
19 a different business record and possibly a different date.

20 The underlying law applies in the same way to each
21 of the remaining counts so I will only repeat it in full one
22 more time before I read count 34.

23 Of course, you can ask me to repeat the law in its
24 entirety as many times as you wish and I will be happy to do
25 so.

Jury Charge

4849

1 The second count pertains to an entry in the Detail
2 General Ledger for the Donald J. Trump Revocable Trust,
3 dated February 14th, 2017, bearing voucher number 842457,
4 and kept or maintained by The Trump Organization.

5 The third count pertains to an entry in the Detail
6 General Ledger for the Donald J. Trump Revocable Trust,
7 dated February 14th, 2017, bearing voucher number 842460,
8 and kept or maintained by The Trump Organization.

9 The fourth count pertains to a Donald J. Trump
10 Revocable Trust account check and check stub dated
11 February 14, 2017, bearing check number 000138, and kept or
12 maintained by The Trump Organization.

13 The fifth count pertains to an invoice from Michael
14 Cohen dated March 16, 2017, marked as a record of the Donald
15 J. Trump Revocable Trust and kept or maintained by The Trump
16 Organization.

17 The sixth count pertains to an entry in the Detail
18 General Ledger for the Donald J. Trump Revocable Trust,
19 dated March 17, 2017, bearing voucher number 846907, and
20 kept or maintained by The Trump Organization.

21 The seventh count pertains to a Donald J. Trump
22 Revocable Trust account check and check stub dated
23 March 17th, 2017, bearing check number 000147, and kept or
24 maintained by The Trump Organization.

25 The eighth count pertains to an invoice from

Jury Charge

4850

1 Michael Cohen, dated April 13th, 2017, marked as a record of
2 Donald J. Trump, and kept or maintained by The Trump
3 Organization.

4 The ninth count pertains to an entry in the Detail
5 General Ledger for Donald J. Trump, dated June 19th, 2017,
6 bearing voucher number 858770, and kept or maintained by The
7 Trump Organization.

8 The tenth count pertains to a Donald J. Trump
9 account check and check stub dated June 19th, 2017, bearing
10 check number 002740, and kept or maintained by The Trump
11 Organization.

12 The eleventh count pertains to an invoice from
13 Michael Cohen dated May 22nd, 2017, marked as a record of
14 Donald J. Trump, and kept or maintained by The Trump
15 Organization.

16 The 12th count pertains to an entry in the Detail
17 General Ledger for Donald J. Trump, dated May 22nd, 2017,
18 bearing voucher number 855331, and kept or maintained by The
19 Trump Organization.

20 The 13th count pertains to a Donald J. Trump
21 account check and check stub dated May 23rd, 2017, bearing
22 check number 002700, and kept or maintained by The Trump
23 Organization.

24 The 14th count pertains to an invoice from Michael
25 Cohen, dated June 16th, 2017, marked as a record of Donald

Jury Charge

4851

1 J. Trump, and kept or maintained by The Trump Organization.

2 The 15th count pertains to an entry in the Detail
3 General Ledger for Donald J. Trump, dated June 19th, 2017,
4 bearing voucher number 858772, and kept or maintained by The
5 Trump Organization.

6 The 16th count pertains to a Donald J. Trump
7 account check and check stub dated June 19th, 2017, bearing
8 check number 002741, and kept or maintained by The Trump
9 Organization.

10 The 17th count pertains to an invoice from Michael
11 Cohen dated July 11th, 2017, marked as a record of Donald J.
12 Trump, and kept or maintained by The Trump Organization.

13 The 18th count pertains to an entry in the Detail
14 General Ledger for Donald J. Trump, dated July 11, 2017,
15 bearing voucher number 861096, and kept or maintained by The
16 Trump Organization.

17 The 19th count pertains to a Donald J. Trump
18 account check and check stub dated July 11th, 2017, bearing
19 number check number 002781, and kept or maintained by The
20 Trump Organization.

21 The 20th count pertains to an invoice from Michael
22 Cohen dated August 1st, 2017, marked as a record of Donald
23 J. Trump, and kept or maintained by The Trump Organization.

24 The 21st count pertains to an entry in the Detail
25 General Ledger for Donald J. Trump, dated August 1, 2017,

Jury Charge

4852

1 bearing voucher number 863641, and kept or maintained by The
2 Trump Organization.

3 The 22nd count pertains to a Donald J. Trump
4 account check and check stub dated August 1, 2017, bearing
5 check number 002821, and kept or maintained by The Trump
6 Organization.

7 The 23rd count pertains to an invoice from Michael
8 Cohen dated September 11th, 2017, marked as a record of
9 Donald J. Trump, and kept or maintained by The Trump
10 Organization.

11 The 24th count pertains to an entry in the Detail
12 General Ledger for Donald J. Trump, dated September 11th,
13 2017, bearing voucher number 868174, and kept or maintained
14 by The Trump Organization.

15 The 25th count pertains to a Donald J. Trump
16 account check and check stub, dated September 12th, 2017,
17 bearing check number 002908, and kept or maintained by The
18 Trump Organization.

19 The 26th count pertains to an invoice from Michael
20 Cohen dated October 18th, 2017, marked as a record of Donald
21 J. Trump and kept or maintained by The Trump Organization.

22 The 27th count pertains to an entry in the Detail
23 General Ledger for Donald J. Trump, dated October 18th,
24 2017, bearing voucher number 872654, and kept or maintained
25 by The Trump Organization.

Jury Charge

4853

1 The 28th count pertains to a Donald J. Trump
2 account check and check stub dated October 18th, 2017,
3 bearing check number 002944, and kept or maintained by The
4 Trump Organization.

5 The 29th count pertains to an invoice from Michael
6 Cohen dated November 20th, 2017, marked as a record of
7 Donald J. Trump, and kept or maintained by The Trump
8 Organization.

9 The 30th count pertains to an entry in the Detail
10 General Ledger for Donald J. Trump, dated November 20, 2017,
11 bearing voucher number 876511, and kept or maintained by The
12 Trump Organization.

13 The 31st count pertains to a Donald J. Trump
14 account or check stub dated November 21st, 2017, bearing
15 check number 002980, and kept or maintained by The Trump
16 Organization.

17 The 32nd count pertains to an invoice from Michael
18 Cohen, dated December 1st, 2017, marked as a record of
19 Donald J. Trump, and kept or maintained by The Trump
20 Organization.

21 The 33rd count pertains to an entry in the Detail
22 General Ledger for Donald J. Trump, dated December 1st,
23 2017, bearing voucher number 877785, and kept or maintained
24 by The Trump Organization.

25 The 34th count is also Falsifying Business Records

1 in the First Degree, but as it pertains to a check and
2 check stub dated September 5th, 2017, bearing check number
3 003006.

4 I will now repeat for you the law pertaining to the
5 crime of Falsifying Business Records in the First Degree in
6 its entirety.

7 Under our law, a person is guilty of Falsifying
8 Business Records in the First Degree when, with intent to
9 defraud that includes an intent to commit another crime or
10 to aid or conceal the commission thereof, that person makes
11 or causes a false entry in the business records of an
12 enterprise.

13 The following terms used in that definition have a
14 special meaning:

15 "Enterprise." "Enterprise" means any entity of one
16 or more persons, corporate or otherwise, public or private,
17 engaged in business, commercial, professional, industrial,
18 social, political or governmental activity.

19 "Business record" means any writing or article,
20 including computer data or a computer program, kept or
21 maintained by an enterprise for the purpose of evidencing or
22 reflecting its condition or activity.

23 "Intent" means conscious objective or purpose.
24 Thus, a person acts with intent to defraud when his or her
25 conscious objective or purpose is to do so.

Jury Charge

4855

1 Intent does not require premeditation. In other
2 words, intent does not require advance planning. Nor is it
3 necessary that the intent be in a person's mind for any
4 particular period of time.

5 The intent can be formed, and need only exist, at
6 the very moment the person engages in prohibited conduct or
7 acts to cause the prohibited result, and not at any earlier
8 time.

9 The question naturally arises as to how to
10 determine whether a defendant had the intent required for
11 the commission of a crime.

12 To make that determination in this case, you must
13 decide whether if the required intent can be inferred beyond
14 a reasonable doubt from the proven facts.

15 In doing so, you may consider the person's conduct
16 and all of the circumstances surrounding that conduct,
17 including, but not limited to, the following:

18 What, if anything, did the person do or say; what
19 result, if any, followed the person's conduct; and was that
20 result the natural and necessary and probable consequence of
21 that conduct?

22 Therefore, in this case, from the facts you find to
23 have been proven, decide whether you can infer beyond a
24 reasonable doubt that the Defendant had the intent required
25 for the commission of this crime.

1 As I previously explained, a person acts with
2 intent to defraud when his or her conscious objective or
3 purpose is to do so.

4 In order to prove an intent to defraud, the People
5 need not prove that the Defendant acted with the intent to
6 defraud any particular person or entity.

7 A general intent to defraud any person or entity
8 suffices.

9 Intent to defraud is also not constricted to an
10 intent to deprive another of property or money and can
11 extend beyond economic concerns.

12 For the count of Falsifying Business Records in the
13 First Degree, the intent to defraud must include an intent
14 to commit another crime or to aid or conceal the commission
15 thereof.

16 Under our law, although the People must prove an
17 intent to commit another crime or to aid or conceal the
18 commission thereof, they need not prove that the other crime
19 was, in fact, committed, aided or concealed.

20 The People allege that the other crime that the
21 Defendant intended to commit, aid, or conceal is a violation
22 of New York Election Law Section 17-152.

23 Section 17-152 of the New York Election Law
24 provides that any two or more persons who conspire to
25 promote or prevent the election of any person to a public

Jury Charge

4857

1 office by unlawful means, and which conspiracy is acted upon
2 by one or more of the parties thereto, shall be guilty of
3 conspiracy to promote or prevent an election.

4 Under our law, a person is guilty of such a
5 conspiracy when, with intent that conduct be performed that
6 would promote or prevent the election of a person to public
7 office by unlawful means, he or she agrees with one or more
8 persons to engage in or cause the performance of such
9 conduct.

10 Knowledge of a conspiracy does not by itself make
11 the Defendant a coconspirator.

12 The Defendant must intend that conduct be performed
13 that would promote or prevent the election of a person to
14 public office by unlawful means.

15 Intent means conscious objective or purpose.

16 Thus, a person acts with the intent that conduct be
17 performed that would promote or prevent the election of a
18 person to public office by unlawful means when his or her
19 conscious objective or purpose is that such conduct be
20 performed.

21 Evidence that the Defendant was present when others
22 agreed to engage in the performance of a crime does not by
23 itself show that he personally agreed to engage in a
24 conspiracy.

25 Although you must conclude unanimously that the

1 Defendant conspired to promote or prevent the election of
2 any person to a public office by unlawful means, you need
3 not be unanimous as to what those unlawful means were.

4 In determining whether the Defendant conspired to
5 promote or prevent the election of any person to a public
6 office by unlawful means, you may consider the following
7 unlawful means:

8 Violations of the Federal Election Campaign Act,
9 otherwise known as FECA; the falsification of other business
10 records; or violations of Tax Laws.

11 The first of the People's theories of "unlawful
12 means," which I will now define for you is the Federal
13 Election Campaign Act.

14 Under the Federal Election Campaign Act, it is
15 unlawful for an individual to willfully make a contribution
16 to any candidate with respect to any election for Federal
17 office, including the office of President of the United
18 States, which exceeds a certain limit.

19 In 2015 and 2016, that limit was \$2,700.

20 It is also unlawful under the Federal Election
21 Campaign Act for any corporation to willfully make a
22 contribution of any amount to a candidate or candidate's
23 campaign in connection with any Federal election, or for any
24 person to cause such a corporate contribution.

25 For purposes of these prohibitions, and expenditure

Jury Charge

4859

1 made in cooperation, consultation or concert with, or at the
2 request or suggestion of, a candidate or his agents, shall
3 be considered to be a contribution to such candidate.

4 The terms "contribution" and "expenditure" include
5 anything of value, including any purchase, payment, loan, or
6 advance made by any person for the purpose of influencing
7 any election for Federal office.

8 Under Federal Law, a third party's payment of a
9 candidate's expenses is deemed to be a contribution to the
10 candidate unless the payment would have been made
11 irrespective of the candidacy.

12 If the payment would have been made even in the
13 absence of the candidacy, the payment should not be treated
14 as a contribution.

15 FECA's definitions of "contribution" and
16 "expenditure" do not include any costs incurred in covering
17 or carrying a news story, commentary, or editorial by a
18 magazine, periodical publication, or similar press entity,
19 so long as such activity is a normal, legitimate press
20 function.

21 This is called the Press Exemption. For example,
22 the term "legitimate press function," includes solicitation
23 letters seeking new subscribers to a publication.

24 The People's second theory of "unlawful means,"
25 which I will define for you is the falsification of other

1 business records.

2 Under New York Law, a person is guilty of
3 Falsifying Business Records in the Second Degree when with
4 intent to the defraud, he or she makes or causes a false
5 entry in a business records of an enterprise.

6 I previously defined for you the terms enterprise,
7 business records and intent to defraud.

8 For purposes of determining whether Falsifying
9 Business Records in the Second Degree was an "unlawful
10 means," used by conspiracy to promote or prevent an
11 election, you may consider:

12 The bank records associated with Michael Cohen's
13 account formation paperwork for the Resolution Consultants
14 LLC and Essential Consultants LLC accounts;

15 The bank records associated with Michael Cohen's
16 wire to Keith Davidson;

17 The invoice from Investor Advisory Services, Inc.,
18 to Resolution Consultants;

19 And the 1099-Miscellaneous forms that The Trump
20 Organization issued to Michael Cohen.

21 The People's third theory of "unlawful means,"
22 which I will define for you, is a violation of Tax Laws.

23 Under New York State and New York City Law, it is
24 unlawful to knowingly supply or submit materially false or
25 fraudulent information in connection with any tax return.

Jury Charge

4861

1 Likewise, under Federal Law, it is unlawful for a
2 person to willfully make any tax return, statement, or other
3 document that is fraudulent or false as to any material
4 matter, or that the person does not believe to be true and
5 correct as to every material matter.

6 Under these Federal, State and Local Laws, such
7 conduct is unlawful even if it does not result in
8 underpayment of taxes.

9 In order for you to find the Defendant guilty of
10 the crime of Falsifying Business Records in the First Degree
11 under count 34, the People are required to prove, from all
12 of the evidence in the case, beyond a reasonable doubt, each
13 of the following two elements:

14 First, that on or about December 5, 2017, in the
15 County of New York, and elsewhere, the Defendant,
16 personally, or by acting in concert with another person or
17 persons, made or caused a false entry in the business
18 records of an enterprise, specifically, a Donald J. Trump
19 account check and check stub dated December 5th, 2017,
20 bearing check number 003006, and kept or maintained by The
21 Trump Organization;

22 And that the Defendant did so with intent to
23 defraud that included an intent to commit another crime or
24 to aid or conceal the commission thereof.

25 If you find the People have proven beyond a

Jury Charge

4862

1 reasonable doubt both of those elements, you must find the
2 Defendant guilty of this crime.

3 If you find the People have not proven beyond a
4 reasonable doubt either one or both of these elements, you
5 must find the Defendant not guilty of this crime.

6 Let me now explain motive, and in particular, the
7 difference between motive and intent.

8 Intent means conscious objective or purpose. Thus,
9 a person commits a crime -- a criminal act with intent, when
10 that person's conscious objective or purpose is to engage in
11 the act which the law forbids or to bring about an unlawful
12 result.

13 Motive, on the other hand, is the reason why a
14 person chooses to engage in criminal conduct.

15 If intent is an element of a charged crime, that
16 element must be proved by the People beyond a reasonable
17 doubt.

18 In this case, intent is, as I have explained, an
19 element of the crime of Falsifying Business Records in the
20 First Degree.

21 Motive, however, is not an element of the crimes
22 charged.

23 Therefore, the People are not required to prove a
24 motive for the commission of the charged crimes.

25 Nevertheless, evidence of a motive, or evidence of

Jury Charge

4863

1 the lack of a motive, may be considered by the jury.

2 For example, if you find from the evidence that the
3 Defendant had a motive to commit the crime charged, that is
4 a circumstance you may wish to consider as tending to
5 support a finding of guilt.

6 On the other hand, if the proof establishes that
7 the Defendant had no motive to commit the crime charged,
8 that is a circumstance you may wish to consider as tending
9 to establish that the Defendant is not guilty of a charged
10 crime.

11 Your verdict, on each count you consider, whether
12 guilty or not guilty, must be unanimous, that is, each and
13 every juror must agree to it.

14 To reach a unanimous verdict, you must deliberate
15 with the other jurors.

16 That means, you should discuss the evidence and
17 consult with each other, listen to each other, give each
18 other's views careful consideration, and reason together
19 when considering the evidence.

20 And when you deliberate, you should do so with a
21 view towards reaching an agreement, if that can be done
22 without surrendering individual judgment.

23 Each of you must decide the case for yourself, but
24 only after a fair and impartial consideration of the
25 evidence with the other jurors.

Jury Charge

4864

1 You should not surrender an honest view of the
2 evidence simply because you want the trial to end, or
3 because you are out voted.

4 At the same time, you should not hesitate to
5 re-examine your views and change your mind, if you become
6 convinced that your position was not correct.

7 Some jurors took notes. Any notes taken are only
8 an aid to your memory and must not take precedence over your
9 independent recollection.

10 Those jurors who chose not to take notes must rely
11 on their own independent recollection and must not be
12 influenced by any notes that another juror may have taken.

13 Any notes you took are only for your own personal
14 use in refreshing your recollection.

15 A juror's notes are not a substitute for the
16 recorded transcript of the testimony or for any exhibit
17 received in evidence.

18 If there is a discrepancy between a juror's
19 recollection and his or her notes regarding the evidence,
20 you should ask to have the relevant testimony read back or
21 the exhibit produced in the jury room.

22 In addition, a juror's notes are not a substitute
23 for the detailed explanation I have given you of the
24 principles of law that govern this case.

25 If there is a discrepancy between a juror's

Jury Charge

4865

1 recollection and his or her notes regarding those
2 principles, you should ask me to explain those principles
3 again, and I'll do so.

4 You may see any or all of the exhibits that were
5 received in evidence.

6 Simply write me a note telling me which exhibit or
7 exhibits you want to see.

8 You may also have the testimony of any witness read
9 back to you in whole or in part.

10 Again, if you want a read back, write me a note
11 telling me what testimony you wish to hear.

12 If you are interested in hearing only a portion of
13 a witness' testimony, please specify in your note which
14 witness and, with as much detail as possible, which part of
15 the testimony it is that you want to hear.

16 Of course, when testimony is read back, questions
17 to which an objection was sustained and material otherwise
18 struck from the record is not read back.

19 If you have a question on the law, write me a note
20 specifying what you want me to review with you.

21 Under our law, the first juror selected is known as
22 the foreperson.

23 During deliberations, the foreperson's opinion and
24 vote are not entitled to any more importance than that of
25 any other juror.

Jury Charge

4866

1 What we ask the foreperson to do during
2 deliberations is we ask you to sign any written note that
3 the jury sends to the Court.

4 The foreperson does not have to write the note or
5 even agree with its contents.

6 The foreperson's signature indicates only that the
7 writing does, in fact, come from the jury.

8 The foreperson may also chair the jury's
9 discussions during deliberations.

10 When the jury has reached a verdict, guilty or not
11 guilty, the entire jury will be asked to come into court.

12 The foreperson will be asked whether the jury has
13 reached a verdict.

14 And if the foreperson says, yes, the foreperson
15 will then be asked what the verdict is for each of the
16 charged counts.

17 After that, the entire jury will be asked whether
18 that is their verdict and will answer yes or no.

19 Finally, upon the request of the party, each juror
20 will be asked individually, whether the announced verdict is
21 the verdict of that juror, and upon being asked, each juror
22 will answer yes or no.

23 I will give you a form known as a verdict sheet.
24 The verdict sheet lists each count submitted for your
25 consideration and the possible verdicts.

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1 Please use the form to record your verdict with an
2 "X" or a check mark in the appropriate place.

3 In addition to listing the counts, I have added
4 some additional language on the verdict sheet in order to
5 distinguish the counts.

6 You will notice that I have indicated whether a
7 count pertains to an invoice, a voucher or a check.

8 For the invoices, I have added the date and for the
9 vouchers and checks I have added the number.

10 The sole reason for doing this is to help you
11 distinguish between the various counts.

12 It is not a substitute for my full instructions on
13 the meaning and elements of each charge, and it should not
14 discourage you from asking me to define a crime again if a
15 question about it arises.

16 Finally, there are a few remaining rules which you
17 must observe during your deliberations.

18 First, while you are here in the courthouse,
19 deliberating on the case, you will be kept together in the
20 jury room.

21 You may not leave the jury room during
22 deliberations.

23 Lunch, of course, be provided.

24 If you have a cell phone or other electronic
25 device, please give it to a court officer or the sergeant to

Jury Charge

4868

1 hold for you while you are engaged in deliberations.

2 You must deliberate about the case only when you
3 are all gathered together in the jury room.

4 You must not, for example, discuss the case as you
5 go to and from the courtroom.

6 It is important that each juror have the
7 opportunity to hear whatever another juror has to say about
8 the case, and that by law must only be done when you are all
9 gathered together in the jury room.

10 Thus, if for any reason, all 12 of you are not
11 gathered together in the jury room, please stop deliberating
12 until you are all present.

13 During your deliberations, you must discuss the
14 case only among yourselves; you must not discuss the case
15 with anyone else, including a court officer, and you must
16 not permit anyone other than a fellow juror to discuss the
17 case in your presence.

18 If you have a question or request, you must
19 communicate with me by writing a note, which you will give
20 to me -- which you will give to a court officer to give to
21 me.

22 The law requires that you communicate with me in
23 writing, in part, to make sure that there are no
24 misunderstandings.

25 At this time, the plan is to work today until 4:30.

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1 We will figure out the other days going forward.

2 It is unlikely, however, that even if we do work
3 late that we would work beyond 6:00 on any night.

4 I should explain that, under our law, I am not
5 permitted to have a conversation about the facts of the
6 case, or a possible verdict, or the vote of the jury on any
7 count, with any one juror, or group of jurors, or even all
8 of the jurors.

9 Thus, in any note that you send to me, do not tell
10 me what the vote of the jury is on any count.

11 If a juror wants to speak to me during
12 deliberations, a meeting here in the courtroom with the
13 parties will be arranged.

14 No juror, however, can tell me what is being said
15 about the facts of the case, or a possible verdict, or what
16 the vote of any juror or the jury is on any count.

17 And, while I will, of course, listen to whatever a
18 juror has to say that does not involve those subjects, I may
19 not be able to respond to that juror if the response
20 involves instructions on the law.

21 I may be required to call into court the entire
22 jury and respond by speaking to the entire jury.

23 The reason for that is that our law wants to make
24 sure that each and every juror hears, at exactly the same
25 time, whatever I have to say about the law, and our law

1 wants to make sure that the jury hears those instructions
2 from me and not from another juror.

3 That concludes my instructions on the law.

4 Counsel, please approach, with the court reporter.

5 (At Side Bar.)

6 *****

7 THE COURT: Are there any objections or exceptions?

8 MR. STEINGLASS: Just one thing. Just one minor
9 thing.

10 THE COURT: Are there any exceptions to the charge?

11 MR. STEINGLASS: No.

12 MR. BOVE: No, Judge.

13 Other than to preserve the ones that we made, to
14 the extent that it differs from our requests and what we
15 raised in the charge conference.

16 MR. STEINGLASS: One thing is that, Judge, I'm
17 sorry I didn't notice this earlier, that we asked that when
18 the foreperson signs the notes, can we make it clear that he
19 does that with his juror number and not his actual name?

20 THE COURT: I think I made clear that Juror Number
21 1 is the foreperson.

22 MR. STEINGLASS: No, I know.

23 THE COURT: You mean to sign it with his juror
24 number instead of his name?

25 MR. STEINGLASS: To sign it with his juror number,

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1 instead of his name, yes.

2 THE COURT: Of course.

3 MR. STEINGLASS: Thank you.

4 THE COURT: All right. What do you want to do with
5 the alternates?

6 MR. BLANCHE: Dismiss them.

7 THE COURT: I'm sorry?

8 MR. BOVE: Dismiss them.

9 MR. STEINGLASS: If we're going to dismiss the
10 alternates, Judge, I would ask for you to consider
11 instructing them not to speak publicly about the case until
12 the verdict has been rendered.

13 I just think the danger of contamination is too
14 great.

15 And, so, I would ask you to do that and also to
16 maybe to remind them, the alternates, that their names are
17 not publicly known, and that they should not disclose the
18 names if they know them of any of the sitting jurors.

19 THE COURT: I'll do that, but what I'm going to do
20 for now, I'm going to keep the alternate jurors for now.

21 I heard you that you asked for them to be excused,
22 but I going to go ahead and keep them for a little while to
23 see what happens.

24 MR. STEINGLASS: Okay.

25 THE COURT: So I'm going to ask the six alternate

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1 jurors to step aside, and I am going to excuse the 12 jurors
2 and I will give the instruction that you just raised.

3 MR. STEINGLASS: Thank you very much.

4 THE COURT: All right. Thank you very much.

5 (Side bar concluded.)

6 *****

7 THE COURT: One clarification.

8 I indicated that juror notes should be signed by
9 the foreperson. I meant for you to indicate Juror Number
10 one, all right, and not your name, but just that it's coming
11 from the foreperson.

12 Do not sign with your actual name, all right.

13 You are going to begin the only active part of your
14 jury service, you will begin the process of deliberations.

15 Again, you will be given some blank notes. If
16 there is anything that you need, if you have any questions,
17 just let me know.

18 When you send me a note, please be sure to include
19 your name as the foreperson, also include the date and the
20 time. It's very important for us.

21 Actually, I have one more question. Please
22 approach.

23 (At Side Bar.)

24 *****

25 THE COURT: How do you want to the handle the

1 evidence?

2 MS. HOFFINGER: We have a laptop prepared with the
3 Prosecution's exhibits as well as the Defense exhibits and
4 the two Court exhibits.

5 It doesn't have a password on it.

6 We can certainly show -- have one of our paralegals
7 show the jury how to access it.

8 But it doesn't have a password. It's very easy to
9 access.

10 MR. STEINGLASS: If you guys want to examine it
11 first.

12 MR. BOVE: We trust that you put it together
13 accurately and completely.

14 I think, though, that we would ask that somebody
15 that's not a member of the Government show the jurors how to
16 use the laptop, assuming there's nothing complicated, no
17 fancy features.

18 MR. STEINGLASS: Who would you like?

19 MR. BOVE: A member of the Court staff.

20 MR. STEINGLASS: Oh, I see.

21 MS. HOFFINGER: Otherwise --

22 THE COURT: I'm not able to involve them. It's not
23 our evidence. It's not our laptop.

24 MS. HOFFINGER: What we could do, and it has been
25 done before, if would you like, one member of the Defense

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1 team can stand there, with one member of the Prosecution
2 team.

3 THE COURT: That's what I have done in the past.

4 MS. HOFFINGER: It's literally just opening the
5 laptop, it's a sub folder and each is designated.

6 THE COURT: All right.

7 We will do it that way then, okay.

8 MS. HOFFINGER: Okay. Thank you.

9 (Side bar concluded.)

10 *****

11 THE COURT: Jurors, I was just clarifying how we
12 were going to handle the evidence.

13 And I was told that there is a laptop that contains
14 all of the evidence, that everything that was introduced
15 into evidence during the course the trial is contained on
16 that laptop.

17 I need one or two volunteers to be shown how to
18 operate that laptop.

19 If you can just raise your hand.

20 Okay, juror number four and juror number six.

21 All right. You will be shown in a minute how to
22 operate that.

23 I'm going to ask you to step out now to begin your
24 deliberations.

25 In the meantime, the six alternates, if you could

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1 just step to the side and allow the other jurors to step
2 out.

3 Thank you.

4 THE COURT OFFICER: All rise.

5 (Jury exits to commence their deliberations at
6 11:30 a.m.)

7 *****

8 THE COURT: Please be seated.

9 (The six alternates remain in the courtroom at this
10 time.)

11 THE COURT: So, you have been with us for a long
12 time.

13 And you have been incredibly diligent and
14 incredibly hard working.

15 I always watch the jurors, and I watch to see
16 who is paying attention and who is not, and I can honestly
17 say that every one of you have been very engaged in this
18 case.

19 I noticed that alternate number three, I think you
20 went through several notebooks during the course of this
21 trial.

22 But we are not going to excuse you just yet.

23 We are not going to let you be done with your jury
24 service.

25 I'm going to ask you to please remain with us,

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1 because there might be a need for you at some point during
2 deliberations.

3 Even though you are not one of the 12 deliberating
4 jurors, though, all of the admonitions that I have given to
5 you at this point continue to apply to you, including that
6 you may not discuss this case among yourselves or with
7 anyone else, and that you continue to keep an open mind as
8 to the Defendant's guilt or innocence and that you do not
9 form or express an opinion as to the Defendant's guilt or
10 innocence.

11 We are also going to ask you to please hand in your
12 cell phones and any other electronic devices.

13 And we will try to figure out another way to keep
14 you guys entertained.

15 But, at this point, please follow the instructions
16 of the Sergeant, and the Sergeant will show you where you
17 will be sitting for the time being.

18 THE COURT OFFICER: All rise.

19 (Six alternate jurors exit the courtroom at this
20 time.)

21 *****

22 THE COURT: Please be seated.

23 Just to clarify, juror number four and juror number
24 six indicated and volunteered to be shown how to work the
25 laptop.

1 Should we bring them out here or, yes, let's bring
2 juror number four and juror number six out to be shown how
3 to work the laptop.

4 And just to be clear, for the record, all of the
5 evidence is there and the jurors can have access to that
6 laptop, and all of the evidence and they can just look
7 through those files; right?

8 MS. HOFFINGER: Yes.

9 THE COURT: All right.

10 (Pause in the proceedings.)

11 THE COURT: All right. We are bringing in juror
12 number four and juror number six.

13 THE SERGEANT: Do you want them seated, Judge?

14 THE COURT: No. They can come right over to the
15 table.

16 (Pause in the proceedings.)

17 THE COURT: So, while we wait for jurors number
18 four and number six, I just want to go on the record and --
19 oh, they are coming into the courtroom now.

20 They can just come in.

21 That's fine.

22 THE LIEUTENANT: Jurors entering.

23 (Two jurors enter the courtroom at this time.)

24 (Explanation of the laptop operation was done off
25 the record, in the presence of all counsel, at this time.)

1 THE COURT: All right.

2 You can take it.

3 (Laptop handed to the juror.)

4 (Two jurors exit the courtroom at this time.)

5 THE COURT: I am just being extra cautious.

6 Mr. Blanche, I just wanted to make sure that you
7 consulted with your attorney -- with your client and that he
8 has consented to the jury receiving the entire laptop with
9 all of the exhibits contained in that laptop?

10 MR. BLANCHE: Yes, your Honor.

11 THE COURT: Okay. And you also consulted with the
12 People and you are satisfied that the laptop is otherwise
13 clean of any other information other than everything else
14 that was introduced into evidence in this case.

15 MR. BLANCHE: Yes, your Honor.

16 I observed the laptop and the People represented
17 that there is nothing else on it; that appeared to be the
18 case.

19 We looked at three folders: Court exhibits,
20 Defense Exhibits and the People's exhibits, that were
21 included the list that we had previously reviewed and that
22 we provided. And we consent.

23 THE COURT: And let the record reflect that jurors
24 number four and number six did come into the courtroom, and
25 they were instructed on how to operate the laptop by, I

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1 believe it was somebody from the DA's office, but,
2 Mr. Blanche, you were standing there while this was
3 happening; is that right?

4 MR. BLANCHE: Yes, your Honor. Correct.

5 THE COURT: All right. I'm going to be in the
6 robing room for a little while, just in case we get a quick
7 note, and then I will probably just go upstairs.

8 I do direct all of you that you please be here; you
9 cannot leave the building.

10 And we need you all to be ready to get here quickly
11 if we receive a note.

12 MR. STEINGLASS: Thank you.

13 MR. BLANCHE: Thank you.

14 THE COURT: All right.

15 (Recess taken while the jury deliberates at
16 11:40 a.m.)

17 *****
18
19
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25

1 (Whereupon, the case is in recess while the jury
2 deliberates.)

3 *****

4 THE SERGEANT: Remain seated.

5 Come to order. Part 59 is in session.

6 THE COURT: Good afternoon.

7 We received a note.

8 MR. STEINGLASS: I'm sorry.

9 Did you ask a question?

10 THE COURT: We received a note.

11 Have you both received a copy of that note?

12 MR. BLANCHE: Yes, Judge.

13 MR. STEINGLASS: Yes.

14 THE COURT: It's been marked as Court Exhibit
15 Number 4.

16 It was signed by the foreperson or marked by the
17 foreperson at 2:56.

18 I'll read it into the record.

19 The note contains four requests:

20 "One. We, the jury, request David Pecker's
21 testimony regarding phone conversation with Donald Trump
22 while Pecker was in the investor meeting.

23 "Two. David Pecker's testimony regarding the
24 decision not to finalize and fund the assignment of
25 McDougal's life rights.

1 "Three. Pecker's testimony regarding Trump Tower
2 meeting.

3 "And, four. Michael Cohen's testimony regarding
4 the Trump Tower meeting."

5 Did I read that correctly?

6 MR. STEINGLASS: Yes.

7 MR. BLANCHE: Yes, your Honor.

8 THE COURT: I'm told that we have two sets of
9 pagination for the transcript. One set is the set that we
10 received on a daily basis. The combined set is slightly
11 different in terms of pagination. I think we should all
12 work off the combined set.

13 I am told that the court reporter has a Page
14 Index that's about 700 pages. That can make it easier for
15 you to find it.

16 I will be in the robing room when you're ready.

17 Let me know when you're ready for read-back.

18 One more question. When we bring the jurors in,
19 ordinarily, I like to sit the alternate jurors in the
20 front row. Obviously, that's not possible here.

21 Is there any objection to having the alternate
22 jurors sitting in the box with the 12 jurors, as they've
23 been sitting all along?

24 MR. STEINGLASS: No objection.

25 MR. BLANCHE: We don't have an objection to that.

1 THE COURT: Thank you.

2 The court reporter will hand you her Index so you
3 could work off that.

4 (Whereupon, a recess is taken while the parties
5 look up the requested read-back.)

6 *****

7 THE SERGEANT: Remain seated.

8 Come to order. Part 59 is back in session.

9 THE COURT: I know you've both been working on
10 the jury note and you're getting closer.

11 But, we did just receive another note.

12 I believe you both received copies of that second
13 note.

14 MR. STEINGLASS: Yes.

15 MR. BLANCHE: Yes.

16 THE COURT: This is marked as Court Exhibit
17 Number 5. It has been marked by the jury foreperson. It
18 was marked at 3:51.

19 It says: "We, the jury, request to re-hear the
20 judge's instructions."

21 In light of that note, my suggestion is that we
22 bring the jury out here, back into the courtroom; we tell
23 them that we're working on finding the read-back that they
24 requested; and I clarify when they say they want the
25 instructions, whether they want the entire instructions or

1 just a portion of the instructions.

2 Is there any objection to that?

3 MR. STEINGLASS: No objection.

4 MR. BLANCHE: No objection.

5 THE COURT: For the record, did I read that
6 correctly?

7 Is that the same note that you have?

8 MR. BLANCHE: Yes.

9 MR. STEINGLASS: Yes, Judge.

10 THE COURT: There was no objection, for purposes
11 of what we're doing now, to having the six alternates sit
12 in the box with the twelve jurors, as they've been doing
13 all along.

14 If and when the time comes where there's a
15 verdict, if we still have the alternates with us, I am
16 going to have the alternates sit in the front row.

17 Anything else that we -- I did have a question
18 regarding the laptop.

19 Does that laptop have Wi-Fi capabilities?

20 (People in the audience behind the People nod
21 yes.)

22 THE COURT: Is there?

23 MS. HOFFINGER: Yes.

24 THE COURT: Is there in a way to disable that
25 Wi-Fi capability?

1 MS. HOFFINGER: Hopefully, we should be able to
2 turn it off.

3 THE COURT: Tonight, after we excuse the jurors,
4 let's get our hands on the WiFi and turn it off.

5 I think they're gathering the jurors right now.
6 We can bring them in when they're ready.

7 How many pages are we looking at, total, as far
8 as that read-back?

9 MR. STEINGLASS: We're still going through.
10 It looks like maybe 30?

11 MR. BLANCHE: That's about right.

12 THE COURT: Thirty pages.

13 Is it fair to say that's like a 30-minute
14 read-back?

15 THE COURT REPORTER: Yes.

16 COURT OFFICER: All rise.

17 Jury entering.

18 (Whereupon, the jurors are present and properly
19 seated in the jury box at 3:59 PM, and the alternate
20 jurors are seated in the jury box at 3:59 PM.)

21 THE CLERK: Do the parties stipulate that all
22 jurors are present and properly seated?

23 MR. STEINGLASS: Yes.

24 MR. BLANCHE: Yes.

25 THE COURT: Thank you.

1 THE COURT: Good afternoon, jurors.

2 Jurors, we received two notes from you.

3 I would like to read them now into the record and
4 just make sure that I understand.

5 The first note has been marked as Court Exhibit
6 Number 4. It was signed by the jury foreperson at 3:56,
7 and it requests the following:

8 "One. David Pecker's testimony regarding the
9 phone conversation with Donald Trump while Pecker was in
10 the investor meeting.

11 "Two. Pecker's testimony regarding the decision
12 not to finalize and fund the assignment of McDougal's life
13 rights.

14 "Three. Pecker's testimony regarding Trump Tower
15 meeting.

16 "Four. Michael Cohen's testimony regarding the
17 Trump Tower meeting."

18 Mr. Foreperson, did I read that correctly? Is
19 that what it says?

20 JUROR #1: Yes, it is.

21 THE COURT: Then, a few minutes ago, we received
22 a second note from you. It's been marked as Court Exhibit
23 Number 5, also marked by the jury foreperson, this time at
24 3:51.

25 This says: "At this time we, the jury, request

1 to re-hear the judge's instructions."

2 Did I read that right?

3 JUROR #1: Yes.

4 THE COURT: In light of the second note we
5 received, we thought it was better to bring you out now.

6 We're still trying to find the testimony you
7 requested. We're close to finding it.

8 Once we find it, the read-back itself will take
9 at least a half hour.

10 Then, when we received the second note, the
11 question became: Do you want to re-hear the entire set of
12 instructions or particular portions of the instructions?

13 You don't have to answer me right now.

14 If you want, you can go back in the jury room,
15 you can clarify, and send me another note.

16 You also don't need to come back out here.

17 We can deal with it on our end and have you back
18 tomorrow morning.

19 Before I excuse you for the day, I'm going to
20 remind you of the rules that I've been reminding you about
21 for several weeks now, but the law requires I restate
22 those rules at this state of the proceedings with special
23 emphasis.

24 The reason for the emphasis is you're at a
25 crucial stage of the proceedings, in the midst of your

1 jury deliberations.

2 I ask you not to talk either among yourselves or
3 with anyone else about anything related to the case.

4 Do not at any time request, accept, agree to
5 accept, or discuss with any person the receipt or
6 acceptance of any payment or benefit in return for
7 supplying any information concerning the trial.

8 You must promptly report directly to me any
9 incident within your knowledge involving an attempt by any
10 person to improperly influence you or any member of the
11 jury.

12 Do not visit or view the locations where this
13 incident allegedly took place.

14 And do not use the internet, internet Maps,
15 Google Earth, or any other program or device to search for
16 and view any location discussed in the testimony.

17 Do not read view or listen to any accounts or
18 discussions of the case reported by newspapers,
19 television, radio, the internet, or any other news media.

20 Do not attempt to research any fact, issue or law
21 related to the case, whether by discussion with others, by
22 research in the library, or on the internet, or by any
23 other means or source.

24 I want to emphasize that in addition with not
25 talking face-to-face with anyone in the case, you must not

1 talk to anyone about the case by other any other means,
2 including text messages, chat rooms, blogs and social
3 websites.

4 You must not provide any information to the case
5 to anyone by any means whatsoever. That includes posting
6 information about the case or what you were doing on the
7 case on any device or internet sites, including blogs,
8 chat rooms, social websites, or any other means.

9 You also must not Google or search for any
10 information about the case or the law which applies to the
11 case or the people involved in the case, including the
12 defendant, the witnesses, the lawyers or myself.

13 These rules are designed to help guarantee a fair
14 trial.

15 And, our law, accordingly, does set forth serious
16 consequences if the rules are not followed.

17 I trust and understand that you understand and
18 appreciate the import of following these rules, and, in
19 accord with your oath, you will do so.

20 Addressing the six alternate jurors, even though
21 you are not deliberating with the other twelve jurors,
22 these admonitions continue to apply to you, as well.

23 Everything that I've said up to this point and everything
24 I just said now continues to apply for you.

25 We'll get started tomorrow at 9:30.

1 Once you get to the jury room -- sometimes all 12
2 of you are present -- you can continue your deliberations.

3 We'll be working out here. I promise you, we'll
4 be working on trying to find the read-back.

5 When we're ready for you, we'll invite you back
6 out.

7 You can decide tomorrow morning if you would like
8 to work late, if necessary. We will not work beyond six
9 o'clock. It's entirely up to you.

10 You don't have to work late.

11 Just let me know at some point tomorrow.

12 I believe that's it for now.

13 See you tomorrow morning at 9:30.

14 Thank you.

15 Good night.

16 (Whereupon, the jurors and the alternate jurors
17 are excused for the day at 4:06 PM.)

18 THE COURT: Regarding the first note, I ask
19 Counsel to please not leave the courtroom until we've
20 identified and we've settled on what that read-back is,
21 we're all on the same page. Let me know.

22 And at that point, we can call it in.

23 MR. STEINGLASS: Okay.

24 MR. BLANCHE: Can we approach?

25 THE COURT: Sure.

1 MR. BLANCHE: Your Honor, as we work through the
2 transcripts, can we excuse our client for this process so
3 he can go back?

4 We'll, obviously, waive his right to be present
5 for this part.

6 He's just sitting there, not doing anything.

7 MR. STEINGLASS: Hmm. Give me one second.
8 Thinking.

9 (Whereupon, Mr. Steinglass pauses to think.)

10 MR. STEINGLASS: We're not doing anything on the
11 record. We're just agreeing or not agreeing.

12 The only problem is, if we don't agree and we
13 have to get the judge involved.

14 MR. BLANCHE: That's true.

15 MR. STEINGLASS: Then he'll need to be here.

16 MR. BLANCHE: I'm not saying can he leave the
17 courthouse.

18 I'm saying can he go back and not be inside this
19 room.

20 THE COURT: You mean across the hall?

21 MR. BLANCHE: Yes.

22 THE COURT: You can do that on the record.

23 MS. HOFFINGER: As it turns out, the laptop does
24 not have Wi-Fi capabilities, so we're good.

25 MR. STEINGLASS: Is that on the record?

1 THE COURT REPORTER: Yes.

2 THE COURT: We're good.

3 (Whereupon, the following proceedings were held
4 in open court:)

5 THE COURT: Mr. Blanche, what is your
6 application?

7 MR. BLANCHE: Just that President Trump could
8 leave and go back to the area that he's waiting while the
9 parties continue to go through the transcript and reach an
10 agreement on note number one.

11 THE COURT: When you say "go back", you mean
12 across the hall?

13 MR. BLANCHE: Yes, your Honor.

14 THE COURT: No objection; right?

15 MR. STEINGLASS: No objection.

16 THE COURT: That's fine.

17 As long as he's close by so in case there's an
18 issue that needs to be resolved, he can come back quickly.

19 I ask when you do come to an agreement as to what
20 the pages are, that you write them down and give them to
21 Laurie so she can write them down and start working on
22 them.

23 MR. STEINGLASS: Will do.

24 THE COURT: Also, for the record, I'm informed
25 the laptop does not have Wi-Fi capability.

1 I'll be in the robing room.

2 Let me know when you're ready.

3 (Whereupon, the case is in recess while the
4 parties search for the requested read-back.)

5 (Whereupon, Mr. Trump is excused from the
6 courtroom.)

7 (Whereupon, the case is in recess.)

8 *****

9 (Whereupon, Counsel confer while the case is in
10 recess.)

11 *****

12 (Whereupon, Mr. Trump enters the courtroom and
13 takes his seat at the defense counsel table.)

14 (Whereupon, counsel confer.)

15 THE SERGEANT: Remain seated.

16 Come to order.

17 THE COURT: Where do we stand?

18 MR. STEINGLASS: I think we've made a lot of
19 progress.

20 I think there's a couple of outstanding issues
21 that we may need to ask you to get involved about.

22 THE COURT: All right.

23 Let's go over -- let's start with the first
24 request.

25 MR. STEINGLASS: Okay.

1 THE COURT: David Pecker's testimony regarding
2 phone conversation with Donald Trump while David Pecker
3 was in the investor meeting.

4 MR. STEINGLASS: I think we've agreed on this
5 one, Judge.

6 This would be Pages 1090, Line 15, through 1091,
7 Line 2.

8 Page --

9 (Whereupon, counsel confer.)

10 MR. STEINGLASS: You're right. Line 20. Line 20.

11 THE COURT: Page --

12 MR. STEINGLASS:: Page 1090, Line 15, through
13 through 1091, Line 20.

14 Page 1111, Line 21, through Page 1114, Line 16.

15 THE COURT: That's it for the first request?

16 MR. STEINGLASS: No.

17 There's one more.

18 THE COURT: Okay.

19 MR. STEINGLASS: Page 1367, Line 11, through Page
20 1370, Line 13.

21 MR. STEINGLASS: Do you agree?

22 MR. BLANCHE: Agree.

23 THE COURT: Okay. So we're good on the first
24 request.

25 MR. STEINGLASS: Yes.

1 THE COURT: Let's move on to the second one.

2 MR. STEINGLASS: I think we agree on that one,
3 too, Judge.

4 That's Page 1158, Line 19, to Page 1160, Line 16.
5 And Page 1463, Line 8, to 1464, Line 15.

6 MR. BLANCHE: Agreed.

7 THE COURT: Third request.

8 MR. STEINGLASS: This is the tough one.

9 THE COURT: Let's skip the third one for now, and
10 let's go to the fourth.

11 MR. STEINGLASS: Okay.

12 The fourth one is Page 3293, Line 23, to Page
13 3295, Line 1. And Page 3925, Line 9 through Line 16.

14 MR. BLANCHE: Agreed.

15 THE COURT: So, the one that is in dispute is the
16 third request.

17 MR. STEINGLASS: Right.

18 THE COURT: David Pecker's testimony regarding
19 the Trump Tower meeting.

20 MR. STEINGLASS: Right.

21 And there's about 10 or 12 different parts of the
22 transcript that are responsive, and I think we agree on
23 nine of 10 of them.

24 I'll try to go in order here.

25 This one is confusing, and there's a lot of notes

1 in here.

2 So jump in, Mr. Blanche, if I'm not getting this
3 one.

4 The first one, we agree, starts on Page 1017,
5 Line 13.

6 But, we disagree about where it ends.

7 The People believe it ends --

8 THE COURT REPORTER: Can you give the Judge a
9 copy?

10 THE COURT: Starts on Page 1017, Line 13.

11 MR. STEINGLASS: We both agree about that.

12 THE COURT: You disagree?

13 MR. STEINGLASS: We disagree about where it ends.

14 The Defense believes it ends on Page 1025, Line
15 4. And we believe it ends on Page 1026, Line 20.

16 (Whereupon, the Court is given the transcript.)

17 THE COURT: Are there any other disputed areas?

18 MR. STEINGLASS: Yes.

19 Would you like me to go through the disputed
20 areas or go in order?

21 THE COURT: Let's deal with this one first, the
22 one that you just brought up.

23 Tell me what the issue is there.

24 MR. STEINGLASS: Is it okay if we sit for this
25 conversation?

1 THE COURT: Of course.

2 MR. STEINGLASS: So, the issue is: This is a
3 question about what happened at the Trump Tower meeting,
4 David Pecker's testimony.

5 The disputed portion is when David Pecker relays
6 what happened to that -- in that meeting to Dylan Howard,
7 which we believe is responsive to the request insofar as
8 he's communicating the substance of that meeting to
9 another person.

10 MR. BLANCHE: Um, your Honor, we disagree.

11 We think that if you start with Line 5, that
12 says: "Did you discuss this meeting with anyone
13 afterwards?", that's not in response to the question.

14 Just so your Honor is aware, both sides agree
15 that we would narrow the responsive portions of the
16 transcripts to the meeting itself and not what happened
17 afterwards; the execution of the meeting and what they did
18 because of the meeting.

19 So, the question begins: "Did you discuss this
20 meeting with anyone afterwards?"

21 We believe that gets into an area that is
22 indirectly responsive.

23 THE COURT: All right.

24 MR. STEINGLASS: Mr. Blanche is right.

25 We could agree that we've tried to draw a line

1 between the substance of the meeting and the execution of
2 the topics that were discussed at the meeting, which would
3 basically be all of Mr. Pecker's testimony.

4 But, I think we just disagree about whether this
5 particular part falls into which category.

6 THE COURT: All right.

7 If you give me a minute, I'll read the disputed
8 sections.

9 MR. STEINGLASS: Thank you.

10 (Whereupon, a pause is taken in the proceedings
11 while the Court reads the transcript.)

12 THE COURT: I can see why Mr. Blanche has some
13 concerns about most of this.

14 But, there is one question and answer that I
15 think could be added. That is on Page 1026, Line 4:

16 "Question: What did you tell him?"

17 And this goes directly to referencing what took
18 place in the meeting.

19 Actually, it's beginning at Line 1:

20 "Did you tell him why you asked him to keep this
21 arrangement secret?"

22 "Answer: Yes, I did."

23 "Question: What did you tell him?"

24 "Answer: I told him that we were going to try to
25 help the campaign, and to do this I want to keep this as

1 quiet as possible."

2 MR. BLANCHE: Even on the page before, your
3 Honor, if you look at 1025, starting at Line 14, it's not
4 Mr. Pecker talking about the meeting. It's him giving
5 instruction to Mr. Howard, asking him to notify the West
6 Coast Bureau Chief.

7 So, it's execution, as opposed to just what
8 happened at the meeting.

9 THE COURT: Mr. Steinglass.

10 MR. STEINGLASS: Actually, I agree that that
11 paragraph -- it's a three-paragraph answer.

12 That middle paragraph seems to be beyond the
13 response. I just didn't think it was practical to cut out
14 the middle paragraph in the middle of an answer.

15 We could.

16 THE COURT: So, we're in agreement that that
17 paragraph can be cut out?

18 MR. STEINGLASS: Yes.

19 THE COURT: Line 14 to Line 21.

20 MR. STEINGLASS: Sure.

21 MR. BLANCHE: Yes.

22 THE COURT: We're not done.

23 MR. BLANCHE: Understood.

24 THE COURT: So, we're in agreement on that
25 paragraph.

1 I think that the question on Page 1026, beginning
2 with Line 1, is a little different. It's not just the
3 execution. I think it summarizes what the plan was. The
4 plan was to help the campaign.

5 So, I agree with you that the section ending at
6 1025, Line 4, which you're in agreement with, it can end
7 there.

8 But then, I think that we can jump ahead and pick
9 it back up on Page 1026, Lines 1 through 7.

10 MR. BLANCHE: Okay.

11 So 1026, Lines --

12 THE COURT: 1 through 7.

13 So, the vast majority of what you're taking
14 exception to, I'm agreeing with you, except for those
15 seven lines.

16 MR. BLANCHE: Understood.

17 That addresses our concern.

18 THE COURT: Okay. Good.

19 What's the next one?

20 MR. STEINGLASS: Okay.

21 MR. STEINGLASS: The next one is Page 1029, Line
22 9 through 13.

23 Keep going?

24 THE COURT: Sure.

25 MR. STEINGLASS: Page 1065, Line 16 through 24.

1 Page 1299, Line 23, through Page 1305, Line 5.

2 I think that we get into our next dispute now.

3 THE COURT: Okay.

4 MR. STEINGLASS: Which is -- do you agree with
5 the parts I just said already, Mr. Blanche? Up until now,
6 do you agree with the parts that I said so far?

7 MR. BLANCHE: Yes.

8 MR. STEINGLASS: Okay.

9 So, the one we disagree with is Page 1316, Lines
10 7, through 1319, Line 6.

11 This is -- the Defense believes that this is
12 responsive.

13 We believe, in light of the subsequent colloquy
14 that extends for quite some time, that this is both --
15 this issue is both confusing and difficult to correct.

16 If you remember, there was a colloquy, and it
17 resulted in Mr. Bove apologizing to the witness on
18 Page 1339, Line 19, through 1340, Line 11.

19 But, really, I don't need to repeat anything in
20 the colloquy about our Bornholdt objections to that.

21 On the questioning -- and I think this is so
22 tangentially responsive to the question that it's better
23 to not delve back into this area.

24 MR. BLANCHE: So, your Honor, there are two
25 meetings that are in issue here that Mr. Pecker was

1 crossed about.

2 The first meeting in July of 2018 is what we
3 believe should be included, which is 1316, Line 7, through
4 1319, Line 6.

5 What happened thereafter -- and there was some
6 objections, but the questions were allowed, and they were
7 answered by the witness.

8 Thereafter, there was another meeting discussed.
9 There was an objection, a sidebar as it relates to that
10 meeting; and it resulted in the next day Mr. Bove -- I
11 wouldn't say "apologizing" -- but cleaning it up, moving
12 on.

13 We agree with the People that that doesn't need
14 to be included. It was too confusing.

15 What we're offering is directly responsive, in
16 our view, which is questions about a different meeting
17 that were -- that came into evidence but that were
18 responsive to the question.

19 That's the disagreement.

20 We don't want the colloquy or the long confusion,
21 either.

22 THE COURT: So, we're in agreement that that
23 second part should not come in.

24 MR. BLANCHE: Yes. Yes.

25 THE COURT: Let's deal with the first part.

1 MR. STEINGLASS: I'm not sure that we are in
2 agreement about that.

3 What we're saying is none of it should come in,
4 and if the first part is going to come in, the second part
5 should come in because it contextualizes what happens in
6 the second part.

7 THE COURT: Where is the second part?

8 The first one is Page 1316, Line 7, through 1319,
9 Line 6.

10 What is the second part?

11 MR. STEINGLASS: The second part is the apology
12 on 1339, Line 19, through 1340, Line 11.

13 But, I would -- in order to give context to that
14 apology, I would ask your Honor to review the colloquy.

15 Even if we don't decide this while we're sitting
16 here and need to think about it, I think the colloquy
17 explains exactly why we think this is misleading and
18 should not come in.

19 THE COURT: Okay.

20 For the sake of time, I'll take this with me and
21 consider it.

22 MR. STEINGLASS: Thank you.

23 THE COURT: What else?

24 MR. STEINGLASS: Next. 1345, Lines 5 through 13.

25 THE COURT: I'm sorry.

1 1345.

2 MR. STEINGLASS: 1345, Lines 5 through 13.

3 MR. BLANCHE: Hang on one second.

4 (Whereupon, Mr. Blanche and Mr. Steinglass
5 confer.)

6 MR. BLANCHE: We're ready.

7 My mistake.

8 MR. STEINGLASS: This is not disputed.

9 1345, Lines 5 through 13. 1346, Lines 12 through
10 16. And 1347, Lines 2 through 8.

11 THE COURT: Those last two are disputed?

12 MR. BLANCHE: No. No dispute.

13 MR. STEINGLASS: We then have 1357, Lines 7
14 through 16. 1359, Lines 7 through 15. 1432, Lines 5
15 through 21. 1473, Line 3 through 19. And 1482, Lines 1
16 through 16.

17 Did I get all that right?

18 MR. BLANCHE: Yes.

19 But, one more disputed.

20 MR. STEINGLASS: Right.

21 That's 1401; right?

22 MR. BLANCHE: Right.

23 MR. STEINGLASS: There's one more dispute that we
24 have, which is on Page 1401, Lines 10 through 12.

25 And we believe that this falls into the execution

1 category, not the substance of the meeting category.

2 THE COURT: All right.

3 So, there's two disputed areas that remain.

4 The first one is 1316, Line 7, through 1319,
5 Line 6.

6 And the People submitted that if that were to
7 come in, then the apology should also come in, which is
8 1339, Line 19, through 1340, Line 11.

9 Although, it's your position that neither one
10 should come in.

11 MR. STEINGLASS: Right.

12 THE COURT: And the second one that's in dispute
13 is 1301, Line 10 through Line 12.

14 MR. STEINGLASS: Exactly.

15 MR. BLANCHE: Yes.

16 THE COURT: I'll take this with me to Chambers,
17 and I'll let you guys know what I think.

18 What I would ask you, before you leave tonight,
19 if you could please write this out neatly, give it to the
20 court reporters so we're prepared to go at 9:30 tomorrow.

21 MR. STEINGLASS: Will do.

22 MR. BLANCHE: Not to belabor the one disagreement
23 point, we think that the apology goes to a different
24 meeting.

25 If the Court, ultimately, disagrees with what we

1 believe, then we would agree with the People that neither
2 should go in.

3 So, we don't want 1367 through 1396 and the
4 apology. We don't think the apology applies.

5 THE COURT: So, the third request dealt,
6 specifically, with the Trump Tower meeting. That's the one
7 meeting they're requesting information about.

8 MR. BLANCHE: Yes, Judge. That's right.

9 THE COURT: How many pages are we talking about,
10 in total, roughly?

11 MR. STEINGLASS: If you give me one minute.

12 THE COURT: Sure.

13 (Whereupon, a pause is taken in the proceedings.)

14 MR. STEINGLASS: There's a lot of little snippets
15 that are not very long.

16 I would say it looks like somewhere in the
17 vicinity of 35 pages.

18 THE COURT: Okay.

19 Looking at the one on Page 1401 -- I didn't write
20 down who wants it and who doesn't want it, so as we had
21 this discussion, I don't have any idea.

22 Reading Line 10: "And you did not consider Stormy
23 Daniels' story to be a part of any agreement that you had
24 in August 2015; correct?"

25 "Answer: That's correct."

1 So, that question and that answer are
2 specifically referring to something that was not a part of
3 the Trump Tower meeting, so why would that be included?

4 MR. STEINGLASS: We don't think it should be.

5 MR. BLANCHE: Well, your Honor, the question asks
6 for any testimony referring -- about the Trump Tower
7 meeting. So, that's testimony about the meeting, even if
8 it includes something that didn't happen at the meeting.
9 It's not execution.

10 THE COURT: A lot of things didn't happen at that
11 meeting. A lot of things. We can start looking through the
12 transcript and find all the things that didn't happen at
13 that meeting.

14 According to your logic, that would be responsive
15 to the question.

16 Go ahead.

17 MR. BLANCHE: No. I don't think so.

18 If there's a question about the meeting, about
19 what was said.

20 But, there's a question about what was not said
21 at the meeting as it relates to the evidence in the case.

22 That's still responsive to the question.

23 I understand what the Court is saying. That would
24 mean anything could come in.

25 But, that's not true.

1 The question is directly about what happened at
2 the August meeting, and then a question about what wasn't
3 said.

4 So, what was said, what wasn't said, we would
5 argue that's responsive.

6 THE COURT: Let me read the area before that and
7 the area after that, the surrounding testimony, and I'll
8 have a better sense of it.

9 MR. STEINGLASS: May I say one thing about that,
10 Judge?

11 THE COURT: Of course.

12 MR. STEINGLASS: This meeting happened in 2015.
13 There was no Stormy Daniels to discuss in 2015.

14 If we're discussing how the meeting was put into
15 effect with all the three subsequent individuals, none of
16 them were discussed by name at that meeting because they
17 didn't exist yet in terms of the catch-and-kill plan.

18 So, this is why we feel this is about execution,
19 subsequently, over the subsequent months and should fall
20 into the category of execution, rather than content at the
21 meeting.

22 THE COURT: What do you think about that?

23 MR. BLANCHE: I still think the same point
24 applies.

25 It's not -- the question is about the evidence

1 that came in at this trial about the meeting. And that,
2 necessarily, in our view, should include something that
3 wasn't discussed at the meeting. That's right.

4 But, their question wasn't about the natural
5 consequence of the question about the meeting.

6 It was just: Tell us everything about the
7 meeting. So...

8 THE COURT: I'll think about both of those.

9 MR. STEINGLASS: Thank you.

10 THE COURT: When you finish jotting down the
11 listing of the pages and you give it to Laurie, can you
12 please send Steve and I a copy?

13 MR. STEINGLASS: Sure.

14 MR. BLANCHE: Sure.

15 THE COURT: See you tomorrow morning at 9:30.

16 (Whereupon, the case is adjourned to May 30th,
17 2024 at 9:30 AM.)