

1 IN THE UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ILLINOIS
 3 EASTERN DIVISION
 4 UNITED STATES OF AMERICA,) No. 02 CR 506
 5)
 6 Plaintiff,)
 7 vs.) Chicago, Illinois
 8)
 9 LAWRENCE E. WARNER and)
 10 GEORGE H. RYAN, SR.,)
 11) March 10, 2006
 12 Defendants.) 1:30 p.m.
 13
 14 VOLUME 94
 15 TRANSCRIPT OF PROCEEDINGS - TRIAL
 16 BEFORE THE HONORABLE REBECCA R. PALLMEYER, and a jury
 17
 18 APPEARANCES:
 19 For the Plaintiff: HON. PATRICK J. FITZGERALD
 20 UNITED STATES ATTORNEY
 21 BY: MR. PATRICK M. COLLINS
 22 MR. JOEL R. LEVIN
 23 MR. ZACHARY T. FARDON
 24 MS. LAURIE J. BARSELLA
 25 219 South Dearborn Street, 5th Floor,
 Chicago, Illinois 60604
 For Defendant Warner: GENSON & GILLESPIE
 BY: MR. EDWARD M. GENSON
 MS. CAROLYN PELLING GURLAND
 53 West Jackson Boulevard, Suite 1420,
 Chicago, Illinois 60604
 MARC MARTIN, LTD.
 BY: MR. MARC W. MARTIN
 53 West Jackson Boulevard, Suite 1420,
 Chicago, Illinois 60604

1 (Proceedings in open court. Jury out.)
 2 MR. WEBB: Your Honor, one issue before the jury
 3 comes in.
 4 THE COURT: All right.
 5 MR. WEBB: Mr. Collins handed me a new testimonial
 6 chart he's going to put up on the screen in which Mr. Ruebenson
 7 talks about the fairness of his investigation, and I just want
 8 to state on the record my objection to this. There is no issue
 9 in the case. There's no instruction that tells this jury to
 10 address the fairness of the Government's investigation.
 11 I never said a single word in my entire argument that
 12 I know of where I ever said the Government did anything unfair
 13 in this investigation. I talked about facts and the evidence
 14 that's of record for whatever the reason it's in evidence, and
 15 so I do object to the Government making fairness of the
 16 investigation an issue when, in fact, it's not an issue that
 17 the jury is going to be instructed on or told that they need to
 18 address in connection with rendering a verdict in this case.
 19 So I object. I object to it.
 20 MR. COLLINS: Your Honor, again, I heard a different
 21 closing argument than Mr. Webb apparently heard or gave. The
 22 fairness is an issue. I'm not asking for a legal instruction.
 23 I mean, there's a question of testimony, Judge. This is
 24 testimony in the record. Mr. Webb objected and said there was
 25 no testimony about it, and there was. Agent Ruebenson

1 APPEARANCES: (Cont.)
 2 For Defendant Ryan: WINSTON & STRAWN
 3 BY: MR. DAN K. WEBB
 4 MR. BRADLEY E. LERMAN
 5 MS. JULIE A. BAUER
 6 MR. TIMOTHY J. ROONEY
 7 35 West Wacker Drive,
 8 Chicago, Illinois 60601
 9 and
 10 DePAUL UNIVERSITY
 11 BY: PROFESSOR ANDREA D. LYON
 12 25 East Jackson Boulevard,
 13 Chicago, Illinois 60604
 14
 15 Also Present: Mr. Raymond Ruebenson, FBI
 16 Ms. Sue Roderick, IRS
 17
 18
 19
 20
 21
 22
 23 Court Reporter: FRANCES WARD, CSR, RPR, FCRR
 24 Official Court Reporter
 25 219 South Dearborn Street, Suite 2118,
 Chicago, Illinois 60604
 (312) 427-7702

1 testified about this very issue that Mr. Webb cut me off on. I
 2 should be allowed -- I provided him the exact pages, and I
 3 should be allowed in 30 seconds, Judge, to throw this up on the
 4 screen. That's what I want to do.
 5 THE COURT: Let me see it.
 6 MR. WEBB: My objection --
 7 THE COURT: Let me see it.
 8 MR. COLLINS: (Handing document to the Court.)
 9 MR. WEBB: What my objection goes to is that fairness
 10 is not an issue, that the entire issue should never have been
 11 raised in front of the jury, let alone revisited.
 12 MR. COLLINS: Judge, then we shouldn't have done
 13 Yankton, and then we shouldn't have done what Mr. Webb did for
 14 five months. I'm sorry, Judge.
 15 MR. FARDON: Judge, how many times did you hear the
 16 phrase "that's not fair" while pointing at the Government's
 17 table during these closings, and now Mr. Webb says fairness is
 18 not an issue? He just said in front of this jury "that's not
 19 in evidence" when Mr. Collins was making an argument about what
 20 Agent Ruebenson testified, and it is. Judge, we have to be
 21 permitted to respond to that. It is in evidence. We're not --
 22 this is not gilding the lily. This is not rhetoric. This is
 23 what's in evidence.
 24 MR. WEBB: Your Honor --
 25 MR. COLLINS: Judge, unfair? Judge, how can I not

1 (Discussion off the record.)
 2 MR. COLLINS: Folks, I said from the beginning that
 3 this is a case about trust. It's about whether George Ryan
 4 breached his duty of honest services to the people of the state
 5 of Illinois and whether Larry Warner joined him in that scheme.
 6 That's the core and central issue in this case.
 7 Folks, you know, I'm not a historian, but I
 8 understand that the Native American culture had a concept that
 9 the land was held in trust. When you lived on a piece of land,
 10 you had to tend to that land and take care of that land and
 11 pass it on to the next generation in the same or better
 12 condition as when you got it.
 13 Folks, that's really what you do as a public servant.
 14 You're supposed to be a person of trust. You're supposed to
 15 work on behalf of the taxpayers. You're supposed to do the job
 16 for them. If you don't want to do that, then you don't have to
 17 be in public service. But when you do, then you say all these
 18 things: I'm doing it repeatedly. I'm investigating. I don't
 19 talk to Larry Warner and Don Udstuen about contracts. I do my
 20 job. Nobody does campaign work on state time.
 21 Those are all the right things, folks, but it's not
 22 the words, it's the actions. In this case, in this case,
 23 ladies and gentlemen, you need to focus on the actions that you
 24 have heard through the testimony and the documents. Did George
 25 Ryan breach that trust? Did Larry Warner join him in that

1 business, the people who work as technicians, the people who
 2 work in the post office, the people who work as office
 3 managers, the people who work in the post office, the people
 4 who work in offices, the people who teach kids, the people who
 5 work in Home Depot, Walgreens, the truck drivers, the heavy
 6 equipment folks, the offices, the people who tend bar, the
 7 people who work for grocery stores, you guys decide. You guys
 8 decide: Is this politics, or is this a crime?
 9 I ask you to go back there as a team, argue, debate,
 10 discuss, look at the evidence, and come back in here and do
 11 some justice. Return a guilty verdict as to Mr. Ryan and
 12 Mr. Warner. Thank you.
 13 THE COURT: Thank you, Mr. Collins.
 14 Ladies and gentlemen, the next step, as I have
 15 explained, is for me to give you your instructions on the law,
 16 and this is going to take a few minutes, actually more than a
 17 few minutes. It's going to take a little while. Because it is
 18 a fair amount of just plain reading, we're going to display the
 19 instructions to you at the same time.
 20 And just so you know, I do want you to pay attention.
 21 I do want you to listen. You will also get copies of the
 22 instructions to take with you in the courtroom -- I mean, into
 23 deliberations, and I believe I understand each of you will get
 24 a set. So that's the plan.
 25 I think we'll stretch right now and perhaps get this

1 breach of trust?
 2 Now, you're about to go back and do a very, very
 3 important thing. We can talk about it and I can start yelling
 4 and screaming, but I did a little bit of that and I'm done
 5 doing that. I want to talk for just a couple minutes at the
 6 end of this process about doing justice.
 7 Folks, I'm a big baseball fan, and the White Sox won
 8 the World Series. Gosh, it seems like that was years ago, but
 9 you were sitting in this room when that happened. But you are
 10 the most important team in Chicago right now. You folks are
 11 the ones who get to decide whether what you heard about in this
 12 courtroom is politics or is a crime. You get to hear -- you
 13 get to decide whether what you heard was business, a
 14 businessman trying to do business, or whether it was a crime.
 15 Mr. Genson said yesterday that you can't be cynical,
 16 and he is absolutely right. But, you know, the cynics, the
 17 cynics say: Who cares? The cynics say: Who cares? Because
 18 "who cares" is a question of: Leave me alone. It doesn't
 19 matter. This corruption stuff doesn't matter.
 20 Well, folks, you decide. You decide whether
 21 corruption matters. You decide whether there's a tangible
 22 consequence to corruption. Not us, not how the prosecutors
 23 think, you decide. The people who raise our families, the
 24 people who work and build our homes, the people who served our
 25 country and work at stores, the people who work in our shipping

1 set up, and I don't know if you've got a hard copy for me.
 2 (Discussion off the record.)
 3 THE COURT: You're welcome to exit if you'd like to,
 4 but please keep the noise down. I want to begin right now, and
 5 I will take a break during the course of this because I know
 6 this is going to be somewhat long and slow. Let me know when
 7 -- I think Courtney is going to be helping us with this.
 8 Let me know when you're ready.
 9 MS. GRAY: All set.
 10 THE COURT: All right. Great.
 11 Members of the jury, you have seen and heard all the
 12 evidence and the arguments of the attorneys. Now I will
 13 instruct you on the law. You have two duties as a jury. Your
 14 first duty is to decide the facts from the evidence in the
 15 case. This is your job and yours alone. Your second duty is
 16 to apply the law that I give you to the facts. You must follow
 17 these instructions even if you disagree with them. Each of the
 18 instructions is important, and you must follow all of them.
 19 Perform these duties fairly and impartially. Do not allow
 20 sympathy, prejudice, fear, or public opinion to influence you.
 21 Nothing I say now and nothing I said or did during
 22 the trial is meant to indicate any opinion on my part about
 23 what the facts are or about what your verdict should be. The
 24 evidence consists of the testimony of the witnesses, the
 25 exhibits admitted in evidence, and stipulations. A stipulation

1 is an agreement between both sides that certain facts are true
 2 or that a person would have given certain testimony.
 3 You are to decide whether the testimony of each of
 4 the witnesses is truthful and accurate in part, in whole, or
 5 not at all, as well as what weight, if any, you give to the
 6 testimony of each witness. In evaluating the testimony of any
 7 witness, you may consider, among other things, the witness'
 8 age, the witness' intelligence, the ability and opportunity the
 9 witness had to see, hear, or know the things that the witness
 10 testified about, the witness' memory, any interest, bias, or
 11 prejudice the witness may have, the manner of the witness while
 12 testifying, and the reasonableness of the witness' testimony in
 13 light of all the evidence in the case.
 14 You should use common sense in weighing the evidence
 15 and consider the evidence in light of your own observations in
 16 life. In our lives, we often look at one fact and conclude
 17 from it that another fact exists. In law, we call this
 18 inference. A jury is allowed to make reasonable inferences.
 19 Any inferences you make must be reasonable and must be based on
 20 the evidence in the case.
 21 Some of you have heard the phrases "circumstantial
 22 evidence" and "direct evidence." Direct evidence is the
 23 testimony of someone who claims to have personal knowledge of
 24 the commission of the crime which has been charged, such as an
 25 eyewitness. Circumstantial evidence is the proof of a series

1 aids to your memory. The notes are not evidence. If you have
 2 not taken notes, you should rely on your independent
 3 recollection of the evidence and not be unduly influenced by
 4 the notes of other jurors. Notes are not entitled to any
 5 greater weight than the recollections or impressions of each
 6 juror about the testimony. It is proper for an attorney to
 7 interview any witness in preparation for trial.
 8 You may find the testimony of one witness or a few
 9 witnesses more persuasive than the testimony of a larger
 10 number. You need not accept the testimony of the larger number
 11 of witnesses.
 12 You will receive a summary of the indictment for
 13 purposes of your consideration. The indictment in this case is
 14 the formal method of accusing the defendants of an offense and
 15 placing them on trial. It is not evidence against the
 16 defendants and does not create any inference of guilt.
 17 Defendant George H. Ryan, Sr., is charged with
 18 racketeering conspiracy, Count 1; mail fraud, Counts 2 through
 19 10; making materially false statements to the FBI, Counts 11
 20 through 13; corruptly obstructing or impeding the IRS, Count
 21 18; and filing false tax returns, Counts 19 through 22.
 22 Defendant George H. Ryan, Sr., has pleaded not guilty to the
 23 charges.
 24 Defendant Lawrence Warner is charged with
 25 racketeering conspiracy, Count 1; mail fraud, Counts 2 through

1 of facts which tend to show whether the defendant is guilty or
 2 not guilty. The law makes no distinction between the weight to
 3 be given either direct or circumstantial evidence. You should
 4 decide how much weight to give to any evidence. All the
 5 evidence in the case, including the circumstantial evidence,
 6 should be considered by you in reaching your verdict.
 7 Certain things are not evidence. I will list them
 8 for you. First, testimony and exhibits that I struck from the
 9 record or that I told you to disregard are not evidence and
 10 must not be considered.
 11 Second, anything that you may have seen or heard
 12 outside the courtroom is not evidence and must be entirely
 13 disregarded. This includes any press, radio, or television
 14 reports you may have seen or heard. Such reports are not
 15 evidence, and your verdict must not be influenced in any way by
 16 such publicity.
 17 Third, questions and objections by the lawyers are
 18 not evidence. Attorneys have a duty to object when they
 19 believe a question is improper. You should not be influenced
 20 by any objection or by my ruling on it.
 21 Fourth, the lawyer's statements to you are not
 22 evidence. The purpose of these statements is to discuss the
 23 issues and the evidence. If the evidence as you remember it
 24 differs from what the lawyers said, your memory is what counts.
 25 Any notes you've taken during this trial are only

1 5 and Counts 7 through 9; extortion, Count 14; money
 2 laundering, Counts 15 and 16; and structuring of financial
 3 transactions to evade reporting requirements, Count 17.
 4 Defendant Warner has pleaded not guilty to the charges.
 5 The defendants are presumed to be innocent of each of
 6 the charges. This presumption continues during every stage of
 7 the trial and your deliberations on the verdict. It is not
 8 overcome unless from all the evidence in the case you are
 9 convinced beyond a reasonable doubt that the defendant is
 10 guilty as charged.
 11 The United States has the burden of proving the guilt
 12 of a defendant beyond a reasonable doubt as to each count.
 13 This burden of proof stays with the United States throughout
 14 the case. The defendants are never required to prove their
 15 innocence or to produce any evidence at all. A defendant has
 16 an absolute right not to testify. The fact that a defendant
 17 did not testify should not be considered by you in any way in
 18 arriving at your verdict.
 19 You have heard evidence of acts of defendant George
 20 H. Ryan, Sr., other than those with which he is charged in this
 21 case. You may consider this evidence only on the question of
 22 the intent, plan, knowledge, and absence of mistake of the
 23 defendant with respect to the offenses with which he is
 24 charged. You should consider this evidence only for this
 25 limited purpose.

1 You've heard opinion evidence about a defendant's
 2 character trait for honesty and integrity. You should consider
 3 character evidence together with and in the same way as all the
 4 other evidence in the case.

5 You have heard witnesses give opinions about matters
 6 requiring special knowledge or skill. You should judge this
 7 testimony in the same way that you judge the testimony of any
 8 other witness. The fact that such a person has given an
 9 opinion does not mean that you are required to accept it. Give
 10 the testimony whatever weight you think it deserves,
 11 considering the reasons given for the opinion, the witness'
 12 qualifications, and all of the other evidence in the case.

13 Certain demonstrative exhibits, charts, and diagrams
 14 have been shown to you. Those are used for your convenience --
 15 those are used for convenience and to help explain the facts of
 16 the case. They are not themselves evidence or proof of any
 17 facts.

18 You have heard evidence that before the trial
 19 witnesses made statements that may be inconsistent with the
 20 witness' testimony here in court. If you find that it is
 21 inconsistent, you may consider the earlier statements in
 22 deciding the truthfulness and accuracy of that witness'
 23 testimony in this trial. If that statement was made under
 24 oath, you may also consider it as evidence of the truth of the
 25 matters contained in the prior statement.

1 these summaries should be considered together with and in the
 2 same way as all other evidence in the case.

3 You have heard and seen recorded statements and
 4 conversations. These recorded statements and conversations are
 5 proper evidence, and you may consider them just as any other
 6 evidence. When the audio recordings were played during the
 7 trial, you were furnished transcripts of the recorded
 8 conversations prepared by Government agents. The recordings
 9 are the evidence, and the transcripts were provided to you only
 10 as a guide to help you follow as you listened to the
 11 recordings.

12 The transcripts are not evidence of what was actually
 13 said or who said it. It is up to you to decide whether the
 14 transcripts correctly reflect what was said and who said it.
 15 If you notice any difference between what you heard on the
 16 recordings and what you read in the transcripts, you must rely
 17 on what you heard, not what you read. And if after careful
 18 listening you could not hear or understand certain parts of the
 19 recordings, you must ignore the transcripts as far as those
 20 parts are concerned.

21 I am providing you with the recordings and a player.
 22 You are not required to play the tapes in part or in whole.
 23 You may rely instead on your recollections of these recordings
 24 as you heard and saw them at trial. If you do decide to listen
 25 to an audio recording and wish to have the transcript

1 You've heard testimony from Nicole Altounian, Ken
 2 Brodsky, Frank Cavallaro, Mike Chamness, James Covert, Anthony
 3 DeSantis, Vicki Easley, Harry Klein, Bradley Roseberry, Len
 4 Sherman, Nancy Smith, Larry Stern, Kevin Wright, and Michael
 5 Fairman, who received immunity, that is, a promise from the
 6 Government that any testimony or other information they
 7 provided would not be used against them in a criminal case.

8 You've also heard testimony from Richard Juliano and
 9 Don Udstuen, who were convicted of offenses, and Scott Fawell,
 10 who was convicted of offenses including lying under oath, each
 11 of whom received benefits from the Government. The convictions
 12 of Richard Juliano, Donald Udstuen, and Scott Fawell are not to
 13 be considered as evidence against either of the defendants
 14 here.

15 You may give the testimony of the witnesses who
 16 received immunity and the testimony of Richard Juliano, Donald
 17 Udstuen, and Scott Fawell, such weight as you feel it deserves,
 18 keeping in mind that it must be considered with caution and
 19 great care.

20 Certain summaries are in evidence. The accuracy of
 21 some of these summaries has been challenged by a defendant.
 22 The original materials upon which the summaries are based have
 23 also been admitted into evidence so that you may determine
 24 whether the summaries are accurate. Neither defendant has
 25 challenged the accuracy of the other summaries in evidence, and

1 corresponding to that recording, ask the marshal or the court
 2 security officer in writing, and the transcript will be given
 3 to you. You may choose to listen to the audio recordings
 4 without the transcript.

5 The summary of indictment charges that the offenses
 6 were committed on or about certain dates. The Government must
 7 prove that the offenses happened reasonably close to the dates
 8 alleged but is not required to prove that the alleged offenses
 9 happened on those exact dates.

10 Even though the defendants are being tried together,
 11 you must give each of them separate consideration. In doing
 12 this, you must analyze what the evidence shows about each
 13 defendant, leaving out of consideration any evidence that was
 14 admitted solely against the other defendant. Each defendant is
 15 entitled to have his case decided on the evidence and the law
 16 that applies to that defendant. Defendant Ryan's statements to
 17 Government agents and the press cannot be considered by you as
 18 evidence against defendant Warner.

19 When the word "knowingly" or the phrase "the
 20 defendant knew" is used in these instructions, it means that
 21 the defendant realized what he was doing and was aware of the
 22 nature of his conduct and did not act through ignorance,
 23 mistake, or accident. Knowledge may be proved by the
 24 defendant's conduct and by all the facts and circumstances
 25 surrounding the case.

1 Solely with respect to your consideration of
 2 diversion of state resources for a campaign-related purpose
 3 which relates solely to defendant Ryan, you may infer knowledge
 4 from a combination of suspicion and indifference to the truth.
 5 Only in that context if you find that defendant Ryan had a
 6 strong suspicion that things were not what they seemed or that
 7 someone had withheld some important facts, yet intentionally
 8 shut his eyes for fear of what he would learn, you may conclude
 9 that he acted knowingly, as I've used that word. You may not
 10 conclude that the defendant had knowledge if he was merely
 11 negligent in not discovering the truth.

12 "To attempt" means that a defendant knowingly took a
 13 substantial step toward the commission of the offense with the
 14 intent to commit that offense. An offense may be committed by
 15 more than one person. A defendant's guilt may be established
 16 without proof that the defendant personally performed every act
 17 constituting the crime charged.

18 Any person who knowingly aids, counsels, commands,
 19 induces, or procures the commission of an offense may be found
 20 guilty of that offense. That person must knowingly associate
 21 with the criminal activity, participate in the activity, and
 22 try to make it succeed.

23 If a defendant knowingly caused the acts or omissions
 24 of another, the defendant is responsible for those acts as
 25 though he personally committed them. A defendant's association

1 conspiracy in violation of 18 United States Code section
 2 1962(d). Title 18 United States Code section 1962 provides in
 3 pertinent part:

4 "(c) It shall be unlawful for any person employed by
 5 or associated with any enterprise engaged in or the activities
 6 of which affect interstate or foreign commerce to conduct or
 7 participate directly or indirectly in the conduct of such
 8 enterprise's affairs through a pattern of racketeering
 9 activity.

10 "(d) It shall be unlawful for any person to conspire
 11 to violate the provisions of subsection (c) of this section."

12 To prove a defendant guilty of conspiracy to commit
 13 racketeering as charged in Count 1, the Government must prove
 14 the following propositions: first, that the defendant
 15 knowingly conspired to conduct or participate in the conduct of
 16 the affairs of an enterprise through a pattern of racketeering
 17 activity as described in Count 1; second, that the State of
 18 Illinois was an enterprise; third, that the activities of the
 19 enterprise would affect interstate or foreign commerce.

20 If you find that each of these propositions has been
 21 proved beyond a reasonable doubt as to a defendant, then you
 22 should find that defendant guilty of Count 1. If, on the other
 23 hand, you find that any of those propositions has not been
 24 proved beyond a reasonable doubt as to a defendant, then you
 25 should find that defendant not guilty of Count 1.

1 with alleged conspirators or persons involved in a criminal
 2 enterprise is not by itself sufficient to prove his
 3 participation or membership in a conspiracy or criminal
 4 enterprise. If a defendant performed acts that advanced a
 5 criminal activity but had no knowledge that a crime was being
 6 committed or was about to be committed, those facts alone are
 7 not sufficient to establish a defendant's guilt.

8 In this case, the defendants are charged with
 9 violations of various federal laws, including violation of the
 10 mail fraud and racketeering laws. The defendants are not
 11 charged in this case with any substantive state crimes or any
 12 violations of state regulations, although as I will describe
 13 later in these instructions, the defendants are alleged to have
 14 conspired to commit various racketeering acts, some of which
 15 involved state laws and state regulations.

16 To find a defendant guilty of the charged federal
 17 offenses, it is not enough to find that one or both of the
 18 defendants violated Illinois law, but instead you must consider
 19 Illinois law along with all of the elements of law that I
 20 instruct you on. Your job is to decide whether the Government
 21 has proved beyond a reasonable doubt every element of each
 22 particular federal offense you are considering based on the
 23 instructions I give you.

24 Instructions regarding Count 1. Defendants Ryan and
 25 Warner have been charged in Count 1 with racketeering

1 A conspiracy is an agreement between two or more
 2 persons to accomplish an unlawful purpose. A conspiracy may be
 3 established even if its purpose was not accomplished. To
 4 sustain the charge of conspiracy, the Government must prove,
 5 first, that the conspiracy as charged in Count 1 existed and,
 6 second, that the defendant knowingly became a member of the
 7 conspiracy with an intention to further the conspiracy.

8 To be a member of the conspiracy, the defendant need
 9 not join at the beginning or know all the other members or the
 10 means by which its purpose was to be accomplished. The
 11 Government must prove beyond a reasonable doubt that the
 12 defendant was aware of the common purpose and was a willing
 13 participant.

14 In deciding whether the charged conspiracy exists,
 15 you may consider the actions and statements of every one of the
 16 alleged participants. An agreement may be proved from all the
 17 circumstances and the words and conduct of all the alleged
 18 participants which are shown by the evidence.

19 In deciding whether a particular defendant joined the
 20 charged conspiracy, you must base your decision only on what
 21 that defendant did or said. In determining what that defendant
 22 did or said, you may consider that defendant's own words or
 23 acts. You may also consider the words or acts of other persons
 24 to decide what that defendant did or said, and you may use them
 25 to help you understand what that defendant did or said.

1 The defendants are charged with participating in a
 2 single conspiracy to conduct and to participate in the conduct
 3 of the affairs of an enterprise through a pattern of
 4 racketeering activity. Proof that there were multiple
 5 conspiracies is not necessarily proof of a single conspiracy,
 6 nor is it necessarily inconsistent with the existence of a
 7 single conspiracy.
 8 Proof of several separate or independent conspiracies
 9 will not establish the single conspiracy alleged in Count 1
 10 unless one of the several conspiracies which is proved is
 11 included within the single conspiracy alleged in Count 1.
 12 If you do not find beyond a reasonable doubt that a
 13 particular defendant was a member of any conspiracy, you should
 14 find that defendant not guilty of Count 1, the racketeering
 15 conspiracy charge.
 16 If you find beyond a reasonable doubt that there was
 17 one overall conspiracy as alleged in Count 1 and that a
 18 particular member was a member of that conspiracy, then you
 19 should find that defendant guilty of Count 1.
 20 If you find beyond a reasonable doubt that there were
 21 two or more conspiracies and that a particular defendant was a
 22 member of or aided and abetted one or more conspiracies, you
 23 may find that defendant guilty of Count 1 only if you further
 24 find beyond a reasonable doubt that this proven conspiracy was
 25 included within the conspiracy alleged in Count 1.

1 enterprise, a person need not have participated in all the
 2 activity alleged in Count 1.
 3 In order to find a pattern of racketeering activity
 4 for purposes of Count 1, you must find beyond a reasonable
 5 doubt that the defendant agreed that some member or members of
 6 the conspiracy would commit at least two acts of racketeering
 7 as described in Count 1 and that they were separate acts. You
 8 must also find that those acts were in some way related to each
 9 other and that there was continuity between them.
 10 Acts are related to each other if they are not
 11 isolated events, that is, if they have similar purposes or
 12 results or participants or victims, or are committed in a
 13 similar way or have other similar distinguishing
 14 characteristics, or are part of the affairs of the same
 15 enterprise.
 16 There is continuity between acts if, for example,
 17 they are ongoing over a substantial period of time or had the
 18 potential to continue over a substantial period, or if they are
 19 a part of the regular way some entity does business or conducts
 20 its affairs.
 21 For purposes of Count 1, the Government does not have
 22 to prove that any racketeering acts were actually committed at
 23 all or that the defendant agreed to personally commit any such
 24 acts, or that the defendant agreed that two or more specific
 25 acts would be committed.

1 A conspiracy exists until its main criminal
 2 objectives have been accomplished or abandoned. Defendant Ryan
 3 cannot be found guilty of the conspiracy charged in Count 1 if
 4 the main criminal objectives of the conspiracy were
 5 accomplished or abandoned prior to December 17, 1998.
 6 Defendant Warner cannot be found guilty of the conspiracy
 7 charged in Count 1 if the main criminal objectives of the
 8 conspiracy were accomplished or abandoned prior to May 21,
 9 1997.
 10 The term "enterprise" includes any corporation,
 11 association, or other legal entity. A state is a legal entity.
 12 To be associated with an enterprise, a person must be involved
 13 with the enterprise in a way that is related to its affairs or
 14 common purpose, although the person need not have a stake in
 15 the goals of the enterprise and may even act in a way that
 16 subverts those goals. A person may be associated with an
 17 enterprise without being so throughout its existence.
 18 A person conducts or participates in the conduct of
 19 the affairs of an enterprise if that person uses his or her
 20 position in or association with the enterprise to perform acts
 21 which are involved in some way in the operation or management
 22 of the enterprise directly or indirectly, or if a person
 23 knowingly agrees to facilitate the activities of those who are
 24 operating or managing the enterprise. In order to have
 25 conducted or participated in the conduct of the affairs of an

1 The law defines "racketeering activity" as follows:
 2 any act which is chargeable under any of the following
 3 provisions of Title 18 United States Code: one, section 1341,
 4 mail fraud; two, sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i),
 5 and 1956(a)(1)(B)(ii), money laundering; three, section 1951,
 6 extortion; four, section 1503, obstruction of justice; any act
 7 which is chargeable under any of the following provisions of
 8 the laws of the State of Illinois, one, 720 ILCS 5/33-1(c) and
 9 (d), bribery; two, 720 ILCS 5/33-3(d), official misconduct.
 10 Any violation of any of these statutes may constitute
 11 a distinct act of racketeering activity. The offenses charged
 12 in Counts 11 through 13 and 17 through 22 are not charged as
 13 racketeering activities.
 14 Interstate commerce includes the movement of money,
 15 goods, services, or persons from one state to another. This
 16 would include the purchase or sale of goods or supplies from
 17 outside the state of Illinois, the use of interstate mail or
 18 wire facilities, or the causing of any of those things.
 19 If you find that beyond a reasonable doubt either, A,
 20 that the enterprise made, purchased, sold, or moved goods or
 21 services that had their origin or destination outside the state
 22 of Illinois or, B, that the actions of the enterprise affected
 23 in any degree the movement of money, goods, or services across
 24 state lines, then interstate commerce was engaged in or
 25 affected.

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1 The Government need only prove that the enterprise as
 2 a whole engaged in the interstate commerce or that its activity
 3 affected interstate commerce in any degree, although proof that
 4 racketeering acts did affect interstate commerce meets that
 5 requirement. The Government need not prove that a defendant
 6 engaged in interstate commerce or that the acts of a defendant
 7 affected interstate commerce.

8 Instructions regarding racketeering activity
 9 involving mail fraud, 18 United States Code section 1341.
 10 Count 1 charges a conspiracy to conduct or participate in the
 11 conduct of the affairs of an enterprise through a pattern of
 12 racketeering activity including mail fraud in violation of 18
 13 United States Code section 1341.

14 The instructions that I will subsequently give you
 15 regarding your consideration of Counts 2 through 10 also apply
 16 to your consideration of this racketeering activity in that
 17 they explain the nature of mail fraud.

18 Instructions regarding racketeering activities
 19 involving money laundering, 18 United States Code
 20 1956(a)(1)(A)(i), 1956(a)(1)(B)(i), and 1956(a)(1)(B)(ii).
 21 Count 1 charges a conspiracy to conduct or participate in the
 22 conduct of the affairs of an enterprise through a pattern of
 23 racketeering activity including money laundering in violation
 24 of 18 United States Code section 1956 (a)(1)(A)(i), promoting
 25 unlawful activity.

1 carrying on of unlawful activity.

2 Count 1 charges a conspiracy to conduct or
 3 participate in the conduct of the affairs of an enterprise
 4 through a pattern of racketeering activity including money
 5 laundering in violation of United States Code section
 6 1956(a)(1)(B)(i), concealing or disguising proceeds.

7 Title 18 United States Code section 1956 provides in
 8 pertinent part:

9 "Whoever, knowing that the property involved in a
 10 financial transaction represents the proceeds of some form of
 11 unlawful activity, conducts or attempts to conduct such a
 12 financial transaction which, in fact, involves the proceeds of
 13 specified unlawful activity, knowing that the transaction is
 14 designed in whole or in part to conceal or disguise the nature,
 15 the location, the source, the ownership, or the control of the
 16 proceeds of specified unlawful activity, commits an offense
 17 against the United States."

18 An individual has committed the offense of money
 19 laundering in violation of 18 United States Code section
 20 1956(a)(1)(B)(i), concealing or disguising proceeds, when,
 21 first, the individual knowingly conducted or attempted to
 22 conduct a financial transaction; second, the property involved
 23 in the financial transaction, in fact, involved the proceeds of
 24 mail fraud or extortion as described in Count 2; third, the
 25 individual knew that the property involved in the financial

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1 Title 18 United States Code 1956 provides in
 2 pertinent part:

3 "Whoever, knowing that the property involved in a
 4 financial transaction represents the proceeds of some form of
 5 unlawful activity, conducts or attempt to conduct such a
 6 financial transaction which, in fact, involves the proceeds of
 7 the specified unlawful activity with the intent to promote the
 8 carrying on of specified unlawful activity commits an offense
 9 against the United States."

10 An individual has committed the offense of money
 11 laundering in violation of 18 United States Code section
 12 1956(a)(1)(A)(i), promoting an unlawful activity, when, first,
 13 the individual knowingly conducted or attempted to conduct a
 14 financial transaction; second, the property involved in the
 15 financial transaction, in fact, involved the proceeds of mail
 16 fraud or extortion as described in Count 2; third, the
 17 individual knew that the property involved in the financial
 18 transaction represented the proceeds of some form of unlawful
 19 activity; and fourth, the individual engaged in the financial
 20 transaction with the intent to promote the carrying on of mail
 21 fraud or extortion as described in Count 2.

22 The transfer and spending of funds in itself is not
 23 sufficient to constitute a money laundering offense under Title
 24 18 United States Code section 1956(a)(1)(A)(i). Instead the
 25 transaction and proceeds must be intended to promote the

1 transaction represented the proceeds of some form of unlawful
 2 activity; and fourth, the individual knew that the transaction
 3 was designed in whole or in part to conceal or disguise the
 4 nature, the location, the source, the ownership, or the control
 5 of the proceeds of mail fraud or extortion as described in
 6 Count 2.

7 Count 1 charges a conspiracy to conduct or
 8 participate in the conduct of the affairs of an enterprise
 9 through a pattern of racketeering activity including money
 10 laundering in violation of 18 United States Code section
 11 1956(a)(1)(B)(ii), avoiding reporting requirements.

12 Title 18 United States Code section 1956 provides in
 13 pertinent part:

14 "Whoever, knowing that the property involved in a
 15 financial transaction represents the proceeds of some form of
 16 unlawful activity, conducts or attempts to conduct such a
 17 financial transaction which, in fact, involves the proceeds of
 18 specified unlawful activity, knowing that the transaction is
 19 designed in whole or in part to avoid a transaction reporting
 20 requirement under state or federal law, commits an offense
 21 against the United States."

22 An individual has committed the offense of money
 23 laundering in violation 18 United States Code section
 24 1956(a)(1)(B)(ii), avoiding reporting requirements, when,
 25 first, the individual knowingly conducted or attempted to

1 conduct a financial transaction; second, the property involved
 2 in the financial transaction, in fact, involved the proceeds of
 3 mail fraud or extortion as described in Count 2; third, the
 4 individual knew that the property involved in the financial
 5 transaction represented the proceeds of some form of financial
 6 activity; fourth, the individual knew that the transaction was
 7 designed in whole or in part to avoid a transaction reporting
 8 requirement under state or federal law.

9 I'm going to move on with some further instructions
 10 about other alleged racketeering activity, but I think it's
 11 time to give you a short recess. We're making progress. I do
 12 want to get you out of here, so I hope we'll make it a short
 13 break and we'll get back to this. Thanks.

14 (Jury out.)

15 THE COURT: Ladies and gentlemen, I understand there
 16 are thousands of people out there pressed against the glass, so
 17 it may be difficult to exit the building if you're trying to
 18 get out right now.

19 MR. MARTIN: Your Honor, we have one thing we wanted
 20 to put on the record at some point.

21 THE COURT: All right.
 22 (Discussion off the record.)

23 THE COURT: Yes?

24 MR. MARTIN: Your Honor, at the close of Mr. Collins'
 25 rebuttal, he pointed to each juror and individually identified

1 ask, if possible, to do it at the end of the argument.

2 THE COURT: That's fine. The end of the
 3 instructions?

4 MR. COLLINS: Instructions, yes. I'm sorry.

5 THE COURT: Sure.
 6 (Discussion off the record.)

7 MR. WEBB: Your Honor, I had one issue, but I didn't
 8 want to bother you. Are we waiting for them to come in?

9 THE COURT: Yes.

10 MR. WEBB: I can raise it later.

11 THE COURT: All right.
 12 (Discussion off the record.)

13 MR. WEBB: Your Honor, here's what the issue is.

14 THE COURT: Okay.

15 MR. WEBB: I've been -- I filed a motion, and I don't
 16 even know how I captioned it, which was to instruct the jury
 17 about the pro bono representation because of concern. I think
 18 you took it under advisement.

19 THE COURT: Right.

20 MR. WEBB: I do believe because of the Charnetzki
 21 argument about the \$50,000 that that heightens the issue, and
 22 so I just wanted to, I guess, renew my motion. I guess if
 23 you're going to deny it, fine. If you're going to grant it,
 24 then we'd have to do it before they go back to deliberate.

25 THE COURT: So will there be an objection?

1 where they worked, and we felt that was making a personal
 2 appeal to the jury and making -- personalizing the jurors,
 3 which we felt was improper, and we'd ask Your Honor to strike
 4 that.

5 MR. WEBB: I join in that.

6 THE COURT: Fair enough.

7 MR. COLLINS: What does "fair enough" mean, Judge?

8 THE COURT: I'll ask them to remember that any
 9 personal identification of them in any direct or indirect way
 10 should not factor into their verdicts.

11 (Recess.)

12 MR. COLLINS: Your Honor, I'm sorry. In terms of the
 13 specific instruction you're going to indicate --

14 THE COURT: Here's what I'll say, and I can say this
 15 at the end as I excuse them: Ladies and gentlemen, any
 16 specific reference that you feel has been made to you
 17 personally in any direct or indirect way, the important thing
 18 for you to remember is the evidence. The case is based on the
 19 evidence here, and that's what you need to base your opinion
 20 on.

21 I don't think there's any harm one way or another in
 22 this.

23 MR. COLLINS: That's all, Judge. I just wanted to
 24 sort of -- again, I don't understand anything was wrong with
 25 it, but whatever Your Honor is going to do is fine. I would

1 MR. COLLINS: Yes, Judge, yes. \$50,000 was in the
 2 record.

3 (Jury in.)

4 THE COURT: You may be seated. All right. As I say,
 5 we're making good progress. I'm now going to read instructions
 6 regarding racketeering activity involving extortion, 18 United
 7 States Code section 1951.

8 Count 1 charges a conspiracy to conduct or
 9 participate in the conduct of the affairs of an enterprise
 10 through a pattern of racketeering activity including extortion
 11 in violation of 18 United States Code section 1951. The
 12 instructions I will subsequently give you regarding your
 13 consideration of Count 14 also apply to your consideration of
 14 this racketeering activity in that they explain the nature of
 15 extortion.

16 Instructions regarding racketeering activity
 17 involving obstruction of justice, 18 United States Code section
 18 1503. Count 1 charges a conspiracy to conduct or participate
 19 in the conduct of the affairs of an enterprise through a
 20 pattern of racketeering activity including obstruction of
 21 justice in violation of 18 United States Code section 1503.

22 Title 18 United States Code section 1503 provides in
 23 pertinent part:

24 "(a) Whoever corruptly influences, obstructs, or
 25 impedes, or endeavors to influence, obstruct, or impede the due

1 administration of justice commits an offense against the United
2 States."

3 An individual has committed the offense of
4 obstruction of justice under Title 18 United States Code
5 section 1503 when, first, that individual influenced,
6 obstructed, or impeded, or endeavored to influence, obstruct,
7 or impede the due administration of justice; second, that the
8 individual acted knowingly; and third, that the individual's
9 acts were done corruptly, that is, with the purpose of
10 wrongfully impeding the due administration of justice.

11 The word "endeavor" describes any effort or act to
12 influence, obstruct, or impede the due administration of
13 justice. The endeavor need not be successful, but it must have
14 at least a reasonable tendency to influence, obstruct, or
15 impede the due administration of justice.

16 The phrase "due administration of justice" requires
17 that an individual's corrupt acts relate to a pending federal
18 judicial proceeding. An individual does not commit the offense
19 of obstruction of justice when there is no pending federal
20 judicial proceeding or where his actions relate to a state as
21 opposed to a federal investigation or proceeding. A federal
22 grand jury investigation is a federal judicial proceeding.

23 Instructions regarding racketeering activities
24 involving bribery and official misconduct, 17 ILCS 5/33-1(c),
25 171 ILCS 5/33-(1)(d), 720 ILCS 5/33-3(d). Count 1 charges a

1 720 Illinois Compiled Statutes 5/33-1 provides in
2 pertinent part:

3 "A person commits bribery when, D, he receives,
4 retains, or agrees to accept any property or personal advantage
5 which he is not authorized by law to accept, knowing that such
6 property or personal advantage was promised or tendered with
7 intent to cause him to influence the performance of any act
8 related to the employment or function of any public officer or
9 public employee."

10 An individual has committed the offense of bribery
11 under 720 Illinois Compiled Statutes 5/33-1(d) when, first, the
12 individual received, retained, or agreed to accept property or
13 a personal advantage which he was not authorized by law to
14 accept and, second, that the individual knew that the property
15 or personal advantage was tendered or promised with intent to
16 cause the individual to influence the performance of any act
17 related to the employment or function of a public officer.

18 Count 1 charges conspiracy to conduct or participate
19 in the conduct of the affairs of an enterprise through a
20 pattern of racketeering activity including official misconduct
21 under the laws of the State of Illinois in violation of 720
22 ILCS 5/33-3(d).

23 720 Illinois Compiled Statutes 5/33-3 provides in
24 pertinent part:

25 "A public officer or employee commits the offense of

1 conspiracy to conduct or participate in the conduct of the
2 affairs of an enterprise through a pattern of racketeering
3 activity including bribery under the laws of the State of
4 Illinois in violation of 720 ILCS 5/33-1(c).

5 720 Illinois Compiled Statutes 5/33-1 provides in
6 pertinent part:

7 "A person commits bribery when, C, with intent to
8 cause any person to influence the performance of any act
9 related to the employment or function of any public officer or
10 any public employee, he promises or tenders to that person any
11 property or personal advantage which he is not authorized by
12 law to accept.

13 An individual has committed the offense of bribery
14 under 720 Illinois Compiled Statutes 5/33-1(c) when, first, the
15 individual promises or tenders to a public official property or
16 a personal advantage which the public official was not
17 authorized by law to accept and, second, the individual does so
18 with the intent to influence the performance of any act related
19 to the public officer's employment or function as a public
20 officer.

21 Count 1 charges a conspiracy to conduct or
22 participate in the conduct of the affairs of an enterprise
23 through a pattern of racketeering activity including bribery
24 under the laws of the State of Illinois in violation of 720
25 ILCS 5/33-1(d).

1 official misconduct when in his official capacity he, D,
2 solicits or knowingly accepts for the performance of any act a
3 fee or reward which he knows is not authorized by law."

4 An individual has committed the offense of official
5 misconduct under 720 Illinois Compiled Statutes 5/33-3(d) when,
6 first, that individual is a public officer and, second, in his
7 official capacity that individual solicits or knowingly accepts
8 for the performance of any act a fee or reward which he knew
9 was not authorized by law.

10 The term "public officer" means a person who is
11 elected to office pursuant to statute to discharge a public
12 duty for the state or who is appointed to an office which is
13 established and the qualifications and the duties of which are
14 prescribed by statute to discharge a public duty for the state.

15 The term "public employee" is a person who is
16 authorized to perform an official function on behalf of and is
17 paid by the state. The Government does not allege that
18 Mr. Warner was a public officer or public employee during the
19 period relevant to this case.

20 A public official's receipt of personal or financial
21 benefits or the receipt of such benefits by the public
22 official's family, friends, employees, or associates, does not,
23 standing alone, violate the Illinois bribery or official
24 misconduct statutes even if the individual providing the
25 personal or financial benefit has business with the state.

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1 Instead, that receipt violates the law only if the benefit was
 2 received with the public official's understanding that it was
 3 given to influence his decision-making.

4 Similarly, the providing of personal or financial
 5 benefits by a private citizen to and for the benefit of a
 6 public official or to and for the benefit of a public
 7 official's family, friends, employees, or associates, does not,
 8 standing alone, violate the Illinois bribery statute, even if
 9 the private citizen does business with the state, so long as
 10 the personal or financial benefits were not intended to
 11 influence or reward the public official's exercise of office.

12 A public official's receipt of campaign
 13 contributions, standing alone, does not violate the Illinois
 14 bribery or misconduct statutes, even if the contributor has
 15 business or expects to have business pending before the public
 16 official or the state in which the public official holds
 17 office. Rather, public officials may receive campaign
 18 contributions from those who might seek to influence the
 19 candidate's performance as long as no promise for or
 20 performance of a specific official act is given in exchange.

21 Similarly, the giving of a campaign contribution to a
 22 public official, standing alone, does not amount to a violation
 23 of the Illinois bribery statute, even if the person making the
 24 contribution has or expects to have business pending before the
 25 public official. Only when a person gives a campaign

1 his fellow conspirators in furtherance and as a foreseeable
 2 consequence of the conspiracy charged in Count 1, B, while
 3 defendant Warner was a member of the conspiracy charged in
 4 Count 1.

5 Instructions regarding Counts 2 through 10, mail
 6 fraud, 18 U.S.C. section 1341. Defendants Ryan and Warner are
 7 both charged with mail fraud in Counts 2, 3, 4, 5, 7, 8, and 9,
 8 and defendant Ryan is charged individually with mail fraud in
 9 Counts 6 and 10.

10 To sustain each charge of mail fraud, the Government
 11 must prove the following propositions: first, that the
 12 defendant knowingly devised or participated in the scheme to
 13 defraud or to obtain money or property by means of materially
 14 false pretenses, representations, or promises as charged;
 15 second, that the defendant did so knowingly and with the intent
 16 to defraud; and third, that for the purpose of carrying out the
 17 scheme or attempting to do so, the defendant used or caused the
 18 use of the United States Mails or a private or commercial
 19 interstate carrier in the manner charged in the particular
 20 count.

21 If you find that each of these propositions has been
 22 proved beyond a reasonable doubt as to a particular count, then
 23 you should find the defendant guilty of that count. If, on the
 24 other hand, you find that any of these propositions has not
 25 been proved beyond a reasonable doubt as to a particular count,

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1 contribution knowing that it is given in exchange for a
 2 specific official act does this conduct violate the bribery
 3 statute. The intent of each party can be implied from their
 4 words and ongoing conduct.

5 A conspirator is a person who knowingly and
 6 intentionally agrees with one or more persons to accomplish an
 7 unlawful purpose. A conspirator is responsible for offenses
 8 committed by his fellow conspirators if he was a member of the
 9 conspiracy when the offense was committed and if the offense
 10 was committed in furtherance of and as a foreseeable
 11 consequence of the conspiracy.

12 Therefore, if you find defendant Ryan guilty of the
 13 conspiracy charged in Count 1, you should find defendant Ryan
 14 guilty of Count 2, 3, 4, 5, 6, 7, 8, 9, and/or 10, if you find
 15 the Government has proved beyond a reasonable doubt that the
 16 offense and the count under consideration was committed, A, by
 17 his fellow conspirators in furtherance and as a foreseeable
 18 consequence of the conspiracy charged in Count 1, B, while
 19 defendant Ryan was a member of the conspiracy charged in Count
 20 1.

21 Likewise, if you find defendant Warner guilty of the
 22 conspiracy charged in Count 1, you should find defendant Warner
 23 guilty of Count 2, 3, 4, 5, 7, 8, and/or 9, if you find that
 24 the Government has proven beyond a reasonable doubt that the
 25 offense in the count under consideration was committed, A, by

1 then you should find the defendant not guilty of that count.

2 A scheme is a plan or a course of action formed with
 3 the intent to accomplish some purpose. A scheme to defraud is
 4 a scheme that is intended to deceive or cheat another and to
 5 obtain money or property or cause the potential loss of money
 6 or property to another or to deprive the people of the state of
 7 Illinois of their intangible right of the honest services of
 8 their public officials or employees.

9 Counts 2 through 10, the mail fraud counts, charge
 10 that the defendants participated in a single scheme to defraud
 11 or to obtain money or property by means of materially false
 12 pretenses, representations, or promises. Proof that there were
 13 multiple schemes is not necessarily proof of a single scheme,
 14 nor is it necessarily inconsistent with the existence of a
 15 single scheme.

16 Proof of several separate or independent schemes will
 17 not establish the single scheme alleged in Counts 2 through 10
 18 unless one of the schemes which is proved is included within
 19 the single scheme alleged in those counts. If, therefore, you
 20 find beyond a reasonable doubt that there were two or more
 21 schemes to defraud and that the defendant was a member of one
 22 or more of these schemes to defraud, and you further find
 23 beyond a reasonable doubt that the proved scheme to defraud was
 24 included within the charged scheme to defraud, you should find
 25 that defendant guilty of the particular count you are

23904

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1 considering, provided that all other elements of the mail fraud
2 charge have been proved.

3 If, on the other hand, you find that there were two
4 or more schemes to defraud and that the defendant was not a
5 member of any proved scheme included within the charged scheme
6 to defraud, you should find that defendant not guilty of that
7 count.

8 A false pretense, representation, or promise is
9 material if it has the natural tendency to influence or is
10 capable of influencing the decision of the decision-making body
11 to which it was addressed. In order for the Government to
12 demonstrate a scheme to defraud the public of its right to the
13 honest services of a public official or employee, only one
14 participant in such scheme must owe a duty of honest services
15 to the public.

16 Accordingly, a defendant who schemes with a public
17 official or employee to deprive the public of its right to that
18 public official's or employee's honest services may be guilty
19 of a scheme to defraud the public of its right to honest
20 services, provided all the elements of the offense as set forth
21 in the instructions are met.

22 The phrase "intent to defraud" means that the acts
23 charged were done knowingly with the intent to deceive or cheat
24 the people of the state of Illinois in order to cause a gain of
25 money or property to the defendants or others or the potential

1 a specific official act given in exchange for personal and
2 financial benefits received by the public official so long as
3 the Government proves beyond a reasonable doubt that the public
4 official accepted the personal and financial benefits with the
5 understanding that the public official would perform or not
6 perform acts in his official capacity in return.

7 Likewise, the law does not require that the
8 Government identify a specific official act given in exchange
9 for personal and financial benefits received by the public
10 official so long as the Government proves beyond a reasonable
11 doubt that the personal and financial benefits were given with
12 the understanding that the public official would perform or not
13 perform acts in his official capacity in return.

14 A benefit or benefits received by a defendant or
15 given by a defendant with the intent that such benefit or
16 benefits would ensure favorable official action when necessary
17 can be sufficient to establish the defendant's intent to
18 defraud the public of its right to honest services. You need
19 not find that such a benefit was conferred or received in
20 exchange for a specific official action.

21 A public official's receipt of personal or financial
22 benefits or the receipt of the benefits by the public
23 official's family, friends, employees, or associates, does not,
24 standing alone, violate the mail fraud statute, even if the
25 individual providing the personal or financial benefit has

23905

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1 loss of money or property to another or to deprive the people
2 of the state of Illinois of the right to the honest services of
3 their public employees -- officials and employees. Such intent
4 may be determined from the evidence admitted as to each
5 defendant.

6 Good faith on the part of the defendant is
7 inconsistent with the intent to defraud, an element of the mail
8 fraud charges. The burden is not on the defendant to prove his
9 good faith; rather, the Government must prove beyond a
10 reasonable doubt that a defendant acted with intent to defraud.

11 A public official has a duty to provide honest
12 services to the people of the state of Illinois. The
13 Government does not allege that defendant Warner was a public
14 official during the time period relevant to this case. Because
15 of his official position, defendant Ryan owed a duty of honest
16 services to the people of the state of Illinois.

17 A public official or employee has a duty to disclose
18 material information to a public employer. If an official or
19 employee conceals or knowingly fails to disclose a material
20 personal or financial interest, also known as a conflict of
21 interest, in a matter over which he has decision-making power,
22 then that official or employee deprives the public of its right
23 to the official's or employee's honest services if the other
24 elements of the mail fraud offense are met.

25 The law does not require that the Government identify

1 business with the state. Instead, that receipt violates the
2 law only if the benefit was received with the public official's
3 understanding that it was given to influence his
4 decision-making.

5 Similarly, the providing of personal or financial
6 benefits by a private citizen to and for the benefit of a
7 public official or to and for the benefit of a public
8 official's family, friends, employees, or associates, does not,
9 standing alone, violate the mail fraud statute, even if the
10 private citizen does business with the state, so long as the
11 personal or financial benefits were not intended to influence
12 or reward the public official's exercise of office.

13 A public official's receipt of campaign
14 contributions, standing alone, does not violate the mail fraud
15 statute, even if the contributor has business or expects to
16 have business pending before the public official or the state
17 in which the public official holds office. Rather, public
18 officials may receive campaign contributions from those who
19 might seek to influence the candidate's performance so long as
20 no promise for or performance of a specific official act is
21 given in exchange.

22 Similarly, the giving of a campaign contribution to a
23 public official, standing alone, does not amount to a violation
24 of the mail fraud statute, even if the person making the
25 contribution has or expects to have business pending before the

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1 public official. When a person gives and a public official
2 receives a campaign contribution, knowing that it is given in
3 exchange for a specific official act, that conduct violates the
4 mail fraud statute if the other elements of the mail fraud
5 offense are met. The intent of each party can be implied from
6 their words and ongoing conduct. Not every instance of
7 misconduct or violation of a state statute by a public official
8 or employee constitutes a mail fraud violation.

9 I instruct you that the following state laws were
10 among the laws applicable to state officials throughout the
11 relevant time frame except as otherwise noted. One, Article 8
12 section 1(a) of the Illinois Constitution provided that public
13 funds, property, or credit shall be used only for public
14 purposes.

15 Two, 720 ILCS 5/33-3 provided that a public officer
16 or employee commits misconduct when in his official conduct he,
17 with intent to obtain a personal advantage for himself or
18 another, he performs an act in excess of his lawful authority
19 or solicits or knowingly accepts for the performance of any act
20 a fee or reward which he knows is not authorized by law.

21 Three, 5 ILCS 420/4A-101 provided that a person
22 holding an elected office in the Illinois executive branch
23 which includes the office of the Secretary of State and the
24 Governor's office, is obligated to file annually a statement of
25 economic interest with the State of Illinois wherein he is

1 officer had reason to believe that the gift was provided
2 because of the official position of the officer and not because
3 of friendship.

4 In determining whether a gift was provided on the
5 basis of friendship, the officer was to consider the history of
6 the relationship between the individual giving the gift and the
7 officer, including any previous exchange of gifts between those
8 individuals, whether the officer knew the individual who gave
9 the gift personally paid for the gift or sought a tax reduction
10 or business reimbursement, and whether the officer knew the
11 individual who gave the gift also gave the same or similar
12 gifts to other public officials.

13 Five, 10 ILCS section 5/9.25.1 provided that, quote:

14 "No public fund shall be used to urge any elector to
15 vote for or against any candidate or proposition or be
16 appropriated for political or campaign purposes to any
17 candidate or political organization."

18 Under Illinois statute, 30 ILCS section 505/6, prior
19 to July 1, 1998, certain purchases and contracts were not
20 required to be competitively bid including, A, purchases and
21 contracts for data processing equipment, software, or services,
22 B, where the services required were for professional skills
23 pursuant to a written contract and, C, in emergencies where
24 immediate expenditure was necessary for repairs to state
25 property in order to prevent or minimize serious disruption of

23909

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1 required to disclose various economic and associated
2 information which is specified on the forms that are in
3 evidence.

4 Four, from January 1, 1999, and continuing through
5 2002, 5 ILCS 425/10 provided that a public officer was
6 prohibited from soliciting or accepting any gifts from any
7 prohibited source or in violation of any federal or state
8 statute, rule, or regulation.

9 Prohibited sources included, among others, anyone who
10 is registered or required to be registered with the Secretary
11 of State under the Lobbyist Registration Act, which act
12 obligated persons to register as lobbyists if they undertook to
13 influence executive, legislative, or administrative action, or
14 employed another person for the purpose of influencing
15 executive, legislative, or administrative action.

16 A number of items were specifically excluded from
17 this prohibition, including lawful campaign contributions,
18 gifts from relatives, gifts given to an officer or employee of
19 the executive branch from another officer or employee of the
20 executive branch, gifts of personal hospitality of an
21 individual other than a registered lobbyist, and gifts from any
22 one prohibited source during any calendar year having a
23 cumulative total value of less than \$100.

24 Also excluded from this prohibition was anything
25 provided on the basis of a personal friendship, unless the

1 state service or to ensure the state records.

2 Again, not every instance of misconduct or violation
3 of a state statute by a public official or employee constitutes
4 a mail fraud violation. Where a public official or employee
5 misuses his official position or material nonpublic information
6 he obtained in it for private gain for himself or another, then
7 that official or employee has defrauded the public of his
8 honest services if the other elements of the mail fraud offense
9 have been met.

10 A public official may deprive the public of its right
11 to honest services even if the same official action would have
12 resulted absent the official's deprivation of the public's
13 right to honest services. The mail fraud statute can be
14 violated whether or not there is any loss to the victim of the
15 crime or gain to the defendants.

16 A participant in a scheme to defraud may be guilty
17 even if all the benefits of the fraud accrue to others so long
18 as the Government has proved the other elements of mail fraud
19 beyond a reasonable doubt. The public may be deprived of its
20 public official's or employee's honest services no matter who
21 receives the benefits of the fraud so long as the Government
22 has proved the other elements of mail fraud beyond a reasonable
23 doubt.

24 In order to prove a scheme to defraud, the Government
25 does not have to prove that the defendants contemplated actual

1 or foreseeable harm to the victims of the scheme. The
 2 Government must prove that the United States Mails or a private
 3 or commercial interstate carrier were used to carry out the
 4 scheme or were incidental to an essential part of the scheme.
 5 In order to use or cause the use of the United States
 6 Mails or a private or commercial interstate carrier, a
 7 defendant need not actually intend that use to take place. You
 8 must find that the defendant knew that it would occur in the
 9 ordinary course of business or that the defendant knew facts
 10 from which that use could reasonably have been foreseen.
 11 However, the Government does not have to prove that a defendant
 12 knew that the carrier was an interstate carrier. The defendant
 13 need not actually or personally use the mail or interstate
 14 carrier.
 15 Although an item mailed or sent by interstate carrier
 16 need not by itself contain a fraudulent representation or
 17 promise or request for money, it must further or attempt to
 18 further the scheme. Each separate use of the mail or
 19 interstate carrier in furtherance of the scheme to defraud
 20 constitutes a separate offense.
 21 In connection with whether a mailing was made,
 22 evidence of the habit of a person or of the routine practice of
 23 an organization, whether corroborated or not and regardless of
 24 the presence of eyewitnesses, is relevant to prove that the
 25 conduct of the person or organization on a particular occasion

1 good-faith belief in its accuracy does not amount to a false
 2 statement. This is so even if the statement is, in fact,
 3 erroneous. A defendant is under no burden to prove good faith.
 4 Rather, the prosecution must prove knowledge of falsity beyond
 5 a reasonable doubt.
 6 A statement that is nonresponsive but literally true
 7 is not false. In determining whether Mr. Ryan's answers were
 8 untruthful and in determining whether he knew they were false,
 9 you should consider the context of the questions and answers.
 10 The context of the question and answer is often of critical
 11 importance if it is claimed that the question was ambiguous or
 12 was misunderstood. A statement may not be false if it is based
 13 on an ambiguous question where the response may be literally
 14 true and factually correct.
 15 The Federal Bureau of Investigation is a part of
 16 executive branch of the Government of the United States, and
 17 statements or representations concerning matters being
 18 investigated by the Federal Bureau of Investigation are within
 19 the jurisdiction of the executive branch.
 20 A statement is material if it had the effect of
 21 influencing the action of the Federal Bureau of Investigation
 22 or was capable of or had the potential to do so. It is not
 23 necessary that the statement actually have that influence or be
 24 relied on by the Federal Bureau of Investigation so long as it
 25 had the potential or capability to do so. An act is done

1 was in conformity with the habit or routine practice. You
 2 should consider this evidence in the same manner that you
 3 consider all circumstantial evidence.
 4 Instructions regarding Counts 11 through 13, false
 5 statements, 18 U.S.C. section 1001(a)(2). To sustain the
 6 charge of making a false, fictitious, or fraudulent statement
 7 or representation as charged in Counts 11 through 13, the
 8 Government must prove the following propositions: first, a
 9 defendant made a false, fictitious, or fraudulent statement or
 10 representation; second, the statement or representation was
 11 material; third, the statement or representation was knowingly
 12 -- made knowingly and willfully; and fourth, the statement or
 13 representation was made in a matter within the jurisdiction of
 14 the executive branch of the Government of the United States.
 15 If you find from your consideration of all the
 16 evidence that each of these propositions has been proved beyond
 17 a reasonable doubt, then you should find the defendant guilty.
 18 If, on the other hand, you find from your consideration of all
 19 the evidence that any of these propositions has not been proved
 20 beyond a reasonable doubt, then you should find the defendant
 21 not guilty.
 22 A statement is false or fictitious if untrue when
 23 made and then known to be untrue by the person making it. A
 24 statement or representation is fraudulent if known to be untrue
 25 and made with intent to deceive. A statement made with

1 willfully if done voluntarily and intentionally and with the
 2 intent to do something the law forbids.
 3 Counts 11 and 12 each contain multiple alleged false,
 4 fictitious, or fraudulent statements made by defendant Ryan.
 5 To find the defendant guilty of those counts, the Government
 6 must prove beyond a reasonable doubt that at least one of the
 7 alleged statements contained in each count was false,
 8 fictitious, or fraudulent. However, as to each count, you must
 9 unanimously agree on which statement was false or fictitious,
 10 or you must unanimously agree on which statement was
 11 fraudulent.
 12 For example, with respect to Count 11, if some of you
 13 find the defendant Ryan's alleged statement in subparagraph
 14 2(ii) that he was unaware of the pricing and contents of the
 15 South Holland lease and did not personally take part in its
 16 negotiation was false, and the rest of you find that the
 17 statement in subparagraph 2(ii) was not false but that the
 18 alleged statement in paragraph 2(iii) that Ryan had no
 19 recollection or knowledge of the original negotiations of the
 20 Joliet lease was false, then there is no unanimous agreement as
 21 to subparagraph 2(ii) or 2(iii). On the other hand, if all
 22 jurors find that the statement in subparagraph 2(ii) was false,
 23 then there is unanimous agreement with respect to which
 24 statement was false.
 25 Instructions regarding Count 14, attempted extortion,

1 18 U.S.C. section 1951. Defendant Warner has been charged in
 2 Count 14 with attempted extortion in violation of 18 U.S.C.
 3 section 1951. Title 18 United States Code section 1951
 4 provides in pertinent part:

5 "Whoever in any way or degree obstructs, delays, or
 6 affects commerce or the movement of any article or commodity in
 7 commerce by extortion, or attempts or conspires so to do,
 8 commits an offense against the United States."

9 To sustain the charge of attempted extortion as
 10 charged in Count 14, the Government must prove the following
 11 propositions: first, that the defendant knowingly attempted to
 12 obtain money from American Decal Manufacturing as described in
 13 Count 14; second, that the defendant did so by means of
 14 extortion by the use of actual and threatened fear as that term
 15 is defined in these instructions; third, that the defendant
 16 believed that American Decal Manufacturing would have parted
 17 with the money because of the extortion; and fourth, that the
 18 conduct of the defendant affected, would have affected, or had
 19 the potential to affect interstate commerce.

20 If you find that each of these propositions has been
 21 proved beyond a reasonable doubt, then you should find the
 22 defendant guilty. If, on the other hand, you find that any of
 23 these propositions has not been proved beyond a reasonable
 24 doubt, then you should find the defendant not guilty.

25 The term "extortion" means the obtaining of property

1 disguising the nature, source, or ownership of proceeds as
 2 charged in Count 15, the Government must prove the following
 3 propositions: first, that the defendant knowingly conducted or
 4 attempted to conduct a financial transaction; second, the
 5 property involved in the financial transaction, in fact,
 6 involved the proceeds of mail fraud or extortion as described
 7 in Count 2; third, the defendant knew that the property
 8 involved in the financial transaction represented the proceeds
 9 of some form of unlawful activity; and fourth, the defendant
 10 knew that the transaction was designed in whole or in part to
 11 conceal or disguise the nature, the source, ownership, or the
 12 control of the proceeds of mail fraud or extortion as described
 13 in Count 2.

14 If you find that each of these propositions has been
 15 proved beyond a reasonable doubt, then you should find the
 16 defendant guilty. If, on the other hand, you find that any one
 17 of these propositions has not been proved beyond a reasonable
 18 doubt, then you should find the defendant not guilty.

19 To sustain the charge of money laundering in
 20 violation of 18 U.S.C. section 1956(a)(1)(B)(i), concealing or
 21 disguising the nature, source, or ownership of proceeds as
 22 charged in Count 16, the Government must prove the following
 23 propositions: first, that defendant knowingly conducted or
 24 attempted to conduct a financial transaction; second, property
 25 involved in the financial transaction, in fact, involved the

1 from another with his consent induced by the wrongful use of
 2 actual and threatened fear. Attempted extortion by the use
 3 actual or threatened fear means the wrongful use of actual and
 4 threatened fear of economic harm to obtain or attempt to obtain
 5 money or property.

6 "Wrongful" means that the defendant had no lawful
 7 right to obtain money or property in that way. "Fear" includes
 8 fear of economic loss. This includes fear of a direct loss of
 9 money, fear of harm to future business operations, or a fear of
 10 some loss of ability to compete in the marketplace in the
 11 future if the victim did not pay the defendant. The Government
 12 must prove that the victim's fear would have been reasonable
 13 under the circumstances; however, the Government need not prove
 14 the defendant actually intended to cause the harm threatened.

15 With respect to Count 14, the Government must prove
 16 that the defendant's actions affected interstate commerce in
 17 any way or degree. This means that the natural consequences of
 18 the defendant's actions were some effect on interstate
 19 commerce, however minimal. It is not necessary for you to find
 20 that the defendant knew or intended that his actions would
 21 affect interstate commerce.

22 Instructions regarding Counts 15 through 16, money
 23 laundering, concealing, or disguising, 18 U.S.C. section
 24 1956(a)(1)(B)(i). To sustain the charge of money laundering in
 25 violation of 18 U.S.C. section 1956(a)(1)(B)(i), concealing or

1 proceeds of mail fraud as described in Count 2; third, the
 2 defendant knew that the property involved in the financial
 3 transaction represented the proceeds of some form of unlawful
 4 activity; and fourth, the defendant knew that the transaction
 5 was designed in whole or in part to conceal or disguise the
 6 nature, the source, the ownership, or the control of the
 7 proceeds of mail fraud as described in Count 2.

8 If you find that each of those propositions has been
 9 proved beyond a reasonable doubt, then you should find the
 10 defendant guilty. If, on the other hand, you find that any one
 11 of these propositions has not been proved beyond a reasonable
 12 doubt, then you should find the defendant not guilty.

13 The term "financial transaction" means a purchase,
 14 sale, transfer, delivery, or other disposition involving one or
 15 more monetary instruments which in any way or degree affects
 16 interstate commerce. The term "monetary instruments" includes
 17 coin or currency of the United States and checks drawn on
 18 banks. The term "financial institution" includes, for example,
 19 commercial banks and trust companies.

20 "Interstate commerce" means trade, transactions,
 21 transportation, or communication between any point in a state
 22 and any place outside that state or between two points within a
 23 state through a place outside the state. When a financial
 24 institution, a business, or an individual in Illinois is
 25 engaged in commerce outside of that state, then the activities

1 of that financial institution, business, or individual affect
 2 interstate commerce. Any bank that is insured by the Federal
 3 Deposit Insurance Corporation, FDIC, is engaged in and affects
 4 interstate commerce.
 5 The United States must prove that the financial
 6 transaction affected interstate commerce in any way or degree.
 7 This means that the natural consequence of the financial
 8 transaction would have been some effect on interstate commerce,
 9 however minimal.
 10 The Government must prove that the foreseeable
 11 consequences of the defendant's acts would be to affect
 12 interstate commerce. It is not necessary for you to find that
 13 the defendant knew or intended that the defendant's actions
 14 would affect interstate commerce. The term "conducts" for
 15 purposes of Counts 15 and 16 includes initiating, concluding,
 16 or participating in initiating or concluding a transaction.
 17 The Government must prove that the defendant knew
 18 that the property represented the net proceeds of some form of
 19 activity that constitutes a felony under state or federal law.
 20 The Government is not required to prove that the defendant knew
 21 that the property involved in the transaction represented the
 22 proceeds of mail fraud or extortion.
 23 The transferring and spending of funds in itself is
 24 not sufficient to prove a money laundering offense under Title
 25 18 United States Code section 1956(a)(1)(B)(i). Instead, the

1 defendant guilty. If, on the other hand, you find that any of
 2 these propositions has not been proved beyond a reasonable
 3 doubt, then you should find the defendant not guilty.
 4 The term "currency transaction" means the physical
 5 transfer of currency from one person to another. As used in
 6 these instructions, the term "structure" refers to the manner
 7 in which a transaction was carried out.
 8 Structuring occurs when a person acting alone or with
 9 or on behalf of others conducts or attempts to conduct one or
 10 more currency transactions at a financial institution on one or
 11 more days with the purpose of evading currency transaction
 12 reporting requirements in any manner. Structuring includes
 13 breaking down a single sum of currency over \$10,000 into
 14 smaller sums or conducting a series of cash transactions all at
 15 or below \$10,000 with the purpose of evading currency
 16 transaction reporting requirements.
 17 During this trial, certain evidence has been admitted
 18 regarding alleged 9,000 or \$9500 withdrawals by defendant
 19 Warner before July 31, 1997. This evidence was offered for
 20 your consideration of Count 17 which relates to alleged
 21 structuring of transactions between July 31, 1997, and August
 22 4, 1997. The defendant is not charged with structuring
 23 transactions prior to July 31, 1997.
 24 Instructions regarding Count 18, corruptly
 25 endeavoring to obstruct or impede the due administration of the

1 transaction and proceeds must be intended to hide the source,
 2 ownership, or control of proceeds involved in the charged
 3 financial transaction.
 4 A transaction that creates proceeds of alleged
 5 unlawful activity cannot be the financial transaction in a
 6 money laundering offense. A transaction that creates proceeds
 7 of alleged unlawful activity must be separate and distinct from
 8 the financial transaction charged in the money laundering
 9 offense.
 10 I advise you that mail fraud, a violation of 18
 11 United States U.S.C. section 1341, and extortion, a violation
 12 of 18 U.S.C. section 1951, are both felonies under federal law.
 13 Instructions regarding Count 17, structuring, 31
 14 U.S.C. section 5234(a)(3). To sustain the charge of unlawfully
 15 structuring a financial transaction as alleged in Count 17, the
 16 Government must prove the following propositions: first, that
 17 the defendant structured or attempted to structure a
 18 transaction for the purpose of evading the currency transaction
 19 reporting requirements; second, that the transaction involved
 20 one or more domestic financial institutions; and third, that
 21 the defendant did so with the knowledge that the domestic
 22 financial institutions involved were legally obligated to
 23 report currency transactions in excess of \$10,000.
 24 If you find that each of these propositions has been
 25 proved beyond a reasonable doubt, then you should find the

1 internal revenue laws, 26 U.S.C. section 7212. To sustain the
 2 charge of corruptly endeavoring to obstruct or impede the due
 3 administration of the internal revenue laws as charged in Count
 4 18, the Government must prove the following propositions:
 5 first, the defendant corruptly endeavored to obstruct or impede
 6 the due administration of the internal revenue laws; second,
 7 that the defendant did so knowingly and intentionally.
 8 If you find from your consideration of all the
 9 evidence that each of these propositions has been proved beyond
 10 a reasonable doubt, then you should find the defendant guilty
 11 of that count. If, on the other hand, you find from your
 12 consideration of all the evidence that any of these
 13 propositions has not been proved beyond a reasonable doubt,
 14 then you should find the defendant not guilty of that count.
 15 The phrase "due administration of the internal
 16 revenue laws" includes the Internal Revenue Service of the
 17 Department of Treasury carrying out its lawful functions in the
 18 ascertaining of income, the computing, assessing, and
 19 collecting of income taxes, the auditing of tax returns and
 20 records, and the investigation of possible criminal violations
 21 of the internal revenue laws, such as the filing of false or
 22 fraudulent individual income tax returns.
 23 The term "endeavor" describes any effort or act to
 24 obstruct or impede the due administration of the internal
 25 revenue laws. The endeavor need not be successful, but it must

1 have at least a reasonable tendency to obstruct or impede the
 2 due administration of the internal revenue laws. The word
 3 "corruptly" means that the act or acts were done with the
 4 purpose to secure an unlawful benefit for oneself or another by
 5 obstructing or impeding the administration of the internal
 6 revenue laws.

7 A defendant does not act willfully if he believes in
 8 good faith that he is acting within the law or that his actions
 9 comply with the law. Therefore, if the defendant actually
 10 believed that what he was doing was in accord with the tax
 11 statutes, he cannot be said to have had the criminal intent to
 12 impede or obstruct the administration of the internal revenue
 13 laws. This is so even if the defendant's belief was not
 14 objectively reasonable, as long as he held the belief in good
 15 faith.

16 However, you may consider the reasonableness of the
 17 defendant's belief together with all the other evidence in the
 18 case in determining whether the defendant held the belief in
 19 good faith. As I have explained, the Government has the burden
 20 of proving that the defendant acted willfully. The defendant
 21 does not have the burden of proving his own good faith.

22 Instructions regarding Counts 19 through 22, filing
 23 false tax returns, 27 U.S.C. section 7206(1). To sustain the
 24 charge that a defendant willfully made and caused to be made a
 25 false individual income tax return as charged in Counts 19

1 return.

2 A defendant does not act willfully if he believes in
 3 good faith that he is acting within the law or that his actions
 4 comply with the law. Therefore, if the defendant actually
 5 believed that what he was doing was in accord with the tax
 6 statutes, he cannot be said to have had the criminal intent to
 7 willfully file false tax returns. This is so even if the
 8 defendant's belief was not objectively reasonable as long as he
 9 held the belief in good faith.

10 However, you may consider the reasonableness of the
 11 defendant's belief together with all the other evidence in the
 12 case in determining whether the defendant held the belief in
 13 good faith. A line on a tax return is a material matter if the
 14 information required to be reported on that line is capable of
 15 influencing the correct computation of the amount of tax
 16 liability of the individual or the verification of the accuracy
 17 of the return.

18 If you find that the defendant willfully understated
 19 the amount of adjusted gross income on his individual tax
 20 return and if you find that the amount of adjusted gross income
 21 is essential to a correct computation of amount of taxable
 22 income or tax or to verification of that return, then you may
 23 find that the false and fraudulent statements were false as to
 24 a material matter.

25 You have heard testimony concerning Treasury

1 through 22, the Government must prove the following
 2 propositions: first, the defendant made or caused to be made
 3 the income tax return; second, the defendant signed the income
 4 tax return which contained a written declaration that it was
 5 made under penalties of perjury; third, the defendant filed the
 6 income tax return or caused the income tax return to be filed
 7 with the Internal Revenue Service; fourth, the income tax
 8 return was false as to a material matter as charged in the
 9 count; and fifth, when the defendant made and signed the tax
 10 return, the defendant did so willfully and did not believe that
 11 the tax return was true, correct, and complete as to every
 12 material matter.

13 If you find from your consideration of all the
 14 evidence that each of these propositions has been proved beyond
 15 a reasonable doubt as to the particular count, then you should
 16 find the defendant guilty of the particular count. If, on the
 17 other hand, you find from your consideration of all the
 18 evidence that any of these propositions has not been proved
 19 beyond a reasonable doubt as to the particular count, then you
 20 should find the defendant not guilty of that particular count.

21 The word "willfully" means the voluntary and
 22 intentional violation of a known legal duty or the purposeful
 23 omission to do what the law requires. The defendant acted
 24 willfully if he knew it was his legal duty to file truthful
 25 individual tax returns and intentionally filed a false tax

1 Regulation 1.527-5 which describes the circumstances under
 2 which funds an individual received from a political
 3 organization does constitute part of that individual's income.
 4 This treasury regulation, also commonly known as an IRS
 5 regulation, has the force and effect of law.

6 In determining whether defendant Ryan believed in
 7 good faith that his actions did not violate the tax laws, you
 8 may consider whether the defendant relied on the advice and
 9 service of qualified tax prepares. If defendant Ryan provided
 10 full disclosure of all pertinent facts and materials to
 11 individuals that he believed to be competent, relied in good
 12 faith on their professional services and advice, and acted in
 13 accordance with the advice of those individuals without any
 14 reason to -- without reason to believe that it was incorrect,
 15 then defendant Ryan cannot be said to have had the criminal
 16 intent to impede or obstruct the due administration of the
 17 internal revenue laws or to have made a materially false
 18 statement on a particular tax return.

19 In determining whether the United States has proven
 20 its case beyond a reasonable doubt against any defendant in any
 21 count, you, the jury, should not give any consideration to the
 22 matter of punishment for this question is exclusively the
 23 responsibility of the Judge.

24 Upon retiring to the jury room, select one of your
 25 number as your foreperson. The foreperson will preside over

1 your deliberations and will be your representative here in
2 court. Forms of verdict have been prepared for you, and I'm
3 going to show those to you right now.
4 I wonder if we can turn to the summary of the
5 charges, about six pages, five pages further down. You'll see
6 this summary of the charges. On each of these next few pages
7 we're going to look at, ladies and gentlemen of the jury,
8 you're going to see the caption "United States District Court."
9 My name appears here and the name of -- names of the defendants
10 individually.
11 This one relates to Mr. Warner, United States of
12 America versus Lawrence Warner. The charges against Mr. Warner
13 include Counts 1, racketeering conspiracy; 2 through 5 and 7
14 through 9, mail fraud; 14, extortion; 15 and 16, money
15 laundering; and 17, structuring.
16 Next, we have:
17 "Verdict form for Lawrence E. Warner.
18 "We, the jury, find the defendant Lawrence E. Warner
19 not guilty as charged in the indictment."
20 If you find Mr. Warner not guilty on each of the
21 charges against him, you will complete this verdict form, and
22 you will, each of you, sign your names here with the
23 foreperson's name on the first line.
24 The next page reads:
25 "Verdict form for Lawrence E. Warner.

1 mail fraud scheme described in Count 2, a January 11, 1999
2 mailing related to the lease of the building at 605 Maple Road,
3 Joliet, Illinois, we, the jury, find the defendant Lawrence E.
4 Warner guilty or not guilty.
5 "With respect to Count 4 of the indictment in which
6 the defendant Lawrence E. Warner is charged with, as part of
7 the mail fraud scheme described in Count 2, a December 28, 1998
8 mailing related to the computer system and computer-related
9 contracts awarded to International Business Machines, IBM, we,
10 the jury, find the defendant Lawrence E. Warner guilty or not
11 guilty.
12 "With respect to Count 5 of the indictment in which
13 the defendant Lawrence E. Warner is charged with, as part of
14 the mail fraud scheme described in Count 2, a January 12, 1999
15 mailing relating to the computer system and computer-related
16 contracts awarded to International Business Machines, IBM, we,
17 the jury, find the defendant Lawrence Warner guilty or not
18 guilty.
19 "With respect to Count 7 of the indictment in which
20 the defendant Lawrence E. Warner is charged with, as part of
21 the mail fraud scheme described in Count 2, a November 15, 2002
22 mailing related to digital licensing contract awarded to
23 Viisage Technologies, we, the jury, find the defendant Lawrence
24 E. Warner guilty or not guilty.
25 "With respect to Count 8 of the indictment in which

1 "We, the jury, find the defendant Lawrence E. Warner
2 guilty as charged in the indictment."
3 You will complete this form, ladies and gentlemen, if
4 you find Mr. Warner guilty on any charges against him in the
5 indictment. Once again, there's a signature line for each of
6 you.
7 The next page includes some more specific -- a more
8 specific verdict form, and it reads as follows:
9 "Verdict form for Lawrence E. Warner.
10 "With respect to Count 1 of the indictment in which
11 the defendant Lawrence E. Warner is charged with conspiring to
12 conduct or participate in the conduct of the affairs of an
13 enterprise through a pattern of racketeering activity, we, the
14 jury, find the defendant Lawrence E. Warner" -- and there's a
15 box for "guilty" and one for "not guilty," and you choose one.
16 "With respect to Count 2 of the indictment in which
17 the defendant Lawrence E. Warner is charged with, as part of
18 the mail fraud scheme described in Count 2, an August 3, 2000
19 mailing related to the validation stickers contracts awarded to
20 American Decal Manufacturing, ADM, we, the jury, find the
21 defendant Lawrence E. Warner" -- again, it's "guilty" or "not
22 guilty."
23 The next page reads:
24 "With respect to Count 3 of the indictment in which
25 defendant Lawrence E. Warner is charged with, as a part of the

1 the defendant Lawrence E. Warner is charged with, as part of
2 the mail fraud scheme described in Count 2, a January 19, 1999
3 mailing related to the lease of the building at 405 North
4 Mannheim Road, Bellwood, Illinois, we, the jury, find the
5 defendant Lawrence E. Warner guilty or not guilty.
6 "With respect to Count 9 of the indictment in which
7 the defendant Lawrence E. Warner is charged with, as part of
8 the mail fraud scheme described in Count 2, an April 13, 1999
9 mailing related to the lease of the building at 17 North State,
10 Chicago, Illinois, we, the jury, find the defendant Lawrence E.
11 Warner guilty or not guilty.
12 "With respect to Count 14 of the indictment in which
13 the defendant Lawrence E. Warner is charged with the attempted
14 extortion of American Decal Manufacturing, ADM, in September of
15 1998, we, the jury, find the defendant Lawrence E. Warner
16 guilty or not guilty.
17 "With respect to Count 15 of the indictment in which
18 the defendant Lawrence E. Warner is charged with money
19 laundering in connection with the issuance of a National
20 Consulting Company check to American Management Resources on or
21 about May 18, 1998, in order to conceal the nature, source, and
22 ownership of proceeds of mail fraud and extortion related to
23 the validation stickers contract, we, the jury, find the
24 defendant Lawrence E. Warner guilty or not guilty.
25 "With respect to Count 16 of the indictment in which

1 the defendant Lawrence E. Warner is charged with money
 2 laundering in connection with the issuance of an Omega
 3 Consulting Group check to American Management Resources on July
 4 31, 1997, in order to conceal the nature, source, and ownership
 5 of proceeds of mail fraud related to the computer system and
 6 other computer-related contracts, we, the jury, find the
 7 defendant Larry E. Warner guilty or not guilty.
 8 "With respect to Count 17 of the indictment in which
 9 the defendant Lawrence E. Warner is charged with structuring of
 10 a financial transaction for the purpose of evading reporting
 11 requirements in connection with the withdrawal of the \$14,000
 12 of currency from his Omega Consulting Group Limited checking
 13 account on July 31, 1997, we, the jury, find the defendant
 14 Lawrence E. Warner guilty or not guilty.
 15 "If you find the defendant Lawrence E. Warner guilty
 16 of conduct -- guilty of Count 17, then you must make the
 17 following additional findings beyond a reasonable doubt:
 18 "A. We find the defendant Lawrence E. Warner" -- and
 19 you choose one -- "did or did not commit the offense charged in
 20 Count 17 while violating other laws of the United States. For
 21 purposes of making this finding, the term 'other laws of the
 22 United States' means any of the following: one, section
 23 1962(d), racketeering conspiracy as charged in Count 1; two,
 24 section 1341, mail fraud as charged in Counts 2 through 5 and
 25 Counts 7 through 9; and three, section 1956(a)(1)(B)(i), money

1 H. Ryan, Sr., that contains more specific information. It
 2 reads as follows:
 3 "With respect to Count 1 of the indictment in which
 4 the defendant George H. Ryan, Sr., is charged with conspiring
 5 to conduct or to participate in the conduct of the affairs of
 6 an enterprise through a pattern of racketeering activity, we,
 7 the jury, find the defendant George H. Ryan, Sr., guilty or not
 8 guilty."
 9 You choose one.
 10 "With respect to Count 2 of the indictment in which
 11 the defendant George H. Ryan, Sr., is charged with, as part of
 12 the mail fraud scheme described in Count 2, an August 3, 2000
 13 mailing related to the validation stickers contracts awarded to
 14 American Decal Manufacturing, ADM, we, the jury, find the
 15 defendant George H. Ryan, Sr., guilty or not guilty.
 16 "With respect to Count 3 of the indictment in which
 17 the defendant George H. Ryan, Sr., is charged with, as part of
 18 the mail fraud scheme described in Count 2, a January 11, 1999
 19 mailing related to the lease of the building at 605 Maple Road,
 20 Joliet, Illinois, we, the jury, find the defendant George H.
 21 Ryan, Sr., guilty or not guilty.
 22 "With respect to Count 4 of the indictment in which
 23 the defendant George H. Ryan, Sr., is charged with, as part of
 24 the mail fraud scheme described in Count 2, a December 28, 1998
 25 mailing related to the computer system and computer-related

1 laundering as charged in Count 16.
 2 "B. We find the defendant Lawrence E. Warner did or
 3 did not" -- you choose one -- "commit the offense charged in
 4 Count 17 as part of a pattern of any illegal activity involving
 5 more than \$100,000 in a 12-month period."
 6 Once again, this eight-page form contains signature
 7 lines for each of you, and you will complete -- when you've
 8 completed this form, you'll each sign it.
 9 A summary of the charges relating to Mr. Ryan reads
 10 as follows: Counts 1, racketeering conspiracy; 2 through 10,
 11 mail fraud; 11 through 13, false statements; 18, obstructing
 12 the IRS' collection of taxes; and 19 through 22, false tax
 13 returns.
 14 I'm going to show you the verdict forms, first this
 15 verdict form for George H. Ryan, Sr. The first one reads:
 16 "We, the jury, find the defendant George H. Ryan,
 17 Sr., not guilty as charged in the indictment."
 18 You complete this form if you find Mr. Ryan not
 19 guilty of any of the charges against him.
 20 The second form reads:
 21 "We, the jury, find the defendant George H. Ryan,
 22 Sr., guilty as charged in the indictment."
 23 You complete this form if you find Mr. Ryan guilty on
 24 any of the charges against him.
 25 Then we'll continue with the verdict form for George

1 contracts awarded to International Business Machines, IBM, a
 2 December 28, 1998 mailing, we, the jury, find the defendant
 3 George H. Ryan, Sr., guilty or not guilty.
 4 "With respect to Count 5 of the indictment in which
 5 the defendant George H. Ryan, Sr., is charged with, as part of
 6 the mail fraud scheme described in Count 2, a January 12, 1998
 7 -- 1999 mailing related to the computer system and
 8 computer-related contracts awarded to International Business
 9 Machines, IBM, we, the jury, find the defendant George H. Ryan,
 10 Sr., guilty or not guilty.
 11 "With respect to Count 6 of the indictment in which
 12 the defendant George H. Ryan, Sr., is charged with, as part of
 13 the mail fraud scheme described in Count 2, a January 22, 1999
 14 mailing related to the lease of a commercial building in South
 15 Holland, Illinois, we, the jury, find the defendant George H.
 16 Ryan, Sr., guilty or not guilty.
 17 "With respect to Count 7 of the indictment in which
 18 the defendant George H. Ryan, Sr., is charged with, as part of
 19 the mail fraud scheme described in Count 2, a November 15, 2002
 20 mailing related to the digital licensing contract awarded to
 21 Viisage Technologies, we, the jury, find the defendant George
 22 H. Ryan, Sr., guilty or not guilty.
 23 "With respect to Count 8 of the indictment in which
 24 the defendant George H. Ryan, Sr., is charged with, as part of
 25 the mail fraud scheme described in Count 2, a January 19, 1999

1 mailing related to the lease of the building at 405 North
 2 Mannheim Road, Bellwood, Illinois, we, the jury, find the
 3 defendant George H. Ryan, Sr., guilty or not guilty.
 4 "With respect to Count 9 of the indictment in which
 5 the defendant George H. Ryan, Sr., is charged with, as part of
 6 the mail fraud scheme described in Count 2, an April 14, 1999
 7 mailing related to the lease of the building at 17 North State,
 8 Chicago, Illinois, we, the jury, find the defendant George
 9 Ryan, Senior, guilty or not guilty.
 10 "With respect to Count 10 of the indictment in which
 11 the defendant George H. Ryan, Sr., is charged with, as part of
 12 the mail fraud scheme described in Count 2, a March 12, 2001
 13 mailing related to the payment of lobbying fees related to the
 14 selection of the Town of Grayville as the site for a new
 15 prison, we, the jury, find the defendant George H. Ryan, Sr.,
 16 guilty or not guilty.
 17 "With respect to Count 11 of the indictment in which
 18 the defendant George H. Ryan, Sr., is charged with making false
 19 statements to an agent of the Federal Bureau of Investigation
 20 on January 5, 2000, we, the jury, find the defendant George H.
 21 Ryan, Sr., guilty or not guilty.
 22 "With respect to Count 12 of the indictment in which
 23 the defendant George H. Ryan, Sr., is charged with making false
 24 statements to an agent of the Federal Bureau of Investigation
 25 on October 16, 2000, we, the jury, find the defendant George H.

1 the defendant George H. Ryan, Sr., is charged with willfully
 2 filing a Joint Individual Tax Return, Form 1040 with schedules
 3 and attachments, which understated his adjusted gross income
 4 for the calendar year 1997, we, the jury, find the defendant
 5 George H. Ryan, Sr., guilty or not guilty.
 6 "With respect to Count 22 of the indictment in which
 7 the defendant George H. Ryan, Sr., is charged with willfully
 8 filing a Joint Individual Tax Return, Form 1040 with schedules
 9 and attachments, which understated his adjusted gross income
 10 for the calendar year 1998, we, the jury, find the defendant
 11 George H. Ryan, Sr., guilty or not guilty."
 12 This, again, this is another eight-page form which
 13 includes a signature line for each of you, and each of you will
 14 complete that form, if appropriate, as well. You will take
 15 these forms -- and now I'm returning to page 145. Oh, it looks
 16 like you've got it figured out. Okay.
 17 You will take these forms to the jury room, and when
 18 you've reached unanimous agreement on your verdict, your
 19 foreperson will fill in and date the appropriate forms, and
 20 each you will sign them.
 21 Each count of the indictment charges each defendant
 22 named in that count with having committed a separate offense.
 23 You must give separate consideration both to each count and to
 24 each defendant. You must consider each count and the evidence
 25 relating to it separate and apart from any other count -- every

1 Ryan, Sr., guilty or not guilty.
 2 "With respect to Count 13 of the indictment in which
 3 the defendant George H. Ryan, Sr., is charged with making false
 4 statements to an agent of the Federal Bureau of Investigation
 5 on February 5, 2001, we, the jury, find the defendant George H.
 6 Ryan, Sr., guilty or not guilty.
 7 "With respect to Count 18 of the indictment in which
 8 the defendant George H. Ryan, Sr., is charged with corruptly
 9 endeavoring to obstruct and impede the Internal Revenue Service
 10 in the due administration of the Internal Revenue Code, we, the
 11 jury, find the defendant George H. Ryan, Sr., guilty or not
 12 guilty.
 13 "With respect to Count 19 of the indictment in which
 14 the defendant George H. Ryan is charged with willfully filing
 15 an amended Joint Individual Tax Return, Form 1040-X with
 16 schedules and attachments, which understated his adjusted gross
 17 income for the calendar year 1995, we, the jury, find the
 18 defendant George H. Ryan, Sr., guilty or not guilty.
 19 "With respect to Count 20 of the indictment in which
 20 the defendant George H. Ryan is charged with willfully filing
 21 an amended Joint Individual Tax Return, Form 1040-X with
 22 schedules and attachments, which understated his adjusted gross
 23 income for the calendar year 1996, we, the jury, find the
 24 defendant George H. Ryan, Sr., guilty or not guilty.
 25 "With respect to Count 21 of the indictment in which

1 other count. You should return a separate verdict as to each
 2 defendant and as to each count. Your verdict of guilty or not
 3 guilty of an offense charged in one count should not control
 4 your decision as to that defendant under any other count.
 5 I do not anticipate that you will need to communicate
 6 with me. If you do need to communicate with me, the only
 7 proper way to do that is in writing. The writing must be
 8 signed by the presiding juror, the foreperson, or if he or she
 9 is unwilling to do so, by some other juror.
 10 The writing should be given to the marshal, who will
 11 give it to me. I will respond either in writing or by having
 12 you return to the courtroom so that I can respond orally. If
 13 you do communicate with me, you should not indicate in your
 14 note what your numerical division is, if any.
 15 The verdict must represent the considered judgment of
 16 each juror. Your verdict, whether it be guilty or not guilty,
 17 must be unanimous. You should make every reasonable effort to
 18 reach a verdict. In doing so, you should consult with one
 19 another, express your own views, and listen to the opinions of
 20 your fellow jurors. Discuss your differences with an open
 21 mind. Do not hesitate to reexamine your own views and change
 22 your opinion if you come to believe it is wrong, but you should
 23 not surrender your honest beliefs about the weight or effect of
 24 evidence solely because of the opinions of your fellow jurors
 25 or for the purpose of returning a unanimous verdict.

1 The 12 jurors should give fair and equal
 2 consideration to all the evidence and deliberate with a goal of
 3 reaching an agreement which is consistent with the individual
 4 judgment of each juror. You are impartial judges of the facts.
 5 Your sole interest is to determine whether the Government has
 6 proved its case beyond a reasonable doubt.

7 That concludes my instructions. I have just another
 8 couple of comments before I excuse you and you retire to
 9 deliberate on your verdict. One of the things I told you a
 10 couple of times this week, and let me just remind you, at this
 11 point the schedule is up to you. You are not expected, of
 12 course, to come in over the weekend, but I'm expecting that
 13 you'll tell us when you want to come back.

14 I know it's late in the day, and ordinarily you
 15 haven't pushed on much past this time any. So if you're ready
 16 to go home now, you can let me know that, and you can begin
 17 your deliberations on Monday at whatever time you tell me
 18 you're coming.

19 I want you to know that any specific individual
 20 reference to any of you should not be considered in any way as
 21 part of making your verdict, reaching your verdict, whether
 22 that specific reference was direct or indirect. I want you to
 23 make a decision in this case based on all the evidence you've
 24 heard in this case.

25 Now, before you're excused, I know many of you have

1 point. I'm excusing this afternoon in the back row the third
 2 juror from the end, wearing a blue shirt, and I'm excusing in
 3 the front row the three jurors who are furthest from me, one
 4 wearing a striped shirt, one wearing a tie, and one woman
 5 wearing a jacket this afternoon.

6 I want you to know how after any trial, even a couple
 7 of days, I sort of feel I've come to know the jurors, and I've
 8 seen you every day. Of course, we don't have any personal
 9 contact, but I do see you here, and we're sitting in the same
 10 room every day for months and months and months. It's hard for
 11 me to say goodbye to any of you, and I thank you with deepest
 12 thanks.

13 I know Mr. Genson and, I think, Mr. Collins, too, and
 14 I know we all join in saying -- and I know Mr. Webb made this
 15 point as well -- that jury service is really one of the most
 16 important responsibilities of citizenship, and even those of
 17 you who are excused have performed such an enormous service to
 18 us.

19 I've had the pleasure of traveling in other parts of
 20 the world, and I can tell you that our system is the envy of
 21 the world, and it's because of people like yourselves,
 22 hard-working, committed people who for many, many days and
 23 months and hours now have put aside your own concerns and have
 24 devoted your attention to this. I can't speak highly enough of
 25 your service. People do ask me how's the trial going, and many

1 been curious about who will actually be the 12 jurors who serve
 2 with us, and let me say that I am going to excuse four of you
 3 at this time. I want to ask the four of you that I'm about to
 4 excuse to abide by an instruction that I think will be quite
 5 difficult but is very, very important to me, and that is that
 6 until a verdict is returned -- and I promise you we will notify
 7 you that same day, if not the same hour -- that you continue to
 8 abide by my instructions not to discuss the case with anyone or
 9 even to consider press attention. I know that's incredibly
 10 difficult because you'll be curious about what happens.

11 The reason I gave you that instruction is a simple
 12 one. It is possible that there may be one or more jurors who
 13 for whatever reason may not be able to continue. If that
 14 happens, I am likely to call on one of the persons I'm about to
 15 excuse, and I would direct that person to rejoin the other
 16 jurors. Then I would tell all of you, should that happen, to
 17 start all over. In other words, however much progress you've
 18 made, you need to begin again.

19 That's the reason that for those four of you that are
 20 about to be excused I'm going to ask, as difficult as I know
 21 this is going to be, that you continue to abide by my
 22 instructions until you are notified by me or by a member of my
 23 staff that a verdict has been returned.

24 I'm going to identify the jurors that are being
 25 excused by identifying who you are without your names at this

1 times people have asked me how are the jurors, and I say
 2 they're great because you really are. I thank you all.

3 I'm going to excuse all of the jurors at this time,
 4 but first I need to ask that Officer Augustine be sworn. Let's
 5 all stand.

6 (Marshal duly sworn.)

7 THE COURT: You had a question?

8 A JUROR: Do we take these into the jury room now, or
 9 do we leave them here?

10 THE COURT: Are those your --

11 A JUROR: The binders you passed out to us.

12 THE COURT: You can leave those here, and let me tell
 13 you why. The attorneys are assembling a collection of the
 14 exhibits, and I'm not sure they're quite ready with those right
 15 know. But that's going to be put together for you, and you're
 16 going to get all of the exhibits in the jury room. All of the
 17 exhibits will be in the jury room for you.

18 You're excused. I do have certificates for the
 19 jurors that I'm excusing, and I'll hand those to you as you
 20 leave.

21 (Jury out.)

22 THE COURT: On the record for a moment. I know
 23 Mr. Webb had made a request regarding a comment concerning the
 24 cost of defense, and I know Mr. Collins objected. Let me
 25 explain why I'm sustaining the objection. I was listening

1 pretty carefully to that, and it seemed to me that Mr. Collins
 2 was talking exclusively about the matter of the cost of an
 3 expert, and even that I thought was invited by the defense
 4 argument that the Government had not called an expert to rebut
 5 the defendant's expert and the effort being made to enhance
 6 that expert's credibility in the eyes of the jury. I thought
 7 it was a fair comment on that, and I don't think it opened the
 8 door to comments about defense costs.

9 MR. GENSON: Your Honor, I'm sorry to interrupt.

10 MR. WEBB: I was going to just --

11 (Discussion off the record.)

12 THE COURT: The jurors have spoken. They'll be back
 13 at 9:30 on Monday.

14 MR. GENSON: Your Honor, there were just two other
 15 exhibits that I wanted in before you left today. There were
 16 two exhibits that you admitted with reservations. The first
 17 one was a Bank Secrecy Act pamphlet which talked in terms of
 18 the laws which were set for the lobbyists and a little booklet
 19 relative to the law.

20 The Government wanted to introduce one sentence or so
 21 from each of those. I objected on the grounds that Your Honor
 22 will instruct them as to the law and that they shouldn't have
 23 it, and Your Honor reserved.

24 THE COURT: Right.

25 MR. GENSON: There are a lot of little objections

1 to go back.

2 MR. GENSON: Similarly, if there was any portion of
 3 the lobby book that was shown to whatever his name was, I have
 4 no objection to that either. The whole book, both of those
 5 books in total shouldn't go back.

6 MR. LEVIN: The lobbyist registration, I'm going to
 7 have to take another look at because I think that even you
 8 displayed some portion of it on the screen.

9 MR. GENSON: Whatever portion, whatever portion.

10 MR. LEVIN: And it may have been section J.

11 MR. GENSON: I imagine it would have been.

12 MR. LEVIN: Pardon me?

13 MR. GENSON: I imagine it would have been.

14 MR. LEVIN: And actually given -- I mean, I don't
 15 know that we need any of that to go back.

16 MR. GENSON: I have no objection to --

17 MR. LEVIN: Pardon me?

18 MR. GENSON: Wait. It was there. We had it on the
 19 screen.

20 MR. COLLINS: Well, it sounds like the offer is that
 21 the stuff that's been shown to the jury, just those portions
 22 that have been shown during this trial should go back.

23 MR. GENSON: I have no problem with that.

24 MR. COLLINS: And that's it.

25 THE COURT: So ordered.

1 that I think we'll deal with, but as to those two pamphlets,
 2 we're asking that they not go back to the jury and that Your
 3 Honor rule on it. Your Honor reserved as to that issue. One
 4 came in through Karcazes, and one came in through another.

5 (Discussion off the record.)

6 MR. GENSON: This was redacted. They just showed a
 7 little bit of it. The whole pamphlet is in there, and the
 8 whole lobbyist pamphlet is in there, and they only showed a
 9 little bit of that, too. We object to both booklets going
 10 back.

11 THE COURT: Do you object to the portion that was
 12 shown to the jury going back?

13 MR. GENSON: It's whatever portion, and I'd have to
 14 go back to the record. That portion I don't object to, but as
 15 to the others, the whole book, we'd object to it because
 16 essentially we don't know if the law in either one of them are
 17 accurate.

18 MR. LEVIN: Well, the Bank Secrecy Act, as I
 19 remember, I only showed a very limited portion to Mr. Karcazes.

20 MR. GENSON: That's correct.

21 MR. LEVIN: We don't have a problem with just that
 22 portion going back to the jury.

23 MR. GENSON: I don't have a problem with that, but
 24 not the whole book going back.

25 MR. LEVIN: And we're not asking for the whole book

1 MR. MARTIN: Your Honor, just for purposes of the
 2 record, we renew our objections to their jury instructions and
 3 renew our objections to the instructions which were refused,
 4 if we have to do that.

5 THE COURT: And I know that Mr. Ryan's objections are
 6 preserved as well. In fact, we got a written submission on
 7 that earlier today.

8 MS. BARSELLA: Judge, with regard to the Tribune, I
 9 think we're ready to tell you with regard to these last couple
 10 of items.

11 THE COURT: Yes, that's great.

12 MS. BARSELLA: With regard to item 165, I believe the
 13 defendants at this time think that that should remain under
 14 seal, and we don't object to that remaining under seal for the
 15 moment.

16 THE COURT: All right.

17 MS. BARSELLA: For the time being, until the case is
 18 over. With regard to 190, the same thing, the defendants would
 19 like that to be continued under seal, and we agree with them.
 20 That can continue under seal. With regard to 201, I believe
 21 that there's no objection from any party to releasing that at
 22 this time.

23 THE COURT: All right.

24 MS. BARSELLA: That can be released, 201. With
 25 regard to 434, the Government feels that should remain under

1 seal for the time being, and I believe the defendants agree
 2 with us on that. Then with regard to 539 and 541, which have
 3 to do with jury matters, we all agree that that should remain
 4 under seal as well, that both of those should remain under
 5 seal.

6 THE COURT: Right. 541 and 539, I indicated earlier,
 7 I believe, what I believe those to be, and I've double-checked.
 8 Those are matters that are really the confidential matters
 9 involving the jurors which will not be released until there's
 10 -- until there is a verdict, if at all. 201 will be released.
 11 I will look at these materials as to which an objection
 12 remains, and I think that some of them may have grand jury
 13 implications. I'm not sure.

14 MS. BARSELLA: I believe that's correct, Judge.

15 THE COURT: All right. The grand jury matters would
 16 remain confidential.

17 MR. MARTIN: And we're agreed on that, right?

18 MS. BARSELLA: And we're all in agreement that the
 19 other four should remain under seal --

20 THE COURT: I know.

21 MS. BARSELLA: -- but it's obviously up to the Court.

22 THE COURT: Right. I think Mr. Mattson will not
 23 agree.

24 MR. FARDON: Separate but related, Judge, I think
 25 there's an issue about posting the instructions as given on the

1 redactions. I suspect we may need to -- I mean, we'll work on
 2 it between now and Monday morning, and it's possible we'll need
 3 some time with the Court on Monday morning if there are issues
 4 unresolved at that time.

5 THE COURT: Well, I'll be here.

6 MR. LEVIN: All right.

7 THE COURT: I'm going to be around. Speaking of
 8 being around, make sure that you leave -- everyone, every
 9 lawyer who's appeared or is here needs to leave a number for us
 10 because -- you know, it's my fervent wish that we won't get any
 11 notes from the jurors, but the reality is that we may. If that
 12 happens, I want you back right away so that we can respond.

13 MR. ROONEY: That's been done.

14 THE COURT: Just leave those all either with Ena, my
 15 assistant, or Ron. Officer Augustine will be back here Monday
 16 morning as well.

17 MR. GENSON: Mr. Fardon has to stay here and come
 18 back here Monday, Judge?

19 THE COURT: Either that or he's going to beam
 20 himself.

21 MR. FARDON: Eddie, you can come down to Tennessee.

22 MR. WEBB: Your Honor, on behalf of defendant Ryan
 23 and myself and my team, since the trial is over, I wanted to
 24 thank you and your staff for the extraordinary effort you've
 25 put into this trial. It's pretty extraordinary for this trial,

1 Internet. I thought there was some issue about that and
 2 verdict forms.

3 MR. COLLINS: There's been a request made of our
 4 press officer on whether the jury verdict forms and the
 5 instructions and things that you just read can be -- are public
 6 and can be posted by the Court or distributed by whoever has
 7 them, I guess.

8 MR. FARDON: I thought that was raised.

9 THE COURT: Yes, you want the final version. That's
 10 what you're saying.

11 MR. COLLINS: There's been a request made.

12 THE COURT: That's fine. If someone can --

13 Ms. Bonamici is here?

14 MR. FARDON: She is.

15 MS. BONAMICI: Here I am.

16 THE COURT: Ms. Bonamici, if you can, if you'll
 17 e-mail those to me, I'll get them to our Web master, and we
 18 should get them posted within half an hour.

19 MS. BONAMICI: Okay. I'll do that, Judge.

20 THE COURT: All right.

21 MR. LEVIN: Your Honor, we've had people going over
 22 the exhibits with counsel or with staff from both the parties
 23 and the Government, and it's quite a task as you can imagine.
 24 I'm told that there's some that are still up in the air where
 25 we're trying to resolve what exactly came in or if there were

1 and we wanted to express our appreciation.

2 MR. COLLINS: As do we, Your Honor.

3 MR. MARTIN: And we do also, Your Honor. It seems
 4 that Your Honor has had a look of relief.

5 MR. GENSON: I already did it in my closing, Judge,
 6 so I don't have to.

7 THE COURT: Well, I actually slept without waking up
 8 this week for the first time in six months.

9 MR. MARTIN: It shows.

10 THE COURT: Well, I've already indicated I did not --
 11 you all know I didn't volunteer for this case. In fact, I have
 12 to tell you that I was startled that it was assigned to me. I
 13 do view it as an enormous honor, an enormous responsibility and
 14 an enormous honor and, you know, something that one doesn't,
 15 you know, one doesn't get to be a federal judge without wanting
 16 it deeply and fervently.

17 You know, to have the honor of presiding over a case
 18 of such significance which every group of lawyers that every
 19 juror characterizes as the A-Team -- and I can underscore that
 20 a hundred times -- it's really been a gift to me as well. I
 21 appreciate your hard work. I appreciate your courtesy and your
 22 commitment. It's not an easy case, and the cause of justice is
 23 one that requires extraordinary energy and commitment, and
 24 that's what all of you have brought to this courtroom.

25 MR. FARDON: Thank you, Your Honor.

23952

1 MR. WEBB: Thank you, Judge.
2 MR. GENSON: Thank you, Judge.
3 MR. COLLINS: Thank you, Your Honor.
4 Your Honor, just on a personal note, I have some
5 personal matters to attend to most of next week, and I just
6 wanted to indicate that Ms. Barsella and Mr. Levin will
7 definitely be here. I don't know, if necessary, if the Court
8 would be amenable to a telephone hookup if it's a note or
9 whatever.
10 THE COURT: Oh, we can put you on the phone in here.
11 MR. COLLINS: Okay.
12 THE COURT: That's fine. That's fine.
13 MR. COLLINS: But I just -- it's a family matter.
14 THE COURT: You have obviously very able colleagues,
15 but if we need you, if we need to get hold of you, we can reach
16 you here in the courtroom on the speakerphone.
17 MR. COLLINS: Thank you, Your Honor.
18 THE COURT: The defendants, of course, are also
19 always welcome to be here. If their appearance is waived,
20 that's fine, but they're also entitled to be here.
21 MR. MARTIN: Well, one thing jurors all seem to want
22 are office supplies, so maybe to avoid the first note --
23 THE COURT: I want you to know that somebody in the
24 clerk's office not only thought about it, they brought up --
25 and they're in my chambers right now -- two flip charts, a

23953

1 rainbow of Post-It notes, dry markers, wet markers, erasers,
2 the works. We're ready for them.
3 MR. MARTIN: Okay. Thank you.
4 MR. COLLINS: Can we send Courtney back with them,
5 too, Judge?
6 THE COURT: They may send out a note for Courtney.
7 Speaking of Courtney, how long are we keeping this?
8 MS. GRAY: About five minutes.
9 THE COURT: Wonderful. Good. Thanks. That was, by
10 the way, terrific, seamless, beautiful, the way that popped up.
11 Sleep, eat.
12 (Proceedings adjourned to March 13, 2006, 9:30 a.m.)
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