

Court Name: Dist. Court-Western Washingt  
on  
Division: 2  
Receipt Number: SEA011026  
Cashier ID: dbuffing  
Transaction Date: 07/27/2007  
Payer Name: Robert G. Bernhoft

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601 ELECTRONIC PRINTING FEE  
For: Robert G. Bernhoft  
Amount: \$3.40

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CHECK  
Remitter: Robert G. Bernhoft  
Check/Money Order Num: 2210  
Amt Tendered: \$3.40

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Total Due: \$3.40  
Total Tendered: \$3.40  
Change Amt: \$0.00

A fee of \$45.00 will be charged for  
any returned check.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document to which this certificate is attached was served on the attorney(s) of record for defendant(s) via ~~mail~~ telefax / personal delivery on the 22 day of MAY, 2003

UNITED STATES ATTORNEY  
by Leah Melendy

*[Signature]*  
Chief Judge Foughenour III

FILED \_\_\_\_\_ ENTERED \_\_\_\_\_  
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MAY 22 2003 MR  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,

NO. CR03-0088C

v

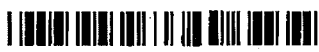
GOVERNMENT'S PROPOSED FINAL  
JURY INSTRUCTIONS (WITH  
CITATIONS)

LAURA JEAN MARIE STRUCKMAN,  
  
Defendant

The United States of America, by John McKay, United States Attorney for the Western District of Washington, and Larry J Wszalek, Mark T. Odulio, and Christopher J. Maietta, Trial Attorneys for the United States Department of Justice, Tax Division, Criminal Enforcement Section, hereby submit the following proposed jury instructions

DATED this 22<sup>nd</sup> day of May, 2003.

JOHN MCKAY  
United States Attorney



CR 03-00088 #00000067

*[Signature]*  
LARRY J. WSZALEK  
MARK T. ODULIO  
CHRISTOPHER J. MAIETTA  
U.S. Department of Justice  
Trial Attorneys

RECEIVED  
73-67D

UNITED STATES ATTORNEY  
601 UNION STREET, SUITE 5100  
SEATTLE, WASHINGTON 98101-3903  
(206) 553-7970

*[Handwritten mark]*

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 1

2 INSTRUCTION NO \_\_\_\_\_

3 Members of the jury, now that you have heard all the evidence, it is my duty to instruct  
4 you on the law which applies to this case. A copy of these instructions will be available in the  
5 jury room for you to consult

6 It is your duty to find the facts from all the evidence in the case. To those facts you will  
7 apply the law as I give it to you. You must follow the law as I give it to you whether you agree  
8 with it or not. And you must not be influenced by any personal likes or dislikes, opinions,  
9 prejudices, or sympathy. That means that you must decide the case solely on the evidence  
10 before you. You will recall that you took an oath promising to do so at the beginning of the  
11 case

12 In following my instructions, you must follow all of them and not single out some and  
13 ignore others, they are all equally important. You must not read into these instructions or into  
14 anything the court may have said or done any suggestion as to what verdict you should  
15 return—that is a matter entirely up to you

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28 Ninth Circuit Model Jury Instruction - 3.1 (2000 Edition)

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2 GOVERNMENT'S PROPOSED INSTRUCTION NO. 2

3 INSTRUCTION NO. \_\_\_\_\_

4 The Indictment in this case charges one crime against the defendant. Count 1 of the  
5 Indictment charges the crime of conspiracy to structure a currency transaction.

6 The crime alleged in the Indictment occurred on or about June 3, 1997, and continued  
7 until on or about August 20, 1998

8 The Indictment is not evidence. The defendant has pleaded not guilty to the charge. The  
9 defendant is presumed to be innocent and does not have to testify or present any evidence to  
10 prove innocence. The government has the burden of proving every element of the charge  
11 beyond a reasonable doubt.

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27 Ninth Circuit Model Jury Instruction - 3.2 (2000 Edition) (modified)  
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GOVERNMENT'S PROPOSED INSTRUCTION NO. 3

INSTRUCTION NO. \_\_\_\_

A defendant in a criminal case has a constitutional right not to testify. No presumption of guilt may be raised, and no inference of any kind may be drawn, from the fact that the defendant did not testify.

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Ninth Circuit Model Jury Instruction - 3.3 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 4

2 INSTRUCTION NO \_\_\_\_

3 Proof beyond a reasonable doubt is proof that leaves you firmly convinced that the  
4 defendant is guilty. It is not required that the government prove guilt beyond all possible doubt.

5 A reasonable doubt is a doubt based upon reason and common sense and is not based  
6 purely on speculation. It may arise from a careful and impartial consideration of all the  
7 evidence, or from lack of evidence.

8 If after a careful and impartial consideration of all the evidence, you are not convinced  
9 beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant not  
10 guilty. On the other hand, if after a careful and impartial consideration of all the evidence, you  
11 are convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the  
12 defendant guilty

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26 Ninth Circuit Model Jury Instruction - 3.5 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 5

2 INSTRUCTION NO. \_\_\_\_

3 The evidence from which you are to decide what the facts are consists of:

- 4 1. the sworn testimony of any witness;
- 5 2. the exhibits that have been received into evidence, and
- 6 3 any facts to which all the lawyers have stipulated.
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27 Ninth Circuit Model Jury Instruction - 3 6 (2000 Edition)

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1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 6

2 INSTRUCTION NO \_\_\_\_\_

3 In reaching your verdict you may consider only the testimony and exhibits received into  
4 evidence. Certain things are not evidence and you may not consider them in deciding what the  
5 facts are. I will list them for you:

6 1. Arguments and statements by the parties are not evidence What the parties have said  
7 in their opening statements and in their closing arguments and at other times is intended to help  
8 you interpret the evidence, but it is not evidence. If the facts as you remember them differ from  
9 the way the parties state them, your memory of them controls

10 2 Questions and objections by the parties are not evidence The parties may object when  
11 they believe a question is improper under the rules of evidence. You should not be influenced by  
12 the question, the objection, or the court's ruling on it.

13 3 Testimony that has been excluded or stricken, or that you have been instructed to  
14 disregard, is not evidence and must not be considered In addition, some testimony and exhibits  
15 have been received only for a limited purpose, where I have given a limiting instruction, you  
16 must follow it

17 4 Anything you may have seen or heard when the court was not in session is not  
18 evidence You are to decide the case solely on the evidence received at the trial

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26 Ninth Circuit Model Jury Instruction - 3 7 (2000 Edition)



GOVERNMENT'S PROPOSED INSTRUCTION NO. 6

INSTRUCTION NO. \_\_\_\_

In reaching your verdict you may consider only the testimony and exhibits received into evidence. Certain things are not evidence and you may not consider them in deciding what the facts are. I will list them for you:

1 Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements and will say in their closing arguments and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers state them, your memory of them controls.

2 Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the question, the objection, or the court's ruling on it.

3 Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition, some testimony and exhibits have been received only for a limited purpose, where I have given a limiting instruction, you must follow it.

4 Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

Ninth Circuit Model Jury Instruction - 3.7 (2000 Edition)

GOVERNMENT'S PROPOSED INSTRUCTION NO 7

INSTRUCTION NO \_\_\_\_

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is indirect evidence, that is, proof of a chain of facts from which you could find that another fact exists, even though it has not been proved directly. You are to consider both kinds of evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence

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Ninth Circuit Model Jury Instruction - 3.8 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 8

2 INSTRUCTION NO \_\_\_\_

3 In deciding the facts in this case, you may have to decide which testimony to believe and  
4 which testimony not to believe. You may believe everything a witness says, or part of it, or  
5 none of it

6 In considering the testimony of any witness, you may take into account:

- 7 1 the opportunity and ability of the witness to see or hear or know the things  
8 testified to;
- 9 2. the witness' memory;
- 10 3 the witness' manner while testifying;
- 11 4. the witness' interest in the outcome of the case and any bias or prejudice;
- 12 5. whether other evidence contradicted the witness' testimony;
- 13 6. the reasonableness of the witness' testimony in light of all the evidence, and
- 14 7 any other factors that bear on believability

15 The weight of the evidence as to a fact does not necessarily depend on the number of  
16 witnesses who testify.

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27 Ninth Circuit Model Jury Instruction - 3 9 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 9

2 INSTRUCTION NO. \_\_\_\_

3 The defendant is on trial only for the crime charged in the Indictment, not for any other  
4 activities

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Ninth Circuit Model Jury Instruction - 3.11 (2000 Edition) (modified)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 10

2 INSTRUCTION NO \_\_\_\_

3 The parties have agreed to certain facts that have been stated to you. You should  
4 therefore treat these facts as having been proved.

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Ninth Circuit Model Jury Instruction 2 4 - (2000 Edition)

GOVERNMENT'S PROPOSED INSTRUCTION NO. 11

INSTRUCTION NO. \_\_\_\_

The parties have agreed what [name of witness'] testimony would be if called as a witness. You should consider that testimony in the same way as if it had been given in court.

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GOVERNMENT'S PROPOSED INSTRUCTION NO. 12

INSTRUCTION NO. \_\_\_\_

You have heard testimony that the defendant made a statement. It is for you to decide (1) whether the defendant made the statement, and (2) if so, how much weight to give to it. In making those decisions, you should consider all of the evidence about the statement, including the circumstances under which the defendant may have made it

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Ninth Circuit Model Jury Instruction - 4.1 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 13

2 INSTRUCTION NO. \_\_\_\_\_

3 You have heard testimony from persons who, because of education or experience, are  
4 permitted to state opinions and the reasons for their opinions

5 Opinion testimony should be judged just like any other testimony. You may accept it or  
6 reject it, and give it as much weight as you think it deserves, considering the witness' education  
7 and experience, the reasons given for the opinion, and all the other evidence in the case.

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Ninth Circuit Model Jury Instruction - 4.17 (2000 Edition)



1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 14

2 INSTRUCTION NO. \_\_\_\_

3 Certain charts and summaries have been shown to you in order to help explain the facts  
4 disclosed by the books, records, and other documents which are in evidence in the case. They  
5 are not themselves evidence or proof of any facts. If they do not correctly reflect the facts or  
6 figures shown by the evidence in the case, you should disregard these charts and summaries and  
7 determine the facts from the underlying evidence

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27 Ninth Circuit Model Jury Instruction - 4 18 (2000 Edition)  
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1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 15

2 INSTRUCTION NO. \_\_\_\_

3 Certain charts and summaries have been received into evidence. Charts and summaries  
4 are only as good as the underlying supporting material. You should, therefore, give them only  
5 such weight as you think the underlying material deserves

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Ninth Circuit Model Jury Instruction - 4 19 (2000 Edition)

GOVERNMENT'S PROPOSED INSTRUCTION NO 16

INSTRUCTION NO. \_\_\_\_

The Indictment charges that the offense occurred "on or about" a certain date, or during a period of time. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged.

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Devitt & Blackmar, Federal Jury Practice and Instructions, 4th Ed , Section 13 05 (modified)

GOVERNMENT'S PROPOSED INSTRUCTION NO 17

INSTRUCTION NO. \_\_\_\_

The defendant is charged in Count 1 of the Indictment with having knowingly, intentionally and unlawfully conspired and agreed with D S , an un-indicted coconspirator, known to the grand jury, to violate Title 31 U S.C Section 5324(a)(3) by agreeing to structure, or assist in structuring a currency transaction for the purpose of evading the reporting requirements of Title 31 U S C Section 5313 and Title 31 C.F.R. Section 103.22 with one or more domestic financial institutions, all in violation of Title 18 U S C § 371

In order for the defendant to be found guilty of Count 1, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant agreed with D S no later than on or about June 3, 1997, and continuing until August 20, 1998, to commit a criminal offense, that is an agreement to structure a currency transaction for the purpose of evading the reporting requirements required by law,

Second, the defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it, and

Third, one of the members of the conspiracy performed at least one overt act for the purpose of carrying out the conspiracy, with all of you agreeing on a particular overt act that you find was committed

I shall discuss with you briefly the law relating to each of these elements.

A conspiracy is a kind of criminal partnership—an agreement of two or more persons to commit one or more crimes The crime of conspiracy is the agreement to do something unlawful, it does not matter whether the crime agreed upon was committed.

For a conspiracy to have existed, it is not necessary that the conspirators made a formal agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they simply met, discussed matters of common interest, acted in similar ways, or perhaps helped

1 one another You must find that there was a plan to commit the crime of structuring a currency  
2 transaction to evade the reporting requirements under the law.

3 One becomes a member of a conspiracy by willfully participating in the unlawful plan  
4 with the intent to advance or further some object or purpose of the conspiracy, even though the  
5 person does not have full knowledge of all the details of the conspiracy. Furthermore, one who  
6 willfully joins an existing conspiracy is as responsible for it as the originators. On the other  
7 hand, one who has no knowledge of a conspiracy, but happens to act in a way which furthers  
8 some object or purpose of the conspiracy, does not thereby become a conspirator Similarly, a  
9 person does not become a conspirator merely by associating with one or more persons who are  
10 conspirators, nor merely by knowing that a conspiracy exists

11 An overt act does not itself have to be unlawful. A lawful act may be an element of a  
12 conspiracy if it was done for the purpose of carrying out the conspiracy The government is not  
13 required to prove that the defendant personally did one of the overt acts

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Ninth Circuit Model Jury Instruction - 8 16 (2000 Edition, Revised 10/2000) (modified)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 18

2 INSTRUCTION NO. \_\_\_\_

3 A conspiracy may continue for a long period of time and may include the performance of  
4 many transactions. It is not necessary that all members of the conspiracy join it at the same time,  
5 and one may become a member of a conspiracy without full knowledge of all the details of the  
6 unlawful scheme or the names, identities, or locations of all of the other members.

7 Even though a defendant did not directly conspire with other conspirators in the overall  
8 scheme, the defendant has, in effect, agreed to participate in the conspiracy if it is proved beyond  
9 a reasonable doubt that

10 (1) the defendant directly conspired with one or more conspirators to carry out at least  
11 one of the objects of the conspiracy,

12 (2) the defendant knew or had reason to know that other conspirators were involved with  
13 those with whom the defendant directly conspired, and

14 (3) the defendant had reason to believe that whatever benefits the defendant might get  
15 from the conspiracy were probably dependent upon the success of the entire venture

16 It is no defense that a person's participation in a conspiracy was minor or for a short  
17 period of time

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27 Ninth Circuit Model Jury Instruction - 8.18 (2000 Edition)

GOVERNMENT'S PROPOSED INSTRUCTION NO. 19

INSTRUCTION NO. \_\_\_\_

A conspiracy is a kind of criminal partnership—an agreement between two or more persons to commit one or more crimes. The crime of conspiracy is the agreement to do something unlawful.

Each member of the conspiracy is responsible for the actions of the other conspirators performed during the course and in furtherance of the conspiracy. If one member of a conspiracy commits a crime in furtherance of a conspiracy, the other members have also, under the law, committed the crime. Before you may consider the statements or acts of a coconspirator, you must first determine whether the acts or statements were made during the existence of and in furtherance of an unlawful scheme, and whether any offense was one which could reasonably have been foreseen to be a necessary or natural consequence of the unlawful agreement.

Therefore, you may find the defendant guilty of a crime as charged in Count 1 of the Indictment if the government has proved each of the following elements beyond a reasonable doubt:

1. A person committed the crime alleged in that count,
2. The person was a member of the conspiracy charged in Count 1 of the Indictment,
3. The person committed the crime in furtherance of the conspiracy
4. The defendant was a member of the same conspiracy at the time that crime was committed; and
5. The crime fell within the scope of the unlawful agreement and could reasonably have been foreseen to be a necessary or natural consequence of the unlawful agreement.

Ninth Circuit Model Jury Instruction - 8 20 (2000 Edition, Revised 3/2001) (modified)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 20

2 INSTRUCTION NO. \_\_\_\_

3 A financial institution, other than a casino, shall file a report of each deposit, withdrawal,  
4 exchange of currency or other payment or transfer, by, through, or to such financial institution  
5 which involves a transaction in currency of more than \$10,000.00

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31 C.F.R. § 103.22(b)(1)



GOVERNMENT'S PROPOSED INSTRUCTION NO 21

INSTRUCTION NO. \_\_\_\_

You may find the defendant guilty of conspiracy to structure currency transaction reports whether or not the financial institution filed, or failed to file, a true and accurate currency transaction report.

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Seventh Circuit Model Jury Instruction - Title 31 Offenses (1999 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 22

2 INSTRUCTION NO. \_\_\_\_

3 The term "currency transaction" means the physical transfer of currency from one person  
4 to another. A transaction is a transfer of funds by means of bank checks, bank draft, wire  
5 transfer, of other written order, and which does not include the physical transfer of currency, is  
6 not a transaction in currency for this purpose

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27 31 C.F.R. § 103.11(ii)  
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1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 23

2 INSTRUCTION NO. \_\_\_\_

3 As used in these instructions, the term "structure" refers to the manner in which a  
4 transaction was carried out.

5 Structuring occurs when a person acting alone, or in conjunction with, or on behalf of  
6 others, conducts or attempts to conduct one or more currency transactions at one or more  
7 financial institutions on one or more days, in any manner with the purpose of evading currency  
8 transaction reporting requirements. Structuring includes breaking down a single sum of  
9 currency over \$10,000.00 into smaller sums, or conducting a series of cash transactions all at or  
10 below \$10,000 00, with the purpose of evading currency transaction reporting requirements

11 The transaction or transactions need not exceed the \$10,000 00 reporting threshold at any single  
12 financial institution on any single day in order to constitute structuring within the meaning of  
13 this definition

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27 31 C F R § 103 11(gg)  
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1 GOVERNMENT'S PROPOSED INSTRUCTION NO 24

2 INSTRUCTION NO. \_\_\_\_\_

3 A financial institution is defined as an insured bank, the deposits of which are insured by  
4 the Federal Deposit Insurance Corporation (FDIC) The term "insured bank" means any bank  
5 (including a foreign bank having an insured branch) the deposits of which are insured in  
6 accordance with the law; and the term "noninsured bank" means any bank the deposits of which  
7 are not so insured.

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31 U.S.C. § 5312(a)(2)(A)

12 U.S.C. § 1813(h)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 25

2 INSTRUCTION NO. \_\_\_\_

3 An act is done knowingly if the defendant is aware of the act and does not act through  
4 ignorance, mistake, or accident. The government is not required to prove that the defendant  
5 knew that his acts or omissions were unlawful. You may consider evidence of the defendant's  
6 words, acts, or omissions, along with all the other evidence, in deciding whether the defendant  
7 acted knowingly.

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27 Ninth Circuit Model Jury Instruction - 5.6 (2000 Edition)

GOVERNMENT'S PROPOSED INSTRUCTION NO 26

INSTRUCTION NO. \_\_\_\_\_

When you begin your deliberations, you should elect one member of the jury as your presiding juror. That person will preside over the deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict, whether guilty or not guilty, must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.

Ninth Circuit Model Jury Instruction - 7 1 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO 27

2 INSTRUCTION NO. \_\_\_\_\_

3 Your verdict must be based solely on the evidence and on the law as I have given it to  
4 you in these instructions. However, nothing that I have said or done is intended to suggest what  
5 your verdict should be—that is entirely for you to decide.

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Ninth Circuit Model Jury Instruction - 7.2 (2000 Edition)

1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 28

2 INSTRUCTION NO. \_\_\_\_\_

3 Some of you have taken notes during the trial. Whether or not you took notes, you should  
4 rely on your own memory of what was said. Notes are only to assist your memory. You should  
5 not be overly influenced by the notes.

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Ninth Circuit Model Jury Instruction - 7.3 (2000 Edition)



1 GOVERNMENT'S PROPOSED INSTRUCTION NO. 29

2 INSTRUCTION NO. \_\_\_\_

3 The punishment provided by law for this crime is for the court to decide. You may not  
4 consider punishment in deciding whether the government has proved its case against the  
5 defendant beyond a reasonable doubt

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27 Ninth Circuit Model Jury Instruction - 7.4 (2000 Edition)  
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1 GOVERNMENT'S PROPOSED INSTRUCTION NO 30

2 INSTRUCTION NO \_\_\_\_

3 A verdict form has been prepared for you. After you have reached unanimous agreement  
4 on a verdict, your presiding juror will fill in the form that has been given to you, sign and date it  
5 and advise the court clerk that you are ready to return to the courtroom.

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Ninth Circuit Model Jury Instruction - 7 5 (2000 Edition) (modified)

GOVERNMENT'S PROPOSED INSTRUCTION NO 31

INSTRUCTION NO. \_\_\_\_\_

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3 If it becomes necessary during your deliberations to communicate with me, you may send  
4 a note through the court clerk, signed by your presiding juror or by one or more members of the  
5 jury. No member of the jury should ever attempt to communicate with me except by a signed  
6 writing, and I will respond to the jury concerning the case only in writing, or here in open court  
7 If you send out a question, I will consult with the lawyers before answering it, which may take  
8 some time You may continue your deliberations while waiting for the answer to any question  
9 Remember that you are not to tell anyone—including me—how the jury stands, numerically or  
10 otherwise, on the question of the guilt of the defendant, until after you have reached a unanimous  
11 verdict or have been discharged.  
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27 Ninth Circuit Model Jury Instruction - 7.6 (2000 Edition) (modified)  
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