

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

PATRICK DOOLEY,
Defendant.

NO. CR11-252 MJP

COURT'S INSTRUCTIONS TO THE
JURY

Dated: January 27, 2012



Marsha J. Pechman
United States District Judge

INSTRUCTION NO. 1

This is a criminal case brought by the United States government. The government has charged Defendant Patrick Dooley with the following:

The government claims that on August 13, 2010, chemicals were dumped down a toilet in a warehouse located in Seattle, Washington. The government claims that the defendant, Patrick Dooley, instructed one of his employees, Corey Martin, to dump the chemicals. The government further claims that the dumped chemicals were capable of causing personal injury and a hazard to life.

The defendant Patrick Dooley is charged with committing four criminal offenses. The first three counts allege violations of environmental laws. The fourth count claims the defendant engaged in the crime of witness tampering by instructing a former employee, Steven Roth, not to reveal his employment relationship with the defendant to agents investigating the chemical dumping incident.

The defendant has pleaded not guilty to the charges and is presumed innocent unless and until proved guilty beyond a reasonable doubt. The government has the burden of proving every element of the charge beyond a reasonable doubt. A defendant has the right to remain silent and never has to prove innocence or present any evidence.

INSTRUCTION NO. 2

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

1. the sworn testimony of any witness;
2. the exhibits which are to be received into evidence; and
3. any facts to which all the lawyers stipulate. A stipulation is an agreement between the parties that certain facts are true.

INSTRUCTION NO. 3

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 say in their opening statements or 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 may be received only for a limited purpose; where I give a limiting instruction, you must follow it.

4. Anything you see or hear when the court is not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

INSTRUCTION NO. 4

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.

INSTRUCTION NO. _5

There are rules of evidence that control what can be received into evidence. When a lawyer asked a question or offered an exhibit into evidence and a lawyer on the other side thought that it was not permitted by the rules of evidence, that lawyer may have objected. If I overruled the objection, the question may have been answered or the exhibit received. If I sustained the objection, the question was not answered, and the exhibit was not received. Whenever I sustained an objection to a question, you must ignore the question and must not guess what the answer would have been.

Sometimes I may have ordered that evidence be stricken from the record and that you were to disregard or ignore the evidence. That means that when you are deciding the case, you must not consider the evidence which I told you to disregard.

INSTRUCTION NO. _6

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

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

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

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

INSTRUCTION NO. 7

As you deliberate, you will have to make your decision based on what you recall of the evidence. You will not have a written transcript of the trial.

INSTRUCTION NO. _8

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. The defendant is presumed innocent until you the jury find that he is guilty beyond a reasonable doubt.

INSTRUCTION NO. _9

You are here only to determine whether the defendant is guilty or not guilty of the charges. Your determination must be made only from the evidence in the case. The defendant is not on trial for any conduct or offense not charged in the indictment. You should consider evidence about the acts, statements, and intentions of others, or evidence about other acts of the defendant, only as they relate to these charges against this defendant.

INSTRUCTION NO. 10

The Clean Water Act is federal legislation. The United States Environmental Protection Agency (EPA) has authority to administer the Clean Water Act. The EPA can delegate authority to administer the Clean Water Act to states, and states can thereafter delegate authority to public entities within the state. Under the Clean Water Act, local sewer authorities, known as publicly-owned treatment works (POTWs), enact pretreatment programs which regulate industrial dischargers. If a pretreatment program has been approved, by either the EPA or a delegated state, then it is a federal crime under the Clean Water Act to knowingly violate any requirement imposed in a pretreatment program approved by a delegated state or local sewer authorities.

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INSTRUCTION NO. 11

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3 The defendant is charged in Count 1 with knowingly violating, or
4 causing to be violated, requirements of an approved pretreatment program in violation of
5 the Clean Water Act. In order for the defendant to be found guilty of that charge, the
6 government must prove each of the following elements beyond a reasonable doubt:

7 1. On or about August 13, 2010, the defendant, who was the owner and operator
8 of a source, caused a pollutant to be discharged to a publicly-owned treatment works
9 (POTW);

10 2. The discharge violated one or more of the following standards or
11 prohibitions of the approved King County pretreatment program in effect at that time
12 (with all of you agreeing as to which particular standard or prohibition was violated):

13 a. No industrial user shall discharge any of the following pollutants,
14 substances or wastewater directly or indirectly into any public sewer, private sewer or
15 side sewer tributary to the metropolitan sewerage system: any gas or substance that,
16 either by itself or by interaction with other wastes, is capable of creating a public
17 nuisance or hazard to life or of preventing entry by authorized personnel to pump stations
18 and other sewerage facilities;

19 b. Each person discharging or proposing to discharge industrial wastes
20 into a POTW treatment plant, public sewer, private sewer or side sewer tributary to the
21 metropolitan sewerage system shall secure written discharge authorization, which may
22 include, but shall not be limited to, a waste discharge permit, minor discharge
23 authorization or general permit from King County, or

24 c. All industrial users must notify the director of the King County
25 Department of Natural Resources and Parks, the Environmental Protection Agency
26 Region 10 Waste Management Division Director, and the Washington State Department
27 of Ecology in writing of any discharge to the sewer of a substance, that, if otherwise
28 disposed of, would be a hazardous waste as set forth in Title 40, Code of Federal

1 Regulations, Part 261;

2 3. The defendant acted knowingly; that is,

3 a. the defendant committed the discharge deliberately and not as a result
4 of ignorance, mistake, or accident;

5 b. the defendant was aware of the facts that constituted the pretreatment
6 violation; that is,

7 (1) the defendant knew the material discharged was a pollutant;
8 that is, it consisted of chemical waste or industrial waste; and

9 (2) the defendant knew that the discharge was into a sewer or
10 publicly-owned treatment works.

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INSTRUCTION NO. _11A__

The Defendant is charged in Count 1 with knowingly violating, or causing to be violated, requirements of an approved pretreatment program in violation of the Clean Water Act. This Act includes the lesser crime of negligently violating, or causing to be violated, requirements of an approved pretreatment program in violation of the Clean Water Act.

If (1) any of you are not convinced beyond a reasonable doubt that the defendant is guilty of knowingly violating, or causing to be violated, requirements of an approved pretreatment program and (2) all of you are convinced beyond a reasonable doubt that the defendant is guilty of the lesser crime of negligently violating, or causing to be violated, requirements of an approved pretreatment program in violation of the Clean Water Act, you may find the defendant guilty of the lesser crime.

In order for the defendant to be found guilty of the lesser crime of negligently violating, or causing to be violated, requirements of an approved pretreatment program in violation of the Clean Water Act, the government must prove each of the following elements beyond a reasonable doubt:

1. On or about August 13, 2010, the defendant, who was the owner and operator of a source, caused a pollutant to be discharged to a publicly-owned treatment works (POTW); and

2. The discharge violated one or more of the following standards or prohibitions of the approved King County pretreatment program in effect at that time (with all of you agreeing as to which particular standard or prohibition was violated):

a. No industrial user shall discharge any of the following pollutants, substances or

wastewater directly or indirectly into any public sewer, private sewer or side sewer tributary to the metropolitan sewerage system: any gas or substance that, either by itself or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by authorized personnel to pump stations and other sewerage facilities;

b. Each person discharging or proposing to discharge industrial wastes into a POTW treatment plant, public sewer, private sewer or side sewer tributary to the metropolitan sewerage system shall secure written discharge authorization, which may include, but shall not be limited to, a waste discharge permit, minor discharge authorization or general permit from King County, or

c. All industrial users must notify the director of the King County Department of Natural Resources and Parks, the Environmental Protection Agency Region 10 Waste Management Division Director, and the Washington State Department of Ecology in writing of any discharge to the sewer of a substance, that, if otherwise disposed of, would be a hazardous waste as set forth in Title 40, Code of Federal Regulations, Part 261; and

3. The defendant was negligent. The term negligence means a failure to use such care as a reasonably careful person would use under similar circumstances.

INSTRUCTION NO. 12

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3 The Defendant is charged in Count 2 with knowingly violating, or
4 causing to be violated, requirements of an applicable pretreatment standard in violation of the
5 Clean Water Act. In order for the Defendant to be found guilty of that charge, the government
6 must prove each of the following elements beyond a reasonable doubt:

7 1. On or about August 13, 2010, the defendant, who was the owner and operator of a
8 source, caused a pollutant to be discharged to a publicly-owned treatment works;

9 2. The discharge violated an applicable pretreatment standard by introducing into
10 a publicly-owned treatment works pollutants exhibiting a pH lower than 5.0;

11 3. The defendant acted knowingly; that is,

12 a. the defendant committed the discharge deliberately and not as a result of
13 ignorance, mistake, or accident;

14 b. the defendant was aware of the facts that constituted the pretreatment
15 violation; that is,

16 (1) the defendant knew the material discharged was a pollutant; that is,
17 it consisted of chemical waste or industrial waste; and

18 (2) the defendant knew that the discharge was into a sewer or publicly-
19 owned treatment works.
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INSTRUCTION NO. 12A

The Defendant is charged in Count 2 with knowingly violating, or causing to be violated, requirements of an applicable pretreatment standard in violation of the Clean Water Act. This Act includes the lesser crime of negligently violating, or causing to be violated, requirements of an applicable pretreatment standard in violation of the Clean Water Act.

If (1) any of you are not convinced beyond a reasonable doubt that the defendant is guilty of knowingly violating, or causing to be violated, requirements of an approved pretreatment standard and (2) all of you are convinced beyond a reasonable doubt that the defendant is guilty of the lesser crime of negligently violating, or causing to be violated, requirements of an applicable pretreatment standard in violation of the Clean Water Act, you may find the defendant guilty of the lesser crime.

In order for the defendant to be found guilty of the lesser crime of negligently violating, or causing to be violated, requirements of an applicable pretreatment standard in violation of the Clean Water Act, the government must prove each of the following elements beyond a reasonable doubt:

1. On or about August 13, 2010, the defendant, who was the owner and operator of a source, caused a pollutant to be discharged to a publicly-owned treatment works; and
2. The discharge violated an applicable pretreatment standard introducing into a publicly owned treatment works pollutants exhibiting a pH lower than 5.0; and
3. The defendant was negligent. The term negligence means a failure to use such care as a reasonably careful person would use under similar circumstances.

INSTRUCTION NO. 13

The defendant is charged in Count 3 with knowingly introducing, or causing to be introduced, pollutants or hazardous substances into a sewer system or publicly-owned treatment works which the defendant knew or reasonably should have known could cause personal injury. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

1. On or about August 13, 2010, the defendant introduced, or caused to be introduced, a pollutant or hazardous substance into a sewer system or publicly-owned treatment works;

2. The defendant acted knowingly; that is,

a. the defendant committed the discharge deliberately and not as a result of ignorance, mistake, or accident;

b. the defendant knew the material discharged was a pollutant, that is it consisted of chemical or industrial waste; or it was a hazardous substance; and

c. the defendant knew that the discharge was into a sewer or publicly-owned treatment works.

3. The defendant knew, or reasonably should have known, that introduction of the pollutant or hazardous substance could cause personal injury.

INSTRUCTION NO. _13A__

The defendant is charged in Count 3 with knowingly introducing, or causing to be introduced, pollutants or hazardous substances into a sewer system or publicly-owned treatment works which the defendant knew or reasonably should have known could cause personal injury. This offense includes the lesser crime of negligently introducing, or causing to be introduced, pollutants or hazardous substances into a sewer system or publicly-owned treatment works which the defendant knew or reasonably should have known could cause personal injury

If (1) any of you are not convinced beyond a reasonable doubt that the defendant is guilty of knowingly violating, or causing to be violated, requirements of an approved pretreatment plan and (2) all of you are convinced beyond a reasonable doubt that the defendant is guilty of the lesser crime of negligently introducing into a sewer system or publicly operated treatment works any pollutant or hazardous substance which such person knew or should have know could cause personal injury.

In order for the defendant to be found guilty of the lesser crime of negligently introducing into a sewer system or publicly operated treatment works any pollutant or hazardous substance which such person knew or should have know could cause personal injury in violation of the Clean Water Act, the government must prove each of the following elements beyond a reasonable doubt:

1. On or about August 13, 2010, the defendant introduced, or caused to be introduced, a pollutant or hazardous substance into a sewer system or publicly-owned treatment works; and
2. The defendant knew, or reasonably should have known, that introduction of the pollutant or hazardous substance could cause personal injury; and

3. The defendant acted negligently, that is, the defendant failed to use such care as a reasonably careful person would use under similar circumstances

INSTRUCTION NO. _14__

In order to prove that the defendant caused the negligent discharge as alleged in the lesser included charges on Counts 1, 2, and 3, the government must prove beyond a reasonable doubt that:

1. The particular defendant's conduct had a direct and substantial connection to the discharge; and
2. The discharge would not have occurred but for the particular defendant's conduct.

INSTRUCTION NO. _15__

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

Concerning Counts One through Three, the government is not required to prove that the defendant knew that the material fell within the legal definition of a pollutant or hazardous substance, that the sewer fell within the legal definition of a publicly-owned treatment works, or that the discharge was subject to the approved pretreatment requirement or standard.

INSTRUCTION NO. 16

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3 You may find that the defendant acted knowingly if you find beyond a reasonable
4 doubt that the defendant:

- 5 1. was aware of a high probability that:
6 a. the discharged material was a chemical waste, an industrial waste, or a
7 hazardous substance;
8 b. the material was discharged to a publicly-owned treatment works; or
9 c. the discharge of the material could cause personal injury; and
10 2. deliberately avoided learning the truth.

11 You may not find such knowledge, however, if you find that the defendant actually
12 believed that the discharged material was not a chemical waste, an industrial waste, or a
13 hazardous substance, the material was not discharged to a publicly-owned treatment
14 works, or discharge of the material would not cause personal injury, or if you find that the
15 defendant was simply careless.
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INSTRUCTION NO. 17

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A defendant may be found guilty of the Clean Water Act violations charged in Counts One through Three, or the lesser counts of negligently violating the Clean Water Act even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the government must prove beyond a reasonable doubt:

7 First, the Clean Water Act violations as charged in Counts One through Three were
8 committed by someone;

9 Second, the defendant knowingly and intentionally aided, counseled, commanded,
10 induced or procured that person to commit each element of the violations charged in
11 Counts One through Three; and

12 Third, the defendant acted before the crimes were completed. It is not enough that
13 the defendant merely associated with the person committing the crime, or unknowingly
14 or unintentionally did things that were helpful to that person, or was present at the scene
15 of the crime. The evidence must show beyond a reasonable doubt that the defendant
16 acted with the knowledge and intention of helping that person commit the charged Clean
17 Water Act offenses.

INSTRUCTION NO. 18

The defendant may be found guilty of violating the Clean Water Act, as alleged in Counts One through Three, as a “responsible corporate officer” if the government proves beyond a reasonable doubt that:

1. The defendant had knowledge of the fact that pollutants were being discharged to the sewer system by an employee;
2. The defendant had authority and the capacity to exercise control over the employee’s conduct to prevent the discharge of pollutants to the sewer system; and
3. The defendant failed to prevent the discharge of pollutants to the sewer system.

INSTRUCTION NO. 19

The term “publicly-owned treatment works” (POTW) means a sewage treatment plant that is owned by a state or county. It also includes any sewers, pipes, and other means of conveyance only if they convey wastewater to a publicly-owned treatment plant.

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INSTRUCTION NO. 20

The term “approved pretreatment program” means a program administered by a POTW that meets the criteria established by regulation and that has been approved by the United States Environmental Protection Agency or by a state. King County operates an approved pretreatment program.

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INSTRUCTION NO. 21

The King County approved pretreatment program defines the following terms:

“Industrial user” means a source or potential source of indirect discharge, not including a domestic user as that term is defined in the program;

“Domestic user” means any person who contributes wastewater into the metropolitan sewerage system or POTW treatment plant from a residential dwelling unit;

“Indirect discharge” means the act of introducing or depositing wastes from any non-domestic source into a POTW treatment plant, public sewer, private sewer or side sewer tributary to the metropolitan sewerage system.

“Industrial waste” means any liquid, solid or gaseous substance, or combination thereof, resulting from any process of industry;

INSTRUCTION NO. 22

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3 The term “owner or operator” means any person who owns, leases, operates, or
4 controls or supervises the source.

5 The term “source” means a building, structure, facility, or installation from which
6 there is or may be the discharge of pollutants.
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INSTRUCTION NO. 23

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3 The term “pollutant” includes any chemical waste or industrial waste discharged
4 into water.

5 The term “hazardous substance” means any substance designated by the
6 Environmental Protection Agency, to include any solutions and mixtures containing
7 those substances. Sodium hypochlorite is a designated hazardous substance. The term
8 “hazardous substance” also includes any hazardous waste exhibiting the characteristic of
9 corrosivity. A hazardous waste exhibits the characteristic of corrosivity if it is in a
10 solution containing water with a pH of less than 2.
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INSTRUCTION NO. 24

The defendant is charged in Count 4 with Witness Tampering. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

1. In or about April 2011, the defendant knowingly corruptly persuaded Steven Roth to provide false information or to withhold information;
2. The defendant acted with the intent to hinder, delay, or prevent Steven Roth from communicating to law enforcement authorities information related to the commission or possible commission of an offense;
3. The offense was actually a federal offense; and
4. The defendant believed that Steven Roth might communicate with federal authorities.

However, the government does not need to prove that an official proceeding was actually pending or about to be instituted at the time of the alleged offense.

The last element may be inferred from the fact that the offense was federal in nature. The government need not establish that the defendant specifically intended to interfere with a federal investigation. However, the government must establish that the defendant had the intent to interfere with an investigation that happened to be federal.

INSTRUCTION NO. 25

For purposes of Count 4, to “corruptly persuade” means to act knowingly with a wrongful, immoral or evil purpose to convince or induce another person to engage in certain conduct. Further, a person acts “corruptly” if he acts to cause or induce another person to withhold information or provide false information without legal basis.

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INSTRUCTION NO. 26

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I instruct you as a matter of law that the discharge of pollutants in violation of approved federal, state or local pretreatment standards, and introduction of hazardous substances or pollutants into a publically owned treatment works, which are violations of the Federal Clean Water Act, are federal offenses.

I further instruct you as a matter of law that Special Agents from the Criminal Investigative Division of the United States Environmental Protection Agency are law enforcement officers of the United States.

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INSTRUCTION NO. 27

A verdict form has been prepared for you. After you have reached unanimous agreement on a verdict, your foreperson should complete the verdict form according to your deliberations, sign and date it, and advise the clerk that you are ready to return to the courtroom.

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INSTRUCTION NO. 28

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

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INSTRUCTION NO. 29

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2 Some witnesses, because of their education or experience, are permitted to state opinions
3 and the reasons for their opinions.

4 Opinion testimony should be judged just like any other testimony. You may accept it or
5 reject it, and give it as much weight as you think it deserves, considering the witness's education
6 and experience, the reasons given for the opinion, and all the other evidence in the case.
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INSTRUCTION NO. _30__

You heard an audio recording that was received into evidence. A transcript of the recording was provided to help you identify speakers and to help you decide what the speakers said. The recording is the evidence, not the transcript. If you heard something different from what appeared in the transcript, what you heard is controlling. The transcript will not be in the jury room during your deliberations. Please advise the court if you wish to listen to the audio recording during your deliberations and you will be escorted into court to review the audio recording.

INSTRUCTION NO. _31___

Those exhibits capable of being displayed electronically will be provided to you in that form, and you will be able to view them in the jury room.

A court technician will show you how to operate the computer and other equipment; how to locate and view the exhibits on the computer; and how to print the exhibits. You will also be provided with a paper list of all exhibits received in evidence. (Alternatively, you may request a paper copy of an exhibit received in evidence by sending a note through the Courtroom Deputy.) If you need additional equipment or supplies, you may make a request by sending a note.

In the event of any technical problem, or if you have questions about how to operate the computer or other equipment, you may send a note to the Courtroom Deputy, signed by your foreperson or by one or more members of the jury. Be as brief as possible in describing the problem and do not refer to or discuss any exhibit you were attempting to view.

If a technical problem or question requires hands-on maintenance or instruction, a court technician may enter the jury room with the Courtroom Deputy present for the sole purpose of assuring that the only matter that is discussed is the technical problem. When the court technician or any non-juror is in the jury room, the jury shall not deliberate. No juror may say anything to the court technician or any non-juror other than to describe the technical problem or to seek information about operation of equipment. Do not discuss any exhibit or any aspect of the case.

The sole purpose of providing the computer in the jury room is to enable jurors to

view the exhibits received in evidence in this case. You may not use the computer for any other purpose. At my direction, technicians have taken steps to make sure that the computer does not permit access to the Internet or to any “outside” website, database, directory, game, or other material. Do not attempt to alter the computer to obtain access to such materials. If you discover that the computer provides or allows access to such materials, you must inform me immediately and refrain from viewing such materials. Do not remove the computer or any electronic data from the jury room, and do not copy any such data.

INSTRUCTION NO. _32

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

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

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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 are
11 convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the
12 defendant guilty.
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INSTRUCTION NO. 33

The punishment provided by law for crimes is for the Judge to decide. You may not consider punishment in deciding whether the government has proved its case against any defendant beyond a reasonable doubt.

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INSTRUCTION NO. 34

You are here only to determine whether the defendant is guilty or not guilty of the charges outlined in these instructions. Your determination must be made only from the evidence in the case. The defendant is not on trial for any conduct or offense not charged. You should consider evidence about the acts, statements, and intentions of others, or evidence about other acts of the defendant, only as they relate to each of the charges against the defendant.

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INSTRUCTION NO. 35

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

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INSTRUCTION NO. 36

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

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

6 Each of you must decide the case for yourself, but you should do so only after you have
7 considered all the evidence, discussed it fully with the other jurors, and listened to the views of
8 your fellow jurors.
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10 Do not be afraid to change your opinion if the discussion persuades you that you should.
11 But do not come to a decision simply because other jurors think it is right.

12 It is important that you attempt to reach a unanimous verdict but, of course, only if each of
13 you can do so after having made your own conscientious decision. Do not change an honest
14 belief about the weight and effect of the evidence simply to reach a verdict.
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INSTRUCTION NO. 37

I will now say a few words about your conduct as jurors.

Until you conclude your deliberations:

First, you are not to discuss this case with anyone except your fellow jurors, nor are you allowed to permit others to discuss the case with you. If anyone approaches you and tries to talk to you about the case, please let me know about it immediately;

Second, do not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it;

Third, do not do any research, such as consulting dictionaries, searching the Internet or using other reference materials, and do not make any investigation about the case on your own;

Fourth, if you need to communicate with me simply give a signed note to the clerk to give to me; and

Fifth, do not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Keep an open mind until then.