

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
))
Plaintiff,)	
)	
v.)	CASE NO.
)	
_____,)	
)	
Defendant.)	

COURT’S JURY INSTRUCTIONS

At the conclusion of all the evidence, the Court will read to the Jury the following jury instructions, numbered 1 through ___.

Date: _

S/ Joseph S. Van Bokkelen
Joseph S. Van Bokkelen
United States District Judge

JURY INSTRUCTION NO. 1

Members of the jury, you have seen and heard all the evidence. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you. [You should not be influenced by any person's race, color, religion, national ancestry, or sex.]

Nothing I say now, and nothing I said or did during the trial, is meant to indicate and opinion on my part about what the facts are or about what your verdict should be.

7th Circuit 1.01

JURY INSTRUCTION NO. 2

The charge[s] against the defendant [is; are] in a document called an indictment [information]. [You will have a copy of the indictment during your deliberations.]

The indictment [information] in this case charges that the defendant[s] committed the crime[s] of [fill in short description of charged offenses]. The defendant[s] [has; have] pled not guilty to the charge[s].

The indictment [information] is simply the formal way of telling the defendant what crime[s] [he is; they are] accused of committing. It is not evidence that the defendant[s] [is; are] guilty. It does not even raise a suspicion of guilt.

7th Circuit 1.02

JURY INSTRUCTION NO. 3

The defendant is presumed to be innocent of [each of] the charge[s]. This presumption continues during every stage of the trial and your deliberations on the verdict. It is not overcome unless from all the evidence in the case you are convinced beyond a reasonable doubt that the defendant is guilty as charged. The government has the burden of proving the guilt of the defendant beyond a reasonable doubt.

This burden of proof stays with the government throughout the case. The defendant is never required to prove his innocence or to produce any evidence at all.

7th Circuit 1.03

JURY INSTRUCTION NO. 4

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and stipulations.

A stipulation is an agreement between both sides that [certain facts are true] [that a person would have given certain testimony].

[I have taken judicial notice of certain facts that may be regarded as matters of common knowledge. You may accept those facts as proved, but you are not required to do so.]

7th Circuit 2.01

JURY INSTRUCTION NO. 5

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inferences you make must be reasonable and must be based on the evidence in the case.

Circuit 7th 2.02

JURY INSTRUCTION NO. 6

Some of you have heard the phrases “circumstantial evidence” and “direct evidence.” Direct evidence is the testimony of someone who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a series of facts which tend to show whether the defendant is guilty or not guilty. The law makes no distinction between the weights to be given either direct or circumstantial evidence. You should decide how much weight to give to any evidence. All the evidence in the case, including the circumstantial evidence, should be considered by you in reaching your verdict.

7th Circuit 2.03

JURY INSTRUCTION NO. 7

Do not make any decisions simply by counting the number of witnesses who testified about a certain point.

[You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of

witnesses.]

What is important is how truthful and accurate the witnesses were and how much weight you think their testimony deserves.

7th Circuit 2.04

JURY INSTRUCTION NO. 8

If you have taken notes during the trial, you may use them during deliberations to help you remember what happened during the trial. You should use your notes only as aids to your memory. The notes are not evidence. All of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror.

7th Circuit 3.18

JURY INSTRUCTION NO. 9

You are to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all, as well as what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, you may consider, among other things:

- [the witness's age;]
- the witness's intelligence;
- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness's memory;
- any interest, bias, or prejudice the witness may have;
- the manner of the witness while testifying; and
- the reasonableness of the witness's testimony in light of all the evidence in the case.

[You should judge the defendant's testimony in the same way that you judge the testimony of any other witness.]

7th Circuit 3.01

JURY INSTRUCTION NO. 10

The [A] defendant has an absolute right not to testify. The fact that the [a] defendant did not testify should not be considered by you in any way in arriving at your verdict.

7th Circuit 2.05

JURY INSTRUCTION NO. 11

It is proper for an attorney to interview any witness in preparation for trial.

7th Circuit 3.02

JURY INSTRUCTION NO. 12

You have heard evidence that, before the trial, [a] witness[es] made [a] statement[s] that may be inconsistent with the witness[es]'s testimony here in court. If you find that it is inconsistent, you may consider the earlier statement [only] in deciding the truthfulness and accuracy of that witness's testimony in this trial. [You may not use it as evidence of the truth of the matters contained in that prior statement.] [If that statement was made under oath, you may also consider it as evidence of the truth of the matters contained in that prior statement.]

7th Circuit 3.03

JURY INSTRUCTION NO. 13

A statement made by a defendant before trial that is inconsistent with the defendant's testimony here in court may be used by you as evidence of the truth of the matters contained in it, and also in deciding the truthfulness and accuracy of that defendant's testimony in this trial.

7th Circuit 3.04

JURY INSTRUCTION NO. 14

You have heard testimony from _____ who:

- (a) received immunity; that is, a promise from the government that any testimony or other information he/she provided would not be used against him/her in a criminal case.
- (b) received benefits from the government in connection with this case, namely _____.
- (c) has admitted [been convicted of] lying under oath.
- (d) stated that he/she was involved in the commission of the offense as charged against the defendant.
- (e) has pleaded guilty to an offense arising out of the same occurrence for which the defendant is now on trial. His/ her guilty plea is not to be considered as evidence against the defendant.

You may give his/her testimony such weight as you feel it deserves, keeping in mind that it must be considered with caution and great care.

7th Circuit 3.05

JURY INSTRUCTION NO. 15

You may consider evidence that the defendant was convicted of a crime only in deciding the believability of his testimony. [You may not consider it for any other purpose.] [The other conviction[s] [is; are] not evidence of whether the defendant is guilty of [the; any] crime he is charged with in this case.]

You may consider evidence that a witness was convicted of a crime only in deciding the believability of his testimony. You may not consider it for any other purpose.

7th Circuit 3.06

JURY INSTRUCTION NO. 16

You have heard testimony about [name]'s character for [truthfulness; untruthfulness]. You may consider this evidence only in deciding the believability of [name]'s testimony and how much weight to give to it.

7th Circuit 3.07

JURY INSTRUCTION NO. 17

You have heard [reputation and/or opinion] evidence about the defendant's character trait for [truthfulness, peacefulness, etc].

You should consider character evidence together with and in the same way as all the other evidence in the case.

7th Circuit 3.08

JURY INSTRUCTION NO. 18

You have heard a witness, namely, [name of witness], who gave opinions and testimony about [certain subject(s); specify the subject(s), if possible]. You do not have to accept this witness' [opinions; testimony]. You should judge this witness' opinions and testimony the same way you judge the testimony of any other witness. In deciding how much weight to give to these opinions and testimony, you should consider the witness' qualifications, how he reached his [opinions; conclusions], and the factors I have described for determining the believability of testimony.

7th Circuit 3.13

JURY INSTRUCTION NO. 19

You have received evidence of a statement said to be made by the defendant to _____. You must decide whether the defendant did in fact make the statement. If you find that the defendant did make the statement, then you must decide what weight, if any, you feel the statement deserves. In making this decision, you should consider all matters in evidence

having to do with the statement, including those concerning the defendant [himself / herself] and the circumstances under which the statement was made.

[You may not consider this statement as evidence against any defendant other than the one who made it.]

7th Circuit 3.09

JURY INSTRUCTION NO. 20

You have heard evidence that _____ accused the defendant of a crime, and that the defendant did not deny or object to the accusation. If you find that the defendant was present and heard and understood the accusation, and that it was made under such circumstances that the defendant would deny it if it were not true, then you may consider whether the defendant's silence was an admission of the truth of the accusation.

7th Circuit 3.10

JURY INSTRUCTION NO. 21

You have heard [testimony; evidence] that the defendant committed [crimes; acts; wrongs] other than the ones charged in the indictment. Before using this evidence, you must decide whether it is more likely than not that the defendant did the [crimes; acts; wrongs] that are not charged in the indictment. If you decide that he did, then you may consider this evidence to help you decide [describe purpose for which other act evidence was admitted, *e.g.* the defendant's intent to distribute narcotics, absence of mistake in dealing with the alleged victim, etc.]. You may not consider it for any other purpose. Keep in mind that the defendant is on trial here for [describe charge(s) in indictment], not for the other [crimes; acts; wrongs].

7th Circuit 3.11

JURY INSTRUCTION NO. 22

You have heard testimony of an identification of a person. Identification testimony is an expression of belief or impression by the witness. You should consider whether, or to what extent, the witness had the ability and the opportunity to observe the person at the time of the offense and to make a reliable identification later. You should also consider the circumstances under which the witness later made the identification.

The government has the burden of proving beyond a reasonable doubt that the defendant was the person who committed the crime charged.

7th Circuit 3.12

JURY INSTRUCTION NO. 23

You have heard evidence that the defendant was not present at the time and place where the offense charged in the indictment is said to have been committed. The government must prove beyond a reasonable doubt the defendant's presence at the time and place of the offense.

7th Circuit 6.03

JURY INSTRUCTION NO. 24

You have heard recorded conversations. These recorded conversations are proper evidence and you may consider them, just as any other evidence.

When the recordings were played during the trial, you were furnished transcripts of the recorded conversations [prepared by government agents].

The recordings are the evidence, and the transcripts were provided to you only as a guide to help you follow as you listen to the recordings. The transcripts are not evidence of what was actually said or who said it. It is up to you to decide whether the transcripts correctly reflect what was said and who said it. If you noticed any difference between what you heard on the recordings and what you read in the transcripts, you must rely on what you heard, not what you read. And if after careful listening, you could not hear or understand certain parts of the recordings, you must ignore the transcripts as far as those parts are concerned. [[You may consider the actions of a person, facial expressions and lip movements that you can observe on videotapes to help you to determine what was actually said and who said it.]]

[I am providing you with the recordings and a player. You are not required to play the tapes, in part or in whole. You may rely, instead, on your recollections of these recordings as you heard them at trial. If you do decide to listen to [[or watch]] a tape recording and wish to have the transcript corresponding to that recording, ask the Marshal in writing and the transcript will be given to you. You may choose to listen to [[or watch]] the cassette without the transcript.

7th Circuit 3.14

JURY INSTRUCTION NO. 25

Among the exhibits admitted during the trial were recordings that contained conversations in the _____ language. You were also provided with English transcripts of those conversations. The transcripts were provided to you [by the government] so that you could consider the content of the conversations on the recordings.

Whether a transcript is an accurate translation, in whole or in part, is for you to decide. In considering whether a transcript accurately describes the meaning of a conversation, you should consider the testimony presented to you regarding how, and by whom, the transcript was made. You may consider the knowledge, training, and experience of the translator, as well as the nature of the conversation and the reasonableness of the translation in light of all the evidence in the case. You should not rely in any way on any knowledge you may have of the language

spoken on the recording; your consideration of the transcripts should be based on the evidence introduced in the trial.

7th Circuit 3.15

JURY INSTRUCTION NO. 26

Certain summaries are in evidence. Their accuracy has been challenged by [the government] [the defendant]. Thus, the original materials upon which the exhibits are based have also been admitted into evidence so that you may determine whether the summaries are accurate.

7th Circuit 3.16

JURY INSTRUCTION NO. 27

Certain [summaries; charts; etc.] were shown to you to help explain other evidence that was admitted, [specifically, identify the demonstrative exhibit, if appropriate]. These [summaries; charts] are not themselves evidence or proof of any facts, [so you will not have these particular [summaries; charts] during your deliberations]. [If they do not correctly reflect the facts shown by the evidence, you should disregard the [summaries; charts] and determine the facts from the underlying evidence.]

7th Circuit 3.17

JURY INSTRUCTION NO. 28

You have heard evidence obtained from the government's use of [undercover agents] [informants] [deceptive investigative techniques]. The government is permitted to use these techniques. You should consider evidence obtained this way together with and in the same way you consider the other evidence.

7th Circuit 3.19

JURY INSTRUCTION NO. 29

[The indictment charges the defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant[s] with] _____. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [fill in number of elements] following elements beyond a reasonable doubt:

1. and
2. and
- 3.

If you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge], unless the defendant has proven the defense of coercion. If the defendant has proven that it is more likely than not that he was coerced, then you should find the defendant not guilty [of that charge].

[Insert definition of coercion from Pattern Instruction 6.08]

JURY INSTRUCTION NO. 30

To sustain the charge in the indictment the government must prove the following propositions:

First:

Second:

Third:

Fourth: (Addressing any issues raised by a substantive or affirmative defense, e.g., self-defense.)

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt, then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all of the evidence that any of these propositions has not been proved beyond a reasonable doubt, then you should find the defendant not guilty [of that charge].

7th Circuit 4.01

JURY INSTRUCTION NO. 31

[Each count of] [Count __ of] The indictment alleges that the defendant[s] committed certain specific acts. [For any count on which the government seeks conviction] The government need not prove that each and every specific alleged act was committed by the [a] defendant. However, the government must prove that [a] defendant committed at least one of the specific acts which are alleged [in that count]. In order to find that the government has proved the [a] defendant committed a specific act, the jury must unanimously agree on which specific act that defendant committed.

For example, if some of you find defendant [insert example from indictment] and the rest of you find defendant [insert different example], then there is no unanimous agreement on which act has been proved. On the other hand, if all jurors find defendant [insert example from indictment], then there is unanimous agreement.

7th Circuit 4.04

JURY INSTRUCTION NO. 32

The indictment charges that the offense was committed "on or about" _____. The government must prove that the offense happened reasonably close to that date but is not required to prove that the alleged offense happened on that exact date.

7th Circuit 4.05

JURY INSTRUCTION NO. 33

[The; certain] defendant[s] has been accused of more than one crime. The number of charges is not evidence of guilt and should not influence your decision.

You must consider each charge [and the evidence concerning each charge] separately. Your decision on one charge, whether it is guilty or not guilty, should not influence your decision on any other charge.

7th Circuit 4.06

JURY INSTRUCTION NO. 34

Even though the defendants are being tried together, you must give each of them separate consideration. In doing this, you must analyze what the evidence shows about each defendant [, leaving out of consideration any evidence that was admitted solely against some other defendant or defendants]. Each defendant is entitled to have his/her case decided on the evidence and the law that applies to that defendant.

7th Circuit 4.07

JURY INSTRUCTION NO. 35

In deciding your verdict, you should not consider the possible punishment for the defendant[s] [who [is; are] on trial]. If you decide that the government has proved [the; a] defendant guilty beyond a reasonable doubt, then it will be my job to decide on the appropriate punishment.

7th Circuit 4.08

JURY INSTRUCTION NO. 36

A person attempts to commit [identify offense, *e.g.*, bank robbery] if he (1) knowingly takes a substantial step toward committing [describe the offense], (2) with the intent to commit [describe the offense]. The substantial step must be an act that strongly corroborates that the defendant intended to carry out the [the crime; describe the offense].

7th Circuit 4.09

JURY INSTRUCTION NO. 37

A person acts knowingly if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. [In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.]

[You may find that the defendant acted knowingly if you find beyond a reasonable doubt that he had a strong suspicion that [state fact as to which knowledge is in question, *e.g.*, “drugs were in the suitcase,” “the financial statement was false,”] and that he deliberately avoided the truth. You may not find that the defendant acted knowingly if he was merely mistaken or careless in not discovering the truth, or if he failed to make an effort to discover the truth.]

7th Circuit 4.10

JURY INSTRUCTION NO. 38

A person possesses an object if he has the ability and intention to exercise direction or control over the object, either directly or through others. [A person may possess an object even if he is not in physical contact with it [and even if he does not own it].]

[More than one person may possess an object. If two or more persons share possession, that is called “joint” possession. If only one person possesses the object, that is called “sole” possession. The term “possess” in these instructions includes both joint and sole possession.]

7th Circuit 4.13

JURY INSTRUCTION NO. 39

If you find that the defendant was in possession of property that recently had been stolen, you may infer that he knew it was stolen. You are not required to make this inference.

The term “recently” has no fixed meaning. The more time that has passed since the property was stolen, the more doubtful an inference of the defendant’s knowledge becomes.

7th Circuit 4.14

JURY INSTRUCTION NO. 40

An offense may be committed by more than one person. A defendant's guilt may be established without proof that the defendant personally performed every act constituting the crime charged.

7th Circuit 5.05

JURY INSTRUCTION NO. 41

A person responsible for the conduct of another may be found guilty even though the one who it is claimed committed the crime has not been found guilty.

7th Circuit 5.01

JURY INSTRUCTION NO. 42

A person who acts on behalf of a [corporation; partnership; other entity] also is personally responsible for what he does or causes someone else to do. However, a person is not responsible for the conduct of others performed on behalf of a corporation merely because that person is an officer, employee, or other agent of a corporation.

7th Circuit 5.02

JURY INSTRUCTION NO. 43

[Name of entity] is a [corporation; other type of entity]. A [corporation; other type of entity] may be found guilty of an offense. A [corporation; other type of entity] acts only through its agents and employees, that is, people authorized or employed to act for the [corporation; other type of entity].

[The indictment charges [name of entity] with; Count __ of the indictment is a charge of] _____ . In order for you to find [name of entity] guilty of this charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the offense charged was committed by an agent or employee of [name of entity];
and

Second, in committing the offense, the agent[s] or employee[s] intended, at least in part, to benefit [name of entity]; and

Third, the agent[s] or employee[s] acted within [his/their] authority.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

An act is within the authority of an agent or employee if it concerns a matter that [name of entity] generally entrusted to that agent or employee. [Name of entity] need not have actually authorized or directed the particular act.

If an agent or employee was acting within his authority, then [name of entity] is not relieved of its responsibility just because the act was illegal, or was contrary to [name of entity]'s instructions, or was against [name of entity]'s general policies. However, you may consider the fact that [name of entity] had policies and instructions and how carefully it tried to enforce them when you determine whether [name of entity]'s agent[s] or employee[s] was acting with the intent to benefit [name of entity] or was acting within his authority.

7th Circuit 5.03

JURY INSTRUCTION NO. 44

If you find that an agent's act was outside his authority, then you must consider whether the corporation later approved the act. An act is approved if, after it is performed, another agent of the corporation, with the authority to perform or authorize the act and with the intent to benefit the corporation, either expressly approves the act or engages in conduct that is consistent with approving the act. A corporation is legally responsible for any act or omission approved by its agents.

7th Circuit 5.04

JURY INSTRUCTION NO. 45

(a)

Any person who knowingly [aids], [counsels], [commands], [induces] [or] [procures] the commission of an offense may be found guilty of that offense. That person must knowingly associate with the criminal activity, participate in the activity, and try to make it succeed.

(b)

If a defendant knowingly caused the acts of another, the defendant is responsible for those acts as though he/she personally committed them.

7th Circuit 5.06

JURY INSTRUCTION NO. 46

(a)

A defendant's presence at the scene of a crime and knowledge that a crime is being

committed is not sufficient by itself to establish the defendant's guilt.

(b)

If a defendant performed acts that advanced the crime but had no knowledge that the crime was being committed or was about to be committed, those acts are not sufficient by themselves to establish the defendant's guilt.

(c)

A defendant's association with persons involved in a [crime; criminal scheme] is not sufficient by itself to prove his [participation in the crime] [or] [membership in the criminal scheme].

7th Circuit 5.07

JURY INSTRUCTION NO. 47

The government must prove beyond a reasonable doubt that the defendant was not entrapped. Thus, the government must prove beyond a reasonable doubt either (1) that, before contact with law enforcement, the defendant was ready and willing or had a predisposition or prior intent to commit the offense, or (2) that the defendant was not induced or persuaded to commit the offense by law enforcement officers or their agents.

7th Circuit 6.04

JURY INSTRUCTION NO. 48

In determining whether the defendant was entrapped, you may consider:

- (1) The background [or character or reputation] of the defendant [including] [prior criminal history] [or economic status];
- (2) Whether it was law enforcement officers or their agents that first suggested the criminal activity;
- (3) Whether the defendant performed criminal activity for profit;
- (4) Whether the defendant showed reluctance to perform criminal activity;
- (5) Whether law enforcement officers or their agents repeatedly induced or persuaded the defendant to perform criminal activity;
- (6) Whether law enforcement officers or their agents offered an ordinary opportunity to commit a crime; and
- (7) Whether law enforcement officers or their agents offered exceptional [profits or] persuasion or merely solicited commission of the crime.

While no single factor necessarily indicates by itself that a defendant was or was not entrapped, the central question is whether the defendant showed reluctance to engage in criminal activity that was overcome by inducement or persuasion.

7th Circuit 6.05

JURY INSTRUCTION NO. 49

[The] defendant[s] [name] contend[s] that [he; they] engaged in the conduct charged against [him; them] in Count[s] ___ in reasonable reliance on [name the government agent]'s assurance that this conduct was lawful. A defendant who commits an offense in reasonable reliance on such an official assurance does not act [knowingly; insert other level of intent required for conviction] and should be found not guilty.

In order to be found not guilty for this reason, [the; a] defendant must prove the following [three] things are more likely true than not true:

1. An official of the United States government, with actual or apparent authority over the matter, told the defendant that his conduct would be lawful; and
2. The defendant actually relied on what this official told him in taking this action; and
3. The defendant's reliance on what the official told him was reasonable. In deciding this, you should consider all of the relevant circumstances, including the identity of the government official, what that official said to the defendant, and how closely the defendant followed any instructions the official gave.

7th Circuit 6.07

JURY INSTRUCTION NO. 50

[The] defendant[s] [name] contend[s] that [he; they] acted in reliance on public authority. A defendant who commits an offense in reliance on public authority does not act [knowingly; insert other level of intent required for conviction] and should be found not guilty.

To be found not guilty based on reliance on public authority, [the; a] defendant must prove that each of the following [three] things are more likely true than not true:

1. An [agent; representative; official; or insert name] of the [United States] government [requested; directed; authorized] the defendant to engage in the conduct charged against the defendant in Count[s] ___; and
2. This [agent; representative; official; or insert name] had the actual authority to grant authorization for the defendant to engage in this conduct; and
3. In engaging in this conduct, the defendant reasonably relied on the [agent's; representative's; official's; or insert name] authorization. In deciding this, you should consider all of the relevant circumstances, including the identity of the government official, what that official said to the defendant, and how closely the defendant followed any instructions the official gave.

7th Circuit 6.06

JURY INSTRUCTION NO. 51

The indictment charges defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant with] conspiracy. In order for you to find the defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The conspiracy as charged in [Count ___] existed; and
2. The defendant knowingly became a member of the conspiracy with an intent to advance the conspiracy.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

7th Circuit 5.08 (B)

JURY INSTRUCTION NO. 52

A conspiracy is an express or implied agreement between two or more persons to commit a crime. A conspiracy may be proven even if its goal[s] [was; were] not accomplished.

In deciding whether the charged conspiracy existed, you may consider all of the circumstances, including the words and acts of each of the alleged participants.

7th Circuit 5.09

JURY INSTRUCTION NO. 53

To be a member of a conspiracy, [the/a] defendant does not need to join it at the beginning, and he does not need to know all of the other members or all of the means by which the illegal goal[s] of the conspiracy [was; were] to be accomplished. The government must prove beyond a reasonable doubt that the defendant [you are considering] was aware of the illegal goal[s] of the conspiracy and knowingly joined the conspiracy.

[A defendant is not a member of a conspiracy just because he knew and/or associated with people who were involved in a conspiracy, knew there was a conspiracy, and/or was present during conspiratorial discussions.]

In deciding whether [a particular] [the] defendant joined the charged conspiracy, you must base your decision only on what [that] [the] defendant did or said. To determine what [that] [the] defendant did or said, you may consider [that] [the] defendant's own words or acts. You

may also use the words or acts of other persons to help you decide what the defendant did or said.

7th Circuit 5.10

JURY INSTRUCTION NO. 54

A conspiracy requires more than just a buyer-seller relationship between the defendant and another person. In addition, a buyer and seller of [name of drug] do not enter into a conspiracy to [distribute [name of drug]; possess [name of drug] with intent to distribute] simply because the buyer resells the [name of drug] to others, even if the seller knows that the buyer intends to resell the [name of drug].

To establish that a [buyer; seller] knowingly became a member of a conspiracy with a [seller; buyer] to [distribute [name of drug]; possess [name of drug] with intent to distribute], the government must prove that the buyer and seller had the joint criminal objective of distributing [name of drug] to others.

7th Circuit 5.10 (A)

JURY INSTRUCTION NO. 55

Count ___ charges that there was a single conspiracy. The defendant contends that [there was more than one conspiracy; other defense contention].

If you find that there was more than one conspiracy and that the defendant was a member of one or more of those conspiracies, then you may find the defendant guilty on Count ___ only if the [conspiracy; conspiracies] of which he was a member was a part of the conspiracy charged in Count ___.

The government is not required to prove the exact conspiracy charged in the indictment, so long as it proves that the defendant was a member of a smaller conspiracy contained within the charged conspiracy.

7th Circuit 5.10 (B)

JURY INSTRUCTION NO. 56

Count[s] ___ of the indictment charges defendant[s] [name(s)] with [a] crime[s] that the indictment alleges [was; were] committed by [another; other] member[s] of the conspiracy. In order for you to find the defendant guilty of [this; these] charge[s], the government must prove

each of the following [four] elements beyond a reasonable doubt:

1. The defendant [is guilty of the charge of conspiracy as alleged in Count ____] or [was a member of the conspiracy [alleged in Count [list conspiracy count] when the crime was committed];
2. [Another member/other members] of the same conspiracy committed the crime charged in Count ____] during the time that the defendant was also a member of the conspiracy;
3. The other conspirator[s] committed the crime charged in Count ____ to advance the goals of the conspiracy; and
4. It was reasonably foreseeable to the defendant that other conspirators would commit the crime charged in Count ____ in order to advance the goals of the conspiracy. The government is not required to prove that the defendant actually knew about the crime charged in Count ____ or that the defendant actually realized that this type of crime would be committed as part of the conspiracy.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [as to that charge].

7th Circuit 5.11

JURY INSTRUCTION NO. 57

If you find that the government has proved all of the elements in Count[s] ____ of the indictment as to [the; a] defendant[s] [name] even though the crime[s] charged in [that; those] Count[s] were committed by others, you should then consider whether [he; they] withdrew from the conspiracy prior to the time [that; those] crime[s] [was; were] committed.

[The; A] defendant is not responsible for the crime[s] charged in Count ____, if, before the commission of [that; those] crime[s], he took some affirmative act in an attempt to defeat or disavow the goal[s] of the conspiracy, such as:

- (a) [completely undermining his earlier acts in support of the commission of the crime so that these acts no longer could support or assist the commission of the crime], or
- (b) [alerting the proper law enforcement authorities in time to give them the opportunity to stop the crime or crimes], or
- (c) [performing an affirmative act that is inconsistent with the goal[s] of the conspiracy in a way that the co-conspirators are reasonably likely to know about it before they carry through with additional acts of the conspiracy], or
- (d) [making a genuine effort to prevent the commission of the crime], or

(e) [communicating to each of his co-conspirators that he has abandoned the conspiracy and its goals].

Merely ceasing active participation in the conspiracy is not sufficient to evidence withdrawal.

[The; a] defendant has the burden of proving that it is more likely than not that he withdrew from the conspiracy.

7th Circuit 5.13

JURY INSTRUCTION NO. 58

If the defendant engaged in the conduct charged only because he/she reasonably feared that immediate, serious bodily harm or death would be inflicted upon him/her (or others) if he/she did not engage in the conduct, and he/she had no reasonable opportunity to avoid the injury, then the defendant is not guilty because he/she was coerced.

7th Circuit 6.08

JURY INSTRUCTION NO. 59

A person may use force when [he/she] reasonably believes that force is necessary to defend himself/herself [another] against the imminent use of unlawful force.
[A person may use force which is intended or likely to cause death or great bodily harm only if he/she reasonably believes that that force is necessary to prevent death or great bodily harm to himself/herself] [another].]

7th Circuit 6.01

JURY INSTRUCTION NO. 60

You must find the defendant not guilty by reason of insanity if you find that he has proven by clear and convincing evidence that at the time he committed the offense, he had a severe mental disease or defect that rendered him unable to appreciate the nature and quality of what he was doing, or that rendered him unable to appreciate that what he was doing was wrong [that is, contrary to public morality and contrary to law.]

[If you find the defendant not guilty by reason of insanity, then the court will commit the defendant to a suitable facility until the court finds that he is eligible to be released.]

7th Circuit 6.02

JURY INSTRUCTION NO. 61

You have heard evidence that the defendant was intoxicated at the time of the commission of the offense charged in the indictment. [Brief description of the state of mind required by the charged statute], as that term has been defined in these instructions, is an element of this offense. The evidence of intoxication may be sufficient to create a reasonable doubt whether the defendant formed the required [state of mind] to commit the offense.

7th Circuit 6.09

JURY INSTRUCTION NO. 62

If the defendant acted in good faith, then he lacked the [intent to defraud; willfulness; etc.] required to prove the offense[s] of [identify the offenses] charged in Count[s] _____. The defendant acted in good faith if, at the time, he honestly believed the [truthfulness; validity; insert other specific term] that the government has charged as being [false; fraudulent; insert term used in charge].

The defendant does not have to prove his good faith. Rather, the government must prove beyond a reasonable doubt that the defendant acted [with intent to defraud; willfully; etc.] as charged in Count[s] _____.

[A defendant's honest and genuine belief that he will be able to perform what he promised is not a defense to fraud if the defendant also knowingly made false and fraudulent representations.]

7th Circuit 6.10

JURY INSTRUCTION NO. 63

A person does not act willfully if he believes in good faith that he is acting within the law, or that his actions comply with the law. Therefore, if the defendant actually believed that what he was doing was in accord with the [tax; currency structuring] laws, then he did not willfully [evade taxes; fail to file tax returns; make a false statement on a tax return; etc.]. This is so even if the defendant's belief was not objectively reasonable, as long as he held the belief in good faith. However, you may consider the reasonableness of the defendant's belief, together with all the other evidence in the case, in determining whether the defendant held that belief in good faith.

7th Circuit 6.11

JURY INSTRUCTION NO. 64

If the defendant relied in good faith on the advice of an attorney that his conduct was lawful, then he lacked the [intent to defraud; willfulness; etc.] required to prove the offense[s] of [identify the offenses] charged in Count[s] _____.

The defendant relied in good faith on the advice of counsel if:

1. Before taking action, he in good faith sought the advice of an attorney whom he considered competent to advise him on the matter; and
2. He consulted this attorney for the purpose of securing advice on the lawfulness of his possible future conduct; and
3. He made a full and accurate report to his attorney of all material facts that he knew; and
4. He then acted strictly in accordance with the advice of this attorney.

[You may consider the reasonableness of the advice provided by the attorney when determining whether the defendant acted in good faith.]

The defendant does not have to prove his good faith. Rather, the government must prove beyond a reasonable doubt that the defendant acted [with intent to defraud; willfully; etc.] as charged in Count[s] ____.

7th Circuit 6.12

JURY INSTRUCTION NO. 65

Once you are all in the jury room, the first thing you should do is choose a [foreperson; presiding juror]. The [foreperson; presiding juror] should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard. You may discuss the case only when all jurors are present.

Once you start deliberating, do not communicate about the case or your deliberations with anyone except other members of your jury. You may not communicate with others about the case or your deliberations by any means. This includes oral or written communication, as well as any electronic method of communication, such as [list current technology or services likely to be used, e.g., telephone, cell phone, smart phone, iPhone, Blackberry, computer, text messaging, instant messaging, the Internet, chat rooms, blogs, websites, or services like Facebook, MySpace, LinkedIn, YouTube, Twitter], or any other method of communication.

If you need to communicate with me while you are deliberating, send a note through the [Marshal; court security officer]. The note should be signed by the [foreperson; presiding juror], or by one or more members of the jury. To have a complete record of this trial, it is important that you do not communicate with me except by a written note. I may have to talk to the lawyers about your message, so it may take me some time to get back to you. You may continue your deliberations while you wait for my answer. [Please be advised that transcripts of trial testimony are not available to you. You must rely on your collective memory of the testimony.]

If you send me a message, do not include the breakdown of any votes you may have conducted. In other words, do not tell me that you are split 6–6, or 8–4, or whatever your vote happens to be.

7th Circuit 7.01

JURY INSTRUCTION NO. 66

[A verdict form has been; Verdict forms have been] prepared for you. You will take [this form; these forms] with you to the jury room.

[Read the verdict form[s].]

When you have reached unanimous agreement, your [foreperson; presiding juror] will fill in, date, and sign the [appropriate] verdict form[s]. [The foreperson; The presiding juror; Each of you] will sign it.

Advise the [Marshal; court security officer] once you have reached a verdict. When you come back to the courtroom, [I; the clerk] will read the verdict[s] aloud.

7th Circuit 7.02

JURY INSTRUCTION NO. 67

The verdict must represent the considered judgment of each juror. Your verdict, whether it is guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with each other, express your own views, and listen to your fellow jurors' opinions. Discuss your differences with an open mind. Do not hesitate to re-examine your own view and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence just because of the opinions of your fellow jurors or just so that there can be a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence. You should deliberate with the goal of reaching an agreement that is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt [and whether the defendant has proved [insert defense] [by a preponderance of the evidence; by clear and convincing evidence]].

7th Circuit 7.03