**18.11 Securities—Good Faith Defense to Controlling Person Liability**

The defendant [*insert name*] contends that [he] [she] [it] is not liable to the plaintiff even if [he] [she] [it] was a controlling person because [he] [she] [it] did not induce the violation that led to the plaintiff’s economic injury and [he] [she] [it] acted in good faith. The defendant has the burden of proving both of the following elements by a preponderance of the evidence:

1. the defendant did not directly or indirectly induce the violation; and

2. the defendant acted in good faith.

If you find that the defendant has proved both of these elements, your verdict should be for the defendant. The defendant can prove good faith only by establishing that [he] [she] [it] maintained and enforced a reasonable and proper system of supervision and internal control. If you find that the defendant has failed to prove either or both of these elements, your verdict should be for the plaintiff.

**Comment**

*See* 15 U.S.C. § 78t(a) (Section 20(a) of the 1934 Act (Liability of Controlling Persons)); *Hollinger v. Titan Capital Corp.*, 914 F.2d 1564, 1575-76 (9th Cir. 1990) (en banc) (holding that defendant has burden of establishing good faith).