

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC SHIBLEY,

Defendant.

NO. CR20-174 JCC

**GOVERNMENT’S PROPOSED JURY
INSTRUCTIONS (CITED)**

GOVERNMENT’S PROPOSED JURY INSTRUCTIONS (Cited)

The United States of America respectfully submits to the Court its Proposed Jury Instructions. Due to the potential issues that may arise before and during trial, leave is respectfully requested to request such additional instructions as become appropriate during the trial.

DATED: November 1, 2021

Respectfully submitted,

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<u>Prelim. Instruction No.</u>	<u>Description</u>	<u>9th Circuit Model No.</u>
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3	WHAT IS EVIDENCE	1.3
4	WHAT IS NOT EVIDENCE	1.4
5	DIRECT AND CIRCUMSTANTIAL EVIDENCE	1.5
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<u>Instruction No.</u>	<u>Description</u>	<u>9th Circuit Model No.</u>
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GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 1
INSTRUCTION NO. ____

Jurors: You now are the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some preliminary instructions. At the end of the trial, I will give you more detailed [written] instructions that will control your deliberations.

When you deliberate, it will be your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. To the facts as you find them, you will apply the law as I give it to you, whether you agree with the law or not. You must decide the case solely on the evidence and the law before you.

Perform these duties fairly and impartially. You should not be influenced by any person’s race, color, religious beliefs, national ancestry, sexual orientation, gender identity, gender, or economic circumstances. Also, do not allow yourself to be influenced by personal likes or dislikes, sympathy, prejudice, fear, public opinion, or biases, including unconscious biases. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention. Like conscious bias, unconscious bias can affect how we evaluate information and make decisions.

Ninth Circuit Model Criminal Jury Instruction No. 1.1 (2010 Edition)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 2
INSTRUCTION NO. ____

This is a criminal case brought by the United States government. The government charges the defendant with wire fraud, bank fraud, and money laundering. The charges against the defendant are contained in the indictment. The indictment simply describes the charges the government brings against the defendant. The indictment is not evidence and does not prove anything.

The defendant has pleaded not guilty to the charges and is presumed innocent unless and until the government proves the defendant guilty beyond a reasonable doubt. In addition, the defendant has the right to remain silent and never has to prove innocence or present any evidence.

In order to help you follow the evidence, I will now give you a brief summary of the elements of the crimes that the government must prove to make its case:

As to the crime of wire fraud, the elements are first, the defendant knowingly devised a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or omitted facts; second, the statements made or facts omitted as part of the scheme were material; third, the defendant acted with the intent to defraud, that is, the intent to deceive and cheat; and fourth, the defendant caused an interstate wire communication to be used to carry out an essential part of the scheme.

As to the crime of bank fraud, the elements are first, the defendant knowingly carried out a scheme or plan to obtain money or property from the financial institution by making false statements or promises; second, the defendant knew that the statements or promises were false; third, the statements or promises were material; fourth, the defendant acted with the intent to defraud; and fifth, the financial institution was federally insured.

As to the crime of money laundering, the elements are first, the defendant knowingly engaged or attempted to engage in a monetary transaction; second, the defendant knew the transaction involved criminally derived property; third, the property had a value greater

1 | than \$10,000; fourth, the property was, in fact, derived from wire fraud or bank fraud, as
2 | charged in the Indictment; and fifth, the transaction occurred in the United States.
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27 | Ninth Circuit Model Criminal Jury Instruction No. 1.2 (2010 Edition) (Modified)
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GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 3
INSTRUCTION NO. ____

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

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

Ninth Circuit Model Criminal Jury Instruction No. 1.3 (2010 Edition) (Modified)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 4
INSTRUCTION NO. ____

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.

Ninth Circuit Model Criminal Jury Instruction No. 1.4 (2010 Edition)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 5
INSTRUCTION NO. ____

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.

Ninth Circuit Model Criminal Jury Instruction No. 1.5 (2010 Edition)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 6
INSTRUCTION NO. ____

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

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

Ninth Circuit Model Criminal Jury Instruction No. 1.6 (2010 Edition)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 7

INSTRUCTION NO. ____

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 witness’s opportunity and ability 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, if any;

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

(6) whether other evidence contradicted the witness’s testimony;

(7) the reasonableness of the witness’s testimony in light of all the evidence; and

(8) any other factors that bear on believability.

You must avoid bias, conscious or unconscious, based on a witness’s race, color, religious beliefs, national ancestry, sexual orientation, gender identity, gender, or economic circumstances in your determination of credibility.

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

Ninth Circuit Model Criminal Jury Instruction No. 1.7 (2010 Edition)

GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 8

INSTRUCTION NO. ____

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 restriction includes discussing the case in person, in writing, by phone, tablet, or computer, or any other means, via email, via text messaging, or any Internet chat room, blog, website or application, including but not limited to Facebook, YouTube, Twitter, Instagram, LinkedIn, Snapchat, TikTok, or any other forms of social media. This restriction also 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, and how long you expect the trial to last. 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. In addition, you must report the contact to the court.

Because you will receive all the evidence and legal instruction you properly may consider to return a verdict: do not read, watch, or listen to any news or media accounts or commentary about the case or anything to do with it, although I have no information

1 that there will be news reports about this case; do not do any research, such as consulting
2 dictionaries, searching the Internet or using other reference materials; and do not make
3 any investigation or in any other way try to learn about the case on your own. Do not
4 visit or view any place discussed in this case, and do not use the Internet or any other
5 resource to search for or view any place discussed during the trial. Also, do not do any
6 research about this case, the law, or the people involved—including the parties, the
7 witnesses or the lawyers—until you have been excused as jurors. If you happen to read or
8 hear anything touching on this case in the media, turn away and report it to me as soon as
9 possible.

10 These rules protect each party's right to have this case decided only on evidence
11 that has been presented here in court. Witnesses here in court take an oath to tell the truth,
12 and the accuracy of their testimony is tested through the trial process. If you do any
13 research or investigation outside the courtroom, or gain any information through
14 improper communications, then your verdict may be influenced by inaccurate,
15 incomplete or misleading information that has not been tested by the trial process. Each
16 of the parties is entitled to a fair trial by an impartial jury, and if you decide the case
17 based on information not presented in court, you will have denied the parties a fair trial.
18 Remember, you have taken an oath to follow the rules, and it is very important that you
19 follow these rules.

20 A juror who violates these restrictions jeopardizes the fairness of these
21 proceedings, and a mistrial could result that would require the entire trial process to start
22 over. If any juror is exposed to any outside information, please notify the court
23 immediately.

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27 Ninth Circuit Model Criminal Jury Instruction No. 1.8 (2010 Edition)
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GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 9
INSTRUCTION NO. ____

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.

Ninth Circuit Model Jury Instruction - 1.9 (2010 Edition)

1 GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 10
2 INSTRUCTION NO. ____
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4 If you wish, you may take notes to help you remember the evidence. If you do take
5 notes, please keep them to yourself until you and your fellow jurors go to the jury room
6 to decide the case. Do not let note-taking distract you from being attentive. When you
7 leave court for recesses, your notes should be left in the courtroom. No one will read
8 your notes.

9 Whether or not you take notes, you should rely on your own memory of the
10 evidence. Notes are only to assist your memory. You should not be overly influenced by
11 your notes or those of your fellow jurors.
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27 Ninth Circuit Model Jury Instruction - 1.10 (2010 Edition) (Modified)
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1 GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 11

2 INSTRUCTION NO. ____
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4 During the trial, I may need to take up legal matters with the attorneys privately,
5 either by having a conference at the bench when the jury is present in the courtroom, or
6 by calling a recess. Please understand that while you are waiting, we are working. The
7 purpose of these conferences is not to keep relevant information from you, but to decide
8 how certain evidence is to be treated under the rules of evidence and to avoid confusion
9 and error.

10 Of course, we will do what we can to keep the number and length of these
11 conferences to a minimum. I may not always grant an attorney’s request for a
12 conference. Do not consider my granting or denying a request for a conference as any
13 indication of my opinion of the case or what your verdict should be.

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27 Ninth Circuit Model Jury Instruction - 1.16 (2010 Edition)
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GOVERNMENT’S PROPOSED PRELIMINARY INSTRUCTION NO. 12
INSTRUCTION NO. ____

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

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

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

After that, you will go to the jury room to deliberate on your verdict.

Ninth Circuit Model Jury Instruction - 1.11 (2010 Edition) (Modified)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 1
INSTRUCTION NO. ____

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

It is your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. It is also your duty to apply the law as I give it to you to the facts as you find them, whether you agree with the law or not. You must decide the case solely on the evidence and the law. Do not allow personal likes or dislikes, sympathy, prejudice, fear, or public opinion to influence you. You should also not be influenced by any person’s race, color, religious beliefs, national ancestry, sexual orientation, gender identity, gender, or economic circumstances. Also, do not allow yourself to be influenced by personal likes or dislikes, sympathy, prejudice, fear, public opinion, or biases, including unconscious biases. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention. You will recall that you took an oath promising to do so at the beginning of the case.

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

Ninth Circuit Model Criminal Jury Instruction No. 3.1 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 2
INSTRUCTION NO. ____

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.

Ninth Circuit Model Criminal Jury Instruction No. 3.6 (2010 Edition)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 3

INSTRUCTION NO. ____

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

1. Questions, statements, objections, and arguments by the lawyers are not evidence. The lawyers are not witnesses. Although you must consider a lawyer's questions to understand the answers of a witness, the lawyer's questions are not evidence. Similarly, what the lawyers have said in their opening statements, [will say in their] closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers state them, your memory of them controls.
2. Any testimony that I have excluded, stricken, or instructed you to disregard is not evidence. [In addition, some evidence was received only for a limited purpose; when I have instructed you to consider certain evidence in a limited way, you must do so.]
3. Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

Ninth Circuit Model Criminal Jury Instruction No. 3.7 (2010 Edition)

1 GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 4

2 INSTRUCTION NO. ____

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

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

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27 Ninth Circuit Model Criminal Jury Instruction No. 3.8 (2010 Edition)
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GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 5

INSTRUCTION NO. ____

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, if any;
- (5) the witness's bias or prejudice, if any;
- (6) whether other evidence contradicted the witness's testimony;
- (7) the reasonableness of the witness's testimony in light of all the evidence; and
- (8) any other factors that bear on believability.

Sometimes a witness may say something that is not consistent with something else he or she said. Sometimes different witnesses will give different versions of what happened. People often forget things or make mistakes in what they remember. Also, two people may see the same event but remember it differently. You may consider these differences, but do not decide that testimony is untrue just because it differs from other testimony.

However, if you decide that a witness has deliberately testified untruthfully about something important, you may choose not to believe anything that witness said. On the other hand, if you think the witness testified untruthfully about some things but told the truth about others, you may accept the part you think is true and ignore the rest.

1 The weight of the evidence as to a fact does not necessarily depend on the number
2 of witnesses who testify. What is important is how believable the witnesses were, and how
3 much weight you think their testimony deserves.
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27 Ninth Circuit Model Criminal Jury Instruction No. 3.9 (2010 Edition)
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GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 6

INSTRUCTION NO. ____

You have heard a recording that has been received in evidence. Each of you was given a transcript of the recording to help you identify speakers and as a guide to help you listen to the recording.

However, bear in mind that the recording is the evidence, not the transcript. If you heard something different from what appeared in the transcript, what you heard is controlling.

Ninth Circuit Model Criminal Jury Instruction No. 2.6 (2010 Edition)

GOVERNMENT’S PROPOSED INSTRUCTION NO. 7

INSTRUCTION NO. ____

You have heard testimony that an undercover agent was involved in the government’s investigation in this case. Law enforcement officials may engage in stealth and deception, such as the use of undercover agents, in order to investigate criminal activities. Undercover agents may use false names and appearances.

Ninth Circuit Model Jury Instruction - 4.10 (2010 Edition) (Modified)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 8

INSTRUCTION NO. ____

DEFENDANT’S DECISION TO TESTIFY

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

DEFENDANT’S DECISION NOT TO TESTIFY

A defendant in a criminal case has a constitutional right not to testify. In arriving at your verdict, the law prohibits you from considering in any manner that the defendant did not testify.

Ninth Circuit Model Criminal Jury Instruction Nos. 3.4 and 3.3 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 9

INSTRUCTION NO. ____

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

Ninth Circuit Model Criminal Jury Instruction No. 4.1 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 10

INSTRUCTION NO. ____

Certain charts and summaries have been admitted 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.

Ninth Circuit Model Criminal Jury Instruction No. 4.17 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 11

INSTRUCTION NO. ____

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

Ninth Circuit Model Criminal Jury Instruction No. 4.16 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 12

INSTRUCTION NO. ____

The indictment is not evidence. The defendant has pleaded not guilty to the charges. The defendant is presumed to be innocent unless and until the government proves the defendant guilty beyond a reasonable doubt. In addition, the defendant does not have to testify or present any evidence. The defendant does not have to prove innocence; the government has the burden of proving every element of the charges beyond a reasonable doubt.

Ninth Circuit Model Criminal Jury Instruction No. 3.2 (2010 Edition)

1 GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 13

2 INSTRUCTION NO. ____

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

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

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

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26 Ninth Circuit Model Criminal Jury Instruction No. 3.5 (2010 Edition)
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GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 14

INSTRUCTION NO. ____

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.

Ninth Circuit Model Criminal Jury Instruction No. 7.4 (2010 Edition)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 15

INSTRUCTION NO. ____

The defendant is charged in Counts One through Seven of the Indictment with wire fraud in violation of Section 1343 of Title 18 of the United States Code. In order for the defendant to be found guilty of each charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly devised a scheme or plan to defraud, or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or omitted facts. Deceitful statements of half-truths may constitute false or fraudulent representations;

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

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

Fourth, the defendant used, or caused to be used, an interstate wire communication to carry out or attempt to carry out an essential part of the scheme.

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

A wiring is caused when one knows that a wire will be used in the ordinary course of business or when one can reasonably foresee such use.

It need not have been reasonably foreseeable to the defendant that the wire communication would be interstate in nature. Rather, it must have been reasonably foreseeable to the defendant that some wire communication would occur in furtherance of the scheme, and an interstate wire communication must have actually occurred in furtherance of the scheme.

Ninth Circuit Model Criminal Jury Instruction No. 8.124 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 16

INSTRUCTION NO. ____

The defendant is charged in Counts Eight through Ten of the Indictment with bank fraud in violation of Section 1344(2) of Title 18 of the United States Code. In order for the defendant to be found guilty of each charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly carried out a scheme or plan to obtain money or property from the financial institution by making false statements or promises;

Second, the defendant knew that the statements or promises were false;

Third, the statements or promises were material; that is, they had a natural tendency to influence, or were capable of influencing, a financial institution to part with money or property;

Fourth, the defendant acted with the intent to defraud; and

Fifth, the financial institution was federally insured.

Ninth Circuit Model Criminal Jury Instruction No. 8.127 (2010 Edition)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 17

INSTRUCTION NO. ____

The defendant is charged in Counts Eleven through Fifteen of the Indictment with money laundering in violation of Section 1957 of Title 18 of the United States Code. In order for the defendant to be found guilty of each charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly engaged or attempted to engage in a monetary transaction;

Second, the defendant knew the transaction involved criminally derived property;

Third, the property had a value greater than \$10,000;

Fourth, the property was, in fact, derived from wire fraud or bank fraud, as charged in Counts One through Ten of the Indictment; and

Fifth, the transaction occurred in the United States.

The term "monetary transaction" means the deposit, withdrawal, transfer, or exchange, in or affecting interstate commerce, of funds or a monetary instrument by, through, or to a financial institution.

The term "financial institution" means a federally insured bank or any credit union.

The term "criminally derived property" means any property constituting, or derived from, the proceeds of a criminal offense. The government must prove that the defendant knew that the property involved in the monetary transaction constituted, or was derived from, proceeds obtained by some criminal offense. The government does not have to prove that the defendant knew the precise nature of that criminal offense, or knew the property involved in the transaction represented the proceeds of wire fraud and bank fraud, as charged in Counts One through Ten of the Indictment.

Although the government must prove that, of the property at issue more than \$10,000 was criminally derived, the government does not have to prove that all of the property at issue was criminally derived.

Ninth Circuit Model Criminal Jury Instruction No. 8.150 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 18

INSTRUCTION NO. ____

An act is done knowingly if the defendant is aware of the act and does not 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.

Ninth Circuit Model Criminal Jury Instruction No. 5.7 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 19

INSTRUCTION NO. ____

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

Ninth Circuit Model Criminal Jury Instruction No. 5.12 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 20

INSTRUCTION NO. ____

The Indictment charges that the offenses alleged in Counts One through Fifteen were committed “on or about” a certain date.

Although it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged in Counts One through Fifteen of the Indictment, it is not necessary for the government to prove that the offense was committed precisely on the date charged.

Ninth Circuit Model Criminal Jury Instruction No. 3.18 (2010 Edition)

GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 21

INSTRUCTION NO. ____

A separate crime is charged against the defendant in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count.

Ninth Circuit Model Criminal Jury Instruction No. 3.11 (2010 Edition)

GOVERNMENT'S PROPOSED JURY INSTRUCTION NO. 22

INSTRUCTION NO. ____

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

You will then discuss the case with your fellow jurors to reach agreement if you can do so.

Your verdict, whether guilty or not guilty, must be unanimous.

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

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

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

Perform these duties fairly and impartially. Do not allow personal likes or dislikes, sympathy, prejudice, fear, or public opinion to influence you. You should also not be influenced by any person's race, color, religious beliefs, national ancestry, sexual orientation, gender identity, gender, or economic circumstances. Also, do not allow yourself to be influenced by personal likes or dislikes, sympathy, prejudice, fear, public opinion, or biases, including unconscious biases. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention.

It is your duty as jurors to consult with one another and to deliberate with one another with a view towards reaching an agreement if you can do so. During your deliberations, you should not hesitate to reexamine your own views and change your opinion if you become persuaded that it is wrong.

Ninth Circuit Model Criminal Jury Instruction No. 7.1 (2010 Edition)

1 GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 23

2 INSTRUCTION NO. ____

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

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

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

20 The law requires these restrictions to ensure the parties have a fair trial based on the
21 same evidence that each party has had an opportunity to address. A juror who violates
22 these restrictions jeopardizes the fairness of these proceedings. If any juror is exposed to
23 any outside information, please notify the court immediately.

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27 Ninth Circuit Model Criminal Jury Instruction No. 7.2 (2010 Edition)
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GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 24

INSTRUCTION NO. ____

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

Ninth Circuit Model Criminal Jury Instruction No. 7.3 (2010 Edition)

1 GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 25

2 INSTRUCTION NO. ____

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

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27 Ninth Circuit Model Criminal Jury Instruction No. 7.6 (2010 Edition)
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GOVERNMENT’S PROPOSED JURY INSTRUCTION NO. 26

INSTRUCTION NO. ____

A verdict form has been prepared for you. After you have reached unanimous agreement on a verdict, your presiding juror 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.

Ninth Circuit Model Criminal Jury Instruction No. 7.5 (2010 Edition)