UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA	)	Criminal No.: H-97-93
	)	
v.	)	Violations:
	)	
MARK ALBERT MALOOF,	)	15 U.S.C. § 1
	)	18 U.S.C. § 371
Defendant.	)	Filed 6/30/97

UNITED STATES' REQUESTED QUESTIONS FOR THE VENIRE AT VOIR DIRE

The United States of America, through its undersigned attorney, respectfully submits the following questions and requests that they be put to the venire at voir dire.

1. The government requests that the Court read or summarize the Indictment to the jury panel.

2. The government requests that the Court identify the Defendant, Mark Albert Maloof, and ask whether any member of the jury panel, or any member of his or her immediate family, or close relative, has had any personal, employment, business or financial relationship with him.

3. The government requests that the Court make inquiry of the panel members' names, addresses, employment and educational backgrounds and the names and employment backgrounds of their spouses and children.

4. The attorneys for the government in this case are Mark R. Rosman, Karen J. Sharp, and Scott M. Garelick. They are assisted by Special Agent Frank

Eldredge, Federal Bureau of Investigation. Do you know any of these people or have you had any dealings of any kind with them?

5. The lawyers for the Defendant in this case are: J. Mark White of the law firm of White, Dunn & Booker, of Birmingham, Alabama; Albert C. Bowen, Jr. from the law firm of Beddow, Erben & Bowen P.A., of Birmingham, Alabama; and Marjorie A. Meyers and George McCall Secrest, Jr. of the law firm of Bennett, Secrest & Meyers, of Houston, Texas. Has any member of this jury panel or any member of any juror's family ever had any personal, employment, business or financial relationship with these lawyers or their law firm?

6. Do any of you, or anyone in your family, have an illness or a business problem or similar personal concern that would make it difficult for you to be attentive to the evidence?

7. Do you have any problem with your hearing, eyesight or any other physical difficulty which would make it difficult for you to hear or see the evidence presented at trial?

8. Have you heard anything on radio or television or read anything in the newspapers or other publications about this case or similar cases? If so,

(a) As a result of what you have read or heard, have you formed any opinion whatsoever regarding the guilt or innocence of the Defendant -- without telling us what that opinion is -- and

(b) Would what you have read or heard make it difficult for you to render a fair and impartial verdict based solely upon the evidence presented at trial?

9. Has any one of you or any member of your immediate family ever been employed by the federal government (other than in military service) or by any law enforcement or regulatory agency, federal, state, or local? If so,

(a) What was the nature of that employment?

(b) Do you believe that despite that employment you can still judge the merits of this case objectively and impartially?

10. Have any of you ever been involved in any conflict or dispute with the State or federal government, including the Internal Revenue Service? If so,

(a) What was the nature of that difficulty or dispute?

(b) Do you believe that despite this, you can still judge the merits of this case objectively and impartially?

11. Have you, or a relative, close friend or employer, ever been the subject of an investigation by any governmental body, whether it was an IRS audit, a criminal investigation, an employment security check or any other type of governmental investigation? If so,

(a) What was the nature of the investigation?

(b) Would anything in this prior experience affect your ability to reach a fair and impartial verdict in this case?

12. Does any juror feel that he or she has any bias or preference for or against the federal government or for or against the Defendant because of the nature of the charges or otherwise?

13. Has any member of this jury panel, or any member of his or her immediate family, ever been employed in the metal building insulation industry?

Specifically, has any member of this jury panel, or any member of his or her immediate family, ever worked for Bay Insulation Supply Co., Bay-Star of Texas, Mizell Bros. Co, Brite Insulation, PBI Supply Co., or TMG, Inc. If so,

(a) Please state the employer's name, and the nature and time of employment.

(b) How, if at all, would that employment influence your judgment in this case if you were selected as a juror?

(c) Would the fact of this employment in any way impair your ability to listen to the evidence brought out in this courtroom objectively and decide this case solely upon the evidence that you hear based upon the instruction that the Court will give the jury?

14. Do you or any members of your family work for any metal building contractors? Any metal building manufacturers? Any fiberglass manufacturers? If so,

(a) Please state the employer's name, and the nature and time of employment.

(b) How, if at all, would that employment influence your judgment in this case if you were selected as a juror?

(c) Would the fact of this employment in any way impair your ability to listen to the evidence brought out in this courtroom objectively and decide this case solely upon the evidence that you hear based upon the instructions that the Court will give the jury?

15. Have any of you had contact with metal building insulation suppliers, such as Bay Insulation Supply Co., Bay-Star of Texas, Mizell Bros. Co, Brite Insulation, PBI

Supply Co., or TMG, Inc. in the course of your employment or other affairs? If so, what is the nature and extent of your contact(s)?

16. Do any of you have positions or employment that cause you to prepare, submit, or receive bids or to determine the prices at which any product should be sold or provided to a customer?

17. Do you have any objection to enforcement of the federal antitrust laws which make price-fixing illegal?

18. Does any member of this jury panel or any member of his or her immediate family or friends have any personal interest in the outcome of this case or similar cases?

19. Do any of you believe that it is improper for the government to grant immunity from prosecution to persons in order to obtain their testimony against another person who is charged with criminal offenses?

20. The government sometimes enters into plea agreements with defendants, where, in return for their cooperation with an investigation, the government agrees not to bring certain charges against them. Does any member of the jury panel have a feeling, favorable or unfavorable, about this practice, known as plea bargaining?

21. The prosecution will not be trying all of the people and companies who committed the crime along with the Defendant in this case. Will that fact cause you to think that the prosecution is unfair or cause you to favor the Defendant?

22. Have you, or any member of your family or close friends, ever been arrested or been a defendant in a criminal proceeding other than a minor traffic violation? If so, what were the charges and what was the final outcome of the proceedings?

23. Have you or has any member of your immediate family ever been involved in a lawsuit as a party or as a witness? If so, please describe the nature of the lawsuit and your involvement.

24. Have you ever had any previous jury service, including grand jury service, testified before a grand jury, or been a witness in a criminal case? If so,

(a) Please describe briefly the nature of such testimony or service, the nature of the case, and if a verdict was reached in the case.

(b) Would anything in this prior experience affect your ability to reach a fair and impartial verdict in this case?

25. Have you or any business organization with which you are or have been connected ever been involved in an antitrust investigation or lawsuit, or do you have any experience with, or expertise in the antitrust laws? If so, please describe the proceeding or expertise and your involvement or your business organization's involvement.

26. Has any member of this panel or a member of his or her family been contacted or questioned by any person other than officials from the Office of the Clerk of this Court in connection with your being called for jury duty? If so, please describe these contacts.

27. Does any member of this panel know of any contacts or inquiries directed to other persons such as neighbors, employers, co-workers, or business associates in connection with your being called for jury duty? If so, what was the nature of the contacts or inquiries and how did they come to your attention?

28. Does any member of the jury panel have any feeling of any kind, favorable or unfavorable, about the metal building insulation industry or about the

Defendant that might possibly influence you in any way as a juror, either for or against the Defendant?

29. Does any member of the jury panel have a feeling of any kind, favorable or unfavorable, about a person who would testify against people with whom he/she once worked or was associated?

30. Have any of you ever attended law school or taken any law courses in college? Have any of you ever worked in a law office or for a court? If so, if you have any disagreements with the Court's instructions in this case, based on this experience or training, could you set aside those disagreements and follow the instructions that the Court will give?

31. Do any of you believe that because the Defendant was charged in a criminal indictment by a grand jury, he is guilty of the crimes with which he is charged?

32. A portion of the evidence which may be presented by the government in this case could consist of tape-recorded conversations between the Defendant, and a government witness. Although these tape recordings were legally made, the Defendant was not aware, at the time, that his conversations were being recorded.

(a) Do any of you have strong feelings about the use of tape recordings in this type of situation which would make it difficult for you to judge the merits of the case objectively and impartially?

(b) Do any of you feel that it is wrong or unfair for a private citizen to assist the government in gathering evidence by tape recording his or her conversations with other individuals?

33. Do any of you feel that you would have any reluctance or hesitancy about finding the Defendant guilty if the evidence justifies it?

34. Will any of you have difficulty following the instruction of the Court if those instructions are not in agreement with your notions as to what the law should be? In other words, can you set aside your opinions as to what the law perhaps should be and base your verdict on the law as given to you by me? If you feel you might not be able to adhere to my instructions, please say so.

Respectfully submitted,

/s/

MARK R. ROSMAN
Attorney-in-Charge
Florida State Bar No. 0964387
U.S. Department of Justice
Antitrust Division
1601 Elm Street, Suite 4950
Dallas, Texas 75201-4717
(214) 880-9401

CERTIFICATE OF SERVICE

This is to certify that true and correct copy of the foregoing Government's Requested Questions for the Venire at Voir Dire was hand delivered this 30th day of June 1997, to:

J. Mark White, Esq.
White, Dunn & Booker
1200 First Alabama Bank Building
Birmingham, AL 32503

Albert C. Bowen, Esq.
Beddow, Erben & Bowen, P.A.
Second Floor - 2019 Building
2019 3rd Avenue, North
Birmingham, AL 35203

Marjorie A. Meyers, Esq.
George McCall Secrest, Jr., Esq.
Bennett, Secrest & Meyers, L.L.P.
333 Clay Street, Suite 3830
Houston, TX 77002

/s/

MARK R. ROSMAN
Attorney-in-Charge
Florida State Bar No. 0964387
U.S. Department of Justice
Antitrust Division
1601 Elm Street, Suite 4950
Dallas, Texas 75201-4717
(214) 880-9401