

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA,	:	
	:	
v.	:	File No.: 1:11-cr-127-jgm
	:	
SHERRY ROEBUCK,	:	
	:	
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. You will receive a copy of the indictment to take with you into the jury room. This case is a criminal prosecution brought by the United States against the Defendant, Sherry Roebuck.

Count One charges Sherry Roebuck with embezzlement and theft from municipalities receiving federal funds under a federal government program. Count Two charges Sherry Roebuck with mail fraud.

Sherry Roebuck has pled "Not Guilty" to these two charges.

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 a defendant of a crime prior to trial. An indictment is not evidence. The indictment in this case does not create any presumption of guilt or permit an inference of guilt. It should not influence your verdict in any way. It simply describes the charges against Sherry Roebuck. 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 Sherry Roebuck's Not Guilty plea. You are to perform this duty without bias or prejudice against Sherry Roebuck or the prosecution.

**PRESUMPTION OF INNOCENCE,
REASONABLE DOUBT AND BURDEN OF PROOF**

The law presumes that Sherry Roebuck is innocent of the charges against her. 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 Sherry Roebuck is guilty. Should the government fail to prove the guilt of Sherry Roebuck beyond a reasonable doubt, you must find her not guilty.

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 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. However, reasonable doubt may arise from the evidence, lack of evidence, or nature of the evidence.

In a criminal case, the burden is 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 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. For each offense charged in the indictment, if after fair and impartial consideration of all the evidence you have a reasonable doubt, you must find the defendant not guilty of that offense. If you view the evidence in the case as reasonably permitting either of two conclusions – one of innocence, the other of guilt – you must find that defendant Not Guilty. If, however, after fair and impartial consideration of all the evidence you are satisfied of the defendant’s guilt of the offense beyond a reasonable doubt, you should vote to convict.

SEPARATE COUNTS

The indictment charges Sherry Roebuck in two counts. Each count alleges Sherry Roebuck committed a different crime. You must consider each count and any evidence pertaining to it separately, and return a separate verdict for each count of “Guilty” or “Not Guilty.”

EVIDENCE

You have seen and heard the evidence produced in this trial and it is the sole responsibility 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 to 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 he or she knows by virtue of his or her own senses – something he or she 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 nonexistence of some other fact. Circumstantial evidence is of no less value than direct evidence.

You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of Sherry Roebuck's guilt beyond a reasonable doubt, you must find her Not Guilty.

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. By the rulings I have made in the course of the trial, I did not intend to indicate to you any of my own views, 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.

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. 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 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 proven, such reasonable inferences as you feel are justified in light of your experiences. 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.

STIPULATION OF FACTS

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 proven.

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 Sherry Roebuck, 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, 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.

LAW ENFORCEMENT WITNESS

You have heard the testimony of a law enforcement official 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 a law enforcement official, and to give to that testimony 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 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.

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 Sherry Roebuck, who is charged with serious crimes. 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.

CHARTS & SUMMARIES ADMITTED AS EVIDENCE

The government and the defendant have presented exhibits in the form of charts and summaries. I decided to admit some of these charts and summaries along with the underlying

documents that they represent in order to save time and avoid unnecessary inconvenience. You should consider these charts and summaries as you would any other evidence.

OTHER ACTS

You are only to determine whether Sherry Roebuck is guilty or not guilty of the charges in the indictment. Your determination must be made only from the evidence in the case. Sherry Roebuck is not on trial for any conduct or offense not charged in the indictment. You should consider evidence about the acts, statements, and intentions of others, or evidence about other acts of the defendant, only as they relate to these charges against the defendant.

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 applies 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 you find from the evidence.

In this trial, the lawyers may have referred to some of the governing rules of law in their arguments. If, however, any difference appears to you between the law as stated by the lawyers and the law stated by me in these instructions, you are to follow my instructions.

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. It is the sole responsibility of the jury to determine the facts in this case. I do not, by any instructions I give to you, intend to persuade you in any way as to any question of fact.

COUNT ONE: THEFT FROM MUNICIPALITIES RECEIVING FEDERAL FUNDS

Count One of the indictment charges the Defendant Sherry Roebuck with embezzling money from municipalities receiving federal funds, which is a violation of federal law.

The relevant statute on this subject is Title 18 of the United States Code, section 666(a)(1)(A). It provides in relevant part: “Whoever . . . being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that (i) is valued at \$5,000 or more, and (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency” shall be guilty of an offense.

Elements of Embezzlement

In order to satisfy its burden of proof on the charge alleging embezzlement from municipalities receiving federal funds, the government must prove each of the following five essential elements beyond a reasonable doubt.

Element One:

The government must prove beyond a reasonable doubt that at the time alleged in the indictment, Sherry Roebuck was an agent of Algier's Fire District #1 and the Town of Guilford.

An "agent" is a person authorized to act on behalf of another person, organization or government. Employees, partners, directors, officers, managers, and representatives are all agents of the organization or government with which they are associated. A person may be an agent of more than one government agency. An employee of one agency within a larger government department may be an agent of that larger department as well.

Element Two:

For this element the government must prove beyond a reasonable doubt that in a one-year period the Algier's Fire District #1 and the Town of Guilford received federal benefits in excess of \$10,000.

To prove this element, the government must establish that the Algier's Fire District #1 and the Town of Guilford received, during a one-year period beginning in January 2009, benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or some other form of federal assistance. This does not include legitimate, valid, bona fide salary, wages, fees, or other compensation paid or expenses paid or reimbursed in the ordinary course of business.

The one-year period must begin no more than 12 months before the defendant committed the acts charged in the indictment and must end no more than 12 months after those acts.

The government does not have to prove that the defendant had the authority to administer these federal benefits.

Element Three:

For this element, the government must prove beyond a reasonable doubt that Sherry Roebuck embezzled or knowingly converted money or property.

To embezzle money or property means to voluntarily and intentionally take or convert to one's own use money or property of another after that money or property lawfully came into the possession of the person taking it by virtue of some office, employment, or position of trust.

To convert money or property means to appropriate or use such money or property for the benefit of oneself or any other person who was not the rightful owner with the intent to deprive the rightful owner of the money or property.

Specific intent to steal from the municipalities must be proved in fact, and for this, circumstantial as well as direct evidence may be considered. The specific intent requirement means that Ms. Roebuck is not guilty of the offense if you find that she acted in good faith in carrying out her duties and tasks. If the defendant believed in good faith she was acting properly, even if mistaken in that belief, and even if others were injured by her conduct, there would be no crime. The burden of establishing lack of good faith and criminal intent beyond a reasonable doubt rests upon the prosecution.

Element Four:

For this element the government must prove beyond a reasonable doubt that the property embezzled was in the care, custody or control of the Algier's Fire District #1 and the Town of Guilford.

Although the words "care," "custody," and "control" have slightly different meanings, for the purposes of this element they express a similar idea. That is that the Algier's Fire District #1

and the Town of Guilford had control over and responsibility for the property even though it was not the actual owner of the property at the time of Sherry Roebuck's actions.

Element Five:

For this element the government must prove beyond a reasonable doubt that the value of the property embezzled or knowingly converted was at least \$5,000.

The government is not required to prove the exact amount of money or the value of the property at issue, but the government must prove beyond a reasonable doubt that the value of the money or property was \$5,000 or more.

You may aggregate or add up the value of property obtained from a series of acts by defendant to meet this \$5,000 requirement, so long as you find that each act of embezzlement was part of a single scheme by the defendant to obtain property belonging to the Algiers Fire District #1 and the Town of Guilford.

The government does not have to prove that the property embezzled by Sherry Roebuck was received by the Algier's Fire District #1 and the Town of Guilford as federal benefits. What the government must prove beyond a reasonable doubt is that the Defendant embezzled from the Algier's Fire District #1 at the same time that the Algier's Fire District #1 and the Town of Guilford received federal benefits in excess of \$10,000 during a one-year period. In other words, the government does not need to establish a connection between the criminal activity and the federal funds.

COUNT TWO: MAIL FRAUD

Count Two of the indictment charges that Sherry Roebuck devised a scheme to defraud and in furtherance of that scheme knowingly caused the mails to be used, in violation of Title 18 of the United States Code, section 1341.

Section 1341 provides as follows:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises . . . for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier . . . or knowingly causes to be delivered by mail or such carrier according to the direction thereon . . . any such matter or thing, shall be [guilty of a crime].

Elements of the Offense

In order to sustain this charge, the government must prove each of the following elements beyond a reasonable doubt:

First, that there was a scheme or artifice to defraud or to obtain money or property by materially false and fraudulent pretenses, representations or promises, as alleged in the indictment;

Second, that the defendant knowingly and willfully participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with specific intent to defraud; and

Third, that in execution of that scheme, the defendant used or caused the use of the mails, or a private or commercial interstate carrier, as specified in the indictment.

I will now give you more detail on each element:

First Element - Existence of a Scheme or Artifice to Defraud

The first element that the government must prove beyond a reasonable doubt is that there was a scheme or artifice to defraud Algiers Fire District #1 and the Town of Guilford of money or property by means of false or fraudulent pretenses, representations or promises.

This first element is almost self-explanatory.

A "scheme or artifice" is merely a plan for the accomplishment of an object. A scheme to defraud is any plan, device, or course of action to obtain money or property by means of false or fraudulent pretenses, representations, or promises reasonably calculated to deceive persons of average prudence.

"Fraud" is a general term which embraces all the various means which human ingenuity can devise and which are resorted to by an individual to gain an advantage over another by false representations, suggestions or suppression of the truth, or deliberate disregard for the truth.

Thus, a "scheme to defraud" is merely a plan to deprive another of money or property by trick, deceit, deception or swindle.

The scheme to defraud is alleged to have been carried out by making false and fraudulent statements, representations and promises.

A statement, representation, or promise is false if it is untrue when made and was then known to be untrue by the person making it or causing it to be made.

A representation or statement or promise is fraudulent if it was falsely made with the intention to deceive. Deceitful statements of half truths or the concealment of material facts, and the expression of an opinion not honestly entertained may also constitute false or fraudulent statements under the statute.

The deception need not be premised upon spoken or written words alone. The arrangement of the words, or the circumstances in which they are used may convey the false and deceptive appearance. If there is deception, the manner in which it is accomplished is immaterial.

The false or fraudulent representation must relate to a material fact or matter. A material fact is one which would reasonably be expected to be of concern to a reasonable and prudent person in relying upon the representation or statement in making a decision (*e.g.*, with respect to a proposed investment).

This means that if you find a particular statement of fact to have been false, you must determine whether that statement was one that a reasonable person might have considered important in making his or her decision. The same principle applies to fraudulent half truths or omissions of material facts.

The representations which the government charges were made as part of the scheme to defraud are set forth in paragraph 9 of the indictment. It is not required that every misrepresentation charged in the indictment be proved. It is sufficient if the prosecution proves beyond a reasonable doubt that one or more of the alleged material misrepresentations were made in furtherance of the alleged scheme to defraud.

In addition to proving that a statement was false or fraudulent and related to a material fact, in order to establish a scheme to defraud, the government must prove that the alleged scheme contemplated depriving another of money or property.

However, the government is not required to prove that the defendant personally originated the scheme to defraud. Furthermore, it is not necessary that the government prove that Sherry Roebuck actually realized any gain from the scheme or that the intended victim actually suffered any loss. In this case, it so happens that the government does contend that

proof establishes that persons or entities were defrauded and that Sherry Roebuck profited. Although whether or not the scheme actually succeeded is really not the question, you may consider whether it succeeded in determining whether the scheme existed.

A scheme to defraud need not be shown by direct evidence, but may be established by all of the circumstances and facts in the case.

If you find that the government has sustained its burden of proof that a scheme to defraud, as charged, did exist, you next should consider the second element.

Second Element--Participation in the Scheme with Intent

The second element the government must prove beyond a reasonable doubt is that Sherry Roebuck participated in the scheme to defraud knowingly, willfully and with specific intent to defraud.

"Knowingly" means to act voluntarily and deliberately, rather than mistakenly or inadvertently.

"Willfully" means to act knowingly and purposely, with an intent to do something the law forbids; that is to say, with bad purpose either to disobey or to disregard the law.

"Intent to defraud" means to act knowingly and with the specific intent to deceive, for the purpose of causing some financial or property loss to another.

The question of whether a person acted knowingly, willfully and with intent to defraud is a question of fact for you to determine, like any other fact question. This question involves one's state of mind.

Direct proof of knowledge and fraudulent intent is almost never available. It would be a rare case where it could be shown that a person wrote or stated that as of a given time in the past he or she committed an act with fraudulent intent. Such direct proof is not required.

The ultimate facts of knowledge and criminal intent, though subjective, may be established by circumstantial evidence, based upon a person's outward manifestations, her words, her conduct, or her acts and all the surrounding circumstances disclosed by the evidence and the rational or logical inferences that may be drawn from them.

Circumstantial evidence, if believed, is of no less value than direct evidence. In either case, the essential elements of the crime must be established beyond a reasonable doubt.

Since an essential element of the crime charged is intent to defraud, it follows that good faith on the part of the defendant is a complete defense to a charge of mail fraud. A defendant, however, has no burden to establish a defense of good faith. The burden is on the government to prove fraudulent intent and the consequent lack of good faith beyond a reasonable doubt.

Under the mail fraud statute, even false representations or statements, or omissions of material facts, do not amount to a fraud unless done with fraudulent intent. However misleading or deceptive a plan may be, it is not fraudulent if it was devised or carried out in good faith. An honest belief in the truth of the representations made by a defendant is a good defense, however inaccurate the statements may turn out to be.

There is another consideration to bear in mind in deciding whether or not the defendant acted in good faith. You are instructed that if the defendant participated in the scheme to defraud, then a belief by the defendant, if such belief existed, that ultimately everything would work out so that no one would lose any money does not require a finding by you that the defendant acted in good faith. If the defendant participated in the scheme for the purpose of causing some financial or property loss to another, then no amount of honest belief on her part that the scheme would, for example, ultimately make a profit for investors, will excuse fraudulent actions or false representations by her.

As a practical matter, then, in order to sustain the charges against the defendant, the government must establish beyond a reasonable doubt that she knew her conduct as a participant in the scheme was calculated to deceive and, nonetheless, she associated herself with the alleged fraudulent scheme for the purpose of causing some loss to another.

The government can also meet its burden of showing that the defendant had knowledge of the falsity of the statements if it establishes beyond a reasonable doubt that she acted with deliberate disregard of whether the statements were true or false, or with a conscious purpose to avoid learning the truth. If the government establishes that the defendant acted with deliberate disregard for the truth, the knowledge requirement would be satisfied unless the defendant in question actually believed the statements to be true. This guilty knowledge, however, cannot be established by demonstrating that the defendant was merely negligent or foolish.

To conclude on this element, if you find that Sherry Roebuck was not a knowing participant in the scheme or that she lacked the specific intent to defraud, you should find her not guilty. On the other hand, if you find that the government has established beyond a reasonable doubt not only the first element, namely the existence of the scheme to defraud, but also this second element, that Sherry Roebuck was a knowing participant and acted with specific intent to defraud, and if the government also establishes the third element, as to which I am about to instruct you, then you have a sufficient basis upon which to convict the defendant.

Third Element--Use of the Mails

The third and final element that the government must establish beyond a reasonable doubt is the use of the mails in furtherance of the scheme to defraud. The use of the mails as I have used it here includes material sent through either the United States Postal Service or a private or commercial interstate carrier.

The mailed matter need not contain a fraudulent representation or promise or request for money. It must, however, further or assist in the carrying out of the scheme to defraud.

It is not necessary for the defendant to be directly or personally involved in the mailing, as long as the mailing was reasonably foreseeable in the execution of the alleged scheme to defraud in which the defendant is accused of participating.

In this regard, it is sufficient to establish this element of the crime if the evidence justifies a finding that the defendant caused the mailing by others. This does not mean that the defendant must specifically have authorized others to do the mailing. When one does an act with knowledge that the use of the mails will follow in the ordinary course of business or where such use of the mails can reasonably be foreseen, even though not actually intended, then he or she causes the mails to be used.

With respect to the use of the mails, the government must establish beyond a reasonable doubt the particular mailing charged in the indictment. However, the government does not have to prove that the mailings were made on the exact date charged in the indictment. It is sufficient if the evidence establishes beyond a reasonable doubt that the mailing was made on a date substantially similar to the date charged in the indictment.

CONCLUSION

I caution you, members of the jury, that you are here to determine the guilt or innocence of Sherry Roebuck solely from the evidence in this case. I remind you that the mere fact that she has been indicted is not evidence against her. Also, she is not on trial for any act or conduct or offense not alleged in the indictment.

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 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 fellow 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 counts contained in the indictment, you will have your foreperson record a verdict of guilty or not guilty as to each count. Your foreperson will then 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 then 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.

You have been permitted to take notes during the trial for use in your deliberations. You may take these notes with you when you retire to deliberate. They may be used to assist your recollection of the evidence, but your memory, as jurors, controls. Your notes are not evidence, and should not take precedence over your independent recollections of the evidence. The notes you took are strictly confidential. Do not disclose your notes to anyone other than the other jurors. Your notes should remain in the jury room and will be collected and destroyed at the end of the case.

A copy of this charge will go with you into the jury room for your use.

I appoint _____ as your foreperson.

Dated at Brattleboro, Vermont this ____ day of July 2012.

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA,	:	
	:	
v.	:	File No.: 1:11-cr-127-jgm
	:	
SHERRY ROEBUCK,	:	
	:	
Defendant.	:	
	:	
	:	
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VERDICT FORM

1. As to the offense of embezzling funds from an organization or government which receives federal funds (Count 1 of the Indictment), we find the defendant:

Not Guilty _____ Guilty _____

2. As to the offense of devising a scheme to defraud and in furtherance of that scheme knowingly causing the mails to be used (Count 2 of the Indictment), we find the defendant:

Not Guilty _____ Guilty _____

Foreperson

Date

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA,	:	
	:	
v.	:	File No.: 1:11-cr-127-jgm
	:	
SHERRY ROEBUCK,	:	
	:	
Defendant.	:	
	:	
_____	:	

Your honor, we have reached a verdict.

Foreperson

Date