UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA	:	
v.	:	No. 2:02-CR-38-01
ERNEST J. WALKER, Defendant.	:	

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, Ernest Walker. The grand jury Indictment charges the defendant in one count. You will receive a copy of the Indictment to take with you into the jury room. Count One of the Indictment alleges that:

> On or before March 10, 2002 to on or about April 5, 2002, within the District of Vermont, ERNEST WALKER and TABYIAS C. GORDON, the defendants, did knowingly and intentionally conspire, confederate and agree with each other and together with Samuel Bolden, Fitzroy Watson, Dylan Babstock, and others both known and unknown to the Grand Jury to distribute fifty (50) grams or more of a mixture or substance which contained cocaine base; that is, crack cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A), all in violation of 21 U.S.C. § 846.

ROLE OF INDICTMENT

At this time, I would like to remind you of the function of a grand jury indictment. An indictment is merely a formal way to accuse the defendant of a crime preliminary to trial. An indictment is not evidence. The 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 nature of the charges against the defendant.

The defendant has pleaded not guilty to the count 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

I have said that the government must prove the defendant guilty beyond a reasonable doubt. The question naturally 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 caprice or whim; it is not a speculation or suspicion. It is not an excuse to avoid the performance of an unpleasant duty. And it is not sympathy. Under your oath as jurors you are not to be swayed by sympathy; you are to be guided solely by the evidence in this case.

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 that the government prove guilt beyond all possible doubt; proof beyond a reasonable doubt is sufficient to convict. This burden never shifts to the defendant, which means that it is always the government's burden to prove each of the elements of the crime charged beyond a reasonable doubt.

If, after fair and impartial consideration of all of the evidence you have a reasonable doubt, it is your duty to find the 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.

As I have instructed you, the law presumes that the defendant is innocent of the charges against him. The

presumption of innocence lasts throughout the trial and 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.

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 received in evidence, and all the facts which may have been admitted or stipulated. I would now like to call to your attention certain guidelines by which you are to evaluate the evidence.

There are two types of evidence which 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 where the fact to be proved is its present existence or condition.

Circumstantial evidence is evidence which tends to prove a disputed fact by proof of other facts. You infer on the basis of reason and experience and common sense from one established fact

the existence or non-existence of some other fact. Circumstantial evidence is of no less value than direct evidence. It is a general rule that the law makes no distinction between direct evidence and circumstantial evidence, but requires that your verdict must be based on all the evidence presented. You may convict a defendant on the basis of circumstantial evidence alone, but only if that evidence convinces you of the guilt of that defendant beyond a reasonable doubt.

TESTIMONY AND ARGUMENTS EXCLUDED

I caution you that you should entirely disregard any testimony 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. The evidence that you will consider in reaching your verdict consists, as I have said, only of the sworn testimony of witnesses, the stipulations made by the parties, and all the exhibits that have been received in evidence. When the attorneys on both sides stipulate or agree as to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

Anything you have seen or heard outside the courtroom is not evidence, and must be entirely disregarded. You are to consider only the evidence in the case. But in your consideration of the evidence, you are not limited merely to the bald statements of

the witnesses. 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 your experiences.

ADMISSIONS

There has been evidence in this case that the defendant made certain statements in which the government claims he admitted certain facts charged in the Indictment. These statements are known as admissions. You should first examine with great care whether each statement was made. You should then consider whether the statement was made voluntarily and knowingly. All such alleged statements or admissions should be disregarded entirely unless you find beyond a reasonable doubt that the admission was made knowingly and voluntarily.

In determining whether a statement was made voluntarily and knowingly, you should consider all circumstances in evidence surrounding the making of the statement. If you determine that a statement was made knowingly and voluntarily, you may give it such weight as you feel it deserves. Depending on their content, admissions may constitute the strongest sort of evidence against the party making them. Admissions, however, may also provide or support a defense, and you are entitled to decide how to view

them and the weight to give them.

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 toward the defendant, if any; 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.

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. 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 well hear or see things differently, or may have a different point of view regarding various occurrences. Innocent misrecollection or failure of recollection is not an uncommon experience. 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.

In this case you have heard testimony from a number of witnesses. I am now going to give you some guidelines for your determinations regarding the testimony of the various types of witnesses presented in this case.

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 creates 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 may have 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 every 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 testimony from expert witnesses. An expert is allowed to express an opinion on those matters about which he or she has special knowledge and training. Expert testimony is presented to you on the theory that someone who is experienced in the field can assist you in understanding the evidence or in reaching an independent decision on the facts. In weighing the expert's testimony, you may consider his or her qualifications, opinions, and reasons for testifying, as well as all of the other considerations that ordinarily apply when you are deciding whether to believe a witness's testimony. You may give the expert's testimony whatever weight, if any, you find it deserves in light of all the evidence in this case. You should not,

however, accept the expert's testimony merely because he or she is an expert. Nor should you substitute it for your own reason, judgment, and common sense. The determination of the facts in this case rests solely with you.

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 necessarily deserving of more or less consideration or greater or lesser weight than that of an ordinary witness.

At the same time, it is quite legitimate 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 the law enforcement witness and to give to that testimony whatever weight, if any, you find it deserves.

GOVERNMENT INFORMERS

There has been evidence introduced at trial that the government used an informer in this case. I instruct you that there is nothing improper in the government's use of informers

and, indeed, certain criminal conduct would never be detected without the use of informers. You, therefore, should not concern yourselves with how you personally feel about the use of informers, 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 an informer.

On the other hand, where an informer testifies, as he did here, his testimony must be examined with greater scrutiny than the testimony of an ordinary witness. You should consider whether he received any benefits or promises from the government which would motivate him to testify falsely against the defendant. For example, he may believe that he will only continue to receive these benefits if he produces evidence of criminal conduct.

If you decide to accept his testimony, 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 AND IMMUNIZED WITNESSES:

CREDIBILITY OF WITNESS

You have also heard witnesses 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.

This is also true of accomplices or other witnesses who have received immunity. A witness receives immunity from the government when that witness is told his or her crimes will go unpunished in exchange for testimony, or that his or her testimony will not be used against him or her. A witness who has entered into such an agreement has an interest in this case different from any 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 has a motive to testify falsely. Therefore, you must examine his or her 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.

UNINDICTED CO-CONSPIRATOR AS GOVERNMENT WITNESS

The government has called as witnesses people who are named by the prosecution as co-conspirators, but who were not charged as defendants.

For this reason, you should exercise caution in evaluating their testimony and scrutinize it with great care. You should consider whether they have an interest in the case and whether they have a motive to testify falsely. In other words, ask yourselves whether they have a stake in the outcome of this trial. As I have indicated, their testimony may be accepted by you if you believe it to be true and it is up to you, the jury, to decide what weight, if any, to give to the testimony of these unindicted co-conspirators.

DRUG USERS: CREDIBILITY OF WITNESSES

There has been evidence introduced at the trial that the government called as witnesses persons who were using drugs when the events they observed took place. I instruct you that 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. The testimony of a witness who was using drugs at the time of the events he or she is testifying about may be less believable because of the effect the drugs may have on the witness's ability to perceive or relate to 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.

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 the out-of-court statements not made under oath only to determine the credibility of the witness and not as evidence of any facts contained in the statements. As to out-of-court statements that were made under oath, such as statements made in prior testimony, you may consider them for all purposes, including for the truth of the facts contained therein.

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.

GOVERNMENT AS A PARTY

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.

This case is important to the government, for the enforcement of criminal laws is a matter of prime concern to the

community. Equally, this case is important to the defendant, who is charged with a serious crime.

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.

IMPERMISSIBLE TO INFER PARTICIPATION FROM ASSOCIATION

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

IMPERMISSIBLE TO INFER PARTICIPATION FROM MERE PRESENCE

You also may not infer that the 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.

RECORDINGS

The Government has offered evidence in the form of tape recordings of conversations with the defendant. These recordings were made without the knowledge of the defendant. The use of this procedure to gather evidence is perfectly lawful, and the government is entitled to use the tape recordings in this case.

DEFENDANT NOT TESTIFYING

You may have observed that the defendant did not testify in this case. The 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. The defendant's decision not to testify raises no presumption of guilt and does not permit you to draw any unfavorable inference. Therefore, in determining the defendant's guilt or innocence of a crime charged, you are not to consider, in any manner, the fact that the defendant did not testify. Do not even discuss it in your deliberations.

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 INDICTMENT AND THE STATUTES

You will recall that the Indictment charges the defendant with conspiring to knowingly and intentionally distribute fifty (50) grams or more of a mixture or substance containing cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) and 846. Section 841(a)(1) makes it a crime for anyone to knowingly or intentionally distribute a controlled substance, in this case crack cocaine. Section 846, as charged in this Indictment, states that anyone who ". . . conspires to commit any offense defined in . . . [Section 841] shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the . . . conspiracy." The Indictment, therefore, charges the defendant with conspiring with others to knowingly and intentionally distribute crack cocaine, a Schedule II controlled substance.

CONSPIRACY

A conspiracy is a type of criminal partnership where two or more persons agree to join together to commit a particular

offense. The most vital part of the conspiracy is the agreement, which must be willingly entered into by the parties to it. A successful completion of the conspiracy's objective is irrelevant in determining the defendant's guilt.

ELEMENTS OF CONSPIRACY

In order to satisfy its burden of proof on the conspiracy charge, the government must establish each of the following two essential elements beyond a reasonable doubt:

(1) that two or more persons entered into the unlawful agreement charged in the Indictment to commit an unlawful act, to wit, to distribute crack cocaine; and

(2) that at some point after its formation, the defendant knowingly and willfully became a member of the conspiracy.

(1) EXISTENCE OF AN AGREEMENT

The first element the government must prove beyond a reasonable doubt to establish the offense of conspiracy is that two or more persons entered into the unlawful agreement charged in the Indictment.

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 the members would commit some illegal activity by means of a common plan or course of action, as alleged in the Indictment.

There may or may not be direct proof of the agreement. However, because a conspiracy is characterized by secrecy, you may 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 with reference to the circumstances in general.

Co-conspirators 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 some illegal act.

(2) MEMBERSHIP IN THE CONSPIRACY

The second element the government must prove beyond a reasonable doubt to establish the offense of conspiracy is that the defendant knowingly, willfully and voluntarily became a

member of the conspiracy.

If you are satisfied that the conspiracy charged in the Indictment existed, you must next ask yourselves who the members of that conspiracy were. In order to make this determination, you must decide whether the defendant knowingly and willfully joined the conspiracy with knowledge of its unlawful purpose and with the intention of furthering its business or objective.

You must find that the defendant joined the conspiracy with an awareness of at least some of the basic aims and purposes of the unlawful agreement in order to satisfy the knowledge element of the conspiracy charge. The defendant's knowledge is a matter of inference and must be established by his own acts or statements, as well as those of the other alleged co-conspirators. The defendant need not have known the identities of each and every member, nor been fully informed of all of their activities, nor all of the details of the conspiracy.

The extent of the defendant's participation has no bearing on his guilt. If the evidence establishes beyond a reasonable doubt that defendant knowingly and deliberately entered into an agreement to commit the substantive offense charged in 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. A single act may be sufficient to find that defendant was a member of the conspiracy. In other words, if his presence was a functional part of the conspiracy, then you may find that he was a member of that 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. Mere presence or association with conspirators and financial interest, though, are factors that you may consider among others to determine whether a defendant was a member of the conspiracy.

In sum, the defendant, with an understanding of the unlawful character of the conspiracy, must have 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, a conspirator.

SUBSTANTIVE OFFENSE: DISTRIBUTION OF A CONTROLLED SUBSTANCE

If you find that a conspiracy existed and that the defendant was a member of that conspiracy, you must also find that the

illegal undertaking pursued by the conspiracy was the distribution of crack cocaine, a Schedule II controlled substance, as charged under 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) and 846. I also instruct you that crack cocaine is a Schedule II controlled substance.

AMOUNT OF DRUGS

If you find that the government has proven beyond a reasonable doubt the elements that I have just described to you, then there is one more issue you must decide. I have provided you with a special verdict form asking you to decide upon the amount of drugs involved in the conspiracy. The burden is on the government to establish the type and amount of drugs beyond a reasonable doubt. Remember, you should address this issue and complete the form only if you find the first two elements to have been established. If you did not find that the government has proven the two elements, then do not complete this form.

DEFINITION OF DISTRIBUTION

The word "distribute" means to deliver a narcotic. "Deliver" is defined as the actual, constructive or attempted transfer of a narcotic. 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, narcotics.

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.

KNOWINGLY

You have been instructed that in order to sustain its burden of proof on the charge in the Indictment, the government must prove that the defendant acted knowingly. A person acts knowingly if that person acts intentionally and voluntarily, and not because of ignorance, mistake, accident or carelessness. Whether the defendant acted knowingly may be proven by the defendant's conduct and by all the facts and circumstances surrounding this case.

VENUE

In addition to the foregoing elements of the offense of conspiracy, you must consider whether any act in furtherance of the crime occurred within the District of Vermont. You are instructed that the district encompasses the entire state of Vermont.

In this regard the government need not prove that the crime itself was committed in this district or that the defendant was

present here. It is sufficient to satisfy this element if any act in furtherance of the crime occurred within this district. If you find that the government has failed to prove that any act in furtherance of this crime occurred within the district -- or if you have reasonable doubt on this issue -- then you must acquit.

"ON OR ABOUT" EXPLAINED

Finally, the Indictment in this case charges that a particular offense was committed "on or about" or "on or before" a certain date. It is not necessary for the government to prove that the offense was committed precisely on the date charged; however, it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged in the Indictment. For instance, if the Indictment charges that a specific crime occurred on March 5, 1992 and you find beyond a reasonable doubt from the evidence that the alleged crime occurred on March 4, 1992, a date reasonably near March 5, 1992, you should return a verdict of guilty on that charge.

CONCLUSION

I caution you, members of the jury, that you are here to determine the guilt or innocence of the defendant before you today solely from the evidence in this case. I remind you that

the mere fact that this defendant has been indicted is not evidence against him. Also, the 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 know that the punishment provided by law for the offense charged in the Indictment is a matter exclusively within the province of the judge, and should never be considered by the jury in any way in arriving at an impartial verdict as to the guilt or innocence of the accused.

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 other 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 other jurors, or for the mere purpose of returning a verdict.

To return a verdict, it is necessary that every juror agree to the verdict. In other words, your verdict must be unanimous.

Upon retiring to the jury room, your foreperson will preside over your deliberations and will be your spokesperson here in

court. A verdict form has been prepared for your convenience. After you have reached agreement as to the count contained in the Indictment, you will have your foreperson record a verdict of guilty or not guilty as to that count. Your foreperson will sign and date the verdict form and you will then return to the courtroom.

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 marshal who will bring it to my attention. I will respond as promptly as possible, either in writing or by having you returned 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. Also, a copy this charge will go with you into the jury room for your use.

I appoint Laurie Knox as your foreperson.

Dated at Burlington, Vermont this 23 day of April, 2003.

William K. Sessions III
Chief Judge, U.S. District Court