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 8 United States of America

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA,)	Case No. SA CR 08-180-DOC
)	
14 Plaintiff,)	JOINT PROPOSED JURY
)	INSTRUCTIONS
15 v.)	
)	(UNANNOTATED SET)
16 MOSES ONCIU, BEATA GIZELLA)	
PRIORE, and IRENE PEMKOVA,)	Date: September 17, 2013
)	Time: 2:00 p.m.
17 Defendants.)	Place: Courtroom of the
)	Honorable David O. Carter

19 The parties respectfully submit the attached proposed joint
 20 jury instructions. The parties request leave to propose such

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1 other instructions as may become appropriate during the course of
2 trial.

3 Dated: September 13, 2013.

4 ANDRÉ BIROTTE JR.
United States Attorney
5 DENNISE D. WILLETT
Assistant United States Attorney
6 Chief, Santa Ana Branch Office

7 _____/S/
8 LAWRENCE E. KOLE
Assistant United States Attorney
9 Attorneys for Plaintiff United
10 States of America

11 Dated: September 13, 2013.

12 _____/S/*
13 GERALD WERKSMAN
14 *pursuant to 9/13/13
telephonic authorization
15 Attorney for Defendant
Moses Onciu

16 Dated: September 13, 2013.

17 _____/S/*
18 JOEL LEVINE
19 *pursuant to 9/13/13
20 email authorization
21 Attorney for Defendant
22 Beata Gizella Priore

23 Dated: September 13, 2013.

24 _____/S/*
25 DIANE BASS
26 *pursuant to 9/13/13
email authorization
27 Attorney for Defendant
28 Irene Pemkova

COURT'S INSTRUCTION NO. 1

1
2 Jurors: You now are the jury in this case, and I want to
3 take a few minutes to tell you something about your duties as
4 jurors and to give you some preliminary instructions. At the end
5 of the trial I will give you more detailed [written] instructions
6 that will control your deliberations. When you deliberate, it
7 will be your duty to weigh and to evaluate all the evidence
8 received in the case and, in that process, to decide the facts.
9 To the facts as you find them, you will apply the law as I give
10 it to you, whether you agree with the law or not. You must
11 decide the case solely on the evidence and the law before you and
12 must not be influenced by any personal likes or dislikes,
13 opinions, prejudices, or sympathy. Please do not take anything I
14 may say or do during the trial as indicating what I think of the
15 evidence or what your verdict should be -- that is entirely up to
16 you.

COURT'S INSTRUCTION NO. 2

1
2 This is a criminal case brought by the United States
3 government. The government charges the defendants with conspiracy
4 and wire fraud. The charges against the defendants are contained
5 in the indictment. The indictment simply describes the charges
6 the government brings against the defendants. The indictment is
7 not evidence and does not prove anything.

8 The defendants have pleaded not guilty to the charge and are
9 presumed innocent unless and until the government proves the
10 defendants guilty beyond a reasonable doubt. In addition, the
11 defendants have the right to remain silent and never have to
12 prove innocence or to present any evidence.

COURT'S INSTRUCTION NO. 3

The evidence you are to consider in deciding what the facts are consists of:

- (1) the sworn testimony of any witness;
- (2) the exhibits which are received in evidence; and
- (3) any facts to which the parties agree.

COURT'S INSTRUCTION NO. 4

The following things are not evidence, and you must not consider them as evidence in deciding the facts of this case:

- (1) statements and arguments of the attorneys;
- (2) questions and objections of the attorneys;
- (3) testimony that I instruct you to disregard; and
- (4) anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

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COURT'S INSTRUCTION NO. 5

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact.

You are to consider both direct and circumstantial evidence. Either can be used to prove any fact. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

COURT'S INSTRUCTION NO. 6

1
2 There are rules of evidence that control what can be
3 received in evidence. When a lawyer asks a question or offers an
4 exhibit in evidence and a lawyer on the other side thinks that it
5 is not permitted by the rules of evidence, that lawyer may
6 object. If I overrule the objection, the question may be
7 answered or the exhibit received. If I sustain the objection,
8 the question cannot be answered, or the exhibit cannot be
9 received. Whenever I sustain an objection to a question, you
10 must ignore the question and must not guess what the answer would
11 have been.

12 Sometimes I may order that evidence be stricken from the
13 record and that you disregard or ignore the evidence. That means
14 that when you are deciding the case, you must not consider the
15 evidence that I told you to disregard.

COURT'S INSTRUCTION NO. 7

1
2 In deciding the facts in this case, you may have to decide
3 which testimony to believe and which testimony not to believe.
4 You may believe everything a witness says, or part of it, or none
5 of it.

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

8 (1) the witness's opportunity and ability to see or hear or
9 know the things testified to;

10 (2) the witness's memory;

11 (3) the witness's manner while testifying;

12 (4) the witness's interest in the outcome of the case, if
13 any;

14 (5) the witness's bias or prejudice, if any;

15 (6) whether other evidence contradicted the witness's
16 testimony;

17 (7) the reasonableness of the witness's testimony in light
18 of all the evidence; and

19 (8) any other factors that bear on believability.

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

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COURT'S INSTRUCTION NO. 8

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

First, keep an open mind throughout the trial, and do not decide what the verdict should be until you and your fellow jurors have completed your deliberations at the end of the case.

Second, because you must decide this case based only on the evidence received in the case and on my instructions as to the law that applies, you must not be exposed to any other information about the case or to the issues it involves during the course of your jury duty. Thus, until the end of the case or unless I tell you otherwise:

Do not communicate with anyone in any way and do not let anyone else communicate with you in any way about the merits of the case or anything to do with it. This includes discussing the case in person, in writing, by phone or electronic means, via email, text messaging, or any Internet chat room, blog, website or other feature. This applies to communicating with your fellow jurors until I give you the case for deliberation, and it applies to communicating with everyone else including your family members, your employer, the media or press, and the people involved in the trial, although you may notify your family and your employer that you have been seated as a juror in the case. But, if you are asked or approached in any way about your jury service or anything about this case, you must respond that you have been ordered not to discuss the matter and to report the contact to the court.

1 Because you will receive all the evidence and legal
2 instruction you properly may consider to return a verdict: do
3 not read, watch, or listen to any news or media accounts or
4 commentary about the case or anything to do with it; do not do
5 any research, such as consulting dictionaries, searching the
6 Internet or using other reference materials; and do not make any
7 investigation or in any other way try to learn about the case on
8 your own.

9 The law requires these restrictions to ensure the parties
10 have a fair trial based on the same evidence that each party has
11 had an opportunity to address. A juror who violates these
12 restrictions jeopardizes the fairness of these proceedings[, and
13 a mistrial could result that would require the entire trial
14 process to start over]. If any juror is exposed to any outside
15 information, please notify the court immediately.

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COURT'S INSTRUCTION NO. 9

At the end of the trial 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. I urge you to pay close attention to the testimony as it is given.

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COURT'S INSTRUCTION NO. 10

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2 If you wish, you may take notes to help you remember the
3 evidence. If you do take notes, please keep them to yourself
4 until you and your fellow jurors go to the jury room to decide
5 the case. Do not let note-taking distract you from being
6 attentive. When you leave court for recesses, your notes should
7 be left in the courtroom. No one will read your notes.

8 Whether or not you take notes, you should rely on your own
9 memory of the evidence. Notes are only to assist your memory. You
10 should not be overly influenced by your notes or those of your
11 fellow jurors.

COURT'S INSTRUCTION NO. 11

1
2 The next phase of the trial will now begin. First, each
3 side may make an opening statement. An opening statement is not
4 evidence. It is simply an outline to help you understand what
5 that party expects the evidence will show. A party is not
6 required to make an opening statement.

7 The government will then present evidence and counsel for
8 the defendants may cross-examine. Then, if a defendant chooses
9 to offer evidence, counsel for the government may cross-examine.

10 After the evidence has been presented, I will instruct you
11 on the law that applies to the case and the attorneys will make
12 closing arguments.

COURT'S INSTRUCTION NO. 12

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2 We are about to take our first break. Remember, until the
3 trial is over, do not discuss this case with anyone, including
4 your fellow jurors, members of your family, people involved in
5 the trial, or anyone else, and do not allow others to discuss the
6 case with you. This includes discussing the case in Internet
7 chat rooms or through Internet blogs, Internet bulletin boards,
8 emails or text messaging. If anyone tries to communicate with
9 you about the case, please let me know about it immediately. Do
10 not read, watch, or listen to any news reports or other accounts
11 about the trial or anyone associated with it, including any
12 online information. Do not do any research, such as consulting
13 dictionaries, searching the Internet or using other reference
14 materials, and do not make any investigation about the case on
15 your own. Finally, keep an open mind until all the evidence has
16 been presented and you have heard the arguments of counsel, my
17 instructions on the law, and the views of your fellow jurors.

18 If you need to speak with me about anything, simply give a
19 signed note to the clerk to give to me.
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COURT'S INSTRUCTION NO. 13

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2 From time to time during the trial, it may become necessary
3 for me to take up legal matters with the attorneys privately,
4 either by having a conference at the bench or, when necessary, by
5 calling a recess.

6 We will do what we can to keep the number and length of
7 these conferences to a minimum. I may not always grant an
8 attorney's request for a conference.

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COURT'S INSTRUCTION NO. 14

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

COURT'S INSTRUCTION NO. 15

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

6 It is your duty to weigh and to evaluate all the evidence
7 received in the case and, in that process, to decide the facts.
8 It is also your duty to apply the law as I give it to you to the
9 facts as you find them, whether you agree with the law or not.
10 You must decide the case solely on the evidence and the law and
11 must not be influenced by any personal likes or dislikes,
12 opinions, prejudices, or sympathy. You will recall that you took
13 an oath promising to do so at the beginning of the case.

14 You must follow all these instructions and not single out
15 some and ignore others; they are all important. Please do not
16 read into these instructions or into anything I may have said or
17 done any suggestion as to what verdict you should return -- that
18 is a matter entirely up to you.

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COURT'S INSTRUCTION NO. 16

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2 The indictment is not evidence. The defendants have pleaded
3 not guilty to the charges. Each defendant is presumed to be
4 innocent unless and until the government proves that defendant
5 guilty beyond a reasonable doubt. In addition, the defendants do
6 not have to testify or present any evidence to prove innocence.
7 The government has the burden of proving every element of each
8 charge beyond a reasonable doubt.

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COURT'S INSTRUCTION NO. 17

A defendant in a criminal case has a constitutional right not to testify. You may not draw any inference of any kind from the fact that a defendant has not testified.

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COURT'S INSTRUCTION NO. 18

A defendant has testified. You should treat this testimony just as you would the testimony of any other witness.

COURT'S INSTRUCTION NO. 19

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

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

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

COURT'S INSTRUCTION NO. 20

The evidence you are to consider in deciding what the facts are consists of:

- (1) the sworn testimony of any witness;
- (2) the exhibits received in evidence; and
- (3) any facts to which the parties have agreed.

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COURT'S INSTRUCTION NO. 21

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2 In reaching your verdict you may consider only the testimony
3 and exhibits received in evidence. The following things are not
4 evidence and you may not consider them in deciding what the facts
5 are:

6 1. Questions, statements, objections, and arguments by the
7 lawyers are not evidence. The lawyers are not witnesses.
8 Although you must consider a lawyer's questions to understand the
9 answers of a witness, the lawyer's questions are not evidence.
10 Similarly, what the lawyers have said in their opening
11 statements, closing arguments and at other times is intended to
12 help you interpret the evidence, but it is not evidence. If the
13 facts as you remember them differ from the way the lawyers state
14 them, your memory of them controls.

15 2. Any testimony that I have excluded, stricken, or
16 instructed you to disregard is not evidence. In addition, some
17 evidence was received only for a limited purpose; when I have
18 instructed you to consider certain evidence in a limited way, you
19 must do so.

20 3. Anything you may have seen or heard when the court was
21 not in session is not evidence. You are to decide the case solely
22 on the evidence received at the trial
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COURT'S INSTRUCTION NO. 22

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which you can find another fact.

You are to consider both direct and circumstantial evidence. Either can be used to prove any fact. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

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COURT'S INSTRUCTION NO. 23

1
2 In deciding the facts in this case, you may have to decide
3 which testimony to believe and which testimony not to believe.
4 You may believe everything a witness says, or part of it, or none
5 of it.

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

8 (1) the witness's opportunity and ability to see or hear or
9 know the things testified to;

10 (2) the witness's memory;

11 (3) the witness's manner while testifying;

12 (4) the witness's interest in the outcome of the case, if
13 any;

14 (5) the witness's bias or prejudice, if any;

15 (6) whether other evidence contradicted the witness's
16 testimony;

17 (7) the reasonableness of the witness's testimony in light
18 of all the evidence; and

19 (8) any other factors that bear on believability.

20 The weight of the evidence as to a fact does not necessarily
21 depend on the number of witnesses who testify. What is important
22 is how believable the witnesses were, and how much weight you
23 think their testimony deserves.

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COURT'S INSTRUCTION NO. 24

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2 You are here only to determine whether the defendants are
3 guilty or not guilty of the charges in the indictment. The
4 defendants is not on trial for any conduct or offense not charged
5 in the indictment.
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COURT'S INSTRUCTION NO. 25

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2 A separate crime is charged against the defendants in each
3 count. The charges have been joined for trial. You must decide
4 the case of each defendant on each crime charged against that
5 defendant separately. Your verdict on any count as to any
6 defendant should not control your verdict on any other count or
7 as to any other defendant.

8 All the instructions apply to each defendant and to each
9 count unless a specific instruction states that it applies only
10 to a specific count.

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COURT'S INSTRUCTION NO. 26

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

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COURT'S INSTRUCTION NO. 27

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2 You have heard testimony from an undercover agent who was
3 involved in the government's investigation in this case. Law
4 enforcement officials may engage in stealth and deception, such
5 as the use of informants and undercover agents, in order to
6 investigate criminal activities. Undercover agents may use false
7 names and appearances.

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COURT'S INSTRUCTION NO. 28

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

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

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COURT'S INSTRUCTION NO. 29

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2 During the trial, certain charts and summaries were shown to
3 you in order to help explain the evidence in the case. These
4 charts and summaries were not admitted in evidence and will not
5 go into the jury room with you. They are not themselves evidence
6 or proof of any facts. If they do not correctly reflect the
7 facts or figures shown by the evidence in the case, you should
8 disregard these charts and summaries and determine the facts from
9 the underlying evidence.

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COURT'S INSTRUCTION NO. 30

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2 Defendants are charged in Count One of the indictment with
3 conspiring to commit wire fraud in violation of Section 371 of
4 Title 18 of the United States Code. In order for a defendant to
5 be found guilty of that charge, the government must prove each of
6 the following elements beyond a reasonable doubt:

7 First, beginning on or about November 29, 2006, and ending
8 on or about March 7, 2007, there was an agreement between two or
9 more persons to commit at least one crime as charged in the
10 indictment; and

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

14 Third, one of the members of the conspiracy performed at
15 least one overt act on or after November 29, 2006 for the purpose
16 of carrying out the conspiracy, with all of you agreeing on a
17 particular overt act that you find was committed.

18 A conspiracy is a kind of criminal partnership -- an
19 agreement of two or more persons to commit one or more crimes.
20 The crime of conspiracy is the agreement to do something
21 unlawful; it does not matter whether the crime agreed upon was
22 committed.

23 For a conspiracy to have existed, it is not necessary that
24 the conspirators made a formal agreement or that they agreed on
25 every detail of the conspiracy. It is not enough, however, that
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1 they simply met, discussed matters of common interest, acted in
2 similar ways, or perhaps helped one another. You must find that
3 there was a plan to commit at least one of the crimes alleged in
4 the indictment as an object of the conspiracy with all of you
5 agreeing as to the particular crime which the conspirators agreed
6 to commit.

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

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

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COURT'S INSTRUCTION NO. 31

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

8 Even though a defendant did not directly conspire with
9 another defendant in the overall scheme, the defendant has, in
10 effect, agreed to participate in the conspiracy if the government
11 proves each of the following beyond a reasonable doubt that:

12 (1) the defendant directly conspired with one or more
13 conspirators to carry out at least one of the objects of the
14 conspiracy;

15 (2) the defendant knew or had reason to know that other
16 conspirators were involved with those with whom the defendant
17 directly conspired; and

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

21 It is not a defense that a person's participation in a
22 conspiracy was minor or for a short period of time.
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COURT'S INSTRUCTION NO. 32

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2 Each member of the conspiracy is responsible for the actions
3 of the other conspirators performed during the course and in
4 furtherance of the conspiracy. If one member of a conspiracy
5 commits a crime in furtherance of a conspiracy, the other members
6 have also, under the law, committed that crime.

7 Therefore, you may find a defendant guilty of conspiracy to
8 commit wire fraud as charged in Count One of the indictment if
9 the government has proved each of the following elements beyond a
10 reasonable doubt:

11 First, a person named in Count One of the indictment
12 committed the crime of wire fraud as alleged in that count;

13 Second, the person was a member of the conspiracy
14 charged in Count One of the indictment;

15 Third, the person committed the crime of wire fraud in
16 furtherance of the conspiracy;

17 Fourth, the defendant was a member of the same
18 conspiracy at the time the offense charged in Count One was
19 committed; and

20 Fifth, the offense fell within the scope of the
21 unlawful agreement and could reasonably have been foreseen to be
22 a necessary or natural consequence of the unlawful agreement.
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COURT'S INSTRUCTION NO. 33

1
2 Defendants are charged in Counts Two through Six of the
3 indictment with wire fraud in violation of Section 1343 of Title
4 18 of the United States Code. In order for a defendant to be
5 found guilty of that charge, the government must prove each of
6 the following elements beyond a reasonable doubt:

7 First, the defendant knowingly participated in a scheme or
8 plan to defraud, or a scheme or plan for obtaining money or
9 property by means of false or fraudulent pretenses,
10 representations, or promises;

11 Second, the statements made or facts omitted as part of the
12 scheme were material; that is, they had a natural tendency to
13 influence, or were capable of influencing, a person to part with
14 money or property;

15 Third, the defendant acted with the intent to defraud; that
16 is, the intent to deceive or cheat; and

17 Fourth, the defendant transmitted, or caused to be
18 transmitted, a wire communication in interstate commerce to carry
19 out or attempt to carry out an essential part of the scheme.

20 In determining whether a scheme to defraud exists, you may
21 consider not only a defendant's words and statements, but also
22 the circumstances in which they are used as a whole.

23 A "wire communication" as that term is used in these
24 instructions includes e-mail messages, faxes, and telephone
25 calls.

1 A wire communication is caused when one knows that the wire
2 communication will be used in the ordinary course of business or
3 when one can reasonably foresee such use. It does not matter
4 whether the material wired was itself false or deceptive so long
5 as the wire communication was used as a part of the scheme, nor
6 does it matter whether the scheme or plan was successful or that
7 any money or property was obtained.

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COURT'S INSTRUCTION NO. 34

1
2 If you decide that a defendant was a member of a scheme to
3 defraud and that the defendant had the intent to defraud, the
4 defendant may be responsible for other co-schemers' actions
5 during the course of and in furtherance of the scheme, even if
6 the defendant did not know what they said or did.

7 For a defendant to be guilty of an offense committed by a
8 co-schemer in furtherance of the scheme, the offense must be one
9 that the defendant could reasonably foresee as a necessary and
10 natural consequence of the scheme to defraud.

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COURT'S INSTRUCTION NO. 35

1
2 A defendant may be found guilty of wire fraud, even if the
3 defendant personally did not commit the act or acts constituting
4 the crime but aided and abetted in its commission. To prove a
5 defendant guilty of aiding and abetting, the government must
6 prove beyond a reasonable doubt:

7 First, wire fraud was committed by someone;

8 Second, the defendant knowingly and intentionally aided,
9 counseled, commanded, induced or procured that person to commit
10 each element of wire fraud; and

11 Third, the defendant acted before the crime was completed.

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

18 The government is not required to prove precisely which
19 defendant actually committed the crime and which defendant aided
20 and abetted.

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COURT'S INSTRUCTION NO. 36

1
2 An act is done knowingly if the defendant is aware of the
3 act and does not act through ignorance, mistake, or accident.
4 The government is not required to prove that the defendant knew
5 that his or her acts or omissions were unlawful. You may
6 consider evidence of the defendant's words, acts, or omissions,
7 along with all the other evidence, in deciding whether the
8 defendant acted knowingly.

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COURT'S INSTRUCTION NO. 37

1
2 The intent of a person or the knowledge that a person
3 possesses at any given time may not ordinarily be proved directly
4 because there is no way of directly scrutinizing the workings of
5 the human mind. In determining the issue of what a person knew
6 or what a person intended at a particular time, you may consider
7 any statements made or acts done by that person and all other
8 facts and circumstances received in evidence which may aid in
9 your determination of that person's knowledge or intent.

10 You may infer, but you are certainly not required to infer,
11 that a person intends the natural and probable consequences of
12 acts knowingly done or knowingly omitted. It is entirely up to
13 you, however, to decide what facts to find from the evidence
14 received during this trial.

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COURT'S INSTRUCTION NO. 38

An intent to defraud is an intent to deceive or cheat.

COURT'S INSTRUCTION NO. 39

1
2 The indictment charges that the offenses alleged were
3 committed "on or about" a certain date. Although it is necessary
4 for the government to prove beyond a reasonable doubt that the
5 offenses were committed on a date reasonably near the dates
6 alleged in the indictment, it is not necessary for the government
7 to prove that the offenses were committed precisely on the dates
8 charged.

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COURT'S INSTRUCTION NO. 40

1
2 You may determine whether a defendant had an honest, good
3 faith belief in the truth of representations made to others in
4 determining whether or not the defendant acted with intent to
5 defraud. However, a defendant's belief that a person to whom one
6 or more representations were made would be paid in the future or
7 would sustain no economic loss is no defense to the crimes
8 charged in the indictment.

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COURT'S INSTRUCTION NO. 41

1
2 When you begin your deliberations, elect one member of the
3 jury as your foreperson who will preside over the deliberations
4 and speak for you here in court.

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

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

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

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

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COURT'S INSTRUCTION NO. 42

1
2 Because you must base your verdict only on the evidence
3 received in the case and on these instructions, I remind you that
4 you must not be exposed to any other information about the case
5 or to the issues it involves. Except for discussing the case
6 with your fellow jurors during your deliberations:

7 Do not communicate with anyone in any way and do not let
8 anyone else communicate with you in any way about the merits of
9 the case or anything to do with it. This includes discussing the
10 case in person, in writing, by phone or electronic means, via
11 email, text messaging, or any Internet chat room, blog, website
12 or other feature. This applies to communicating with your family
13 members, your employer, the media or press, and the people
14 involved in the trial. If you are asked or approached in any way
15 about your jury service or anything about this case, you must
16 respond that you have been ordered not to discuss the matter and
17 to report the contact to the court.

18 Do not read, watch, or listen to any news or media accounts
19 or commentary about the case or anything to do with it; do not do
20 any research, such as consulting dictionaries, searching the
21 Internet or using other reference materials; and do not make any
22 investigation or in any other way try to learn about the case on
23 your own.

24 The law requires these restrictions to ensure the parties
25 have a fair trial based on the same evidence that each party has
26 had an opportunity to address. A juror who violates these

1 restrictions jeopardizes the fairness of these proceedings, and a
2 mistrial could result that would require the entire trial process
3 to start over. If any juror is exposed to any outside
4 information, please notify the court immediately.

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COURT'S INSTRUCTION NO. 43

1
2 Some of you have taken notes during the trial. Whether or
3 not you took notes, you should rely on your own memory of what
4 was said. Notes are only to assist your memory. You should not
5 be overly influenced by your notes or those of your fellow
6 jurors.

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COURT'S INSTRUCTION NO. 44

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

COURT'S INSTRUCTION NO. 45

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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COURT'S INSTRUCTION NO. 46

1
2 If it becomes necessary during your deliberations to
3 communicate with me, you may send a note through the clerk,
4 signed by any one or more of you. No member of the jury should
5 ever attempt to communicate with me except by a signed writing,
6 and I will respond to the jury concerning the case only in
7 writing or here in open court. If you send out a question, I
8 will consult with the lawyers before answering it, which may take
9 some time. You may continue your deliberations while waiting for
10 the answer to any question. Remember that you are not to tell
11 anyone -- including me -- how the jury stands, numerically or
12 otherwise, on any question submitted to you, including the
13 question of the guilt of the defendant, until after you have
14 reached a unanimous verdict or have been discharged.