

*NO COPY OF THIS TRANSCRIPT MAY BE MADE PRIOR TO JUNE 8, 2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *
UNITED STATES OF AMERICA
v.
IAN FREEMAN
* * * * *

*
* 1:21-cr-41-JL
* December 21, 2022
* 1:48 p.m.
*
*

TRANSCRIPT OF JURY TRIAL
DAY 10 - AFTERNOON SESSION
BEFORE THE HONORABLE JOSEPH N. LAPLANTE

Appearances:

For the Government: Georgiana L. MacDonald, AUSA
Seth R. Aframe, AUSA
John J. Kennedy, AUSA
United States Attorney's Office

For the Defendant: Mark L. Sisti, Esq.
Sisti Law Offices

Court Reporter: Liza W. Dubois, RMR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, New Hampshire 03301
(603)225-1442

I N D E X

PAGE

JURY INSTRUCTIONS

3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: Ladies and gentlemen of the jury, have any of you had any conversations with each other or anyone else during the recess about the trial?

THE JURY: No.

THE COURT: Have any of you been exposed to any information, either purposely or inadvertently, during the recess about the trial?

THE JURY: No.

In that case, we're going to proceed.

By the way, you all have a copy of the instructions I'm about to give you right there on your chair, right? You can do whatever you want with it. You can read along with me. I'm going to go pretty much verbatim. There'll be once or twice when I get off the written instructions to mention something, maybe, but you can read along if you want, you can put it aside if you want and just listen, you can even make notes on it if you want, although I'm going to be reading it pretty much verbatim.

The point to remember is you get to keep that copy throughout your deliberations. You'll always be able to refer to it, your own copy, throughout your deliberations if you want to remind yourself of anything I said about the law. So don't feel the need to read along if you don't want to or even have it in your hand. Just know you can do with it what you like.

1 Okay?

2 Now, at this stage of the trial, it's the duty of
3 the Court to instruct you on the principles of law that you
4 will apply in deciding this case. It is your duty to follow
5 these instructions during your deliberations. You should not
6 single out any one instruction, but instead apply these
7 instructions as a whole to the evidence in the case.

8 The fact that the prosecution is brought in the name
9 of the United States of America entitles the U.S. Attorney to
10 no greater consideration than that accorded to any other party
11 to any litigation. By the same token, it is entitled to no
12 less consideration because it is the USA. All parties, whether
13 government or individuals, stand as equals at the bar of
14 justice.

15 As jurors you are the sole and exclusive judges of
16 the facts. You must weigh the evidence that has been presented
17 impartially without bias, without prejudice, without sympathy.
18 You must make a determination as to what the facts are and what
19 the truth is based upon the evidence presented in this case.
20 You'll decide this case by applying the law as it is given to
21 you in these instructions to the facts as you find them to be
22 from the evidence.

23 Your duty as a juror is to determine what the facts
24 are, what the truth is. In doing that, it will be necessary
25 for you to assess the credibility of each witness and to

1 determine what weight you will give to each witness's
2 testimony. By credibility we mean believability or the
3 truthfulness of the witness.

4 You should carefully scrutinize all the testimony
5 given, the circumstances under which each witness has
6 testified, and every matter in evidence which tends to show
7 whether a witness is worthy of belief or not worthy of belief.
8 For example:

9 Consider each witness's intelligence, motive, state
10 of mind, and demeanor and manner while testifying; consider
11 each witness's ability to observe or to know the matters about
12 which that witness has testified and whether the witness
13 impresses you as having an accurate recollection of those
14 matters; consider whether the witness had any reason for
15 telling the truth or not telling the truth, whether the witness
16 had an interest in the outcome of the case or whether the
17 witness had any friendship, relationship or animosity toward
18 any other individuals involved in the case; consider the
19 extent, if any, to which the testimony of each witness was
20 consistent or inconsistent with itself or with the testimony of
21 other witnesses; and consider the extent, if any, to which the
22 testimony of each witness was either supported or contradicted
23 by other evidence in the case.

24 The testimony of a witness may be discredited or, as
25 we sometimes say in court, impeached, by showing that the

1 witness previously made statements which are different from or
2 inconsistent with his or her testimony here in court.
3 Inconsistent or contradictory statements which are made by a
4 witness outside of court may be considered only to discredit or
5 impeach the credibility of the witness and not to establish the
6 truth of the earlier out-of-court statement. If a prior
7 inconsistent statement was made under oath in a deposition or
8 in an interrogatory answer -- you didn't see any interrogatory
9 answers, so don't worry about that -- it may be introduced not
10 only to impeach the credibility of the witness but also as
11 substantive evidence of the truth of the statement.

12 You must decide what weight, if any, should be given
13 to the testimony of a witness who has made prior inconsistent
14 or contradictory statements. In making this determination, you
15 may consider whether the witness purposely made a false
16 statement or whether it was an innocent mistake; whether the
17 inconsistency concerns an important fact or whether it has to
18 do with a small detail; whether the witness had an explanation
19 for the inconsistency, and whether that explanation appealed to
20 your common sense.

21 In assessing the credibility of each witness, both
22 under direct and cross-examination, you will assign each
23 witness's testimony whatever weight you deem proper. You are
24 not required to believe the testimony of any witness simply
25 because the witness was under oath. You may believe or

1 disbelieve all or part of the testimony of any witness. It is
2 within your province to determine what testimony is worthy of
3 belief and what testimony may not be worthy of belief.

4 During the course of the trial, you heard law
5 enforcement agents testify. You should consider the testimony
6 of law enforcement agents in the same manner as you would
7 consider the testimony of any other witness in the case. In
8 evaluating the credibility of a law enforcement agent, you
9 should use the same tests which you would apply to the
10 testimony of any other witness. In no event should you give
11 the testimony of a law enforcement agent any more credibility
12 or less credibility simply because of that witness's position.

13 During the course of the trial, you also heard
14 testimony from witnesses Christopher Reitmann, Colleen Fordham,
15 Renee Spinella, and Melanie Neighbours, some of whom allegedly
16 participated in the crimes charged against the defendant and/or
17 provided evidence under an agreement or other arrangement with
18 the U.S. Attorney. Some people in this position are entirely
19 truthful when testifying. Still, you should consider the
20 testimony of such individuals with particular caution. They
21 may have had reason to testify or color their testimony in ways
22 that they believed would be beneficial to themselves.

23 In evaluating the testimony of such witnesses, you
24 may consider any agreement or other consideration that the U.S.
25 Attorney has given or may give to them to determine if it

1 affected the way they testified and the events to which they
2 testified. You may consider, for example, whether the witness
3 was motivated by a desire to please the government, including
4 the FBI, other investigators, and the U.S. Attorney, or by a
5 desire to tell the truth. You may consider how a witness's
6 hope of any future benefit as a result of any such agreement or
7 consideration may operate to induce testimony favorable to the
8 government and contrary to that of the defendant.

9 You may also consider the fact that two witnesses,
10 Renee Spinella and Melanie Neighbours, testified under what is
11 known as immunity. What this means is that the United States
12 Attorney has agreed that the testimony of these witnesses may
13 not be used against them in any criminal case brought by the
14 government except in a prosecution for perjury or giving a
15 false statement. Again, as with testimony by any cooperating
16 witness, you should consider immunized testimony with
17 particular caution. In particular, you should consider whether
18 or not the witness's testimony has been colored in any way
19 because of that grant of immunity.

20 During the course of the trial, you heard evidence
21 that a witness, Renee Spinella, has pleaded guilty to a crime
22 related to those that the defendant has been charged with. You
23 are instructed that you are to draw no conclusions or
24 inferences of any kind about the guilt of this defendant,
25 Mr. Freeman, from the fact that a witness pled guilty to a

1 different charge. The decision by another to plead guilty is a
2 personal decision. You must not use that guilty plea in any
3 way as evidence against the defendant on trial here and you
4 must render your verdict as to the defendant solely on the
5 basis of the evidence or lack of evidence against him as
6 detailed in these instructions.

7 You may, however, consider evidence of
8 Ms. Spinella's guilty plea, together with other pertinent
9 evidence, in assessing Ms. Spinella's credibility and deciding
10 how much weight to give to her testimony.

11 To be clear, your sole task is to decide whether the
12 government has proven beyond a reasonable doubt that the
13 defendant is guilty of the crimes charged in the indictment.
14 It is not up to you to decide whether anyone who is not on
15 trial in this case should be prosecuted for a crime. The fact
16 that another person may be guilty of an offense is no defense
17 to the criminal charges against the defendant.

18 During the trial, I asked questions of one or more
19 of the witnesses who testified. I'm not sure if I did,
20 actually. Sometimes I do. I can't remember right now. If I
21 did, you should not infer anything whatsoever from any
22 questions that I have asked of any witness in this case. Do
23 not assume that I hold any opinion regarding any part of this
24 case. You are the sole judges of the facts in this case.

25 I'll be telling you after we're done reading these

1 together just how much you are the judge. You're literally
2 going to be in control of the schedule as of today, when we
3 start, when we stop, when we break, all that. That's going to
4 be up to the jury from now on because you're the judge of the
5 facts and it's going to be up to you to render the verdict.
6 I'm sort of transferring the authority to you at that point.

7 The weight of the evidence is not necessarily
8 determined by the number of witnesses testifying on one or the
9 other side of an issue. You should consider all the facts and
10 circumstances in evidence to determine which of the witnesses
11 are worthy of belief. You may find that the testimony of a
12 small number of witnesses on a particular issue is more
13 credible than the testimony of a greater number of witnesses on
14 the other side of that issue.

15 In reviewing the evidence, you should consider the
16 quality of the evidence and not the quantity. It is not the
17 number of witnesses or quantity of testimony that's important,
18 but the quality of the evidence that has been produced that is
19 important. You will consider all the evidence, no matter which
20 side produced or elicited it, because there is no property
21 rights in witnesses or in the evidence that is presented.

22 In other words, the evidence doesn't belong to one
23 side or the other. It belongs to you. You're to evaluate it.
24 It doesn't matter who -- who produced it, presented, or
25 elicited the evidence.

1 The evidence in this case consists of the sworn
2 testimony of the witnesses, all of the exhibits received in
3 evidence, and any stipulations that the parties have entered.
4 There was one stipulation. You will consider all the evidence
5 no matter which side produced or elicited it because neither
6 side has an exclusive right to the testimony of particular
7 witnesses or to the evidence that is presented.

8 There are two types of evidence that you may
9 properly use in deciding whether a defendant is guilty or not
10 guilty.

11 Direct evidence is direct proof of a fact, such as
12 the testimony given by a witness about what that witness has
13 seen, has heard, or that the witness knows based on personal
14 knowledge. Direct evidence also includes any exhibits that
15 have been marked.

16 Circumstantial evidence is indirect evidence, that
17 is, proof of a chain of fact from which you could find that
18 another fact exists, although it has not been proven directly.
19 In other words, from examining direct evidence, you may be able
20 to draw certain inferences which are reasonable and justified
21 in light of your daily experience. Such inferences constitute
22 circumstantial evidence. You should feel free to reach
23 reasonable conclusions from proven facts. Circumstantial
24 evidence may be given the same weight by you as direct
25 evidence.

1 What's the difference? If -- looking at the back
2 row, right, if jurors number 9 and 10 were sitting right in
3 front of the window, opened the window, looked outside and saw
4 rain falling from the sky and turned around and said to
5 everybody in the courtroom, it's raining outside, that's direct
6 evidence. They have personal knowledge. They looked out the
7 window and they saw the rain.

8 If somebody walked into the courtroom dripping wet,
9 wearing a raincoat, shaking off an umbrella, that would be
10 circumstantial evidence that it's raining outside. You draw an
11 inference from the direct evidence that is circumstantial
12 evidence, but you can weigh them both the same way. The
13 raincoat and the water and the umbrella on the person walking
14 in, that would be direct evidence of water dripping, an
15 umbrella, and a raincoat, but circumstantial evidence that it's
16 raining outside. That's the only difference.

17 During the course of the trial, you have heard
18 several recordings of conversations. This is proper evidence
19 for you to consider. You were also given one transcript to
20 read along as one of the recordings was played.

21 I'm on page 15. I'll go back to 14 in a minute.

22 As you were instructed before the recording was
23 played, the transcript was provided merely to help you follow
24 the recording while it was played. What you read on the
25 transcript is not evidence. What you've heard on the recording

1 is evidence. If you believe at any point that the transcript
2 said something different or varied at all from what you heard
3 on the associated recording, you must be guided solely by what
4 you heard on the recording and not by what you saw on the
5 transcript.

6 Bottom line of this means if you see a dispute
7 between the transcript and the recording, the recording
8 controls. That's the evidence.

9 If you cannot, for example, determine from the
10 recording that a particular word or words were spoken or who
11 spoke them, you must disregard the transcript insofar as that
12 word or words or that speaker is concerned.

13 Backing up to page 14 for a second. You heard that
14 the parties in this case entered into what is known as a
15 stipulation. A stipulation is an agreement that you may
16 consider -- that you may consider certain facts to have been
17 proven even though you did not hear testimony or other evidence
18 of those facts. You may, but are not required to, accept the
19 stipulation as proof of those facts.

20 Okay. Page 16.

21 Certain charts and summaries of the evidence have
22 been admitted into evidence. Charts and summaries are only as
23 good as the underlying supporting material. You should,
24 therefore, give them only such weight as you would give the
25 underlying material.

1 You have heard evidence that the defendant made
2 statements in which the United States Attorney alleges that he
3 admitted certain facts. It's for you to decide, one, whether
4 the defendant made any statements and, two, if so, how much
5 weight to give them. In making those decisions, you should
6 consider all the evidence about the statements, including the
7 circumstances under which the statements may have been made and
8 any facts or circumstances tending to corroborate or contradict
9 the statements.

10 A particular item of evidence is sometimes received
11 for a limited purpose only. You were instructed by the Court
12 that certain evidence was received only for a limited purpose.
13 You may use that evidence only for that limited purpose and not
14 for any other purpose.

15 Now, what's not evidence.

16 Certain things are not evidence and cannot be
17 considered by you as evidence. Agreements and statements by
18 lawyers are not evidence. Sorry. The agreements by the
19 lawyers or stipulations, they are evidence. Arguments and
20 statements by lawyers are not evidence. That just means the
21 opening and the closing and things they said to me in the
22 courtroom when we sometimes -- I don't want to say argued --
23 when we discussed things, right? That's not evidence. Just
24 testimony, exhibits, stipulations.

25 What the attorneys may have said in their opening

1 statements, closing arguments, and at other times is intended
2 to help you interpret the evidence, but it's not evidence.

3 If the facts as you remember them differ from the
4 way the lawyers have stated them, your memory controls. If the
5 law as stated by the lawyers differs from the law as stated by
6 the Court, me, you must take the law from the Court, me.

7 You are not to be concerned with the wisdom of any
8 rule of law as stated by the Court. Regardless of any opinion
9 that you may have had -- that you may have as to what the law
10 ought to be, it would be a violation of your sworn duty to base
11 a verdict upon any other view of the law than that given in the
12 instructions by the Court, just as it would be a violation of
13 your sworn duty as judges of the facts to base a verdict upon
14 anything but the evidence in this case.

15 Questions and objections by lawyers are not
16 evidence, unless the witness adopts the facts as set forth in
17 the question. Lawyers have a duty to their clients to object
18 when they believe a question is improper under the rules of
19 evidence. You should not be influenced by objections or by my
20 rulings on objections. It is the responsibility of the Court
21 to rule on objections and the Court has not intended to
22 indicate in any way by its rulings or by what it has said what
23 the verdict should be in this case. The Court in this case, as
24 in all cases, is completely neutral and impartial and leaves it
25 to the jury to decide the case based on the facts as you find

1 them to be and the law as the Court will give it to you.

2 Testimony that has been excluded or stricken, or
3 that you have been instructed to disregard, is not evidence and
4 must not be considered. Anything you may have seen or heard
5 when the court was not in session is not evidence. That's why
6 I asked you that every single day. You are to decide the case
7 solely on the evidence received at trial.

8 The fact that an indictment is returned against an
9 individual is not evidence of that person's guilt. An
10 indictment is merely a formal method of accusing an individual
11 of a crime in order to bring that person to trial. It is you,
12 the jury, who will determine whether the defendant is guilty or
13 not guilty of the offense charged based on the consideration of
14 all the evidence presented and the law applicable to the case.
15 Therefore, you must not consider the indictment in this case as
16 any evidence of the guilt of the defendant, nor should you draw
17 any inference from the fact that an indictment has been
18 returned against him.

19 The law presumes every defendant to be innocent
20 until proven guilty beyond a reasonable doubt. The defendant,
21 although accused, thus begins a trial with a clean slate, with
22 no evidence against him. The law permits nothing but legal
23 evidence presented before the jury to be considered in support
24 of any charge against a defendant.

25 Again, the reason for the daily questions, right,

1 and the warnings at night, at the end of the day.

2 The presumption of innocence alone is sufficient to
3 acquit a defendant unless the jury is satisfied beyond a
4 reasonable doubt that the defendant is guilty after a careful
5 and impartial consideration of all the evidence in the case.

6 The burden of proof is always on the United States
7 Attorney to prove guilt beyond a reasonable doubt. This burden
8 never shifts to a defendant. That is, the defendant does not
9 have to prove his innocence. The law does not impose upon a
10 defendant in a criminal case the burden or duty of calling any
11 witnesses or producing any evidence. The defendant enters the
12 courtroom and is presumed to be innocent until the
13 United States Attorney convinces you beyond a reasonable doubt
14 that he is guilty of every essential element of the offense
15 charged.

16 If the jury, after careful and impartial
17 consideration of all the evidence in this case, has a
18 reasonable doubt that the defendant is guilty of the charge set
19 forth in the indictment, it must find the defendant not guilty.

20 The jury must never find a defendant guilty based on
21 mere suspicion, conjecture, or guess. Rather, the jury must
22 decide the case on the evidence that is before you and on the
23 reasonable inferences that can be drawn from that evidence.

24 You are not to give any consideration to potential
25 punishments or sentences in deciding this case. The punishment

1 provided by law for the offense charged in the indictment is a
2 matter exclusively within the province of the Court and should
3 never be considered by the jury in any way in arriving at an
4 impartial verdict. You must decide this case based on the
5 evidence you have seen and heard and on the law as the Court
6 gives it to you and not on any punishment you believe the
7 defendant might receive or could receive.

8 The indictment contains eight counts. Count One
9 charges the defendant, Ian Freeman, with operating an
10 unlicensed money transmitting business. Count Two alleges that
11 the defendant -- Count Two charges the defendant with
12 conspiracy to operate an unlicensed money transmitting
13 business. Count Three charges the defendant with money
14 laundering. Count Four charges the defendant with money
15 laundering conspiracy. Counts Five through Eight charge the
16 defendant with income tax evasion. There is one count for each
17 year from 2016 to 2019. Count Five relates to 2016, Count Six
18 to 2017, Count Seven to 2018, and Count Eight relates to 2019.
19 I will describe those charges in more detail in a moment.

20 A separate crime is charged in each count of the
21 indictment. The jury should consider each charge and the
22 evidence pertaining to it separately. The fact that you may
23 find the defendant guilty or not guilty as to one or some of
24 the counts should not control your verdict as to the other
25 counts.

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

8 The indictment also alleges that an approximate
9 amount of monies were involved in the crimes charged. It's not
10 necessary for the government to prove those exact amounts as
11 alleged in the indictment.

12 Count One. Count One of the indictment charges
13 Mr. Freeman with operating an unlicensed money transmitting
14 business.

15 For you to find Mr. Freeman guilty of this crime,
16 you must be convinced that the United States Attorney has
17 proven each of the following elements beyond a reasonable
18 doubt:

19 First, the defendant knowingly controlled,
20 conducted, managed, directed, supervised, or owned a business;

21 Second, that the business engaged in money
22 laundering;

23 Third, that business affected interstate or foreign
24 commerce;

25 And, fourth, the business was unlicensed.

1 MR. SISTI: Your Honor, if I could just ask you to
2 read the second again, please.

3 THE COURT: Sorry. I must have -- sure.

4 Second, that the business engaged in money
5 transmitting.

6 MR. SISTI: Thank you.

7 THE COURT: Did I say laundering?

8 MR. SISTI: Yeah.

9 THE COURT: I'm sorry. Transmitting.

10 I will now further explain some of these elements
11 and define some of these terms for you.

12 Business. A business is an enterprise that is
13 regularly carried on for financial gain. It does not include a
14 single, isolated transmission of money.

15 Money transmitting. Money transmitting includes
16 transferring funds by any and all means. Funds includes
17 bitcoin. Transferring means to convey to another location or
18 person.

19 Knowingly. Knowingly means that the defendant was
20 aware of the facts that establish the existence of a money
21 transmitting business, in other words, the defendant knew that
22 he was participating in an enterprise carried on for financial
23 gain that involved more than a single isolated act of
24 transferring funds.

25 Affects interstate or foreign commerce. The third

1 element requires proof beyond a reasonable doubt that the money
2 transmitting business affected interstate or foreign commerce.
3 Interstate or foreign commerce means the movement of goods,
4 services, funds, or individuals between states or between the
5 United States and a foreign state or nation. To satisfy this
6 element, the government must prove that the money transmitting
7 business affected interstate or foreign commerce in any manner,
8 no matter how minimal.

9 Unlicensed money transmitting business. An
10 unlicensed money transmitting business is a money transmitting
11 business affecting interstate commerce that satisfies at least
12 one of the following:

13 A, the money transmitting business failed to comply
14 with the money transmitting business registration requirements
15 under federal law;

16 Or, B, the money transmitting business involved the
17 transportation or transmission of funds that the defendant
18 knows to be derived from a criminal offense or intended to be
19 used to promote or support unlawful activity.

20 I will explain each of these categories further,
21 beginning with the first one, compliance with a federal
22 registration requirement.

23 Under federal law, any person who owns or controls a
24 money transmitting business, as already defined, is required to
25 register the business. To satisfy this category, the

1 government does not need to prove that the defendant knew that
2 the federal law required the registration of a money
3 transmitting business. As long as the witness was required
4 under federal law to register with the Financial Crimes
5 Enforcement Network, FinCEN, and failed to do so, and
6 Mr. Freeman knew that the business was unregistered, that is,
7 he was not under the mistaken assumption that the business, in
8 fact, was registered with FinCEN, the element is satisfied.
9 Again, this element focuses on federal registration
10 requirements. These federal criminal charges do not involve or
11 allege violations of state laws.

12 To satisfy the second category of an unlicensed
13 money transmitting business, the government does not need to
14 prove that the funds were derived from or intended to promote
15 any specific criminal offense.

16 You may find the defendant guilty on count if you
17 find beyond a reasonable doubt that Mr. Freeman knowingly
18 controlled, conducted, managed, supervised, directed, or owned
19 a money transmitting business that affected interstate or
20 foreign commerce and that money transmitting business -- and
21 that money transmitting business falls within one of the two
22 unlicensed categories described above. You need not find that
23 the money transmitting business satisfied both categories. You
24 also need not agree unanimously on which category the
25 business -- which category rendered the business unlicensed, so

1 long as you agree unanimously that it was, in fact, unlicensed.

2 As a final note, this is a general intent crime.
3 The prosecution is not required to prove the reason for, or
4 motive behind, Mr. Freeman's actions or decisions with respect
5 to business registration. Whether Mr. Freeman acted in
6 good-faith reliance on the advice of counsel is not a defense
7 to this crime.

8 Count Two. Count Two of the indictment charges that
9 from at least in and around January 2016 until about March 15,
10 2021, Mr. Freeman conspired with another person or people to
11 operate an unlicensed money transmitting business.

12 For you to find Mr. Freeman guilty of this crime,
13 you must be convinced that the United States Attorney has
14 proven each of the following elements beyond a reasonable
15 doubt:

16 First, an agreement existed between at least two
17 people to operate an unlicensed money transmitting business;

18 Second, Mr. Freeman willfully joined the conspiracy;

19 And, third, at least one of the conspirators
20 committed an overt act during the period of conspiracy alleged
21 by the government in an effort to further the conspiracy.

22 Now I will describe some of the elements further,
23 beginning with the first element.

24 First element. A conspiracy is an agreement, spoken
25 or unspoken. It does not need to be a formal agreement or a

1 plan in which everyone involved sat down together and worked
2 out all the details. Thus, for the government to satisfy this
3 element, it need not prove that there was any express or formal
4 agreement. It is sufficient for the government to show that
5 the conspirators came to a mutual understanding to operate an
6 unlicensed money transmitting business by means of a joint plan
7 or scheme. In determining whether there was a conspiracy, you
8 may consider the actions and statements of all of those you
9 find to be participants as proof that a common design existed
10 on the part of the conspirators to act together to accomplish
11 the unlawful objective.

12 Second element. The second element asks whether
13 Mr. Freeman knowingly, willfully, and intentionally joined in
14 the alleged conspiracy. To act willfully means to act
15 voluntarily and intelligently and with a specific intent that
16 the underlying crime be committed. That is to say with bad
17 purpose either to disobey or disregard the law, not to act by
18 ignorance, accident, or mistake. The government must prove two
19 types of intent beyond a reasonable doubt before Mr. Freeman
20 can be said to have acted willfully or to have willfully joined
21 the conspiracy, an intent to agree and an intent that the
22 underlying crime be committed.

23 Proof that Mr. Freeman willfully joined in the
24 agreement must be based upon evidence of his own words or
25 actions. The extent of the defendants' participation has no

1 bearing on the defendant's guilt or innocence. Some
2 conspirators may play major roles while others have minor
3 participation. Moreover, it is not required that a person be a
4 member of the conspiracy from its very start to be a
5 conspirator. Nor is it required that a person agree
6 specifically to or know about all the details of the crime or
7 know every other coconspirator.

8 The government must prove beyond a reasonable doubt
9 that Mr. Freeman knew the essential features and general aims
10 of the venture with the intention of accomplishing the unlawful
11 ends.

12 That said, a person who has no knowledge of a
13 conspiracy, but simply happens to act in a way that furthers
14 some object or purpose of the conspiracy, is not a conspirator.
15 Similarly, mere association with a conspiracy member does not
16 make someone a conspirator.

17 Third element. Finally, the government must prove
18 beyond a reasonable doubt that at least one overt act was
19 knowingly committed by at least one of the conspirators at or
20 about the time alleged and that the act was in furtherance of
21 some object of the conspiracy. It is not required that the
22 overt act itself be a criminal act. The overt act just needs
23 to be a step that furthers or promotes the conspiracy.

24 The indictment alleges the following overt acts:
25 A, between and around May 2016 and on or about

1 March 15, 2021, the defendant opened and operated accounts at
2 financial institutions as personal accounts with the purpose to
3 use them to sell virtual currency.

4 B, between in and around May 2016 and on or about
5 March 15, 2021, the defendant opened and operated accounts at
6 financial institutions in the names of religious organizations
7 with a purpose to use them to sell virtual currency.

8 C, between in and around May 2016 and on or about
9 March 15, 2021, the defendant paid others to open bank accounts
10 in their names or in the names of purported religious
11 organizations with the purpose to allow the defendant to use
12 the accounts to sell virtual currency.

13 D, between in or around May 2016 and on or
14 about March 15, 2021, the defendant met customers on
15 localbitcoins.com and sold them bitcoin in exchange for fiat
16 currency.

17 E, between in or around May 2016 and on or about
18 March 15, 2021, the defendant operated virtual currency kiosks.

19 Count Three. Count Three of the indictment alleges
20 Mr. Freeman with the crime of money laundering. The indictment
21 charges that on or about August 25, 2020, in the District of
22 New Hampshire and elsewhere, the defendant knowingly conducted
23 a financial transaction involving property represented by an
24 authorized agent of the U.S. Government to be proceeds of
25 specified unlawful activity. That is, the distribution of

1 controlled substances. The allegation is that the transaction
2 consisted of the exchange of \$19,900 in U.S. dollars for
3 approximately 1.54 bitcoin. The indictment charges that the
4 defendant conducted this transaction with the intent to conceal
5 and disguise the nature, location, source, ownership, and
6 control of the \$19,900, which was, again, believed to be the
7 proceeds of the distribution of controlled substances.

8 For you to find Mr. Freeman guilty of this crime,
9 you must be convinced that the U.S. Attorney has proven each of
10 the following elements beyond a reasonable doubt:

11 First, Mr. Freeman conducted or attempted to conduct
12 a financial transaction;

13 Second, the financial transaction involved property
14 that law enforcement represented to be the proceeds of
15 specified unlawful activity, in this case the trafficking of
16 controlled substances;

17 Third, Mr. Freeman believed that the financial
18 transaction involved the proceeds of the specified unlawful
19 activity, that is, the trafficking of controlled substances;

20 And, fourth, Mr. Freeman conducted or attempted to
21 conduct the financial transaction knowing that it was intended
22 to conceal or disguise the nature, location, source, ownership,
23 or control of the proceeds of the specified unlawful activity,
24 that is, the trafficking of controlled substances.

25 I will now define some of these terms for you.

1 Conduct. The phrase conduct a financial transaction
2 appears in the first element. The verb conduct includes
3 initiating, concluding, or participating in initiating or
4 concluding a financial transaction.

5 Transaction. The term transaction includes a
6 transfer, delivery, or other disposition, and with respect to a
7 financial institution, it includes a deposit, withdrawal,
8 transfer between accounts, or any other payment, transfer, or
9 delivery by, through, or to a financial institution by whatever
10 means affected.

11 Financial transaction. The term financial
12 transaction includes any transaction, as that term has just
13 been defined, which in any way or degree affects interstate or
14 foreign commerce involving the movement of funds by wire or
15 other means or involving one or more money instruments. As I
16 previously described, bitcoin constitutes funds. The term
17 financial transaction also includes any transaction involving
18 the use of a financial institution which is engaged in or the
19 activities of which affect interstate or foreign commerce in
20 any way or degree. Also, as I described for Count One,
21 interstate or foreign commerce means the movement of goods,
22 services, funds, or individuals between states or between the
23 United States and a foreign state or nation.

24 It is not necessary for the government to show that
25 the defendant actually intended or anticipated an effect on

1 interstate commerce by his actions. What is necessary is that
2 the natural and probable consequence of the acts the defendant
3 took would be to affect interstate commerce. If you decide
4 that there would be any effect at all on interstate commerce,
5 even minimal, then that's enough to satisfy this element.

6 Represented. The term represented means any
7 representation made by a law enforcement officer at the time or
8 before the transaction at issue. The evidence need not show
9 that the law enforcement officer expressly described the
10 property involved in the transaction as the proceeds of a
11 specified unlawful activity. It is sufficient if the
12 government proves that the officer made enough representations
13 to cause a reasonable person to understand that the property
14 involved in the transaction was the proceeds of trafficking or
15 controlled substances, which is the specified unlawful activity
16 named in the indictment.

17 Proceeds. The term proceeds means any property
18 derived for -- from or obtained or retained, directly or
19 indirectly, through some form of unlawful activity, including
20 the gross receipts of such activity.

21 Knowledge, belief, or intent. One more note
22 regarding the required knowledge, belief, or intent behind this
23 crime, which you heard in the third or fourth elements above.
24 Spending or investing illegally obtained assets on its own is
25 not a crime. For you to find Mr. Freeman guilty of money

1 laundering, you must conclude beyond a reasonable doubt that
2 Mr. Freeman believed that the financial transaction involved
3 the proceeds of the trafficking of controlled substances and
4 that he knew that the transaction was designed, in whole or in
5 part, to conceal or disguise the nature, location, source,
6 ownership or control of the proceeds of the trafficking of
7 controlled substances.

8 Knowledge may not ordinarily be proven directly
9 since there is no way to directly assess the workings of the
10 human mind. In determining what Mr. Freeman knew, believed or
11 intended at a particular time, you may consider any statements
12 made or the acts done or omitted by Mr. Freeman and all other
13 facts and circumstances received in evidence that may aid in
14 your determination of Mr. Freeman's knowledge or intent. You
15 may infer, but you are certainly not required to infer, that a
16 person intends the natural and probable consequences of acts
17 knowingly done or knowingly omitted.

18 A defendant who deliberately -- who is deliberately
19 ignorant of a fact, sometimes called willfully blind of a fact,
20 can be treated as having actual knowledge of the fact.
21 Therefore, you may infer, but you are certainly not required to
22 infer, that Mr. Freeman had knowledge of a particular fact if
23 you find that Mr. Freeman deliberately closed his eyes to a
24 fact that would have otherwise been obvious to him. Two things
25 must be established before you can choose to infer actual

1 knowledge based on willful blindness. First, the defendant
2 must be aware of a high probability of the fact in question.
3 Second, the defendant must consciously and deliberately avoid
4 learning the fact in question. When considering whether
5 Mr. Freeman was willfully blind, it's important to bear in
6 mind that mere negligence, recklessness, or mistake are not
7 sufficient. There must be a deliberate effort to remain
8 ignorant, where the defendant was aware of the high probability
9 of a fact.

10 Count Four of the indictment charges sometime
11 between May 2016 and March 15, 2021, Mr. Freeman conspired with
12 another person or other people to conduct at least one
13 financial transaction affecting interstate commerce and the
14 transaction or transactions involved the proceeds of wire
15 fraud. Count Four of the indictment further charges that
16 Mr. Freeman conducted the transactions while knowing that the
17 transactions were designed, in whole or in part, to conceal or
18 disguise the nature, location, source, ownership, or control of
19 those proceeds, and while knowing that the proceeds were from
20 some form of unlawful activity.

21 In the instructions for Count Two, I have already
22 explained to you the definition of conspiracy. Those
23 instructions apply here as well. However, unlike in Count Two,
24 the conspiracy charge here in Count Four does not require that
25 the government prove beyond a reasonable doubt -- prove the

1 existence of an overt act in furtherance of the conspiracy.

2 Thus, for you to find Mr. Freeman guilty of this
3 crime, you must be convinced that the U.S. Attorney has proven
4 each of the following elements beyond a reasonable doubt:

5 First, two or more persons entered into an agreement
6 or mutual understanding to launder money;

7 Second, that Mr. Freeman knowingly, willfully, and
8 intentionally agreed with one or more persons to enter into the
9 agreement to launder money;

10 And, third, that Mr. Freeman entered the agreement
11 with the intent to further its unlawful purpose.

12 I will now further explain some of the elements and
13 define some of these for you.

14 Money laundering. The previous count, Count Three,
15 charges Mr. Freeman with money laundering. I defined the
16 elements of money laundering -- of that money laundering charge
17 when explaining Count Three. There are different types of
18 money laundering crimes, however, and they may have different
19 elements. This money laundering conspiracy charge involved a
20 different type of money laundering than I previously described
21 for Count Three.

22 In Count Three, the allegation is that the
23 transaction occurred involving property that law enforcement
24 represented to be the proceeds of the trafficking of controlled
25 substances. Here, the allegation is that Mr. Freeman agreed to

1 conduct financial transactions involving funds that were, in
2 fact, the proceeds of a wire fraud offense.

3 Wire fraud. Wire fraud is a scheme to defraud or to
4 obtain money or property by materially false and fraudulent
5 pretenses, representations, or promises. To be wire fraud,
6 interstate or foreign wire communications must be used to
7 further or execute the scheme. For example, a wire fraud would
8 occur if it is proven beyond a reasonable doubt that someone
9 fraudulently induced another person to send money to someone.

10 To be clear, Mr. Freeman is not charged with
11 committing the wire fraud. He is charged with conspiring to
12 launder the proceeds of wire fraud committed by others. Thus,
13 the government does not need to prove that Mr. Freeman himself
14 committed or was responsible for any wire fraud. However,
15 the government must prove that at least some money -- strike
16 that -- the government must prove that at least some amount of
17 money or property Mr. Freeman conspired to launder included
18 proceeds of wire fraud.

19 The government is not required to prove that all of
20 the funds involved in the charged transactions were the
21 proceeds of wire fraud. It is sufficient if the government
22 proves beyond a reasonable doubt that at least part of the
23 funds involved in a transaction includes proceeds of wire
24 fraud.

25 Just a couple more notes on this count.

1 Knowledge. For you to find the defendant guilty of
2 money laundering conspiracy, you must conclude beyond a
3 reasonable doubt that the defendant knew that he was joining in
4 an agreement in which the financial transaction or transactions
5 were the proceeds of some unlawful activity. You need not
6 conclude, however, that the defendant knew that the proceeds
7 were the proceeds of wire fraud specifically.

8 You must also conclude beyond a reasonable doubt
9 that Mr. Freeman knew that at least one purpose of the
10 financial transaction or transactions contemplated by the
11 agreement was to conceal or disguise the nature, location,
12 source, ownership, or control of these unlawful proceeds.

13 As I described for Count Three, you may, but are not
14 required to, infer actual knowledge based on evidence of
15 willful blindness, that is awareness of a high probability of
16 the fact in question and conscious and deliberate avoidance of
17 learning the fact in question. You can refer to the
18 instructions in Count Three for a fuller description of willful
19 blindness and how knowledge, belief, or intent can be proven.

20 Other members of the conspiracy. Finally, some of
21 the people who may have been involved in the event alleged in
22 this count are not on trial. The circumstances -- this
23 circumstance has no bearing on whether the prosecution has
24 proven the defendant's guilt. There is no requirement that all
25 members of a conspiracy be charged and prosecuted, or tried

1 together or in one proceeding. Nor is there any requirement
2 that the names of all the other conspirators are listed in the
3 indictment. An indictment can charge a defendant with a
4 conspiracy involving people whose names are not given as long
5 as the government can prove that the defendant conspired with
6 one or more of them. Whether they are named or not has no
7 bearing.

8 Income tax evasion. Counts Five through Eight of
9 the indictment charge Mr. Freeman with income tax evasion, that
10 is, the willful intent to evade either the assessment or the
11 payment of income tax. Each count refers to an individual
12 calendar year from 2016 to 2019. Count Five is for year 2016;
13 Count Six is for year 2017; Count Seven is for year 2018; Count
14 Eight is for year 2019.

15 For you to find Mr. Freeman guilty of this crime,
16 you must be convinced that the United States Attorney has
17 proven each of the following elements beyond a reasonable
18 doubt:

19 First, Mr. Freeman owed substantially more federal
20 income tax for the year in question than he paid or was
21 assessed;

22 Second, Mr. Freeman attempted to evade or defeat the
23 assessment or payment of this tax;

24 Third, in attempting to evade or defeat the
25 assessment or payment of this tax, Mr. Freeman acted willfully;

1 And, fourth, Mr. Freeman committed an affirmative
2 act in furtherance of this intent.

3 Willful. Willful as used here means that the law
4 imposed a duty on the defendant, the defendant knew of that
5 duty, and the defendant voluntarily and intentionally violated
6 that duty.

7 If Mr. Freeman acted in good faith, he did not act
8 willfully. The burden to prove Mr. Freeman's state of mind, as
9 with all other elements of the crime, rests with the
10 government. This is a subjective standard. However, this --
11 strike that.

12 This is a subjective standard. What Mr. Freeman --
13 what did Mr. Freeman actually believe, not what a reasonable
14 person should have believed. However, you may consider the
15 reasonableness of the belief in deciding whether Mr. Freeman
16 actually held the belief. Innocent mistakes caused by the
17 complexity of the Internal Revenue Code or negligence, even
18 gross negligence, are not enough to meet the willfulness
19 requirement. But philosophical disagreement with the law or a
20 belief that the tax laws are invalid or unconstitutional does
21 not satisfy good faith and does not prevent a finding of
22 willfulness. You must, therefore, disregard views such as
23 those no matter how sincerely they are held. It is the duty of
24 every person to obey the law.

25 As I described in Count Three, you may, but are not

1 required to, infer actual knowledge based on evidence of
2 willful blindness, that is, awareness of a high probability of
3 the fact in question and conscious and deliberate disregard --
4 conscious and deliberate avoidance of learning the fact in
5 question.

6 I'll say that again. High probability of the fact
7 in question and conscious and deliberate avoidance of learning
8 the fact in question. That's willful blindness.

9 Also, as I described in Count Three, knowledge may
10 not ordinarily be proven directly since there is no way to
11 directly assess the workings of the human mind. You can refer
12 to the instructions for Count Three for a fuller description of
13 willful blindness and how knowledge, belief, or intent can be
14 proven.

15 Affirmative act. The defendant may not be convicted
16 of attempting to evade or defeat the federal income tax payment
17 on the basis of a willful omission alone, such as mere failure
18 to file a Form 1040 or a mere failure to pay the tax due. The
19 defendant must have undertaken an affirmative act of evasion.
20 Examples of affirmative acts that may satisfy the Government's
21 burden of proof include, but are not limited to, the filing of
22 a frivolous tax return that substantially understates taxable
23 income, by the filing of a false Form W-4, or by
24 other affirmative acts of concealment or tax -- concealment of
25 taxable income such as keeping double sets of books, making

1 false entries or alterations of false invoices or documents,
2 destroying books or records, concealing assets or covering up
3 sources of income, handling one's affairs so as to avoid
4 keeping customary records and/or other contact whose likely
5 effect would be to mislead the Internal Revenue Service or
6 conceal income. If a motive to evade or defeat tax assessment
7 played any part in any -- and plays any part in an affirmative
8 act, you may consider it even if the affirmative act serves
9 other purposes as well such as privacy or concealment. These
10 are illustrative, not exclusive, examples of affirmative acts.

11 Here the indictment alleges that the defendant
12 committed the following affirmative acts of evasion:

13 One, obtained employer identification numbers for
14 purported churches;

15 Two, opened and operated accounts at federal
16 institutions in the names of those churches;

17 Three, caused virtual currency customers to deposit
18 funds into accounts at financial institutions in the names of
19 the purported churches;

20 Four, directed virtual currency customers to conceal
21 the nature of the funds deposited into the accounts he
22 controlled;

23 Five, caused third parties to open bank accounts for
24 him to use for his virtual currency business;

25 And, six, disabled "know your customer" features in

1 virtual currency ATMs. You must unanimously find, beyond a
2 reasonable doubt, that the defendant committed one of these
3 affirmative acts, but you need not unanimously agree on which
4 of the alleged particular act or acts he committed.

5 You're going to have a verdict form, a form to fill
6 out, that you'll fill out as a jury or the foreperson will fill
7 out and sign. I'll explain the idea of a foreperson in a
8 minute.

9 In the verdict form, you will be asked to indicate
10 whether you find the defendant guilty or not guilty of the
11 offenses charged in the indictment. Remember that you may not
12 find the defendant guilty unless you unanimously find that the
13 United States Attorney has proven beyond a reasonable doubt
14 each element of the crime in question.

15 Now, you were told you could take notes during the
16 trial and some of you did. I want to remind you of the
17 instructions I gave you about your notes. I'm going to remind
18 you about one of the instructions, the important one. You
19 can't use your notes as authority to persuade other jurors.
20 Your notes should be used only as an aid to your own memory and
21 must not be used as authority to persuade the other jurors of
22 what the evidence was during the trial. You might have made an
23 error or a mistake in recording what you have seen or heard.
24 You also might have misheard or misperceived the evidence.
25 It's all possible. In the end, each juror must rely on his or

1 her own recollection or impression as to what the evidence was.
2 Your notes are not official transcripts of the testimony.

3 I'll have more to say about the transcript issue in
4 a minute.

5 You will be able to view the documentary evidence
6 and exhibits in this case through an electronic system called
7 JERS, J-E-R-S. J-E-R-S stands for Jury Evidence Recording
8 System. In your deliberation room is a plasma TV. You'll be
9 able to view the exhibits on the plasma TV screen. It's
10 operated by touch. The courtroom deputy will show you a brief
11 tutorial. It won't be difficult. Jurors use it all the time.

12 You should understand that you will also have all
13 documentary exhibits in paper copy to examine as well. The
14 JERS system is simply another way for you to view the exhibits
15 together on a larger screen. The advantage is that you can all
16 see the exhibits on the screen and discuss that exhibit while
17 seeing it displayed on the screen. You may consider any and
18 all exhibits in the JERS system.

19 It is easy to use, especially after you see the
20 tutorial. But if you have a question about JERS, as with any
21 other question that you might have, you must put it in writing.
22 Even if you need some sort of technical assistance with JERS,
23 you'll need to put your request in writing so the court
24 security officer can present it to me and I'll get you whatever
25 help you need. Before resolving any of your questions, I will

1 also show your -- any questions that you send out to the
2 lawyers.

3 Okay. The principles of law as set forth in these
4 instructions are intended to guide you in reaching a fair and
5 just result in this case, which is important to both parties.
6 You are to exercise your judgment and common sense without
7 prejudice, without sympathy, but with honesty and
8 understanding. You should be conscientious in your
9 determination of a just result in this case because that is
10 your highest duty as officers of this court. Remember also
11 that the question before you can never be will the government
12 lose the case -- win or lose the case. The government always
13 wins when justice is done, regardless of whether the verdict is
14 guilty or not guilty.

15 When you have considered and weighed all the
16 evidence, you must make one of the following findings with
17 respect to each crime charged:

18 One, if you have a reasonable doubt as to whether
19 the U.S. Attorney has proved any one or more of the elements of
20 the crime charged, including the identity of the defendant as
21 the perpetrator of the crime, it is your duty to find the
22 defendant not guilty.

23 If you find that the United States Attorney has
24 proved all the elements of the crime beyond a reasonable doubt,
25 including the identity of the defendant as the perpetrator of

1 the crime, then you may find the defendant guilty.

2 As I explained before, the punishment provided by
3 law for the offense charged in the indictment is a matter
4 exclusively within the province of the Court and should never
5 be considered by the jury in any way in arriving at an
6 impartial verdict.

7 When you retire, you should elect one of your
8 members of the jury as your foreperson. That individual will
9 act very much like the chairperson of a committee, seeing to it
10 that the deliberations are conducted in an orderly fashion and
11 that each juror has a full and fair opportunity to express his
12 or her views, positions, and arguments on the evidence and the
13 law.

14 The verdict must represent the considered judgment
15 of each juror. In order to return a verdict, it is necessary
16 that each juror agree thereto. Your verdict must be unanimous.

17 And you go through it count by count. That verdict
18 form will make sure you -- tell you to proceed from count to
19 count to count. Always go through all of the counts, no matter
20 what. If you returned a verdict of guilty, proceed to the next
21 count; if you return a verdict of not guilty, proceed to the
22 next count. You'll report them to us all together on one form.

23 It's your duty as jurors to consult with each other
24 or one another and to deliberate with a view to reaching an
25 agreement if you can do so without violence to your individual

1 judgment. Each of you must decide the case for yourself, but
2 do so only after an impartial consideration of the evidence in
3 the case with the other jurors. In the course of your
4 deliberations, do not hesitate to reexamine your own views and
5 to change your position if convinced it is erroneous. But do
6 not surrender your honest conviction as to the weight or effect
7 of the evidence solely because of the opinion of the other
8 jurors or merely for the purpose of returning a verdict. You
9 should also take as much time for deliberation in this case as
10 you consider to be necessary and appropriate.

11 Let's talk about time for a minute. You're about
12 to -- you'll have this case in the deliberation room by three
13 o'clock today. All right? You'll be there with the exhibits
14 and with each other. Then you can start talking about the case
15 finally, deliberating.

16 The length of your deliberations is totally up to
17 you. We've been working from 9:00 to 5:00. If you decide at
18 five o'clock today that you want to go home, you say it's time
19 to go home and you'll be -- you'll leave; you'll end your
20 deliberations. If you decide you want to deliberate later into
21 the evening for whatever reason, just because you want to
22 continue or because you want to try to reach a verdict for any
23 given reason during today as opposed to coming back tomorrow,
24 that's totally up to you. It's also totally up to you whether
25 you want to come back tomorrow. Right? If you come back, we

1 presume you'll want to start at 9:00, but if you have a
2 different start time, you'll tell us.

3 You decide when you start, you decide when you stop,
4 and you'll decide as a jury how long you deliberate. Sometimes
5 juries deliberate a really long time, sometimes they deliberate
6 a short time. All that matters is that you go through all the
7 evidence and work through each of the alleged charges, each
8 element of each charge. Then, if you return a unanimous
9 verdict, guilty or not guilty, it's a just verdict. That's the
10 only requirement. The length of time it takes is not an issue.
11 And what time you start and stop is no longer up to Joe
12 Laplante. It's up to the jury. Understand? All right.

13 And, by the way, sometimes the jury needs a break.
14 Sometimes a juror, you know, has a cigarette habit or something
15 and needs to have a cigarette or gets a -- gets an emergency
16 notification about something. If a juror has to leave, even
17 just to go to the bathroom for one minute, you cannot continue
18 to deliberate. You must wait for the jury to be an entire jury
19 again, a jury of 12, to deliberate. All right? So there's no
20 continuing the deliberations if someone leaves the room. Okay.

21 Remember, you are not partisans. You are judges,
22 judges of the facts. Your sole interest is to seek the truth
23 from the evidence in the case. If during your deliberations it
24 becomes necessary to communicate with the Court, in other
25 words, if you have a question or you need to let me know

1 something, you may do so only in writing, signed by the
2 foreperson or by one or more members of the jury. Give that
3 note to the court security officer and it will be brought to my
4 attention immediately.

5 I'll respond to you. I'll either -- I'll respond to
6 you in one of two ways. I'll write you a response, either on
7 the note or on an accompanying document, or I'll bring you into
8 the courtroom and I'll speak to you. One way or the other,
9 I'll answer any question you have. But, again, if you have a
10 question, it must be in writing, it must come out signed by the
11 foreperson or another juror.

12 No member of the jury should ever attempt to
13 communicate with the Court except by a signed writing, and the
14 court will communicate with the juror on anything about the
15 case either in writing or orally in the courtroom. Remember
16 that you are not to tell anyone, including the Court, how the
17 jury stands, numerically or otherwise, on the matters you are
18 deciding until after you have reached a unanimous verdict or
19 have been discharged.

20 Nothing said in these instructions is intended to
21 suggest or to convey in any way or manner what your verdict
22 should be. The verdict is the sole and exclusive duty and
23 responsibility of the jury.

24 When you have completed the verdict form according
25 to these instructions and the instructions on the form, you

1 will have concluded your deliberations and arrived at a
2 verdict. At that point, the foreperson should sign and take --
3 sign and date the verdict form, then notify the security
4 officer, and you will be returned to the courtroom.

5 Now, Kellie, can you get the iPad?

6 THE CLERK: Yes.

7 THE COURT: Thank you.

8 THE CLERK: You're welcome.

9 THE COURT: Just give me a moment. I need a second
10 because I need to -- I need to pick the four alternates and
11 explain to you how that's going to work.

12 Counsel, if there's no objection, my plan is to use
13 an app that randomly selects numbers.

14 MR. SISTI: Random selection is agreeable.

15 THE COURT: Random selection by a phone app is
16 agreeable?

17 MR. SISTI: That's fine.

18 THE COURT: Okay. I'm having a little difficulty
19 opening it. Just give me a second.

20 Okay. I'm going to pick four numbers between one
21 and 16 randomly by phone app. The four I pick are going to be
22 the alternates. Let me explain how it works for alternates so
23 you know it's coming.

24 You're still a member of the jury, which means all
25 the rules apply to you, which means you can't talk about the

1 case to anybody until you're discharged as a juror. But if
2 you're one of the four alternates, you won't be involved in the
3 deliberations unless one of the 12 becomes indisposed or, God
4 forbid, just can't be here for some reason. Then, if that
5 happens, the first alternate will replace it, deliberations
6 will start all over again. We won't try the case all over
7 again, but we start the deliberations all over again.

8 We picked four alternates. We never do that,
9 really. We usually only pick two. We picked four because we
10 were afraid of COVID. And, you know, thank God, it didn't
11 become an issue, but that's why we picked four. So four of you
12 aren't going to get to deliberate, likely.

13 What do you do? You'll be allowed to leave if you
14 want. You'll also be allowed to stay if you want. It's
15 completely up to you. You're welcome to be here and wait while
16 the jury deliberates. You're also totally welcome to go live
17 your life. As long as you're a member, you can't talk to
18 anybody about it while you're out there until the case is over
19 and you've been discharged.

20 And as long as we -- Kellie will have your number so
21 if we need you, we will call you, you'll come back to us and
22 you're back in the jury. That's how it works.

23 I know it would be probably be a bit of a letdown to
24 be selected as an alternate now after spending a few weeks
25 here, but in the United States of America, federal criminal

1 juries are 12 people. So if you're one of them, I apologize in
2 advance, but it might happen.

3 Okay. Juror number 1, alternate. Juror number 1 is
4 alternate number 1.

5 THE CLERK: Okay. Thank you.

6 THE COURT: Juror number 13. Juror number 13 is
7 alternate number 2. Juror number 3 -- juror number 3 is
8 alternate number 3. Juror number 6, I think that's the last --
9 yup.

10 All right. So those are our four jurors. You are
11 alternates now. Again, you're welcome to stay; you're also
12 welcome to go. You can sort of have your life back. But we --
13 I want to make sure we have your cell phone numbers or how we
14 can to reach you if we need to because you may be summonsed
15 back to court if you are needed.

16 Now, for the rest of you, the courtroom part of the
17 trial is over unless we return here on a question. It's time
18 for you to start your deliberations. We're going to swear you
19 in now. Actually, you've already been sworn. We're going to
20 swear in the court security officer who's going to maintain the
21 security of your deliberations. You're not going to see people
22 walking in and out of the room or anything like that. Your
23 room is going to be made secure because your deliberations are
24 secret.

25 Swear the court security officer, please.

1 THE CLERK: Please raise your right hand.

2 (Sworn by the deputy clerk.)

3 THE COURT: Thank you, Officer.

4 Before I discharge the jury to their deliberations,
5 does -- does counsel have anything they need to say to the
6 Court, anything we need to preserve?

7 MR. SISTI: No, your Honor. Thank you.

8 MR. AFRAME: No, your Honor.

9 THE COURT: All right. I do want to -- I do want
10 to -- I want to stress to you how serious I am when I say
11 you're in control of the schedule. We'll be waiting for you.
12 Once in a while we might check with you at the end of the day
13 or something and ask you, look, do you want to continue or do
14 you want to go home, and if -- when you leave, we'll probably
15 ask you what time you want to start the next day. But that's
16 about it. You are in control of it.

17 I encourage you -- I encourage you to choose a
18 foreperson, just to make sure things are done in an orderly
19 way. Remember, the foreperson's opinion doesn't matter more or
20 less than anybody else's. It's just like the chairman of a
21 committee. It's making sure things are orderly and that
22 everybody gets a say to participate.

23 All right. Please discharge the jury to their
24 deliberations.

25 THE CLERK: Please rise for the jury.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Jury excused.)

THE COURT: Please be seated.

So we have to get the exhibits together and get them into that room.

Anything for the Court?

So Kellie's got your numbers -- I've got your numbers, Kellie's got your numbers, and we'll call you if we need you. Don't go too far.

Very well done, counsel. Very well done.

(Jury retired to deliberate at 3:01 p.m.)