

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 05 CR 691
)	Hon. Amy J. St. Eve
ANTOIN REZKO)	

JURY INSTRUCTIONS

Members of the jury, you have seen and heard all the evidence and the arguments of the attorneys. 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.

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

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 or that a person would have given certain testimony.

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 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.

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 weight 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.

Certain things are not evidence. I will list them for you:

First, testimony that I struck from the record, or that I told you to disregard, is not evidence and must not be considered.

Second, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded. This includes any press, radio, or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.

Third, questions and objections by the lawyers are not evidence. Attorneys have a duty to object when they believe a question is improper. You should not be influenced by any objection or by my ruling on it.

Fourth, the lawyers' statements to you are not evidence. The purpose of these statements is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If you have not taken notes, you should rely on your independent recollection of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the recollections or impressions of each juror about the testimony.

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

The indictment in this case is the formal method of accusing the defendant of an offense and placing him on trial. It is not evidence against the defendant and does not create any inference of guilt.

Defendant Antoin Rezko is charged with: mail fraud (Counts 1, 2, 7, 8, 11, and 12); wire fraud (Counts 3, 4, 5, 6, 9, 10, 13, 14, and 15); attempted extortion (Count 16); aiding and abetting bribery (Counts 17, 18, 19, 20, 21, and 22); and money laundering (Counts 23 and 24). Defendant Antoin Rezko has pleaded not guilty to each of the charges.

The defendant is presumed to be innocent of each of the charges. 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 United States has the burden of proving the guilt of the defendant beyond a reasonable doubt.

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

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

You have heard evidence of acts of the Defendant other than those charged in the indictment. Specifically, you heard testimony regarding the possibility of the Illinois Finance Authority guaranteeing a loan in connection with the sale of certain pizza business franchises from witnesses Lee Maloof, Craig Perry and Ali Ata.

You may consider this evidence only on the question of Defendant's knowledge, intent, and lack of mistake. You should consider this evidence only for this limited purpose.

Throughout this trial I have instructed you that certain statements that witnesses testified about and certain statements that you heard on recordings played in court, were not offered for the truth of what was said in the statement but were offered only to provide context or to show a person's state of mind or why they took some later action. The contents of these statements were not offered for the truth and you should consider these statements only for the limited purposes that I instructed at the time they were introduced.

You have heard evidence that before the trial witnesses made statements that may be inconsistent with the witnesses' testimony here in court. If you find that they are inconsistent, you may consider the earlier statements only in deciding the truthfulness and accuracy of those witnesses' testimony in this trial. You may not use them as evidence of the truth of the matters contained in the prior statements. If, however, a prior statement was made under oath, you may also consider it as evidence of the truth of the matters contained in that prior statement.

You have heard testimony from Thomas Beck, Dr. Imad Almanaseer, Jeff Ladd, Sheldon Pekin, Charles Hannon, Thomas Rosenberg, Michael Winter and Elie Maloof, who received immunity; that is, a promise from the government that any testimony or other information they provided would not be used against them in a criminal case.

You may give the testimony of Thomas Beck, Dr. Imad Almanaseer, Jeff Ladd, Sheldon Pekin, Charles Hannon, Thomas Rosenberg, Michael Winter and Elie Maloof such weight as you feel it deserves, keeping in mind that it must be considered with caution and great care.

You have heard testimony from Stuart Levine, Joseph Cari and Steve Loren who have pleaded guilty to offenses related to certain of the occurrences for which Defendant is now on trial. You have also heard testimony from Ali Ata who has pleaded guilty to an offense unrelated to the occurrences for which Defendant is now on trial. Their guilty pleas are not to be considered as evidence against the Defendant.

Stuart Levine, Joseph Cari, Steve Loren and Ali Ata have also each received benefits from the government, including a promise by the government to recommend a reduced sentence in return for their truthful cooperation.

You may give the testimony of Stuart Levine, Joseph Cari, Steve Loren and Ali Ata such weight as you feel it deserves, keeping in mind that it must be considered with caution and great care.

Certain summaries are in evidence. They truly and accurately summarize the contents of voluminous books, records or documents, and should be considered together with and in the same way as all other evidence in the case.

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.

I am providing you with the recordings and a computer. You are not required to play the recordings, in part or in whole. You may rely, instead, on your recollections of these recordings as you heard them at trial. I am also providing you with the copies of the transcripts that you had in court. You may, however, choose to listen to the audio recordings without the transcript.

The indictment charges that the offenses were committed “on or about” certain dates. The government must prove that the offenses happened reasonably close to the dates alleged but is not required to prove that the alleged offenses happened on those exact dates.

When the word “knowingly” or the phrase “the defendant knew” is used in these instructions, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident. Knowledge may be proved by the defendant’s conduct, and by all the facts and circumstances surrounding the case.

To “attempt” means that the defendant knowingly took a substantial step toward the commission of the offense with the intent to commit that offense.

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.

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.

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

INSTRUCTIONS REGARDING COUNTS 1 – 15

(MAIL AND WIRE FRAUD)

The defendant has been charged in Counts 1, 2, 7, 8, 11, and 12, with mail fraud, in violation of Title 18, United States Code, Sections 1341 and 1346.

To sustain each charge of mail fraud, the government must prove the following propositions:

First, that the defendant knowingly devised or participated in the scheme to defraud, as charged;

Second, that the defendant did so knowingly and with the intent to defraud; and

Third, that for the purpose of carrying out the scheme or attempting to do so, the defendant used or caused the use of the United States mails, or a private or commercial interstate carrier in the manner charged in the particular mail fraud count.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt as to a particular count, then you should find the defendant guilty of that particular count.

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

The defendant has been charged in Counts 3, 4, 5, 6, 9, 10, 13, 14, and 15 with wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1346.

To sustain each charge of wire fraud, the government must prove the following propositions:

First, that the defendant knowingly devised or participated in the scheme to defraud, as charged;

Second, that the defendant did so knowingly and with the intent to defraud; and

Third, that for the purpose of carrying out the scheme or attempting to do so, the defendant caused interstate wire communications to take place in the manner charged in the particular wire fraud count.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt as to a particular count, then you should find the defendant guilty of that particular count.

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

A scheme is a plan or course of action formed with the intent to accomplish some purpose.

A scheme to defraud is a scheme that is intended to deprive the people of the State of Illinois or the beneficiaries of the Teachers' Retirement System ("TRS") of their intangible right to the honest services of their public officials or employees.

In considering whether the government has proven a scheme to defraud, it is essential that one or more of the acts charged in the portion of the indictment describing the scheme be proved establishing the existence of the scheme beyond a reasonable doubt. However, the government is not required to prove all of them.

A public official or employee deprives the public or his employer of his honest services when he misuses his position, or the information he obtains in it, for the purpose of illegitimately obtaining gain for himself or another.

A public official or employee has a duty to disclose material information to his employer. If an official or employee conceals or knowingly fails to disclose a material personal or financial interest in a matter over which he has decision-making power (also known as a conflict of interest) for the purpose of illegitimately obtaining gain, then that official or employee misuses his position and causes the public or his employer to be deprived of the right to the official's or employee's honest services, if the other elements of the mail or wire fraud offense are met.

Information is material where, if disclosed, it would have the natural tendency to influence, or would be capable of influencing, the decision-making of the public employer.

Because of his position as a member of the Board of Trustees of the Teachers' Retirement System and his position as a member of the Illinois Health Facilities Planning Board, Stuart Levine owed a duty of honest services to the people of the State of Illinois. As a member of the Board of Trustees of the Teachers' Retirement System, Stuart Levine also owed a duty of honest services to the beneficiaries of the Teachers' Retirement System.

I instruct you that the following state laws and regulations were among the laws and regulations applicable to state officials, including Stuart Levine, throughout the relevant time frame, except as otherwise noted:

1. 720 ILCS 5/33-1(d) provided that a public officer or employee was prohibited from receiving, retaining, or agreeing to accept any property or personal advantage which he is not authorized by law to accept knowing that such property or personal advantage was promised or tendered with intent to cause him to influence the performance of any act related to the employment or function of the public officer or employee.

2. 720 ILCS 5/33-3 provided that a public officer or employee commits misconduct when, in his official capacity, he

- with intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or

- solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.

3. 40 ILCS 5/1-109 provided that members of the TRS Board of Trustees were required to discharge their duties solely in the interest of the TRS beneficiaries and for the exclusive purpose of (a) providing benefits to the TRS beneficiaries and (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person would use.

4. 40 ILCS 5/1-110 provided that members of the TRS Board of Trustees were prohibited from receiving any consideration for their own personal account from any party dealing with TRS in connection with a transaction involving the assets of TRS.

5. At all material times after November 19, 2003, members of the TRS Board of Trustees and members of the Illinois Health Facilities Planning Board were prohibited from having any material communications with a representative of a party concerning a pending matter, that is, an *ex parte* contact, without reporting that contact to their respective Board in writing.

6. At all material times after August 8, 2003, members of the Illinois Health Facilities Planning Board were prohibited from:

- accepting, or offering to accept, either directly or indirectly, any economic opportunity or thing of value, if a substantial possibility existed that the opportunity or thing of value was made available to the board member for the purpose of influencing official action; or

- soliciting, accepting, or agreeing to accept, directly or indirectly, anything of value from any person having an interest in any matter which was pending before the Planning Board, under circumstances from which it might reasonably be inferred that the donor's purpose was to influence an official action;

- accepting compensation, except as provided by law, for the performance of official duties;

or

- communicating with any party in support of, or opposed to, a matter pending before the Planning Board or with the representative of any such party concerning such matter, except as a matter of official record.

7. At all material times after August 8, 2003, members of the Illinois Health Facilities Planning Board were required to disqualify themselves from the consideration of any application for a permit if the member had an economic interest in the matter.

Not every instance of misconduct or violation of a state statute by a public official or employee constitutes a mail or wire fraud violation. Only where a public official or employee misuses his official position (or material, non-public information he obtained in it) for the purpose

of illegitimately obtaining gain for himself or another, and the other elements of the mail or wire fraud offense have been met, has the official or employee defrauded the public of his honest services, in violation of the mail or wire fraud statutes.

In order for the government to demonstrate a scheme to defraud the public of its right to the honest services of a public official or employee, only one participant in such scheme must owe a duty of honest services to the public.

Accordingly, a defendant who schemes with a public official or employee to deprive the public of its right to that public official's or employee's honest services may be guilty of a scheme to defraud the public or the employer of their right to honest services, provided all the elements of the offense as set forth in these instructions are met.

A public official or employee may deprive the public of its right to honest services even if the same official action would have resulted absent the official's or employee's deprivation of the public's right to honest services.

The phrase “intent to defraud” means that the acts charged were done knowingly with the intent to deprive the victims of the intangible right to the honest services of their public officials or employees.

Good faith on the part of the defendant is inconsistent with intent to defraud, an element of the mail and wire fraud charges. The burden is not on the defendant to prove his good faith; rather, the government must prove beyond a reasonable doubt that a defendant acted with intent to defraud.

A participant in a scheme to defraud may be guilty even if all the benefits of the fraud accrue to others, so long as the government has proved the other elements of mail or wire fraud beyond a reasonable doubt.

In order to prove a scheme to defraud, the government does not have to prove that the defendant contemplated actual or foreseeable financial loss to the victims of the scheme.

The mail and wire fraud statutes can be violated regardless of whether or not the fraud scheme succeeds.

A defendant's association with co-schemers is not by itself sufficient to prove his participation or membership in a scheme.

To prove mail fraud, the government must prove that the United States mails or a private or commercial interstate carrier were used to carry out the scheme, or were incidental to an essential part of the scheme. To prove wire fraud, the government must prove that interstate communication facilities were used to carry out the scheme, or were incidental to an essential part of the scheme.

In order to use or cause the use of the United States mails or a private or commercial interstate carrier or cause interstate wire communications to take place, a defendant need not actually intend that use to take place. You must find that the defendant knew that it would occur in the ordinary course of business, or that the defendant knew facts from which that use could reasonably have been foreseen. However, the government does not have to prove that the defendant knew that the wire communication was of an interstate nature or that the carrier was an interstate carrier.

The defendant need not actually or personally use the mail or an interstate carrier or interstate communication facilities.

Although an item mailed or sent by interstate carrier or communicated interstate need not by itself contain a fraudulent representation or promise or request for money, it must further or attempt to further the scheme.

Each separate use of the mail or an interstate carrier or interstate communication facilities in furtherance of the scheme to defraud constitutes a separate offense.

In connection with whether a mailing was made, evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice. You should consider this evidence in the same manner that you consider all circumstantial evidence.

The following types of transmissions constitute transmissions by means of wire communication in interstate commerce within the meaning of the wire fraud statute: (a) faxes; (b) phone calls; and (c) e-mails.

INSTRUCTIONS REGARDING COUNT 16
(ATTEMPTED EXTORTION)

The defendant has been charged in Count 16 with attempted extortion in violation of 18 U.S.C. § 1951. Title 18, United States Code, Section 1951 provides, in pertinent part:

Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by extortion or attempts or conspires so to do [commits an offense against the United States].

To sustain the charge of attempted extortion, as charged in Count 16, the government must prove the following propositions:

First, that the defendant knowingly attempted to obtain money from Capri Capital or Thomas Rosenberg, as described in Count 16;

Second, that the defendant did so by means of extortion by the use of actual and threatened fear, or under color of official right, as those terms are defined in these instructions;

Third, that the defendant believed that Capri Capital or Thomas Rosenberg would have parted with the money because of the extortion; and

Fourth, that the conduct of the defendant affected, would have affected, or had the potential to affect interstate commerce.

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 Count 16.

If, on the other hand, you find from your consideration of all the evidence that any of these propositions has not been proved beyond a reasonable doubt, then you should find the defendant not guilty of Count 16.

Attempted extortion by threatened fear means the wrongful use of threatened fear to obtain or attempt to obtain money or property. “Wrongful” means that the defendant had no lawful right to obtain money or property in that way. “Fear” includes fear of economic loss. This includes fear of a direct loss of money, fear of harm to future business operations or a fear of some loss of ability to compete in the marketplace in the future if the victim did not pay as directed. The government must prove that the victim’s fear would have been reasonable under the circumstances. However, the government need not prove that the defendant actually intended to cause the harm threatened.

Attempted extortion under color of official right occurs when a public official receives or attempts to obtain money or property to which he is not entitled, believing that the money or property would be given in return for the taking, withholding or other influencing of official action. Although the official must receive or attempt to obtain the money or property, the government does not have to prove that the public official first suggested the giving of money or property, or that the official asked for or solicited it. While the official must receive or attempt to obtain the money or property in return for the official action, the government does not have to prove that the official actually took or intended to take that action or that the official could have actually taken the action in return for which payment was made or demanded or that the official would not have taken the same action even without payment.

With respect to Count 16, the government must prove that the defendant's actions affected or had the potential to affect interstate commerce in any way or degree. This means that the natural consequences of the defendant's actions were some effect on interstate commerce, however minimal. This would include reducing the assets of a business that customarily purchased goods from outside the state of Illinois or actually engaged in business outside the state of Illinois, and if those assets would have been available to the business for the purchase of such goods or the conducting of such business if not for the defendant's conduct. It is not necessary for you to find that the defendant knew or intended that his actions would affect interstate commerce.

INSTRUCTIONS REGARDING COUNTS 17 – 22

(Aiding and Abetting Bribery

Concerning a Federally Funded Program)

The defendant has been charged in Counts 17 through 22 with aiding and abetting Stuart Levine's bribery concerning a federally funded program in violation of 18 U.S.C. § 666(a)(1)(B).

Title 18, United States Code, Section 666(a)(1)(B) provides, in pertinent part:

- (a) Whoever, if the circumstance described in subsection (b) of this section exists, being an agent of an organization, or of a State [or] local . . . government, or any agency thereof . . . corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency, involving anything of value of \$5,000 or more [commits an offense against the United States].
- (b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

To sustain the charge of aiding and abetting Stuart Levine's bribery, as charged in Counts 17 through 22, the government must prove the following propositions:

First, that Stuart Levine was an agent of the Teachers' Retirement System of the State of Illinois ("TRS");

Second, that Stuart Levine solicited, demanded, accepted or agreed to accept anything of value from another person;

Third, that Stuart Levine did so corruptly with the intent to be influenced or rewarded in connection with some business, transaction or series of transactions of TRS;

Fourth, that this business, transaction or series of transactions involved anything of a value of \$5,000 or more;

Fifth, that TRS, in any one year period, received benefits of more than \$10,000 under any Federal program involving a grant, contract subsidy, loan, guarantee, insurance or other assistance. This one year period must begin no more than 12 months before Stuart Levine committed these acts and must end no more than 12 months afterward; and

Sixth, that the defendant aided or abetted Stuart Levine's commission of the crime.

For purposes of Counts 17 through 22, a person acts corruptly when that person acts with the understanding that something of value is to be offered or given to reward or influence him in connection with his organizational or official duties.

If you find from consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt as to a particular count, then you should find the defendant guilty of that particular count.

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

For purposes of determining whether Stuart Levine was an agent of TRS in Counts 17 through 22, an agent is a person who is authorized to act on behalf of an organization, including an employee, officer or representative.

INSTRUCTIONS REGARDING COUNTS 23 AND 24

(Money Laundering)

The defendant has been charged in Counts 23 and 24 with money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i)(concealing or disguising proceeds).

Title 18, United States Code, Section 1956 provides, in pertinent part:

Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity . . . knowing that the transaction is designed in whole or in part . . . to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity [commits an offense against the United States].

To sustain the charge of money laundering (concealing or disguising the nature, source or ownership of proceeds), as charged in Counts 23 and 24, the government must prove the following propositions:

First, that defendant knowingly conducted or attempted to conduct a financial transaction;

Second, the property involved in the financial transaction in fact involved the net proceeds of mail fraud as charged in Counts 1 and 2;

Third, the defendant knew that the property involved in the financial transaction represented the net proceeds of some form of unlawful activity; and

Fourth, the defendant knew that the transaction was designed in whole or in part to conceal or disguise the nature, the source, the ownership, or the control of the net proceeds of mail fraud as charged in Counts 1 and 2.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt as to a particular count, then you should find the defendant guilty of that particular count.

If, on the other hand, you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt as to a particular count, then you should find the defendant not guilty of that particular count.

The term “financial transaction” means a purchase, sale, transfer, delivery, or other disposition involving one or more monetary instruments, which in any way or degree affects interstate commerce.

The term “monetary instruments” includes coin or currency of the United States, personal checks, bank checks, and money orders.

The term “financial institution” includes, for example, commercial banks and trust companies.

“Interstate commerce” means trade, transactions, transportation or communication between any point in a state and any place outside that state, or between two points within a state through a place outside the state.

When a financial institution, a business or an individual in Illinois is engaged in commerce outside of that state, then the activities of that financial institution, business or individual affect interstate commerce.

Any bank that is insured by the Federal Deposit Insurance Corporation (“FDIC”) is engaged in, and affects, interstate commerce.

The United States must prove that the financial transaction affected interstate commerce in any way or degree. This means that the natural consequence of the financial transaction would have been some effect on interstate commerce, however minimal.

The government must prove that the foreseeable consequences of the defendant’s acts would be to affect interstate commerce. It is not necessary for you to find that the defendant knew or intended that the defendant’s actions would affect interstate commerce.

The term “conducts” for purposes of Counts 23 and 24 includes initiating, concluding, or participating in initiating, or concluding a transaction.

The term “net proceeds” for purposes of Counts 23 and 24 is defined as the proceeds remaining after deducting the direct business costs, if any, incurred in acquiring the proceeds.

The government must prove that the defendant knew that the property represented the net proceeds of some form of activity that constitutes a felony under State or Federal law. The government is not required to prove that the defendant knew that the property involved in the transaction represented the net proceeds of mail fraud.

If you find the defendant guilty, it will then be my job to decide what punishment should be imposed. In considering the evidence and arguments that have been given during the trial, you should not guess about the punishment. It should not enter into your consideration or discussions at any time.

You should not speculate why any other person whose name you may have heard during the trial or who is named in the indictment is not currently on trial before you.

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court.

Forms of verdict have been prepared for you.

[Review verdict form]

Take these forms to the jury room, and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form, and each of you will sign it.

Each count of the indictment charges the defendant with having committed a separate offense.

Each count and the evidence relating to it should be considered separately, and a separate verdict should be returned as to each count. Your verdict of guilty or not guilty of an offense charged in one count should not control your decision as to any other count.

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is in writing, signed by the foreperson, or if he or she is unwilling to do so, by some other juror, and given to the marshal. I caution you, however, with respect to any note or question you might send, that you should never state or specify your numerical division at the time.

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

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views 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 solely because of the opinions of your fellow jurors or for the purpose of returning a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which 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.