

INSTRUCTION NO. ____

GROSS PECUNIARY GAIN

(PRELIMINARY INSTRUCTION)

The government does not have to prove that anyone derived monetary or economic gain from the alleged conspiracy or that the conspiracy caused any monetary or economic harm in order for you to find a defendant guilty of the offense. To find a defendant guilty, all that you must find is that the government has proven the elements of the offense, which I previously described.

But you will hear evidence during the course of the trial about the gain derived from the conspiracy. This evidence will be presented because, if you find one or both of the corporate defendants, AUO and AUOA, guilty following the presentation of evidence and your deliberations, you will be asked to determine whether the government has proven beyond a reasonable doubt that any of the defendants or other participants in the conspiracy derived monetary or economic gain from the conspiracy. If you find that any of the participants derived such gain, you will then make findings regarding the total gross gain from the conspiracy. I will instruct you on how to calculate monetary or economic gain at the close of the evidence.