

U.S. DISTRICT COURT
DISTRICT OF VERMONT
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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

SECURITIES & EXCHANGE)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
CHAD C. McGINNIS,)
)
Defendant.)

Case No. 5:14-cv-6

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 are not to single out one instruction alone as stating the law, but must consider the instructions as a whole. You are not to be concerned with the wisdom of any rule of law stated by the court. Regardless of any opinion you may have as to what the law is or ought to be, it would be a violation of your sworn duty to base a verdict upon any view of the law other than that given in the instructions of the court, just as it would also be a violation of your sworn duty, as judges of the facts, to base a verdict upon anything other than the evidence presented during the trial.

The lawyers may have referred to some of the rules of law in their arguments. If any difference appears between the law as stated by the lawyers and the law as stated by the court in these instructions, you must follow the court's instructions.

Our judicial system requires you to carefully and impartially consider all of the evidence, follow the law, and reach a just verdict, regardless of the consequences.

JURORS AS FINDERS OF FACT/RULINGS OF THE COURT

You and you alone are the triers of the facts. Each of you, as jurors, must determine the facts for yourselves in reaching a verdict. By the rulings which I made

during the course of the trial, I did not intend to indicate to you or to express my own views about this case.

SYMPATHY/PREJUDICE

Neither sympathy nor prejudice, for or against the parties, or any other person involved with this case, should influence you in any manner in reaching your verdict. Your deliberations should be well-reasoned and impartial.

IMPORTANT CASE

This is an important case to the parties and the court. You should give it serious and fair consideration.

ARGUMENTS/STATEMENTS/OBJECTIONS OF THE ATTORNEYS

The opening statements and closing arguments of the attorneys, their questions and objections, and all other statements that they made during the course of the trial are not evidence. The attorneys have a duty to object to evidence that they believe is not admissible. You may not hold it against either side if any attorney feels it is necessary to make an objection.

NUMBER OF WITNESSES

The fact that one side may have called more witnesses than the other side is of no significance. Your task is to evaluate the credibility of the witnesses and to weigh all of the evidence.

INSTRUCTION REGARDING GREEN MOUNTAIN COFFEE ROASTERS' INTERNAL POLICY

You have heard evidence in this case about Green Mountain Coffee Roasters' internal policy. Green Mountain Coffee Roasters' internal policy is not a statement of law. I will instruct you on what the law is in this case. If there is any difference between Green Mountain Coffee Roasters' internal policy and the law as stated by the court in these instructions, you must follow the court's instructions.

EVIDENCE IN THE CASE

The evidence in this case consists of the sworn testimony of the witnesses and the exhibits admitted into evidence, regardless of which party presented the evidence. When

the attorneys on both sides stipulate or agree to the existence of a fact, you must, unless otherwise instructed, accept the stipulation and regard that fact as proven. You may give the stipulated fact, like any other evidence, the weight that you think it deserves. Any evidence to which an objection was sustained or stricken by the court must be disregarded.

EVIDENCE – DIRECT OR CIRCUMSTANTIAL

There are two types of evidence from which you may find the facts of this case: direct and circumstantial evidence. Direct evidence is the testimony of someone who asserts actual knowledge of a fact, such as an eyewitness or the exhibits in the trial. Circumstantial evidence is proof of a chain of facts and circumstances tending to prove or disprove an issue in the case.

For example, if a witness were to testify that he or she had seen cows in a field, that would be an example of direct evidence that there were cows in a field. On the other hand, if a witness were to testify that he or she had seen fresh cow tracks in the field, that would be an example of circumstantial evidence that there had been cows in the field.

The law does not require a party to prove its claims or defenses by direct evidence alone, that is, by testimony of an eyewitness. One or more of the essential elements, or all of the essential elements, may be established by reasonable inference from other facts that are established by direct testimony. Circumstantial evidence may alone be sufficient to prove a claim or defense.

The law makes no distinction between the weight to be given to direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should consider all the evidence in the case and give it such weight as you think it deserves.

CREDIBILITY OF WITNESSES

You are the sole judges of the credibility of the witnesses, and the weight to give their testimony is up to you. In considering the testimony of any witness, you may take into account his or her ability and opportunity to observe; his or her demeanor while testifying; any interest or bias he or she may have; and the reasonableness of his or her testimony, considered in light of all of the evidence in the case. Consider also any relation

each witness may bear to either side of the case, any bias or prejudice, the manner in which each witness might be affected by the verdict, and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit a witness's testimony. Two or more persons witnessing an incident or transaction may see or hear it differently. It is your duty to reconcile conflicting testimony if you can do so. In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or to an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

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 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 only 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.

You may give the testimony of each witness such weight, if any, you think it deserves. You may believe all of the testimony of any witness, you may believe it in part and disbelieve it in part, or you may reject it altogether. You do not have to accept the testimony of any witness, even if it is uncontradicted. It is for you to say what you will believe and what you will disbelieve.

PRIOR INCONSISTENT STATEMENTS

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.

SPECIALIZED KNOWLEDGE AND EXPERIENCE OF JURORS

In deliberating upon your verdict, you are not expected to put aside your common sense or your own observations or experience of the general affairs of life. However, a juror having specialized knowledge of a subject may neither state this knowledge to fellow jurors nor act upon it himself or herself in arriving at a verdict. You must not tell your fellow jurors about matters which are based on specialized knowledge concerning an issue in the case that did not come from the evidence received in the courtroom.

PREPONDERANCE OF THE EVIDENCE

To “establish by a preponderance of the evidence” means to prove that something is more likely than not. In other words, a preponderance of the evidence means such evidence that, when considered and compared with that opposed to it, has more persuasive force, and produces in your minds a belief that what is sought to be proved is more likely true than not true. A preponderance of the evidence means the greater weight of the evidence. In determining whether a fact, claim, or defense has been proven by a preponderance of the evidence, you may consider the testimony of witnesses, regardless of who may have called them, and the exhibits in evidence, and the stipulations, regardless of who may have produced or introduced them. No proof of absolute certainty is required.

JURY NOT TO CONSIDER RELIEF

You, the jury, are to determine whether Chad McGinnis is liable for insider trading and unlawful tipping. If you find Mr. McGinnis liable, the judge, not the jury, will determine what relief, if any, should be awarded against Mr. McGinnis. In considering whether Mr. McGinnis is liable, you should not consider what relief the judge might award.

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.

THE SEC'S CLAIM OF UNLAWFUL INSIDER TRADING

Plaintiff the Securities and Exchange Commission, also known as the SEC, claims that Mr. McGinnis unlawfully traded on material nonpublic information in violation of Section 10(b), 15 U.S.C. § 78j(b) and Rule 10b-5, 17 C.F.R. § 240.10b-5, of the Securities and Exchange Act. Specifically, the SEC claims that Mr. McGinnis unlawfully traded Green Mountain Coffee Roasters securities based on material nonpublic information. There is no dispute that Green Mountain Coffee Roasters stocks and stock options are “securities.”

To prove its claim, the SEC must prove each of the following elements by a preponderance of the evidence:

First: That Mr. McGinnis knew or was reckless in not knowing that he possessed material nonpublic information about Green Mountain Coffee Roasters;

Second: That Mr. McGinnis knew or was reckless in not knowing that he owed a duty of trust and confidence with regard to material nonpublic information he had about Green Mountain Coffee Roasters;

Third: That Mr. McGinnis knew or was reckless in not knowing that he bought or sold securities on the basis of material nonpublic information;

Fourth: That Mr. McGinnis's conduct was in connection with the purchase or sale of a security; and

Fifth: That Mr. McGinnis used or caused to be used a means or instrumentality of interstate commerce.

If the SEC proves each of these elements, by a preponderance of the evidence, you should find Mr. McGinnis liable for unlawfully trading on material nonpublic information. If the SEC fails to prove one or more of these elements, you should find Mr. McGinnis not liable.

POSSESSION OF MATERIAL NONPUBLIC INFORMATION

In order for you to find in the SEC's favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis knew or was reckless in not knowing that he possessed material nonpublic information about Green Mountain Coffee Roasters.

Possession means to have material nonpublic information. It is not enough to merely have the ability or opportunity to access or possess material nonpublic information. Possession may be proven by both direct and circumstantial evidence.

The SEC must also prove that the information Mr. McGinnis possessed was material nonpublic information. Information is "material" if a reasonable investor would consider it significant in deciding whether to buy or sell securities. Information is material when there is a substantial likelihood that disclosure of the information would be viewed by a reasonable investor as significantly altering the "total mix" of information made available concerning the company.

Evidence of materiality may take many forms, including a defendant's conduct, the timing of the trading, the defendant's statements about why he purchased or sold his securities, the company's understanding of the importance and the sensitive nature of the information, and the market reaction to the public announcement of the information. Materiality is a fact-specific inquiry based on quantitative and qualitative factors. No bright-line numerical threshold and no single fact is determinative of materiality.

Information is "nonpublic" if it was confidential, rather than publicly available. Nonpublic information is information that is not generally available to the public through such sources as a company's SEC filings, press releases, trade publications, the investment community, or other publicly available sources. Information is nonpublic until the information is disseminated in a manner sufficient to ensure its availability to the investing public, without favoring any special person or group.

DUTY OF TRUST AND CONFIDENCE

In order for you to find in the SEC's favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis knew or was reckless in not knowing that he

owed a duty of trust and confidence to Green Mountain Coffee Roasters with regard to material nonpublic information he possessed about Green Mountain Coffee Roasters.

A person has a “duty of trust and confidence” with regard to material nonpublic information where that information is provided as part of a relationship where the person serves the interests of the company entrusting him with such information. For example, a duty of trust and confidence exists between the shareholders of a company and its officers and employees who have obtained material nonpublic information by reason of their position with that company. While a duty of trust and confidence cannot be imposed unilaterally by entrusting a person with material nonpublic information, the duty exists where a person agrees to maintain such information in confidence, or such an agreement may be implied by a relationship of trust and confidence between the parties, including where there is a known history, pattern, or practice of sharing confidences.

A person with a duty of trust and confidence with regard to material nonpublic information is obligated not to trade on the basis of that information.

KNOWLEDGE OR RECKLESSNESS

In order for you to find in the SEC’s favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis knew or was reckless in not knowing that: (1) the information that he possessed was material nonpublic information; (2) that he breached a duty of trust and confidence with regard to material nonpublic information; and (3) that he traded on material nonpublic information.

To act “knowingly” or with “knowledge” means to act intentionally and deliberately, rather than mistakenly or inadvertently. Proof of knowledge consists of showing an awareness of the underlying facts, and that the acts which constitute the violation were committed intentionally. There is no requirement that a person also be aware that he or she is violating a particular statute or rule.

A person also acts knowingly if he or she acted with deliberate ignorance. A person is deliberately ignorant if he or she was aware of a high probability that a fact exists yet deliberately avoided learning that fact, unless he or she actually believed that the fact does not exist. It is not sufficient that a person was merely negligent in finding

out a fact. To be deliberately ignorant, a person must purposely blind himself or herself from obtaining actual knowledge of an obvious fact because he or she had a conscious purpose to avoid learning the truth.

To act with “recklessness” or “recklessly” means conduct which is highly unreasonable and which represents an extreme departure from the standards of ordinary care. Recklessness is more than mere negligence. A person acts with reckless disregard of a fact if the fact was so obvious that the person must have been aware of it.

To establish liability for either knowing or reckless conduct, the SEC must also show that Mr. McGinnis acted with an intent to deceive or defraud. Direct proof of knowledge, recklessness, and an intent to deceive or defraud is not required. Circumstantial evidence is of no less value than direct evidence.

Because an essential element of the SEC’s case is intent to defraud or recklessness, it follows that a good faith belief on the part of Mr. McGinnis is a complete defense to a charge of insider trading. Mr. McGinnis, however, has no burden to establish a defense of good faith. The burden is on the SEC to prove fraudulent intent and a consequent lack of good faith by a preponderance of the evidence.

TRADING “ON THE BASIS OF” MATERIAL NONPUBLIC INFORMATION

In order for you to find in the SEC’s favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis bought or sold securities on the basis of material nonpublic information. A person’s securities trades are “on the basis” of material nonpublic information if the person buying or selling securities knew or was reckless in not knowing that the information was material and nonpublic, and if that information was at least a factor in the person’s trading decision.

IN CONNECTION WITH THE PURCHASE OR SALE OF A SECURITY

In order for you to find in the SEC’s favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis’s conduct was in connection with the purchase or sale of a security. The “in connection with” element is satisfied by unlawful insider trading on the basis of material nonpublic information. The conduct need only touch upon or coincide with a securities transaction.

INTERSTATE COMMERCE

In order for you to find in the SEC's favor on its claim of unlawful insider trading, the SEC must prove that Mr. McGinnis used or caused to be used any means or instrumentality of interstate commerce.

An "instrumentality of interstate commerce" includes any mail or telephone, as well as any facility of a national securities exchange. The New York Stock Exchange and NASDAQ are national securities exchanges, and a facility of a national securities exchange includes a computer trading program or online brokerage service. It is not necessary that the instrumentality of interstate commerce be the means by which a person deceives or defrauds someone. Rather, all that is required is that an instrumentality of interstate commerce be used in some phase of the conduct at issue.

THE SEC'S CLAIM OF UNLAWFUL TIPPING

The SEC claims that Mr. McGinnis unlawfully "tipped" material nonpublic information to Sergey Pugach in violation of Securities and Exchange Act Section 10(b), 15 U.S.C. § 78j(b) and Rule 10b-5, 17 C.F.R. § 240.10b-5. To prove its claim that Mr. McGinnis unlawfully tipped material nonpublic information, the SEC must prove each of the following essential elements by a preponderance of the evidence:

First: That Mr. McGinnis knowingly or recklessly possessed and disclosed material nonpublic information about Green Mountain Coffee Roasters to Sergey Pugach;

Second: That by disclosing this material nonpublic information, Mr. McGinnis knowingly or recklessly breached a duty of trust and confidence for a personal benefit;

Third: That Mr. McGinnis knew or was reckless in not knowing that Mr. Pugach would buy or sell securities on the basis of the information he disclosed;

Fourth: That the conduct was in connection with the purchase or sale of a security;
and

Fifth: That the conduct used or caused to be used any means or instrumentality of interstate commerce.

If the SEC proves each of these essential elements, by a preponderance of the evidence, you should find Mr. McGinnis liable for unlawfully tipping material nonpublic information. If the SEC fails to prove one or more of these elements, you should find Mr. McGinnis not liable.

DISCLOSURE OF MATERIAL NONPUBLIC INFORMATION

In order for you to find in the SEC's favor on its claim of unlawful tipping, the SEC must prove that Mr. McGinnis knowingly or recklessly possessed and disclosed material nonpublic information about Green Mountain Coffee Roasters to Mr. Pugach.

Possession means to have material nonpublic information. It is not enough to merely have the ability or opportunity to access or possess material nonpublic information. Possession may be proven by both direct and circumstantial evidence.

The SEC must also prove that the information Mr. McGinnis possessed was material nonpublic information. Information is "material" if a reasonable investor would consider it significant in deciding whether to buy or sell securities. Information is material when there is a substantial likelihood that disclosure of the information would be viewed by a reasonable investor as significantly altering the "total mix" of information made available concerning the company.

Evidence of materiality may take many forms, including the defendant's conduct, the timing of the trading, the defendant's statements about why he purchased or sold his securities, the company's understanding of the importance and sensitive nature of the information, and the market reaction to the public announcement of the information. Materiality is a fact-specific inquiry based on quantitative and qualitative factors. No bright-line numerical threshold and no single fact is determinative of materiality.

Information is "nonpublic" if it was confidential, rather than publicly available. Nonpublic information is information that is not generally available to the public through such sources as a company's SEC filings, press releases, trade publications, the investment community, or other publicly available sources. Information is nonpublic until the information is disseminated in a manner sufficient to ensure its availability to the investing public, without favoring any special person or group.

**BREACH OF DUTY OF TRUST AND CONFIDENCE FOR
A PERSONAL BENEFIT**

In order for you to find in the SEC's favor on its claim of unlawful tipping, the SEC must prove that Mr. McGinnis knew or was reckless in not knowing that he breached a duty of trust and confidence for a personal benefit.

A person has a "duty of trust and confidence" with regard to material nonpublic information where that information is provided as part of a relationship where the person serves the interests of the company entrusting him with such information. For example, a duty of trust and confidence exists between the shareholders of a company and its officers and employees who have obtained material nonpublic information by reason of their position with that company. While a duty of trust and confidence cannot be imposed unilaterally by entrusting a person with material nonpublic information, the duty exists where a person agrees to maintain such information in confidence, or such an agreement may be implied by a relationship of trust and confidence between the parties, including where there is a known history, pattern, or practice of sharing confidences.

A person with a duty of trust and confidence with regard to material nonpublic information is obligated not to "tip" that information. A defendant is liable for tipping where the defendant knowingly or recklessly discloses the material nonpublic information to another person for the defendant's personal benefit, and the defendant knows or is reckless in not knowing that other person will trade on the basis of that information.

To be held liable for tipping, a defendant must receive a direct or indirect "personal benefit" from disclosing material nonpublic information. A defendant receives a personal benefit by obtaining a monetary gain in exchange for the information—including cash, reciprocal information, a reputational benefit that will translate into future earnings, or other things of value. However, a defendant is not required to receive something of a monetary or similarly valuable nature in exchange for disclosing material nonpublic information. A personal benefit can be based on a gift of material nonpublic information to a trading relative or friend if Mr. McGinnis and Mr. Pugach either shared

a relationship suggesting a quid pro quo or if Mr. McGinnis intended to benefit Mr. Pugach with the material nonpublic information. In such circumstances, a defendant receives a personal benefit because a gift of material nonpublic information is the same as trading by the defendant on the basis of that information followed by a gift of the proceeds to the person to whom he disclosed the tip.

KNOWLEDGE OR RECKLESSNESS

In order for you to find in the SEC's favor on its claim of unlawful tipping, the SEC must prove that Mr. McGinnis knew or was reckless in not knowing that: (1) the information that he possessed and disclosed to Mr. Pugach was material nonpublic information; (2) that he breached a duty of trust and confidence with regard to material nonpublic information; and (3) that Mr. Pugach would buy or sell securities on the basis of the material nonpublic information Mr. McGinnis disclosed.

To act "knowingly" or with "knowledge" means to act intentionally and deliberately, rather than mistakenly or inadvertently. Proof of knowledge consists of showing an awareness of the underlying facts, and that the acts which constitute the violation were committed intentionally. There is no requirement that a person also be aware that he or she is violating a particular statute or rule.

A person also acts knowingly if he or she acted with deliberate ignorance. A person is deliberately ignorant if he or she was aware of a high probability that a fact exists yet deliberately avoided learning that fact, unless he or she actually believed that the fact does not exist. It is not sufficient that a person was merely negligent in finding out a fact. To be deliberately ignorant, a person must purposely blind himself or herself from obtaining actual knowledge of an obvious fact because he or she had a conscious purpose to avoid learning the truth.

To act with "recklessness" or "recklessly" means conduct which is highly unreasonable and which represents an extreme departure from the standards of ordinary care. Recklessness is more than mere negligence. A person acts with reckless disregard of a fact if the fact was so obvious that the person must have been aware of it.

To establish liability for either knowing or reckless conduct, the SEC must also show that Mr. McGinnis acted with an intent to deceive or defraud. Direct proof of knowledge, recklessness, and an intent to deceive or defraud is not required. Circumstantial evidence is of no less value than direct evidence.

Because an essential element of the SEC's case is intent to defraud or recklessness, it follows that a good faith belief on the part of Mr. McGinnis is a complete defense to a charge of unlawful tipping. Mr. McGinnis, however, has no burden to establish a defense of good faith. The burden is on the SEC to prove fraudulent intent and a consequent lack of good faith by a preponderance of the evidence.

A person's securities trades are "on the basis" of material nonpublic information if the person buying or selling securities knew or was reckless in not knowing that the information was material and nonpublic, and if that information was at least a factor in the person's trading decision.

IN CONNECTION WITH THE PURCHASE OR SALE OF A SECURITY

In order for you to find in the SEC's favor on its claim of unlawful tipping, the SEC must prove that Mr. McGinnis's conduct was in connection with the purchase or sale of a security by Mr. Pugach. The conduct need only touch upon or coincide with a securities transaction.

INTERSTATE COMMERCE

In order for you to find in the SEC's favor on its claim of unlawful tipping, the SEC must prove that Mr. Pugach used or caused to be used any means or instrumentality of interstate commerce.

An "instrumentality of interstate commerce" includes any mail or telephone, as well as any facility of a national securities exchange. The New York Stock Exchange and NASDAQ are national securities exchanges, and a facility of a national securities exchange includes a computer trading program or online brokerage service. It is not necessary that the instrumentality of interstate commerce be the means by which a person deceives or defrauds someone. Rather, all that is required is that an instrumentality of interstate commerce be used in some phase of the conduct at issue.

VERDICT FORM

I will provide you with a verdict form that will guide you in making your determinations in this action. You must fill out the verdict form in accordance with these jury instructions. If there is any conflict between the verdict form and these instructions, you must follow these instructions.

CONCLUDING INSTRUCTIONS

JURY DELIBERATIONS/UNANIMOUS VERDICT

The verdict must represent the considered judgment of each juror. In order to return a verdict, you must all agree. Your verdict must be unanimous.

You must consult with one another. You must try to reach an agreement if you can do so without sacrificing your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. Do not hesitate to re-examine your views and change your opinions if you are convinced they are wrong. But do not surrender your honest opinion as to the weight or effect of evidence solely because of the opinions of your fellow jurors, or for the mere purpose of returning a verdict.

If you need to communicate with me, you should send a note through the Court Officer, signed by your foreperson. You must not discuss with the court or with any other person what is said in deliberations, and any note you send to the court must not include this information. In other words, you may ask the court questions but, in doing so, you must not reveal what the jurors are thinking or saying. You must not tell anyone how the jury stands numerically or otherwise until after you have reached a unanimous verdict and you have been discharged. Even then you need not speak to anyone about this case unless you want to.

When you have reached a verdict, tell the Court Officer that you have reached a verdict, but do not tell the Court Officer what the verdict is. You will then be brought into the courtroom where I shall ask you if you have reached a verdict, and, if you have, what it is.

JUROR NOTE TAKING

During the trial, you have been provided with pen 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. I will now describe the process for a read back.

READ BACK OF EVIDENCE

If, during your deliberations, you are unable to recall with any degree of accuracy, a particular part of the testimony, or 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 shall decide what action to take. I will tell you my ruling.

SELECTION AND DUTIES OF A FOREPERSON

I select [REDACTED] to act as your foreperson. The foreperson acts as a chairperson or moderator. It is your duty to see that discussions are carried out in a sensible and orderly manner and to see that the issues submitted for the jury's decision are fully and fairly discussed, and that every juror has a chance to say what he or she thinks upon every question. When ballots should be taken, you will see that it is done. You will act as the jury's spokesperson in the courtroom. In all other respects, the foreperson is the same as every other juror. His or her vote or opinions do not count more or less than those of his or her fellow jurors.

Ladies and gentlemen of the jury, you may now take the case and retire to begin

your deliberations.

Dated at Burlington, in the District of Vermont, this 22nd day of March, 2019.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a horizontal line.

Christina Reiss, District Judge
United States District Court