UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA	)	
	)	
v.	)	Case No. 5:13-cr-81
	)	
ROY MCALLISTER II	)	

JURY CHARGE

Members of the Jury:

Now that you have heard the evidence and the arguments, it is my duty to instruct you on the law. It is your duty to accept these instructions of law and apply them to the facts as you determine them.

This case is a criminal prosecution brought by the United States against the defendant Roy McAllister II. The indictment charges ROY MCALLISTER II in five counts.

COUNT ONE

From in or about January 2009 through in or about May 2013, in the District of Vermont and elsewhere, the defendants ROY MCALLISTER II and JEFFREY DONNA, knowingly and willfully conspired with each other and with others known and unknown to the Grand Jury, including Jesse Soule, to distribute a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance. With respect to the defendant, the amount involved in the conspiracy attributable to him as a result of his own conduct and the conduct of other conspirators reasonably foreseeable to him is 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance.

COUNT TWO

From on or about September 23, 2011 until on or about May 29, 2013, in the District of Vermont, the defendant ROY MCALLISTER II, then being an unlawful user of a controlled substance, did knowingly possess in and affecting interstate or foreign commerce firearms, including a Smith & Wesson 500 Revolver, .50 caliber, serial number CRD 4331.

COUNT THREE

In or about June 2011, in the District of Vermont and elsewhere, the defendant ROY MCALLISTER II, a resident of Montgomery, Vermont did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, which was verified by written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which Form 1040 he did not believe to be true and correct as to every material matter, in that the Form 1040 represented that he had an adjusted gross income for the calendar year of 2010 in the amount of $14,299, whereas he then and there well-knew and believed it was substantially more than that.

COUNT FOUR

In or about August 2012, in the District of Vermont and elsewhere, the defendant ROY MCALLISTER II, a resident of Montgomery, Vermont did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, which was verified by written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which Form 1040 he did not believe to be true and correct as to every material matter, in that the Form 1040 represented that he had an adjusted gross income for the calendar year of 2011 in the amount of -$3,398, whereas he then and there well-knew and believed it was substantially more than that.

COUNT FIVE

In or about September 2012, in the District of Vermont and elsewhere, the defendant ROY MCALLISTER II did knowingly conduct and attempt to conduct

a financial transaction affecting interstate commerce, namely, the purchase and delivery of a fuel tank from in or about Milton, Pennsylvania for the amount of approximately $15,000 in United States currency, which involved the proceeds of a specified unlawful activity, namely, distributing marijuana, knowing that such transaction was designed to conceal and disguise the nature and source of the proceeds of the specified unlawful activity and that while conducting and attempting to conduct such financial transaction, ROY MCALLISTER II knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity.

ROLE OF INDICTMENT

At this time, I would like to remind you of the function of an indictment. An indictment is merely a formal way to accuse a defendant of a crime preliminary to trial. An indictment is not evidence. An indictment does not create any presumption of guilt or permit an inference of guilt. It should not influence your verdict in any way other than to inform you of the charges against the defendant. The defendant has pleaded not guilty to the counts in the indictment. You have been chosen and sworn as jurors in this case to determine the issues of fact that have been raised by the allegations of the indictment and the denial made by the not guilty plea of the defendant. You are to perform this duty without bias or prejudice against the defendant, or the prosecution.

REASONABLE DOUBT AND PRESUMPTION OF INNOCENCE

The government must prove the defendant guilty beyond a reasonable doubt. The question is what is a reasonable doubt? The words almost define themselves. It is a doubt based upon reason and common sense. It is a doubt that a reasonable person has after carefully weighing all of the evidence. It is a doubt that would cause a reasonable person to hesitate to act in a matter of importance in his or her personal life. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs. A reasonable doubt is not a whim, speculation, or suspicion.

However, a reasonable doubt may arise from a lack of evidence. It is not an excuse to avoid the performance of an unpleasant duty. And it is not sympathy.

In a criminal case, the burden is at all times upon the government to prove guilt beyond a reasonable doubt. The law does not require the government to prove guilt beyond all possible doubt; proof beyond a reasonable doubt is sufficient to convict. This burden never shifts to a defendant, which means that it is always the government's burden to prove each of the elements of the crimes charged beyond a reasonable doubt. The law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses for the government.

If, after a fair and impartial consideration of all the evidence against the defendant, you have a reasonable doubt, it is your duty to find that defendant not guilty. On the other hand, if, after fair and impartial consideration of all the evidence, you are satisfied of the defendant's guilt beyond a reasonable doubt, you should vote to convict.

The law presumes that the defendant is innocent of the charges against him. The presumption of innocence lasts throughout the trial and during your deliberations. The presumption of innocence ends only if you, the jury, find beyond a reasonable doubt that the defendant is guilty. Should the government fail to prove the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

JURORS' EXPERIENCE/SPECIALIZED KNOWLEDGE

Anything you have seen or heard outside the courtroom is not evidence, and must be disregarded entirely. It would be a violation of your oath as jurors to consider anything outside the courtroom in your deliberations. But in your consideration of the evidence, you do not leave behind your common sense and life experiences. In other words, you are not limited solely to what you see and hear as the witnesses testify. You are permitted to draw, from facts which you find have been proved, such reasonable inferences as you feel are justified in light of the evidence. However, if any juror has specialized knowledge, expertise, or information with regard to the facts and

circumstances of this case, he or she may not rely upon it in deliberations or communicate it to other jurors.

EVIDENCE

You have seen and heard the evidence produced in this trial, and it is the sole province of the jury to determine the facts of this case. The evidence consists of the sworn testimony of the witnesses, any exhibits that have been admitted into evidence, and all the facts that have been admitted or stipulated. I would now like to call to your attention to certain guidelines by which you are to evaluate the evidence.

There are two types of evidence that you may properly use in reaching your verdict. One type of evidence is direct evidence. Direct evidence is when a witness testifies about something she or he knows by virtue of her or his own senses—something she or he has seen, felt, touched, or heard. Direct evidence may also be in the form of an exhibit.

Circumstantial evidence is evidence which tends to prove a disputed fact by proof of other facts. You infer on the basis of reason, experience, and common sense from one established fact, the existence or non-existence of some other fact. For example, if you were to see cow tracks in a pasture, that would be circumstantial evidence that there are or were cows in the pasture.

Circumstantial evidence is of no less value than direct evidence. Circumstantial evidence alone may be sufficient evidence of guilt.

You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the defendant's guilt beyond a reasonable doubt, you must find him not guilty. Your verdict must be based solely on the evidence introduced at trial, or the lack thereof.

STIPULATIONS OF FACT

When the attorneys on both sides stipulate or agree to the existence of a fact, you may accept the stipulation as evidence and regard that fact as proved. You are not required to do so, however, since you are the sole judge of the facts.

STRICKEN TESTIMONY/ATTORNEYS' STATEMENTS/COURT'S RULINGS

I caution you that you should entirely disregard any testimony or exhibit that has been excluded or stricken from the record. Likewise, the arguments of the attorneys and the questions asked by the attorneys are not evidence in the case. By the rulings the court made in the course of the trial, I did not intend to indicate to you any of my own preferences, or to influence you in any manner regarding how you should decide the case. The attorneys have a duty to object to evidence they believe is not admissible. You must not hold it against either side if an attorney made an objection.

USE OF RECORDINGS AND TRANSCRIPTS

Some of the evidence in this case includes audio and video recordings. Along with these recordings, the parties were permitted to display a transcript containing the parties' interpretation of what can be heard on the recordings. The transcripts were provided as an aid or guide to assist you, the jury, in listening to and watching the recordings; however, the transcripts themselves are not evidence. The recordings are evidence, and, as such, you must rely on your own interpretation of what you heard on the recordings. If you think you heard something different than what was represented on the transcript, then what you heard on the recording must control.

PRIOR INCONSISTENT STATEMENTS OF A NON-PARTY WITNESS

You may find that a witness has made statements outside of this trial that are inconsistent with the statements that the witness gave here. You may consider an out-of-court statement that was not made under oath only to determine the credibility of the witness, and you may not consider it as evidence of any facts contained in the statements. However, if an out-of-court statement was made under oath, such as a statement made in prior testimony, then you may consider the statement for all purposes, including for the truth of the facts contained therein.

It is up to you, the jury, after considering all the evidence of this case, to determine whether a prior statement was inconsistent, and if so what weight, if any, to give to the inconsistent statement.

CREDIBILITY OF WITNESSES

You, as jurors, are the sole judges of the credibility of the witnesses and the weight of their testimony. You do not have to accept all the evidence presented in this case as true or accurate. Instead, it is your job to determine the credibility or believability of each witness. You do not have to give the same weight to the testimony of each witness, because you may accept or reject the testimony of any witness, in whole or in part. In weighing the testimony of the witnesses you have heard, you should consider their interest, if any, in the outcome of the case; their manner of testifying; their candor; their bias, if any; their resentment or anger, if any, toward the defendant; the extent to which other evidence in the case supports or contradicts their testimony; and the reasonableness of their testimony. You may believe as much or as little of the testimony of each witness as you think proper. You may accept all of it, some of it, or reject it altogether.

The weight of the evidence is not determined by the number of witnesses testifying. You may find the testimony of a small number of witnesses or a single witness about a fact more credible than the different testimony of a larger number of witnesses. The fact that one party called more witnesses and introduced more evidence than the other does not mean that you should necessarily find the facts in favor of the side offering the most witnesses or the most evidence. Remember, a defendant in a criminal prosecution has no obligation to present any evidence or call any witnesses. Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit such testimony. Two or more persons may hear or see things differently, or may have a different point of view regarding various occurrences. It is for you to weigh the effect of any discrepancies in testimony, considering whether they pertain to matters of importance, or unimportant details, and whether a discrepancy results from innocent error or intentional falsehood. You should attempt to resolve inconsistencies if you can, but you also are free to believe or disbelieve any part of the testimony of any witness as you see fit.

INTEREST IN OUTCOME

As a general matter, in evaluating the credibility of each witness, you should take into account any evidence that the witness who testified may benefit in some way from the outcome of this case. Such an interest in the outcome may create a motive to testify falsely and may sway the witness to testify in a way that advances his or her own interests. Therefore, if you find that any witness whose testimony you are considering has an interest in the outcome of this trial, then you should bear that factor in mind when evaluating the credibility of his or her testimony and accept it with great care.

This is not to suggest that any witness who has an interest in the outcome of a case will testify falsely. It is for you to decide to what extent, if at all, the witness's interest has affected or colored his or her testimony.

EXPERT WITNESSES

You have heard evidence from witnesses who are known as expert witnesses. An expert witness is a person who has special knowledge, experience, training, or education in his or her profession or area of study. Because of this expertise, an expert witness may offer an opinion about one or more of the issues in the case. In evaluating their testimony, you should evaluate their credibility and statements just as you would with any other witness. You should also evaluate whether the expert witness's opinion is supported by the facts that have been proved, and whether the opinion is supported by the witness's knowledge, experience, training, or education. You are not required to give the testimony of an expert witness any greater weight than you believe it deserves just because the witness has been referred to as an expert.

LAW ENFORCEMENT WITNESSES

You have heard the testimony of law enforcement officials in this case. The fact that a witness may be employed by the federal, state, or local government as a law enforcement official does not mean that his or her testimony is deserving of more or less consideration or greater or lesser weight than that of an ordinary witness.

At the same time, it is proper for defense counsel to try to attack the credibility of a law enforcement witness on the grounds that his or her testimony may be colored by a personal or professional interest in the outcome of the case.

It is your decision, after reviewing all the evidence, whether to accept the testimony of a law enforcement witness and to give to that testimony whatever weight, if any, you find it deserves.

CONFIDENTIAL INFORMANTS

There has been evidence that the government used confidential informants in this case, and you have heard the testimony of some of these confidential informants. There is nothing improper in the government's use of confidential informants and, indeed, certain criminal conduct would never be detected without the use of confidential informants. You, therefore, should not concern yourselves with how you personally feel about the use of confidential informants, because that is really beside the point. Put another way, your concern is to decide whether the government has proved the guilt of the defendant beyond a reasonable doubt, regardless of whether evidence was obtained by the use of confidential informants.

On the other hand, when confidential informants testify as they did here, their testimony must be examined with greater scrutiny than the testimony of an ordinary witness. You should consider whether a confidential informant received any benefits or promises from the government that would motivate him or her to testify falsely against the defendant. For example, a confidential informant may believe that he or she will only continue to receive these benefits if he or she produces evidence of criminal conduct at trial.

If you decide to accept the testimony of a confidential informant, after considering it in the light of all the evidence of this case, then you may give it whatever weight, if any, it deserves.

ACCOMPLICES

You have heard the testimony of individuals who testified that they were accomplices, that is, they said they participated with the defendant in the commission of a

crime. The testimony of accomplices must be examined and weighed by the jury with greater care than the testimony of a witness who did not claim to have participated in the commission of that crime. You should not convict a defendant based solely on the testimony of an accomplice or accomplices unless you, the jury, find that the testimony establishes the defendant's guilt beyond a reasonable doubt.

Therefore, you must examine an accomplice's testimony with caution and weigh it with great care. You must determine whether the testimony of the accomplice has been affected by self-interest, or by an agreement he or she may have with the government, or by his or her own interest in the outcome of this case, or by any prejudice he or she may have against the defendant. In evaluating the testimony of an accomplice witness, you should ask yourselves whether the accomplice would benefit more by lying or by telling the truth. Was the testimony made up in any way because the witness believed or hoped that he or she would somehow receive favorable treatment by testifying falsely? Or did the witness believe that his or her best interests would be served by testifying truthfully? If you believe that the witness was motivated by hopes of personal gain, was the motivation one that would cause the witness to lie, or was it one that would cause him or her to tell the truth? Did this motivation color the testimony?

As I have indicated, it is up to you, the jury, to decide what weight, if any, to give to the testimony of these witnesses.

UNCALLED WITNESSES EQUALLY UNAVAILABLE

There are several persons whose names you have heard during the course of the trial, but who did not appear here to testify, and one or more of the attorneys has referred to their absence from the trial. These witnesses were equally unavailable to the parties. Therefore, you should not draw any inferences or reach any conclusions as to what they would have testified to had they been called. Their absence should not affect your judgment in any way. You should, however, remember my instruction that the law does not impose on a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

WITNESSES' PLEA AGREEMENTS

There has been evidence that some of the government's witnesses pled guilty after entering into agreements with the government to testify. There is also evidence that the government agreed to dismiss some of the charges against some of these witnesses, or agreed not to prosecute them on other charges in exchange for an agreement to plead guilty and testify at trial. The government also promised to bring the witnesses' cooperation to the attention of the sentencing court.

The government is permitted to enter this kind of plea agreement. You, in turn, may accept the testimony of such a witness or witnesses and convict the defendant on the basis of this testimony alone, if the testimony convinces you, the jury, of the defendant's guilt for the crimes charged beyond a reasonable doubt.

You should bear in mind that a witness who has entered into such an agreement has an interest in this case different from an ordinary witness. A witness who realizes that he or she may be able to obtain his or her own freedom, or receive a lighter sentence by giving testimony favorable to the government, may have a motive to testify falsely. Conversely, a witness who realizes that he or she may benefit by providing truthful testimony may have a motive to be honest. Therefore, you must examine his or her testimony with caution and weigh it with great care. After scrutinizing his or her testimony, you may decide to accept it, reject it, accept it in part, or reject it in part, and you may give it whatever weight, if any, you find it deserves.

WITNESSES' GUILTY PLEAS

You have heard the testimony of government witnesses who pled guilty to criminal charges. You are not to draw any conclusions or inferences of any kind about the guilt of the defendant from the fact that a prosecution witness pled guilty to similar charges. A witness's decision to plead guilty is a personal decision. It may not be used by you in any way as evidence against the defendant here.

USE OF DRUGS BY CERTAIN WITNESSES

There has been evidence introduced at the trial that some of the individuals that the government called as witnesses were using drugs when the events they observed or

participated in took place. There is nothing improper about calling such witnesses to testify about events within their personal knowledge. However, testimony from such witnesses must be examined with greater scrutiny than the testimony of other witnesses. You must consider the effect, if any, the drugs may have on the witness's ability to perceive and recall the events in question.

If you decide to accept the testimony of such witnesses, after considering it in light of all the evidence in this case, then you may give it whatever weight, if any, you find it deserves.

DEFENDANT NOT TESTIFYING

You may have observed that the defendant did not testify in this case. A defendant has a constitutional right not to do so. He does not have to testify, and the government may not call him as a witness. A defendant's decision not to testify raises no presumption of guilt and does not permit you to draw any unfavorable inference.

Similarly, the law never imposes upon a defendant the burden or duty of calling any witnesses, producing any evidence, or cross-examining the witnesses for the government. The burden is at all times upon the government to prove guilt beyond a reasonable doubt, and this burden never shifts to a defendant. The defendant is never required to prove that he is not guilty.

Therefore, in determining whether the defendant is guilty or not guilty of the crimes charged, you are not to consider, in any manner, the fact that the defendant did not testify or present evidence. Do not even discuss it in your deliberations.

IMPERMISSIBLE INFERENCES WITH REGARD TO DEFENDANT

You may not infer that a defendant was guilty of participating in criminal conduct merely from the fact that he associated with other people who were guilty of wrong doing.

You also may not infer that a defendant is guilty of participating in criminal conduct merely from the fact that he was present at the time the crime was being committed and had knowledge that it was being committed.

RACE, RELIGION, NATIONAL ORIGIN, SEX, OR AGE

You may not consider the race, religion, national origin, sex, or age of the defendant or any of the witnesses in your deliberations over the verdict or in the weight given to any evidence.

BIAS, PREJUDICE, AND EQUALITY BEFORE THE COURT

You are to perform the duty of finding the facts without bias or prejudice toward any party. You are to perform this duty in an attitude of complete fairness and impartiality. You must not allow any of your personal feelings about the nature of the crimes charged to interfere with your deliberations, or influence the weight given to any of the evidence.

This case is important to the parties and the court. You must give it the fair and serious consideration which it deserves.

The fact that the prosecution is brought in the name of the United States of America entitles the government to no greater consideration than that accorded to any other party to a case. By the same token, it is entitled to no less consideration. All parties, whether government or individuals, stand as equals before the court.

INSTRUCTIONS ON THE SUBSTANTIVE LAW OF THE CASE

Having explained the general guidelines by which you will evaluate the evidence in this case, I will now instruct you with regard to the law that is applicable to your determinations in this case.

It is your duty as jurors to follow the law as stated to you in these instructions and to apply the rules of law to the facts that you find from the evidence. You will not be faithful to your oath as jurors if you find a verdict that is contrary to the law that I give to you.

However, it is the sole province of the jury to determine the facts in this case. I do not, by any instructions given to you, intend to persuade you in any way as to any question of fact.

The parties in this case have a right to expect that you will carefully and impartially consider all the evidence in the case, that you will follow the law as I state it to you, and that you will reach a just verdict.

THE ESSENTIAL ELEMENTS OF THE OFFENSES

"IN OR ABOUT" EXPLAINED

The indictment charges that the offenses were committed "in or about" certain dates. Although it is necessary for the government to prove beyond a reasonable doubt that the offenses were committed on dates reasonably near the dates alleged in the indictment, it is not necessary for the government to prove that the offenses were committed precisely on the dates charged.

COUNT ONE: CONSPIRACY TO DISTRIBUTE

Count One of the indictment charges the defendant with knowingly and willfully conspiring to distribute a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 846. Count One also charges that the conspiracy to distribute marijuana involved 100 kilograms or more of that substance.

I instruct you that, as a matter of law, marijuana is a Schedule I controlled substance.

Section 841(a)(1) makes it a crime for anyone to knowingly or intentionally distribute a controlled substance. Section 846 makes it a separate offense for anyone to conspire or agree with someone else to distribute a controlled substance in violation of Section 841(a)(1). Under the law, a "conspiracy" is an agreement of two or more persons to join together to accomplish some unlawful purpose.

In order to find the defendant guilty of Count One, you must find that the government has proved beyond a reasonable doubt the following essential elements:

FIRST: That two or more persons, in some way or manner, entered into an agreement or conspiracy to try to accomplish the unlawful plan charged; and

SECOND: That the defendant knowingly and willfully became a member of such conspiracy.

If you find that the government has failed to prove these two elements beyond a reasonable doubt, then you should find the defendant not guilty of Count One. If, and, only if, you find that the government has proven these two elements beyond a reasonable doubt, then you must consider whether the government has proven beyond a reasonable doubt the quantity of marijuana involved in the offense. I will now explain these elements in more detail.

COUNT ONE: FIRST ELEMENT

The first element the government must prove beyond a reasonable doubt is that two or more persons entered into the unlawful agreement charged in Count One, that is, from in or about January 2009 through in or about May 2013, the defendant conspired with one or more other persons to distribute marijuana.

In order for the government to satisfy this element, it must prove that there was a mutual understanding, either spoken or unspoken, between two or more people to cooperate with each other to accomplish an unlawful act. You need not find that the alleged members of the conspiracy actually met and entered into any express or formal agreement. You need not find that the alleged members stated in words or writing what the object or purpose of the conspiracy was, or every precise detail of the scheme. The agreement may only consist of a mutual understanding that the members would commit some illegal activity by means of a common plan or course of action, as alleged in Count One. The government does not have to prove that all of the people named in the indictment were members of the conspiracy.

There may or may not be direct proof of the agreement. However, because a conspiracy is sometimes characterized by secrecy, you may or may not infer its existence from the circumstances and the conduct of the parties involved. You may therefore consider the actions and statements of all of those you find to be participants as proof that a common design existed for acting together to accomplish an unlawful purpose. Acts

that may seem innocent when taken individually may indicate guilt when viewed collectively and in light of the circumstances.

Coconspirators need not be charged with the crime of conspiracy in order for you to find that the defendant had an agreement with other individuals to commit the illegal act charged in Count One.

COUNT ONE: SECOND ELEMENT

The second element the government must prove beyond a reasonable doubt is that the defendant knowingly and willfully became a member of the conspiracy. If you are satisfied that the conspiracy charged in Count One existed, then you must next decide whether the defendant knowingly and willfully joined the conspiracy with knowledge of its unlawful purpose and with the specific intention of furthering its business or objective, here, the distribution of marijuana.

You must find that the defendant joined the conspiracy with an awareness of at least some of its basic aims and purposes, and with the intent of aiding in the accomplishment of those ends, in order to satisfy the knowledge and intent element of the conspiracy charge. The government must prove beyond a reasonable doubt that the defendant acted with the specific intent to distribute a controlled substance, here, marijuana. Proof of such intent need not be direct. Intent may be proved by circumstantial evidence alone.

In that regard, it has been said that in order for the defendant to be deemed a participant in a conspiracy, he must have a stake in the venture or its outcome. A financial interest in the outcome of the scheme is not essential. Nevertheless, if you find that the defendant had such an interest, that is a factor which you may properly consider in determining whether or not the defendant was a member of the conspiracy charged in Count One.

The fact that acts of the defendant, without knowledge of the conspiracy, merely happen to further the purposes or objectives of the conspiracy does not make the defendant a member. The defendant's knowledge of the conspiracy may be established by his own acts or statements, as well as those of the other alleged coconspirators.

The defendant need not have known the identities of each and every member, nor have been fully informed of all of their activities, nor all of the details of the conspiracy.

The defendant need not have joined in all of the conspiracy's unlawful objectives.

The extent of the defendant's participation has no bearing on his guilt. A conspirator's liability is not measured by the extent or duration of his participation. Indeed, each member may perform separate and distinct acts and may perform them at different times. Some conspirators play major roles, while others play minor roles in the scheme. The law does not require that each participant in the conspiracy play an equal role.

If the evidence establishes beyond a reasonable doubt that the defendant knowingly and willfully entered into an agreement to commit the substantive offense charged in Count One of the indictment, the fact that the defendant did not join the agreement at its beginning, did not know all of the details of the agreement, did not participate in each act of the agreement, or did not play a major role in accomplishing the unlawful goal is not important to your decision regarding membership in the conspiracy.

However, mere association with others, mere presence at the place where a crime takes place or is discussed, or knowing about criminal conduct, does not, in and of itself, make someone a member of the conspiracy. Also, proof that the defendant had a financial interest in the outcome of a scheme, in and of itself, does not suffice to prove membership. Presence or association with conspirators and financial interest, however, are factors that you may consider among others to determine whether the defendant was a member of the conspiracy.

In sum, the government must prove beyond a reasonable doubt that the defendant, with an understanding of the unlawful character of the conspiracy, intentionally engaged, advised, or assisted in it for the purpose of furthering the illegal undertaking. He thereby becomes a knowing and willing participant in the unlawful agreement. In other words, he becomes a conspirator.

COUNT ONE: BUYER-SELLER RELATIONSHIP

Under the law, if a buyer and seller agree to the sale of a controlled substance, then that sale alone does not establish a conspiracy. However, when there is additional evidence showing an agreement to join together to accomplish an objective beyond that sale transaction, then you may, but need not, find that the parties participated in a conspiracy to distribute a controlled substance.

You may consider a number of factors to determine whether the defendant agreed to participate in the conspiracy or whether the defendant engaged in the buying or selling of a controlled substance. Some considerations include: Did the buyer seek to advance the conspiracy's interests? Was there mutual trust between buyer and seller? Were the drugs provided on credit? Did the buyer have a longstanding relationship with the seller? Did the buyer perform other duties on behalf of the conspiracy? Were the drugs purchased for a re-distribution that was part of the conspiratorial enterprise? Did the quantity of drugs purchased indicate an intent to re-distribute? Were the buyer's profits shared with the members of the conspiracy? Did the buyer/re-distributor have the protection of the conspiracy (physically, financially, or otherwise)? Did the buyer use other members of the conspiracy in the re-distribution? However, these considerations are not exclusive. Ultimately, you must determine whether the government has proven beyond a reasonable doubt the elements of a conspiracy charge that two or more persons entered into an agreement to try to accomplish the unlawful plan charged and that the defendant knowingly and willfully became a member of such conspiracy.

COUNT ONE: SINGLE OR MULTIPLE CONSPIRACIES

There is another issue to consider in determining whether the government has proven beyond a reasonable doubt that two or more persons entered the unlawful agreement charged in Count 1 of the indictment. Here, the defendant contends that the government's proof fails to show the existence of one overall conspiracy. Rather, the defendant claims that there were actually several separate and independent conspiracies with various group members.

Whether there existed a single unlawful agreement, or many such agreements, or indeed, no agreement at all, is a question of fact for you to determine in accordance with the instructions I am about to give you.

When two or more people join together to further one unlawful design or purpose, a single conspiracy exists. By way of contrast, multiple conspiracies exist when there are separate unlawful agreements to achieve distinct purposes.

Even if the evidence shows that more than one conspiracy exists, you may still find that the conspiracy charged in Count One exists if it is one of those conspiracies. But if you find the evidence proves that separate conspiracies exist, you must find the defendant not guilty unless you unanimously find beyond a reasonable doubt that one of those conspiracies is the single conspiracy charged in Count One.

You may find that there was a single conspiracy despite the fact that there were changes in either personnel (by the termination, withdrawal, or addition of new members), or activities, or both, so long as you find that some of the coconspirators continued to act for the entire duration of the conspiracy charged in Count 1. The fact that the members of the conspiracy are not always identical does not necessarily imply that separate conspiracies exist.

On the other hand, if you find that the conspiracy charged in Count 1 did not exist, you cannot find the defendant guilty of the single conspiracy charged in that count. This is so even if you find that some conspiracy other than the one charged in Count 1 existed, even though the purposes of both conspiracies may have been the same and even though there may have been some overlap in membership.

Similarly, if you find that the defendant was a member of another conspiracy, and not the one charged in Count 1, then you must acquit the defendant of the conspiracy charged in Count 1.

Therefore, you must determine whether the conspiracy charged in Count 1 existed. If it did, then you must determine the nature of the conspiracy and who were its members.

COUNT ONE: "KNOWINGLY" DEFINED

A person acts knowingly if that person acts intentionally and with knowledge, and not because of ignorance or carelessness. Whether the defendant acted knowingly may be proven by the defendant's words and conduct and by all the facts and circumstances supplied by the evidence in this case.

COUNT ONE: "WILLFULLY" DEFINED

To act willfully means to do an act on purpose, and not inadvertently or by mistake or accident. Whether the defendant acted willfully may be proven by the defendant's words and conduct and by all the facts and circumstances supplied by the evidence in this case.

COUNT ONE: "DISTRIBUTION" DEFINED

The word "distribute" means to deliver a controlled substance. "Deliver" is defined as the actual, constructive, or attempted transfer of a controlled substance. Simply stated, the words distribute and deliver mean to pass on, or to hand over to another, or to be caused to be passed on or handed over to another, or to try to pass on or hand over to another, a controlled substance.

Distribution does not require sale. Activities in furtherance of the ultimate sale, such as vouching for the quality of the drugs, negotiating for or receiving the price, and supplying and delivering the drugs, may constitute distribution. In short, distribution requires a concrete involvement in the transfer of drugs.

COUNT ONE: AMOUNT OF DRUGS

If you find that the government has not proven beyond a reasonable doubt the elements of the conspiracy charged in Count One, then you must indicate that you find the defendant not guilty of Count One on the special verdict form that has been provided for you. You will then answer no further questions as to Count One.

If you find that the government has proven beyond a reasonable doubt the elements of the conspiracy charged in Count One, then there are several more issues you must decide with regard to Count One, and you must indicate on the special verdict form provided for the jury's determinations of these issues.

Count One charges the defendant with conspiring to distribute 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana. The government must prove this quantity of marijuana beyond a reasonable doubt.

The government does not have to prove that the defendant directly handled or distributed the particular quantity alleged, although you may consider that evidence along with other evidence to assess the quantity element. The government can prove the defendant is responsible for the quantity involved in a conspiracy in three ways.

First, the government can offer evidence that proves beyond a reasonable doubt that the defendant personally and directly participated in the possession or distribution of the drugs in question. With regard to this type of proof, the government need not prove that the defendant knew the exact amount of drugs in question as long as the government proves beyond a reasonable doubt that the defendant knew the drugs in question were marijuana and that the amount of marijuana was 100 kilograms or more.

Second, the government can offer evidence that proves beyond a reasonable doubt that the defendant knew that the conspiracy involved 100 kilograms or more of marijuana during the time period that the defendant participated in the conspiracy.

Third, the government can offer evidence that proves beyond a reasonable doubt that the conspiracy involved 100 kilograms or more of marijuana during the time period that the defendant participated in the conspiracy and that, based on all of the circumstances, it was reasonably foreseeable to the defendant that the conspiracy involved that particular quantity of marijuana.

With regard to each of these types of proof, the government must prove beyond a reasonable doubt that the conspiracy at issue is the one described in Count One.

Remember, you should address the issue of the quantity of marijuana involved in the conspiracy only if you find the essential elements of the conspiracy alleged in Count One have been established beyond a reasonable doubt. On the special verdict form provided, you must indicate whether the government has proven beyond a reasonable doubt that the charged conspiracy involved a quantity of marijuana of 100 kilograms or more. If you decide that the government has not proven beyond a reasonable doubt that

the charged conspiracy involved 100 kilograms or more of marijuana, then you must find the defendant not guilty of the charged amount even if you find the defendant was involved in a lesser quantity of marijuana. If you decide that the government has not proven beyond a reasonable doubt that the charged conspiracy involved 100 kilograms or more of marijuana, then you must consider whether the conspiracy involved either (a) less than 100 kilograms but 50 kilograms or more of marijuana, or (b) less than 50 kilograms of marijuana. If you find that the government has proven beyond a reasonable doubt the quantity of marijuana involved in the conspiracy charged in Count One, then you must find the defendant guilty of the quantity of marijuana proven by the government on the special verdict form provided.

COUNT TWO: UNLAWFUL USER IN POSSESSION OF A FIREARM

Count Two of the indictment charges the defendant with being an unlawful user of a controlled substance while knowingly possessing a firearm in and affecting interstate commerce, in violation of 18 U.S.C. § 922(g)(3). The indictment charges that this possession occurred from on or about September 23, 2011 until on or about May 29, 2013.

Section 922(g)(3) makes it a crime for a person to possess a firearm in or affecting commerce if that person is an unlawful user of or addicted to any controlled substance.

In order to find the defendant guilty of Count Two, you must find that the government has proved beyond a reasonable doubt the following essential elements:

FIRST: That the defendant knowingly possessed the firearm charged in Count Two, which is a Smith & Wesson 500, .50 caliber revolver, serial number CRD 4331;

SECOND: That at the time of the defendant's possession of the firearm, the defendant was an unlawful user of a controlled substance; and

THIRD: That the possession charged was in or affecting interstate commerce.

If you find that the government has failed to prove any one of these elements beyond a reasonable doubt, then you should find the defendant not guilty of Count Two. If, however, you find that the government has proved each of these elements beyond a

reasonable doubt, then you should find the defendant guilty of Count Two. I will now explain these elements in more detail.

COUNT TWO: FIRST ELEMENT

The first element that the government must prove beyond a reasonable doubt is that the defendant knowingly possessed the firearm alleged in Count Two.

A "firearm" is any weapon which will or is designed to expel a projectile by the action of an explosive.

In order to satisfy the essential element of "possession" beyond a reasonable doubt the government can prove either "actual possession" or "constructive possession." Generally, to possess something means to have it within a person's control.

Actual possession requires the government to show that the defendant physically possessed the firearm.

Constructive possession exists when the defendant knowingly has the power and intention to exercise dominion and control over the firearm, which may be shown by direct or circumstantial evidence. Mere presence in the vicinity of the firearm is not enough to satisfy the element of possession. Mere dominion and control over the place in which the firearm is found, by itself, is not enough to establish constructive possession when there is joint occupancy of a place, although it is a relevant consideration. Instead, some evidence of "possession" is required besides mere joint occupancy of the place where the firearm was located. The defendant's knowledge and intent are crucial to determining whether he exercised constructive possession of the firearm. Constructive possession exists only when the defendant knowingly has both the power and the intention at a given time to exercise dominion and control over the firearm.

The government must also prove that defendant knowingly possessed the firearm charged in Count Two. Knowingly means that he possessed the firearm purposely and voluntarily, and not by accident or mistake. It also means that he knew that the weapon was a firearm; however, the government is not required to prove that the defendant knew that he was breaking the law.

A person acts knowingly if that person acts intentionally and with knowledge, and not because of ignorance or carelessness. Whether the defendant acted knowingly may be proven by the defendant's words and conduct and by all the facts and circumstances supplied by the evidence in this case.

COUNT TWO: SECOND ELEMENT

The second element that the government must prove beyond a reasonable doubt is that, at the time of the alleged offense, the defendant was an addict or unlawful user of one or more controlled substances.

An addict is defined as a person who habitually uses any narcotic drug so as to endanger the public morals, health, safety or welfare, or who is so far addicted to the use of narcotic drugs that he has lost the power of self-control with reference to his addiction.

An unlawful user of controlled substances is a person who is a current user of controlled substances in any manner other than as prescribed by a licensed physician.

Such use is not limited to the use of drugs on a particular day, or within the matter of days or weeks before the events charged in the indictment, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. However, using controlled substances one time or only infrequently is not sufficient to establish that the defendant is an addict or an unlawful user. The defendant must have been engaged in use that was sufficiently consistent and prolonged to constitute a pattern of regular and repeated use of a controlled substance.

A person may be an addict or an unlawful user of a controlled substance even though the substance was not being used at the precise time that the individual possessed the firearm. You may conclude that the defendant was an addict or an unlawful user of controlled substances if you find that the defendant engaged in a regular pattern of use of controlled substances that covers the time of the events charged in the indictment. Here, the indictment charges that the defendant's unlawful possession occurred from on or about September 23, 2011 until on or about May 29, 2013.

I instruct you that, as a matter of law, Percocet and Vicodin are controlled substances.

COUNT TWO: THIRD ELEMENT

The third element that the government must prove beyond a reasonable doubt is that the firearm the defendant is charged with possessing was in or affecting interstate commerce. This means that the government must prove that at some point in time prior to the defendant's possession, the firearm had traveled in interstate commerce. It is sufficient for the government to satisfy this element by proving that at any time prior to the date charged in the indictment, the firearm crossed a state line. It is not necessary that the government prove that the defendant himself carried it across a state line, nor must the government prove who carried across or how it was transported. It is also not necessary for the government to prove that the defendant knew that the firearm had previously traveled in interstate commerce.

COUNTS THREE AND FOUR: FALSE STATEMENTS ON INCOME TAX RETURNS

Counts Three and Four of the indictment charge the defendant with filing tax returns in 2010 and 2011 that the defendant knew to be false as to a material matter, in violation of 26 U.S.C. § 7206(1).

Count Three charges the defendant with willfully making and subscribing a U.S. Individual Income Tax Return, Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service, and that the defendant did not believe that Form 1040 to be true and correct as to every material matter, in this case, in that he stated he had an adjusted gross income for the calendar year 2010 of $14,299, when he knew and believed it was substantially more than that.

Count Four charges the defendant with willfully making and subscribing a U.S. Individual Income Tax Return, Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service, and that the defendant did not believe that Form 1040 to be true and correct as to every material matter, in this case, in that he stated he had an adjusted gross

income for the calendar year 2011 of -$3,398.00, when he knew and believed it was substantially more than that.

Section 7206(1) makes it a crime for an individual to willfully make and subscribe any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which the individual does not believe to be true and correct as to every material matter.

In order to find the defendant guilty of a false statement on an income tax return, you must find that the government has proved beyond a reasonable doubt the following essential elements:

FIRST: That the defendant subscribed and filed the charged tax return;

SECOND: That the return contained a written declaration that it was made under the penalty of perjury;

THIRD: That the defendant did not believe the return to be true and correct as to every material matter because the return was in fact false as to a material matter and the defendant knew the return to be false; and

FOURTH: That the defendant subscribed and filed the return willfully.

If you find that the government has failed to prove any one of these elements beyond a reasonable doubt with regard to a specific Count, then you should find the defendant not guilty of that charge. If, however, you find that the government has proved each of these elements beyond a reasonable doubt with regard to a specific Count, then you should find the defendant guilty of that charge. I will now explain these elements in more detail.

COUNTS THREE AND FOUR: FIRST ELEMENT

The first element that the government must prove beyond a reasonable doubt is that the defendant subscribed and filed the tax return identified in each count, here, in Count Three the 2010 Form 1040 and in Count Four the 2011 Form 1040. A tax return is subscribed to at the time it is signed. A tax return is filed at the time it is delivered to the Internal Revenue Service.

COUNTS THREE AND FOUR: SECOND ELEMENT

The second element that the government must prove beyond a reasonable doubt is that the return charged in each Count contained a written declaration that it was made under penalty of perjury. To satisfy this element, the government must prove that on its face the return contained a statement indicating that the return was made under penalty of perjury.

COUNTS THREE AND FOUR: THIRD ELEMENT

The third element that the government must prove beyond a reasonable doubt is that the defendant did not believe the return charged in each Count to be true and correct as to every material matter. To prove this element the government must prove that the return was materially false and that the defendant knew that this was so.

The false statement in the return must be material. This means that it must be essential to an accurate determination of the defendant's tax liability. An income tax return may be false not only by reason of understatement of income but also because of an overstatement of lawful deductions or because the deductible expenses are mischaracterized on the return. Whether the false statement had a minor or substantial impact on the defendant's actual tax liability is irrelevant so long as the false statement caused the returns to be inaccurate in that the false statement affected the computation of defendant's tax liability. The government does not need to prove the existence of a tax deficiency or loss.

The government must also prove that the defendant knew that the statement was false. A person acts knowingly when he acts intentionally and voluntarily, and not because of ignorance, mistake, accident, or carelessness. Whether the defendant acted knowingly may be proved by the defendant's conduct and the facts and circumstances surrounding the case.

COUNTS THREE AND FOUR: FOURTH ELEMENT

The fourth element that the government must prove beyond a reasonable doubt is that the defendant acted willfully when subscribing and filing the tax return charged in each Count. In order for the government to prove this element, the government must

establish beyond a reasonable doubt that the defendant acted voluntarily and intentionally, with the specific intent to make a statement that the defendant knew was false, when it was the legal duty of the defendant to answer truthfully, and the defendant knew it was his legal duty to answer truthfully.

Willfulness is an intentional violation of a known legal duty. To act willfully means to do an act on purpose, and not inadvertently or by mistake or accident. Whether the defendant acted willfully may be proven by the defendant's words and conduct and by all the facts and circumstances supplied by the evidence in this case.

COUNT FIVE: MONEY LAUNDERING

Count Five of the indictment charges the defendant with money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i). Specifically, Count Five charges that the defendant knowingly conducted or attempted to conduct a financial transaction affecting interstate commerce, namely, the purchase and delivery of a fuel tank from in or about Milton, Pennsylvania, for approximately $15,000 in U.S. currency. Count Five is alleged to have involved the proceeds of a specified unlawful activity, namely, distributing marijuana. Count Five charges that the defendant conducted or attempted to conduct this transaction knowing that such transaction was designed to conceal and disguise the nature and source of the proceeds of the specified unlawful activity and that, while conducting and attempting to conduct such transaction, the defendant knew the property involved represented the proceeds of some form of unlawful activity.

Section 1956(a)(1)(B)(i) makes it a crime to conduct or attempt to conduct a financial transaction knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity when the party knows that the transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity. The transaction must, in fact, involve the proceeds of a specified unlawful activity.

In order to find the defendant guilty of Count Five, you must find that the government has proved beyond a reasonable doubt the following essential elements:

FIRST: That the defendant conducted or attempted to conduct a financial transaction involving property constituting the proceeds of the specified unlawful activity, here, marijuana distribution;

SECOND: That the defendant knew the property involved in the financial transaction represented the proceeds of some form of unlawful activity; and

THIRD: That the defendant knew that the transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of a specified unlawful activity.

If you find that the government has failed to prove any one of these elements beyond a reasonable doubt, then you should find the defendant not guilty of Count Five. If, however, you find that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty of Count Five. I will now explain these elements in more detail.

COUNT FIVE: FIRST ELEMENT

The first element that the government must prove beyond a reasonable doubt is that the defendant conducted or attempted to conduct a financial transaction involving property constituting the proceeds of the specified unlawful activity, namely, marijuana distribution. A number of these terms require definition.

The term "conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction.

The term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of property.

The term "financial transaction" means a transaction which in any way or degree affects interstate or foreign commerce and involves the movement of funds by wire or other means or involves one or more monetary instruments.

The term "interstate commerce" means the movement of goods, services, money and individuals through trade, transactions, transportation, or communication between any combination of states, territories, or possession of the United States.

The term "monetary instrument" includes, among other things, coin or currency of the United States or any other country, as well as personal checks, bank checks, and/or money orders.

COUNT FIVE: SECOND ELEMENT

The second element that the government must prove beyond a reasonable doubt is that the defendant knew that the property involved in the financial transaction was the proceeds of some form of unlawful activity.

The term "proceeds" is defined as any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

To satisfy this element, the government must prove that the defendant knew that the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state, federal, or foreign law. Thus, the government does not have to prove that the defendant specifically knew that the property involved in the transaction represented the proceeds of marijuana distribution or any other specific offense. Simply, there is no requirement that the government prove the defendant's knowledge of the nature or type of the specified unlawful activity. Rather, the government only has to prove that the defendant knew it represented proceeds of some illegal activity which was a felony.

I instruct you as a matter of law that marijuana distribution is a felony under federal law.

COUNT FIVE: THIRD ELEMENT

The third element that the government must prove beyond a reasonable doubt is that the defendant acted with knowledge that the transaction was designed to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity, namely, marijuana distribution. To "conceal" or "disguise" means to hide the nature, location, source, ownership, or control of the proceeds of a specified unlawful activity.

If you find that the evidence establishes beyond a reasonable doubt that the defendant knew of the purpose of the particular transaction in issue, and that he knew that the transaction was either designed to conceal or disguise the true origin of the property in question, then this element is satisfied. However, if you find that the defendant knew of the transaction but did not know that it was either designed to conceal or disguise the true origin of the property in question, but instead thought that the transaction was intended to further the innocent transaction, you must find that this element has not been satisfied and find the defendant not guilty.

MULTIPLE COUNTS

The indictment contains a total of five counts. A separate crime of offense is charged in each count of the indictment. Each charge and the evidence pertaining to each charge should be considered separately. You must return separate verdicts on each count. The fact that you may find the defendant not guilty or guilty as to one of the offenses charged should not control your verdict as to any other offense charged.

UNANIMOUS VERDICT REQUIRED

To return a verdict, it is necessary that every juror agree to the verdict. In other words, your verdict must be unanimous regarding each essential element of each count.

JUROR NOTE TAKING

During this trial, you have been provided with pencil and paper, and some of you have taken notes. As I explained at the beginning of the trial, all jurors should be given equal attention during the deliberations regardless of whether or not they have taken notes. Any notes you have taken may only be used to refresh your memory during deliberations. You may not use your notes as authority to persuade your fellow jurors as to what a witness did or did not say. In your deliberations you must rely upon your collective memory of the evidence in deciding the facts of the case. If there is any difference between your memory of the evidence and your notes, you may ask that the record of the proceedings be read back. If a difference still exists, the record must prevail over your notes.

RECOLLECTION OF EVIDENCE

Let me remind you that in deliberating upon your verdict, you are to rely solely and entirely upon your own memory of the testimony.

If, during your deliberations, you are unable to recall with any degree of accuracy, a particular part of the testimony, or a part of these instructions, you may do the following:

(1) Write out your question, and have the foreperson sign it;

(2) Knock on the door of the jury room; and

(3) Deliver your note to the Court Officer to give to me.

After the attorneys have been consulted, and the record has been reviewed, I will decide what action to take, and I will tell you my ruling.

CONCLUSION

I caution you, members of the jury, that you are here to determine whether the defendant before you today is not guilty or guilty solely from the evidence in this case. I remind you that the mere fact that a defendant has been indicted is not evidence against him. Also, a defendant is not on trial for any act or conduct or offense not alleged in the indictment. Nor are you called upon to return a verdict as to the guilt or innocence of any other person or persons not on trial as a defendant in this case.

You should not consider the consequences of a guilty or not guilty determination. The punishment provided by law for the offenses charged in the indictment is a matter exclusively within the responsibility of the judge, and should never be considered by the jury in any way in arriving at an impartial verdict.

It is your duty as jurors to consult with one another and to deliberate. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence in the case with your fellow jurors. Do not hesitate to re-examine your own views and change your opinion if you think that you were wrong. Do not, however, surrender your honest convictions about the case solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Upon retiring to the jury room, your foreperson will preside over your deliberations and will be your spokesperson here in court. If a vote is to be taken, your foreperson will ensure that it is done. A verdict form has been prepared for your conclusions. If the verdict form varies in any way from the instructions provided within this jury charge, I instruct you that you are to follow the instructions provided within this jury charge.

After you have reached an agreement, the foreperson will record a verdict of guilty or not guilty as to the defendant on each count. Your foreperson will then sign and date the verdict form and you will return to the courtroom. In all other respects, a foreperson is the same as any other juror. His or her vote does not count more than any other member of the jury.

If, during your deliberations you should desire to communicate with the court, please put your message or question in writing signed by the foreperson, and pass the note to the Court Officer who will bring it to my attention. I will then confer with the attorneys and I will respond as promptly as possible, either in writing or by having you return to the courtroom so that I can speak with you. I caution you, however, with regard to any message or question you might send, that you should never state or specify your numerical division at the time. You should also never communicate the subject matter of your note or your deliberations to any member of the court's staff.

I appoint [redacted] as your foreperson.

Dated at Burlington, in the District of Vermont, this 18th day of September, 2014.

Christina Reiss, Chief Judge
United States District Court