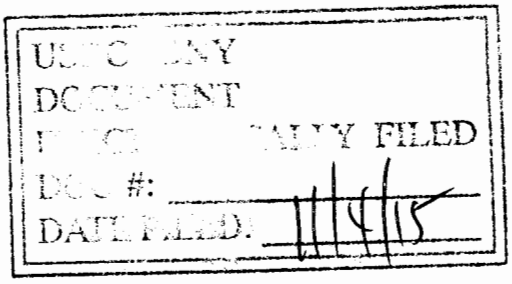
Ct. Ex. 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
	:	
-v-	:	14-cr-272 (JSR)
	:	
ANTHONY ALLEN,	:	
PAUL THOMPSON,	:	
TESTSUYA MOTOMURA, and	:	
ANTHONY CONTI,	:	
	:	
Defendants.	:	



THE COURT'S INSTRUCTIONS OF LAW TO THE JURY

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I. GENERAL INSTRUCTIONS

INSTRUCTION NO. 1

Duty of the Court

We are now approaching the most important part of this case, your deliberations. You have heard all the evidence in the case, as well as the final arguments of the lawyers for the parties. Before you retire to deliberate, it is my duty to instruct you as to the law that will govern your deliberations. As I told you at the start of this case, and as you agreed, it is your duty to accept my instructions of law and apply them to the facts as you determine them.

Regardless of any opinion that you may have as to what the law may be or ought to be, it is your sworn duty to follow the law as I give it to you. Also, if any attorney or other person has stated a legal principle different from any that I state to you in my instructions, it is my instructions that you must follow.

Because my instructions cover many points, I have provided each of you with a copy of them, not only so that you can follow them as I read them to you now, but also so that you can have them with you for reference throughout your deliberations. In listening to them now and reviewing them later, you should not single out any particular instruction as alone stating the law, but you should instead consider my instructions as a whole.

INSTRUCTION NO. 2

Duty of The Jury

Your duty is to decide the fact issues in the case and arrive, if you can, at a verdict. You, the members of the jury, are the sole and exclusive judges of the facts. You pass upon the weight of the evidence; you determine the credibility of the witnesses; you resolve such conflicts as there may be in the testimony; and you draw whatever reasonable inferences you decide to draw from the facts as you determine them.

In determining the facts, you must rely upon your own recollection of the evidence. To aid your recollection, we will send you all the exhibits except the recordings at the start of your deliberations, and if you need to review particular items of testimony, we can also arrange to provide them to you in transcript or read-back form. As for the recordings, we will send you the transcripts as an aid to your recollection, but if you have any question about what was said or how it was said, please send me a note and I will call you back to the courtroom to hear any recording about which you have a question.

Please remember that none of what the lawyers have said in their opening statements, in their closing arguments, in their objections, or in their questions, is evidence. Nor is anything I may have said evidence. The evidence before you consists of just three things: the testimony given by witnesses that was received in evidence, the exhibits that were received in evidence, and the stipulations of the parties that were received in evidence.

Testimony consists of the answers that were given by the witnesses to the questions that were permitted. Please remember that questions, although they may provide the context for

answers, are not themselves evidence; only answers are evidence, and you should therefore disregard any question to which I sustained an objection. Also, you may not consider any answer that I directed you to disregard or that I directed be stricken from the record. Likewise, you may not consider anything you heard about the contents of any exhibit that was not received in evidence.

Furthermore, you should be careful not to speculate about matters not in evidence. For example, there is no legal requirement that the Government prove its case through a particular witness or by use of a particular law enforcement technique. Nor should you speculate about why one or another person whose name may have figured in the evidence is not part of this trial or what his or her situation may be. Your focus should be entirely on assessing the evidence that was presented here for your consideration.

It is the duty of the attorney for each side of a case to object when the other side offers testimony or other evidence that the attorney believes is not properly admissible. Counsel also have the right and duty to ask the Court to make rulings of law and to request conferences at the side bar out of the hearing of the jury. All such questions of law must be decided by me. You should not show any prejudice against any attorney or party because the attorney objected to the admissibility of evidence, asked for a conference out of the hearing of the jury, or asked me for a ruling on the law.

I also ask you to draw no inference from my rulings or from the fact that on occasion I asked questions of certain witnesses. My rulings were no more than applications of the law and my questions were only intended for clarification or to expedite matters. You are expressly to

understand that I have no opinion as to the verdict you should render in this case.

INSTRUCTION NO. 3

Duty of Impartiality

You are to perform your duty of finding the facts without bias or prejudice as to any party. You are to perform your final duty in an attitude of complete fairness and impartiality. You are not to be swayed by rhetoric or emotional appeals.

The fact that the prosecution is brought in the name of the United States of America entitles the Government to no greater consideration than that accorded any other party. By the same token, it is entitled to no less consideration. All parties, whether the Government or individuals, stand as equals at the bar of justice.

Please also be aware that the question of possible punishment is the province of the judge, not the jury, and it should therefore not enter into or influence your deliberations in any way. Your duty is to weigh the evidence and not be affected by extraneous considerations.

It must be clear to you that if you were to let bias, or prejudice, or fear, or sympathy, or any other irrelevant consideration interfere with your thinking, there would be a risk that you would not arrive at a true and just verdict. So do not be guided by anything except clear thinking and calm analysis of the evidence.

INSTRUCTION NO. 4

Presumption of Innocence and Burden of Proof

The two defendants here, Anthony Allen and Anthony Conti, are charged with a number of federal crimes about which I will instruct you shortly. Please bear in mind, however, that the charges, or "counts" as they are called, are not themselves evidence of anything.

The defendants have pleaded not guilty, and you must consider the evidence against each of them individually. To prevail against a given defendant on a given charge, the Government must prove each essential element of that charge beyond a reasonable doubt. This burden never shifts to any defendant, for the simple reason that the law presumes each defendant to be innocent and never imposes upon any defendant in a criminal case the burden or duty of calling any witness or producing any evidence.

In other words, as to each charge, each of the defendants starts with a clean slate and is presumed innocent until such time, if ever, that you as a jury are satisfied that the Government has proved that the defendant in question is guilty of that charge beyond a reasonable doubt.

INSTRUCTION NO. 5

Reasonable Doubt

Since, in order to convict a defendant of a given charge, the Government is required to prove that charge against that defendant beyond a reasonable doubt, the question then is: What is a reasonable doubt? The words almost define themselves. It is a doubt based upon reason. It is doubt that a reasonable person has after carefully weighing all of the evidence. It is a doubt that would cause a reasonable person to hesitate to act in a matter of importance in his or her personal life. Proof beyond a reasonable doubt must therefore be proof of a convincing character that a reasonable person would not hesitate to rely on in making an important decision.

A reasonable doubt is not caprice or whim. It is not speculation or suspicion. It is not an excuse to avoid the performance of an unpleasant duty. The law does not require that the Government prove guilt beyond all possible or imaginable doubt: Proof beyond a reasonable doubt is sufficient to convict.

If, after fair and impartial consideration of the evidence, you have a reasonable doubt as to a defendant's guilt with respect to a particular charge against him, you must find that defendant not guilty of that charge. On the other hand, if, after fair and impartial consideration of all the evidence, you are satisfied beyond a reasonable doubt of a defendant's guilt with respect to a particular charge against him, you should not hesitate to find that defendant guilty of that charge.

INSTRUCTION NO. 6

Direct and Circumstantial Evidence

In deciding whether the Government has met its burden of proof, you may consider both direct evidence and circumstantial evidence.

Direct evidence is evidence that proves a fact directly. For example, where a witness testifies to what he or she saw, heard, or observed, that is called direct evidence.

Circumstantial evidence is evidence that tends to prove a disputed fact by proof of other facts. To give a simple example, suppose that when you came into the courthouse today the sun was shining and it was a nice day, but the courtroom blinds were drawn and you could not look outside. Later, as you were sitting here, someone walked in with a dripping wet umbrella, and, soon after, somebody else walked in with a dripping wet raincoat. Now, on our assumed facts, you cannot look outside of the courtroom and you cannot see whether it is raining. So you have no direct evidence of that fact. But on the combination of the facts about the umbrella and the raincoat, it would be reasonable for you to infer that it had begun raining.

That is all there is to circumstantial evidence. Using your reason and experience, you infer from established facts the existence or the nonexistence of some other fact. Please note, however, that it is not a matter of speculation or guess: it is a matter of logical inference.

The law makes no distinction between direct and circumstantial evidence. Circumstantial evidence is of no more or less value than direct evidence, and you may consider either or both, and may give them such weight as you conclude is warranted.

INSTRUCTION NO. 7

Witness Credibility

It must be clear to you by now that counsel for the Government and counsel for the defendants are asking you to draw very different conclusions about various factual issues in the case. Deciding these issues will involve making judgments about the testimony of the witnesses you have listened to and observed. In making these judgments, you should carefully scrutinize all the testimony of each witness, the circumstances under which each witness testified, and any other matter in evidence that may help you to decide the truth and the importance of each witness's testimony.

Your decision to believe or not to believe a witness may depend on how that witness impressed you. How did the witness appear? Was the witness candid, frank, and forthright, or did the witness seem to be evasive or suspect in some way? How did the way the witness testified on direct examination compare with how the witness testified on cross-examination? Was the witness consistent, or contradictory? Did the witness appear to know what he or she was talking about? Did the witness strike you as someone who was trying to report his or her knowledge accurately? These are examples of the kinds of common sense questions you should ask yourselves in deciding whether a witness is or is not truthful.

How much you choose to believe a witness may also be influenced by the witness's bias. Does the witness have a relationship with the Government or a defendant that may affect how he or she testified? Does the witness have some incentive, loyalty, or motive that might cause him or her to shade the truth? Does the witness have some bias, prejudice, or hostility that may cause

the witness to give you something other than a completely accurate account of the facts he or she testified to?

In this regard, you have heard testimony from Lee Stewart, Paul Robson, and Takayuki Yagami, cooperating witnesses who testified that they have pleaded guilty to activity related to the activity with which the defendants are charged and who have now entered into agreements to cooperate with the Government. The law permits the use of testimony from cooperating witnesses; indeed, such testimony, if found truthful by you, may be sufficient in itself to warrant conviction if it convinces you of a given defendant's guilt beyond a reasonable doubt. However, the law requires that the testimony and motives of a cooperating witness be scrutinized with particular care and caution. After carefully scrutinizing the testimony of a cooperating witness and taking account of its special features, you may give it as little or as much weight as you deem appropriate.

As to all witnesses, you should also consider whether a witness had an opportunity to observe the facts he or she testified about. Also, as to all witnesses, you should consider whether the witness's recollection of the facts stands up in light of the other evidence in the case.

As for defendant Anthony Allen, although he had no obligation to testify, he chose to do so. You must therefore scrutinize and evaluate Mr. Allen's testimony just as you would the testimony of any important witness, taking account of all the factors I have previously described.

In other words, for all witnesses, what you must try to do in deciding credibility is to size up a person just as you would in any important matter where you are trying to decide if a person is truthful, straightforward, and accurate in his or her recollection.

INSTRUCTION NO. 8

Specialized Testimony

The law permits parties to offer opinion testimony from witnesses who were not involved in the underlying events of the case but who by education or experience have expertise in a specialized area of knowledge. In this case, Dr. Lawrence Harris was offered as such a witness by the Government, while Dr. Marti G. Subrahmanyam was offered as such a witness by defendant Allen and Dr. Edward D. Weinberger was offered as such a witness by defendant Conti. Specialized testimony is presented to you on the theory that someone who is learned in the field may be able to assist you in understanding specialized aspects of the evidence.

However, your role in judging credibility and assessing weight applies just as much to these witnesses as to other witnesses. When you consider the specialized opinions that were received in evidence in this case, you may give them as much or as little weight as you think they deserve. For example, a specialized witness necessarily bases his or her opinions, in part or in whole, on what that witness learned from others, and you may conclude that the weight given the witness's opinions may be affected by how accurate or inaccurate that underlying information is. More generally, if you find that the opinions of a specialized witness were not based on sufficient data, education, or experience, or if you should conclude that the trustworthiness or credibility of such a witness is questionable, or if the opinion of the witness is outweighed, in your judgment, by other evidence in the case, then you may, if you wish, disregard the opinions of that witness, either entirely or in part. On the other hand, if you find that a specialized witness is credible, and that the witness's opinions are based on sufficient data, education, and experience, and that the other evidence does not give you reason to doubt the

witness's conclusions, you may, if you wish, rely on that witness's opinions and give them whatever weight you deem appropriate.

INSTRUCTION NO. 9

A Defendant's Right Not to Testify

Defendant Anthony Conti did not testify in this case. Under our Constitution, a defendant has no obligation to testify or to present any evidence, because it is the Government's burden to prove a defendant guilty beyond a reasonable doubt. A defendant is never required to prove that he or she is innocent.

Accordingly, you must not attach any significance to the fact that Mr. Conti did not testify. No adverse inference against Mr. Conti may be drawn by you because he did not take the witness stand, and you may not consider it against Mr. Conti in any way in your deliberations in the jury room.

II. THE CHARGES

INSTRUCTION NO. 10

Summary of the Charges; Multiple Counts/Multiple Defendants

With these preliminary instructions in mind, let us turn to the specific charges against the defendants, Anthony Allen and Anthony Conti. These charges were originally set forth in what is called an indictment, which is simply a charging instrument and is not itself evidence, so it will not be presented to you. The indictment in this case contains a total of nineteen counts, and each count charges a different crime. I will, for convenience, refer to each charge or count by its number as it appears in the indictment. But there is no significance to the order of these numbers, and indeed my instructions will follow a different order than the order in which the various counts appear in the indictment.

Count One charges both defendants, Anthony Allen and Anthony Conti, with conspiracy to commit wire fraud and bank fraud. Counts 2 through 19 charge defendant Allen with individual (or "substantive") acts of wire fraud. Eight of these counts – Counts 4, 7, 8, 10, 13, 14, 15, and 16 – also charge defendant Conti with individual substantive acts of wire fraud.

In reaching your verdict, bear in mind that guilt is personal and individual. The case against each defendant, on each count in which he is named, stands or falls upon the proof or lack of proof against that defendant alone.

INSTRUCTION NO. 11

Wire Fraud (Counts 2-19)

Let us now turn to the elements of the charges against the defendants, Anthony Allen and Anthony Conti. As I noted earlier, Count One charges the defendants with conspiracy to commit wire fraud and bank fraud, but we will first discuss Counts Two through Nineteen, which charge the defendants with the substantive crime of wire fraud, as this will simplify our subsequent discussion of the conspiracy count.

Federal law makes it a crime to use interstate or international wire communications in furtherance of a fraudulent scheme. This is called the crime of wire fraud. In this case, moreover, the indictment charges a particular kind of wire fraud, namely, wire fraud that affected a financial institution. Before a given defendant can be convicted of a given wire fraud charge of this kind, the Government must prove the following four elements beyond a reasonable doubt: first, that there existed a scheme to defraud one or more persons of money or property by means of false or fraudulent pretenses, representations, or promises; second, that the defendant you are considering knowingly and willfully participated at some point in the scheme to defraud, with knowledge of its fraudulent nature and with a specific intent to defraud; third, that in the execution of the scheme to defraud, there occurred at least one use of interstate or international wire communication; and fourth, that the scheme to defraud affected a financial institution.

We will consider these four elements in turn:

As to the first element, a "scheme to defraud" is a plan or design to obtain money or property by means of "false or fraudulent pretenses, representations, or promises." Fraudulent pretenses, representations or promises can take the form of outright lies, but they can also consist

of misleading half-truths. However, the lies or misrepresentations must relate to a material fact, that is, information that a reasonably prudent person would consider important in making a decision to part with money or property.

In this case, the Government charges that the defendants participated in a scheme to manipulate and attempt to manipulate LIBOR interest rates to their advantage by submitting or causing to be submitted on behalf of Rabobank LIBOR rate estimates that were not at the levels the defendants would have honestly submitted otherwise but were instead at levels reflecting, at least in part, an intent to benefit Rabobank's trading positions and thereby obtain profits that Rabobank might not otherwise realize.

In order to establish a scheme or artifice to defraud, the Government is not required to prove that the defendant you are considering originated the scheme to defraud. It is sufficient if you find that a scheme to defraud existed, even if originated by another, and that the given defendant you are considering knowingly and intentionally participated in that scheme. Similarly, while the Government must prove that the scheme was intended to deprive one or more victims of money or property, the Government is not required to prove that the scheme to defraud actually succeeded, that the defendant you are considering personally benefitted from the scheme to defraud, or that any victim actually suffered any loss from the scheme to defraud.

As to the second element – that the defendant you are considering participated at some point in the scheme knowingly, willfully, and with a specific intent to defraud – to act "knowingly" means to act consciously and deliberately rather than mistakenly or inadvertently. This includes, among other things, a requirement that the defendant have knowledge that he was engaged in a fraudulent scheme. However, a defendant's knowledge of a particular fact of

consequence may be proved either directly or by proof that a defendant took deliberate steps to avoid learning what otherwise would have been obvious. Please be clear that this is not a matter of a defendant's mere negligence, foolishness, or mistake; rather, it requires a conscious purpose to avoid learning the truth. For example, if you find that a defendant you are considering was aware of the high probability that a swap trader's request for a higher or lower LIBOR submission was largely based on the trader's desire to benefit a trading position rather than on an objective consideration of Rabobank's borrowing costs, but that the defendant, in order to remain ignorant of the real basis of the trader's request, deliberately chose not to inquire further, then you may find that the defendant actually understood that the trader's request was based on an impermissible consideration.

To act "willfully" means to act voluntarily and with an improper purpose. To act with a "specific intent to defraud" goes further and requires that the defendant you are considering intended, at least in part, to deceive one or more of his trading counterparties in order to obtain money or property or to deprive one or more of the counterparties of material information (as previously defined), and to thereby harm one or more victims.

In this regard, let me advise you that a defendant's good faith is a complete defense to the charges in this case. A statement made with good faith belief in its accuracy does not amount to an intentional false or misleading statement and is not a crime. This is so even if the statement is itself inaccurate or misleading. If a defendant believed in good faith that he was acting properly in making such a statement or causing it to be made, even if he was mistaken in that belief, and even if others were injured by his conduct, there would be no crime. The burden of establishing criminal intent and lack of good faith rests upon the Government. A defendant is under no

burden to prove his or her good faith; rather, the Government must prove bad faith and an intent to defraud beyond a reasonable doubt.

As to the third element – that at least one use of interstate or international wire communication occurred in execution of the fraudulent scheme – "wire" communication includes telephone, fax, and e-mail communications and also includes wire transfers of funds. It is not necessary that the wire communication itself contain a fraudulent representation; rather, it is sufficient if a wire was used to further or assist in carrying out the scheme to defraud and that it pass between two states or between the United States and a foreign country. Also, it is not necessary for a given defendant to be directly or personally involved in sending the wire communication, as long as the communication was reasonably foreseeable in the execution of the scheme to defraud.

The specific wire communication alleged in each count, the origin and destination of each such communication, and the defendant or defendants to which that particular count relates, are set forth in the following chart:

Count	Date	Wire Transmitted From	Wire Transmitted To	Defendant(s) to Which Count Relates
Two	June 18, 2007	New York, NY	Tokyo, Japan	Mr. Allen
Three	March 28, 2008	New York, NY	Singapore	Mr. Allen
Four	April 28, 2008	Utrecht, Netherlands	New York, NY	Mr. Allen and Mr. Conti
Five	May 26, 2008	New York, NY	Singapore	Mr. Allen
Six	March 19, 2008	United Kingdom	New York, NY	Mr. Allen

Seven	September 5, 2005	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Eight	September 6, 2005	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Nine	May 10, 2006	United Kingdom	New York, NY	Mr. Allen
Ten	October 31, 2006	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Eleven	November 9, 2006	United Kingdom	New York, NY	Mr. Allen
Twelve	December 18, 2006	United Kingdom	New York, NY	Mr. Allen
Thirteen	April 10, 2007	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Fourteen	August 9, 2007	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Fifteen	September 19, 2007	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Sixteen	October 17, 2007	United Kingdom	New York, NY	Mr. Allen and Mr. Conti
Seventeen	October 30, 2007	United Kingdom	New York, NY	Mr. Allen
Eighteen	July 24, 2008	United Kingdom	New York, NY	Mr. Allen
Nineteen	July 10, 2008	United Kingdom	New York, NY	Mr. Allen

As to the fourth element – that the scheme to defraud directly affect a financial institution – the Government must prove beyond a reasonable doubt as to each count that at least one of the following financial institutions – Bank of America, Citibank, JP Morgan Chase, Morgan Stanley, PNC Bank, U.S. Bank N.A., and/or Wachovia N.A. – was both (a) insured by the Federal Deposit Insurance Corporation, and (b) directly affected by the scheme to defraud in the sense either that the fraud created an increased risk of loss for that bank or that the investment

decisions of that bank would have been different if the bank had known of the fraud.

INSTRUCTION NO. 12

Conspiracy to Commit Wire Fraud and Bank Fraud (Count One)

Let us now turn to Count One of the indictment, which charges both defendants with conspiracy to commit wire fraud and bank fraud. I have already instructed you on the elements of the substantive charge of wire fraud. Bank fraud has the same elements except that, instead of the use of interstate or international wire communication, it requires that the scheme be specifically intended to defraud a bank insured by the Federal Deposit Insurance Corporation.

In order for a defendant to be guilty of conspiracy, the Government must prove beyond a reasonable doubt: first, that the charged conspiracy existed; and second, that at some point the defendant that you are considering knowingly and willfully joined the conspiratorial agreement and thereby became a member of the conspiracy.

Starting with the first essential element, what is a conspiracy? A conspiracy is an agreement, or an understanding, of two or more persons to accomplish by concerted action one or more unlawful purposes. In this count, the unlawful purposes alleged to be the objects of the conspiracy are the wire fraud scheme and the parallel bank fraud scheme. The conspiracy alleged here is therefore an agreement to commit one or both of these schemes.

Please bear in mind that conspiracy is an entirely distinct and separate offense from any actual wire fraud or bank fraud. The actual commission of the object of the conspiracy is not an essential element of the crime of conspiracy. Rather, the Government is required by prove beyond a reasonable doubt only that two or more persons, in some way or manner, explicitly or implicitly, came to an understanding to accomplish the unlawful objectives of wire fraud and/or bank fraud.

Further, while it is charged that the alleged conspiracy to commit wire fraud and bank fraud began in or around May 2006 and continued up to in or around July 2011, it is not essential that the Government prove that the conspiracy started and ended on those specific dates or that it existed throughout that period. Rather, it is sufficient to satisfy the first element that you find that in fact a conspiracy was formed and that it existed for any time within the charged period.

If you conclude that the Government has proved beyond a reasonable doubt that the charged conspiracy existed, you must then consider the second essential element, which is that the defendant you are considering intentionally joined and participated in the conspiracy. To prove this element, the Government must prove beyond a reasonable doubt that a given defendant entered into the conspiracy to commit wire fraud and/or bank fraud and did so knowingly and willfully.

To act "knowingly" means in this context to act consciously and deliberately rather than mistakenly or inadvertently; and to act "willfully" in this context means to act voluntarily, purposely and with an intent to defraud. Thus, a defendant enters into a conspiracy knowingly and willfully if he joins the conspiracy deliberately, purposefully and with an intent to defraud. If you find beyond a reasonable doubt that the defendant you are considering joined in the charged conspiracy and did so knowingly and willfully, then the second element is satisfied.

In this regard, it is not necessary that a defendant be fully informed of all the details of the conspiracy in order to justify an inference of participation on his part. Nor does a given defendant need to know the full extent of the conspiracy or all its participants. It is not necessary that a defendant receive any monetary benefit from participating in the conspiracy. All that is necessary is proof beyond a reasonable doubt that a defendant knowingly and willfully joined in

the conspiracy for purpose of furthering one or both of its unlawful objects.

A defendant also need not have joined the conspiracy at the outset. A defendant may have joined it at any time in its progress, and he will still be held responsible for what was done before he joined, as well as what was done during his participation in the conspiracy. The law does not require that each conspirator have an equal role in the conspiracy. Even a single act may be sufficient to draw a defendant within the ambit of the conspiracy if it meets the essential requirements I have described.

However, I want to caution you that the mere association by one person with another person does not make that first person a member of the conspiracy even when coupled with knowledge that the second person is taking part in a conspiracy. Mere presence at the scene of a crime, even coupled with the knowledge that a crime is taking place, is not sufficient to support a conviction. In other words, knowledge without participation is not sufficient. What is necessary is that the defendant you are considering participated in the conspiracy with knowledge of its unlawful purpose and with intent to aid in the accomplishment of its unlawful purpose.

In short, in order to satisfy the second essential element of the conspiracy charge, you must find beyond a reasonable doubt that the defendant you are considering, with an understanding of the unlawful character of the charged conspiracy, knowingly and willfully joined and participated in the conspiracy for the purpose of furthering one or both of its unlawful objects.

INSTRUCTION NO. 13

Venue

One last requirement. Before a defendant can be convicted of any given charge, the Government must also establish what is called "venue," that is, that some act in furtherance of that charge occurred in the Southern District of New York. As noted, the Southern District of New York is the judicial district that includes Manhattan, the Bronx, Westchester, and several other counties not here relevant. Venue is proven if any act in furtherance of the crime you are considering occurred in the Southern District of New York, regardless of whether it was the act of the charged defendant or anyone else. Furthermore, on the issue of venue -- and on this issue alone -- the Government can meet its burden by a preponderance of the evidence, that is, by showing that it was more likely than not that an act in furtherance of a given crime occurred in the Southern District of New York.

III. CONCLUDING INSTRUCTIONS

INSTRUCTION NO. 14

Selection of Foreperson; Right to See Exhibits and Hear Testimony; Communications with the Court

You will shortly retire to the jury room to begin your deliberations. As soon as you get to the jury room, please select one of your number as the foreperson, to preside over your deliberations and to serve as your spokesperson if you need to communicate with the Court.

You will be bringing with you into the jury room a copy of my instructions of law and a verdict form on which to record your verdict. In addition, we will send into the jury room all the exhibits that were admitted into evidence except for the recordings. If you want any of the recordings replayed, just send me a note and we will arrange for it. If you want any of the testimony provided to you, that can also be done, in either transcript or read-back form. But please remember that it is not always easy to locate what you might want, so be as specific as you possibly can be in requesting portions of the testimony.

Any of your requests, in fact any communication with the Court, should be made to me in writing, signed by your foreperson, and given to the Marshal, who will be available outside the jury room throughout your deliberations. After consulting with counsel, I will respond to any question or request you have as promptly as possible, either in writing or by having you return to the courtroom so that I can speak with you in person.

INSTRUCTION NO. 15

Verdict; Need for Unanimity; Duty to Consult

You should not, however, tell me or anyone else how the jury stands on any issue until you have reached your verdict and recorded it on your verdict form. As I have already explained, the Government, to prevail on a particular charge against a particular defendant, must prove each essential element of that charge as to that defendant beyond a reasonable doubt. If the Government carries this burden, you should find the defendant guilty of that charge. Otherwise, you must find the defendant not guilty of that charge.

Each of you must decide the case for yourself, after consideration, with your fellow jurors, of the evidence in the case, and your verdict must be unanimous. In deliberating, bear in mind that while each juror is entitled to his or her opinion, you should exchange views with your fellow jurors. That is the very purpose of jury deliberation — to discuss and consider the evidence; to listen to the arguments of fellow jurors; to present your individual views; to consult with one another; and to reach a verdict based solely and wholly on the evidence. If, after carefully considering all the evidence and the arguments of your fellow jurors, you entertain a conscientious view that differs from the others', you are not to yield your view simply because you are outnumbered. On the other hand, you should not hesitate to change an opinion that, after discussion with your fellow jurors, now appears to you erroneous.

In short, your verdict must reflect your individual views and must also be unanimous.

This completes my instructions of law.