

**FILED**

JAN 22 2014

  
CLERK

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 13-40053-01-KES

vs.

RANDAL KENT HANSEN,

Defendant.

**FINAL  
INSTRUCTIONS  
TO THE JURY**

**TABLE OF CONTENTS**

FINAL INSTRUCTIONS

NO. 1 – INTRODUCTION . . . . . 1

NO. 2 – COUNT 1: CONSPIRACY TO COMMIT WIRE FRAUD AND MAIL  
FRAUD . . . . . 2

NO. 3 – COUNTS 2–5: WIRE FRAUD . . . . . 6

NO. 4 – COUNTS 6–13 AND 17–29: MAIL FRAUD . . . . . 9

NO. 5 – PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF . . 15

NO. 6 – REASONABLE DOUBT . . . . . 16

NO. 7 – WILLFUL BLINDNESS . . . . . 17

NO. 8 – GOOD FAITH . . . . . 18

NO. 9 – IMPEACHMENT . . . . . 19

NO. 10 – CHARACTER AND REPUTATION FOR TRUTHFULNESS,  
WITNESSES . . . . . 21

NO. 11 – DUTY TO DELIBERATE . . . . . 22

NO. 12 – DUTY DURING DELIBERATIONS . . . . . 24

VERDICT FORM

FINAL INSTRUCTION NO. 1 – INTRODUCTION

Members of the jury, the written instructions I gave you at the beginning of the trial and the oral instructions I gave you during the trial remain in effect. I now give you some additional instructions.

The instructions I am about to give you, as well as the preliminary instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room. **All** instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the instructions I gave you at the beginning of the trial are not repeated here.

FINAL INSTRUCTION NO. 2 – COUNT 1: CONSPIRACY TO COMMIT WIRE  
FRAUD AND MAIL FRAUD

**Count 1** of the Second Superseding Indictment charges Hansen with “conspiracy to commit wire fraud and mail fraud.” For you to find Hansen guilty of **Count 1** in the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three essential elements:

**One, that from on or about and between March of 2006 and May of 2011, two or more persons reached an agreement or came to an understanding to devise, make up, or participate in a scheme to defraud investors out of money or property, by means of material false representations or promises;**

A conspiracy is an agreement of two or more persons to commit one or more crimes. For this element to be proved,

- Hansen may have been, but did not have to be, one of the original conspirators
- The crime that the conspirators agreed to commit did not actually have to be committed
- The agreement did not have to be written or formal
- The agreement did not have to involve every detail of the conspiracy
- The conspirators did not have to personally benefit from the conspiracy

Here, the conspirators allegedly agreed to commit the crimes of “wire fraud” and “mail fraud.” To help you decide whether or not the conspirators agreed to commit a crime, you should consider the elements of that crime. The elements of “wire fraud” are the following:

- *One*, a defendant voluntarily and intentionally devised, made up, or participated in a scheme to defraud another out of

money or property by means of material false representations or promises;

- *Two*, that a defendant did so with the intent to defraud;
- *And three*, that a defendant used, or caused to be used, interstate wire communications facilities in furtherance of, or in an attempt to carry out, some essential step in the scheme.

The elements of “mail fraud” are the following:

- *One*, a defendant voluntarily and intentionally devised, made up, or participated in a scheme to defraud another out of money or property by means of material false representations or promises;
- *Two*, that a defendant did so with the intent to defraud;
- *And three*, that a defendant used, or caused to be used, the mail in furtherance of, or in an attempt to carry out, some essential step in the scheme.

Remember that the prosecution does not have to prove that wire fraud or mail fraud actually occurred for this element of the “conspiracy to commit wire fraud and mail fraud” offense to be proved.

It is not necessary for the Government to prove a conspiracy to commit both “wire fraud” and “mail fraud.” It would be sufficient if the Government proves, beyond a reasonable doubt, a conspiracy to commit one of those offenses; but, in that event, in order to return a verdict of guilty, you must unanimously agree upon which of the two offenses was the subject of the conspiracy. If you cannot agree in that manner, you must find Hansen not guilty.

***Two, that Hansen voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;***

Hansen must have joined in the agreement, but he may have done so at any time during its existence. Hansen may have joined the agreement even if he agreed to play only a minor role in it.

Hansen did not have to do any of the following to join the agreement:

- join the agreement at the same time as all the other conspirators
- know all of the details of the conspiracy, such as the names, identities, or locations of all the other members, or
- conspire with every other member of the conspiracy

On the other hand, each of the following, alone, is not enough to show that Hansen joined the agreement:

- evidence that a person was merely present at the scene of an event
- evidence that a person merely acted in the same way as others
- evidence that a person merely associated with others
- evidence that a person was friends with or met socially with individuals involved in the conspiracy
- evidence that a person who had no knowledge of a conspiracy acted in a way that advanced an objective of the conspiracy
- evidence that a person merely knew of the existence of a conspiracy
- evidence that a person merely knew that an objective of the conspiracy was being considered or attempted, or
- evidence that a person merely approved of the objectives of the conspiracy

Rather, the prosecution must prove that Hansen had some degree of knowing involvement in the conspiracy.

**And three, that at the time Hansen joined in the agreement or understanding, he knew the purpose of the agreement or understanding.**

Without knowledge of the purpose of the conspiracy, Hansen cannot be guilty of the conspiracy offense, even if his acts furthered the conspiracy. The prosecution does not have to prove that Hansen knew that what he did was unlawful. In other words, Hansen must have known that the purpose of the conspiracy was to commit wire fraud or mail fraud, but did not have to know that conspiring to commit that offense was illegal.

You may consider acts knowingly done and statements knowingly made by a defendant's co-conspirators during the existence of the conspiracy and in furtherance of it as evidence pertaining to the defendant even though they were done or made in the absence of and without the knowledge of the defendant. This includes acts done or statements made before the defendant had joined the conspiracy, for a person who knowingly, voluntarily and intentionally joins an existing conspiracy is responsible for all of the conduct of the co-conspirators from the beginning of the conspiracy.

For you to find Hansen guilty of conspiracy to commit wire fraud and mail fraud, as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Hansen not guilty of **Count 1**.

FINAL INSTRUCTION NO. 3 – COUNTS 2–5: WIRE FRAUD

**Counts 2–5** of the Second Superseding Indictment charge Hansen with “wire fraud.” For you to find Hansen guilty of any of the offenses charged in **Counts 2–5** of the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three essential elements:

**One, that Hansen voluntarily and intentionally devised, made up, or participated in a scheme to defraud investors out of money or property by means of material false representations or promises regarding fraudulent investment schemes involving RAHFCO Funds, Limited Partnership, RAHFCO Growth Fund, Limited Partnership, RAHFCO Management Group, LLC, and RAHFCO Select, LLP;**

The phrase “scheme to defraud” includes any plan or course of action intended to deceive or cheat another out of money or property by employing material falsehoods, concealing material facts, or omitting material facts. It also means the obtaining of money or property from another by means of material false representations or promises. A scheme to defraud need not be fraudulent on its face but must include some sort of fraudulent misrepresentation or promise reasonably calculated to deceive a reasonable person.

A statement or representation is false when it is untrue when made or effectively conceals or omits a material fact.

A fact, falsehood, representation, or promise is “material” if it has a natural tendency to influence, or is capable of influencing, the decision of a reasonable person in deciding whether to engage or not to engage in a particular transaction. However, whether a fact, falsehood, representation, or promise is “material” does not depend on whether the person actually was deceived.

Materials sent by an interstate wire communications facility which are designed to lull victims into a false sense of security, postpone inquiries or complaints, or make the transaction less suspect are in furtherance of the scheme.

The wire fraud counts of the Second Superseding Indictment charge that Hansen, along with others, devised or participated in a scheme. The Government need not prove, however, that Hansen met with the others to formulate the scheme charged, or that there was a formal agreement among them, in order for Hansen to be held jointly responsible for the operation of the scheme and the use of an interstate wire communications facility for the purpose of accomplishing the scheme. It is sufficient if only one person conceives the scheme and the others knowingly, voluntarily and intentionally join in and participate in some way in the operation of the scheme in order for such others to be held jointly responsible.

It is not necessary that the Government prove all of the details alleged in the Second Superseding Indictment concerning the precise nature and purpose of the scheme, that the material sent by an interstate wire communications facility was itself false or fraudulent, that the alleged scheme actually succeeded in defrauding anyone, or that the use of an interstate wire communications facility was intended as the specific or exclusive means of accomplishing the alleged fraud.

**Two, that Hansen did so with the intent to defraud;**

To act with "intent to defraud" means to act knowingly and with the intent to deceive someone for the purpose of causing some financial loss or loss of property to another or bringing about some financial gain to oneself or another to the detriment of a third party. With respect to false statements, the defendant must have known the statement was untrue when made or have made the statement with reckless indifference to its truth or falsity.

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, and all the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.



**And three, that Hansen used, or caused to be used, interstate wire communications facilities in furtherance of, or in an attempt to carry out, some essential step in the scheme.**

It is not necessary that the use of an interstate wire communications facility by the participants themselves be contemplated or that the defendant do any actual sending of material by an interstate wire communications facility or specifically intend that an interstate wire communications facility be used. It is sufficient if an interstate wire communications facility was in fact used to carry out the scheme and the use of the interstate wire communications facility by someone was reasonably foreseeable.

Each separate use of interstate wire communications facilities in furtherance of the scheme to defraud constitutes a separate offense. The actions charged are set forth as follows:

Count	Date of Wire	From	To	Item
2	01/08/2009	Cortlandt Manner, New York	Redfield, South Dakota	\$119,000
3	01/12/2009	Houston, Texas	Redfield, South Dakota	\$545,000
4	07/13/2008	Sioux Falls, South Dakota	Albuquerque, New Mexico	email
5	03/31/2009	Sioux Falls, South Dakota	Winger, Minnesota	email

For you to find Hansen guilty of wire fraud, as charged in Counts 2–5 of the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Hansen not guilty of the offenses charged in **Counts 2–5**.

FINAL INSTRUCTION NO. 4 – COUNTS 6–13 AND 17–29: MAIL FRAUD

**Counts 6–13 and 17–29** of the Second Superseding Indictment charge Hansen with “mail fraud.” For you to find Hansen guilty of any of the offenses charged in **Counts 6–13 and 17–29** of the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three essential elements:

**One, that Hansen voluntarily and intentionally devised, made up, or participated in a scheme to defraud investors out of money or property by means of material false representations or promises regarding fraudulent investment schemes involving RAHFCO Funds, Limited Partnership, RAHFCO Growth Fund, Limited Partnership, RAHFCO Management Group, LLC, and RAHFCO Select, LLP;**

The phrase “scheme to defraud” includes any plan or course of action intended to deceive or cheat another out of money or property by employing material falsehoods, concealing material facts, or omitting material facts. It also means the obtaining of money or property from another by means of material false representations or promises. A scheme to defraud need not be fraudulent on its face but must include some sort of fraudulent misrepresentation or promise reasonably calculated to deceive a reasonable person.

A statement or representation is false when it is untrue when made or effectively conceals or omits a material fact.

A fact, falsehood, representation, or promise is “material” if it has a natural tendency to influence, or is capable of influencing, the decision of a reasonable person in deciding whether to engage or not to engage in a particular transaction. However, whether a fact, falsehood, representation, or promise is “material” does not depend on whether the person actually was deceived.

Mailings which are designed to lull victims into a false sense of security, postpone inquiries or complaints, or make the transaction less suspect are in furtherance of the scheme.

The mail fraud counts of the Second Superseding Indictment charge that Hansen, along with others, devised or participated in a scheme. The Government need not prove, however, that Hansen met with the others to formulate the scheme charged, or that there was a formal agreement among them, in order for Hansen to be held jointly responsible for the operation of the scheme and the use of the mail for the purpose of accomplishing the scheme. It is sufficient if only one person conceives the scheme and the others knowingly, voluntarily and intentionally join in and participate in some way in the operation of the scheme in order for such others to be held jointly responsible.

It is not necessary that the Government prove all of the details alleged in the Second Superseding Indictment concerning the precise nature and purpose of the scheme, that the material mailed was itself false or fraudulent, that the alleged scheme actually succeeded in defrauding anyone, or that the use of the mail was intended as the specific or exclusive means of accomplishing the alleged fraud.

**Two, that Hansen did so with the intent to defraud;**

To act with "intent to defraud" means to act knowingly and with the intent to deceive someone for the purpose of causing some financial loss or loss of property to another or bringing about some financial gain to oneself or another to the detriment of a third party. With respect to false statements, the defendant must have known the statement was untrue when made or have made the statement with reckless indifference to its truth or falsity.

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, and all the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

**And three, that Hansen used, or caused to be used, the mail in furtherance of, or in an attempt to carry out, some essential step in the scheme.**

It is not necessary that the use of the mail by the participants themselves be contemplated or that the defendant do any actual mailing or specifically intend that the mail be used. It is sufficient if the mail was in fact used to carry out the scheme and the use of the mail by someone was reasonably foreseeable.

Each separate use of the mail in furtherance of the scheme to defraud constitutes a separate offense. The actions charged are set forth as follows:

Count	Date	Item	From	To
6	09/30/2010	Earnings Statement	Sioux Falls, South Dakota (RAHFCO)	Cortlandt Manor, New York (Robert Johnson)
7	4/20/2009	\$1,000 check	Seneca, Kansas (Community National Bank (Dietmer Rose)	Sioux Falls, South Dakota (RAHFCO)
8	08/23/2010	\$18,951 check	Seneca, Kansas (CNB, Dietmer Rose)	Sioux Falls, South Dakota (RAHFCO)
9	12/31/2010	Earnings Statement	Sioux Falls, South Dakota (RAHFCO)	Albuquerque, New Mexico (Dietmer Rose)
10	10/27/2008	\$31,144 check	Houston, Texas (Entrust, Ron Starr)	Sioux Falls, South Dakota (RAHFCO)

11	10/20/2009	\$46,000 check	Houston, Texas (Entrust, Ron Starr)	Sioux Falls, South Dakota (RAHFCO)
12	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota	Doland, South Dakota (Ron Starr)
13	12/31/2010	Earnings Statement	Sioux Falls, South Dakota	Doland, South Dakota (Ron Starr)
17	12/31/2010	Earnings statement	Sioux Falls, South Dakota	Fargo, North Dakota (Tom Schneider)
18	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota	Fargo, North Dakota (Tom Schneider)
19	07/14/2008	\$210,545.69 check	Seneca, Kansas (Community National Bank, Harold Rodembiker)	Sioux Falls, South Dakota (RAHFCO)
20	12/31/2010	Earnings statement	Sioux Falls, South Dakota (RAHFCO)	Fargo, North Dakota (Harold Rodembiker)
21	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota (RAHFCO)	Fargo, North Dakota (Harold Rodembiker)

22	02/17/2009	\$250,000 check	Winger, Minnesota (Kuprian Frolov's Smith Barney account)	Sioux Falls, South Dakota (RAHFCO)
23	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota (RAHFCO)	Winger, Minnesota (Kuprian Frolov)
24	07/22/2008	\$20,000 check	Boyton Beach, Florida (James Keller)	Sioux Falls, South Dakota (RAHFCO)
25	07/22/2008	\$30,000 check	Boyton Beach, Florida (James Keller)	Sioux Falls, South Dakota (RAHFCO)
26	12/31/2010	Earnings statement	Sioux Falls, South Dakota (RAHFCO)	Medina, Ohio (James Keller)
27	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota (RAHFCO)	Medina, Ohio (James Keller)
28	12/31/2010	Earnings statement	Sioux Falls, South Dakota (RAHFCO)	Aberdeen, South Dakota (Donna Harvey)
29	04/08/2011	Schedule K-1 (IRS)	Aberdeen, South Dakota (RAHFCO)	Aberdeen, South Dakota (Donna Harvey)

For you to find Hansen guilty of mail fraud, as charged in **Counts 6–13 and 17–29** of the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Hansen not guilty of the offenses charged in **Counts 6–13 and 17–29**.

FINAL INSTRUCTION NO. 5 – PRESUMPTION OF INNOCENCE AND BURDEN  
OF PROOF

The presumption of innocence means that the defendant is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from the defendant's arrest, the charges, or the fact that he is here in court.
- This presumption remains with the defendant throughout the trial.
- This presumption is enough, alone, for you to find the defendant not guilty, unless the prosecution proves, beyond a reasonable doubt, all of the elements of an offense charged against him.

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove his innocence.
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify.
- This burden means that you must find the defendant not guilty of an offense charged against him, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of that offense.



## FINAL INSTRUCTION NO. 6 – REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or the defendant, keeping in mind that the defendant never, ever has the burden or duty to call any witnesses or to produce any evidence.
- A reasonable doubt may arise from the prosecution's lack of evidence.

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all the evidence in the case before making a decision.
- Proof beyond a reasonable doubt is proof so convincing that you would be willing to rely and act on it in the most important of your own affairs.

The prosecution's burden is heavy, but it does not require proof beyond all possible doubt.

FINAL INSTRUCTION NO. 7 – WILLFUL BLINDNESS

The Government may prove that Hansen acted “knowingly” by proving, beyond a reasonable doubt, that Hansen deliberately closed his eyes to what would otherwise have been obvious to him. No one can avoid responsibility for a crime by deliberately ignoring what is obvious. A finding beyond a reasonable doubt of an intent of Hansen to avoid knowledge or enlightenment would permit the jury to find knowledge. Stated another way, a person’s knowledge of a particular fact may be shown from a deliberate or intentional ignorance or deliberate or intentional blindness to the existence of that fact. A willfully blind defendant is one who takes deliberate action to avoid confirming a high probability of wrongdoing.

It is, of course, entirely up to you as to whether you find any deliberate ignorance or deliberate closing of the eyes and any inferences to be drawn from any such evidence.

You may not conclude that Hansen had knowledge, however, from proof of a mistake, negligence, carelessness, recklessness, or a belief in an inaccurate proposition.

### FINAL INSTRUCTION NO. 8 – GOOD FAITH

One of the issues in this case is whether the defendant acted in “good faith.” “Good faith” is a complete defense to the crimes of wire fraud, mail fraud and conspiracy to commit wire or mail fraud if the defendant did not act with the intent to defraud, which is an element of the charges. The essence of the good-faith defense is that one who acts with honest intentions cannot be convicted of a crime requiring fraudulent intent.

The phrase “good faith” includes, among other things, an opinion or belief honestly held, even if the opinion is in error or the belief is mistaken. However, even though a defendant honestly held a certain opinion or belief (such as a belief that a business venture would ultimately succeed, that investors would make a profit, or that investors would not lose money), a defendant does not act in good faith if he also knowingly and intentionally made false or fraudulent representations or promises, or otherwise acted with the intent to defraud or deceive another. Proof of fraudulent intent requires more than proof that a defendant only made a mistake in judgment or management, or was careless.

The Government has the burden of proving beyond a reasonable doubt that the defendant acted with the intent to defraud. Evidence that the defendant acted in “good faith” may be considered by you, together with all the other evidence, in determining whether or not the defendant acted with the intent to defraud.

FINAL INSTRUCTION NO. 9 – IMPEACHMENT

In Preliminary Instruction No. 6, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you may treat certain evidence.

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness said or did something, or failed to say or do something, that is inconsistent with the witness’s present testimony. If earlier statements of a witness were admitted into evidence, they were not admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and therefore whether they affect the credibility of that witness.

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness’s testimony whatever weight you think it deserves. If you conclude that any witness has willfully sworn falsely to any material fact in issue, you may disregard the whole or any part of such witness’s testimony.

You have heard that a witness was convicted of a crime. You may use that evidence only to help you decide whether to believe the witness and how much weight to give his testimony.

Similarly, you have heard evidence that Anthony Johnson has pleaded guilty to a charge that arose out of the same events for which the defendant Randal Kent Hansen is now on trial. You cannot consider such a witness’s guilty plea as any evidence of the guilt of this defendant. Rather, you can consider such a witness’s guilty plea only for the purpose of determining how much, if at all, to rely upon his testimony.

You should treat the testimony of certain witnesses with greater caution and care than that of other witnesses:

1. You have heard evidence that Anthony Johnson is testifying pursuant to a plea agreement and hopes to receive a reduction in his sentence in return for his cooperation with the government in this case. If the prosecutor handling such a witness's case believes the witness has provided "substantial assistance," the prosecutor can file a motion to reduce the witness's sentence. The judge has no power to reduce a sentence for such a witness for substantial assistance unless the United States Attorney files a motion requesting such a reduction. If the motion for reduction of sentence for substantial assistance is filed by the United States Attorney, then it is up to the judge to decide whether to reduce the sentence of that witness at all, and if so, how much to reduce it. You may give the testimony of such witnesses such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduction in sentence is for you to decide.

2. You have also heard testimony from Anthony Johnson that he participated in the crimes charged against this defendant. His testimony was received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may have been influenced by his desire to please the government or to strike a good bargain with the government about his own situation is for you to determine.

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight you think it deserves.

FINAL INSTRUCTION NO. 10 – CHARACTER AND REPUTATION FOR  
TRUTHFULNESS, WITNESSES

You have heard testimony about the character and reputation of Randal Kent Hansen for truthfulness. You may consider this evidence only in deciding whether to believe the testimony of Randal Kent Hansen and how much weight to give it.

FINAL INSTRUCTION NO. 11 – DUTY TO DELIBERATE

A verdict must represent the careful and impartial judgment of each of you. Before you make that judgment, you must consult with one another and try to reach agreement if you can do so consistent with your individual judgment.

- If you are convinced that the prosecution has not proved beyond a reasonable doubt that the defendant is guilty, say so.
- If you are convinced that the prosecution has proved beyond a reasonable doubt that the defendant is guilty, say so.
- Do not give up your honest beliefs just because others think differently or because you simply want to be finished with the case.
- On the other hand, do not hesitate to re-examine your own views and to change your opinion if you are convinced that it is wrong.
- You can only reach a unanimous verdict if you discuss your views openly and frankly, with proper regard for the opinions of others, and with a willingness to re-examine your own views.

- Remember that you are not advocates, but judges of the facts, so your sole interest is to seek the truth from the evidence.
- The question is never who wins or loses the case, because society always wins, whatever your verdict, when you return a just verdict based solely on the evidence, reason, your common sense, and these Instructions.
- You must consider all of the evidence bearing on each element before you.
- Take all the time that you feel is necessary.
- Remember that this case is important to the parties and to the fair administration of justice, so do not be in a hurry to reach a verdict just to be finished with the case.



FINAL INSTRUCTION NO. 12 – DUTY DURING DELIBERATIONS

You must follow certain rules while conducting your deliberations and returning your verdict:

- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty, I will decide what his sentence should be.
- Communicate with me by sending me a note through a Court Security Officer (CSO). The note must be signed by one or more of you. Remember that you should not tell anyone, including me, how your votes stand. I will respond as soon as possible, either in writing or orally in open court.
- Base your verdict solely on the evidence, reason, your common sense, and these Instructions. Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return

a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex.

- Complete the Verdict Form. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict.
- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

Dated January 21, 2014.

A handwritten signature in black ink, reading "Karen E. Schreier", written over a horizontal line.

Karen E. Schreier  
United States District Judge