

Verdict Sheet For Enterprise Corruption¹

_____ Court of the State of New York

County of _____

-----X

The People of the State of New York : Judge:

: Ind. No.

against :

:

Defendant.

-----X

Count	Crime Charged	Guilty	Not Guilty
1	Predicate Pattern Crime 1		
2	Predicate Pattern Crime 2		
3	Predicate Pattern Crime 3		
4	Predicate Pattern Crime 4		
5	Applicable Lesser Included Offense of Count 4		
	You will consider this count only if you find the defendant not guilty of count 4. If you find the defendant guilty of count 4, then you will not consider this count and will return no verdict, either guilty or not guilty, on it. ²		

Count	Crime Charged	Guilty	Not Guilty
6	Enterprise Corruption		
	If you do not find the defendant guilty of at least three of the above counts, you must find the defendant not guilty of this count. ³		
7	Non-Predicate Count ⁴		

1. This verdict sheet assumes that the Court is submitting to the jury, before the enterprise corruption count, four counts charging the defendant with crimes that are also four of the criminal acts alleged to be part of a pattern of criminal activity (counts 1, 2, 3, and 4). It also assumes that the Court is submitting a fifth count that is a lesser included offense of the crime charged in count 4, which also qualifies as a “criminal act” as defined in Penal Law § 460.10 (1). Of course, if the Court is submitting any more such counts, they should also be inserted here prior to the enterprise corruption count.

2. This language is recommended only if count 4 is a lesser included offense of count 3.

3. In order to satisfy the element that the defendant “participated in the pattern of criminal activity,” Penal Law § 460.20 (2) requires that of the three or more crimes of which the defendant is found guilty, two must be felonies other than conspiracy, two must have occurred within five years of the commencement of the criminal action, and each must have occurred within three years of a prior act. If, given the particular criminal acts with which the defendant is charged, it is possible for the

jury to find the defendant guilty of three or more crimes that do not satisfy these requirements, this instruction on the verdict sheet should read as follows: "If you do not find the defendant guilty of at least three of the following counts [*specify*], you must find the defendant not guilty of this count."

4. If there are any counts being submitted to the jury that charge crimes that are not alleged to be a part of the pattern, and that are not lesser included offenses that qualify as criminal acts, they should be submitted after the "enterprise corruption" count.