IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	2:14-cr-00205
v.	)	
	)	Judge Mark R. Hornak
PRICE MONTGOMERY	)	
JAMES PERRIN	)	

COURT'S FINAL INSTRUCTIONS TO THE JURY – (NOVEMBER 9, 2018)

MEMBERS OF THE JURY:

ROLE OF JURY

1. MEMBERS OF THE JURY, YOU HAVE SEEN AND HEARD ALL THE EVIDENCE AND THE ARGUMENTS OF THE LAWYERS. NOW I WILL INSTRUCT YOU ON THE LAW.

2. YOU HAVE TWO DUTIES AS A JURY. YOUR FIRST DUTY IS TO DECIDE THE FACTS FROM THE EVIDENCE THAT YOU HAVE HEARD AND SEEN IN COURT DURING THIS TRIAL. THAT IS YOUR JOB AND YOURS ALONE. I PLAY NO PART IN FINDING THE FACTS. YOU SHOULD NOT TAKE ANYTHING I MAY HAVE SAID OR DONE DURING THE TRIAL AS INDICATING

WHAT I THINK OF THE EVIDENCE OR WHAT I THINK ABOUT WHAT YOUR VERDICT SHOULD BE.

3. YOUR SECOND DUTY IS TO APPLY THE LAW THAT I GIVE YOU TO THE FACTS. MY ROLE NOW IS TO EXPLAIN TO YOU THE LEGAL PRINCIPLES THAT MUST GUIDE YOU IN YOUR DECISIONS. YOU MUST APPLY MY INSTRUCTIONS CAREFULLY. EACH OF THE INSTRUCTIONS IS IMPORTANT, AND YOU MUST APPLY ALL OF THEM. YOU MUST NOT SUBSTITUTE OR FOLLOW YOUR OWN NOTION OR OPINION ABOUT WHAT THE LAW IS OR OUGHT TO BE. YOU MUST APPLY THE LAW THAT I GIVE TO YOU, WHETHER YOU AGREE WITH IT OR NOT.

4. WHATEVER YOUR VERDICT, IT WILL HAVE TO BE UNANIMOUS WITH RESPECT TO EACH DEFENDANT, CHARGE BY CHARGE. ALL OF YOU WILL HAVE TO AGREE ON IT OR THERE WILL BE NO VERDICT. IN THE JURY ROOM YOU WILL DISCUSS THE CASE AMONG YOURSELVES, BUT ULTIMATELY EACH OF YOU WILL HAVE TO MAKE UP HIS OR HER OWN

MIND. THIS IS A RESPONSIBILITY THAT EACH OF YOU HAS AND THAT YOU CANNOT AVOID.

5. DURING YOUR DELIBERATIONS, YOU MUST NOT COMMUNICATE WITH OR PROVIDE ANY INFORMATION TO ANYONE BY ANY MEANS ABOUT THIS CASE. YOU MAY NOT USE ANY ELECTRONIC DEVICE OR MEDIA, SUCH AS THE TELEPHONE, A CELL PHONE, SMART PHONE, IPHONE, BLACKBERRY OR COMPUTER, THE INTERNET, ANY INTERNET SERVICE, ANY TEXT OR INSTANT MESSAGING SERVICE, ANY INTERNET CHAT ROOM, BLOG, OR WEBSITE SUCH AS FACEBOOK, MYSPACE, LINKEDIN, YOUTUBE OR TWITTER, TO COMMUNICATE TO ANYONE ANY INFORMATION ABOUT THIS CASE OR TO CONDUCT ANY RESEARCH ABOUT THIS CASE UNTIL I ACCEPT YOUR VERDICT. IN OTHER WORDS, YOU CANNOT TALK TO ANYONE ON THE PHONE, CORRESPOND WITH ANYONE, OR ELECTRONICALLY COMMUNICATE WITH ANYONE ABOUT THIS CASE. YOU CAN ONLY DISCUSS THE

CASE IN THE JURY ROOM WITH YOUR FELLOW JURORS DURING DELIBERATIONS.

6. YOU MAY NOT USE THESE ELECTRONIC MEANS TO INVESTIGATE OR COMMUNICATE ABOUT THE CASE BECAUSE IT IS IMPORTANT THAT YOU DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE PRESENTED IN THIS COURTROOM. YOU ARE ONLY PERMITTED TO DISCUSS THE CASE WITH YOUR FELLOW JURORS DURING DELIBERATIONS BECAUSE THEY HAVE SEEN AND HEARD THE SAME EVIDENCE YOU HAVE. IN OUR JUDICIAL SYSTEM, IT IS IMPORTANT THAT YOU ARE NOT INFLUENCED BY ANYTHING OR ANYONE OUTSIDE OF THIS COURTROOM.

7. PERFORM THESE DUTIES FAIRLY AND IMPARTIALLY. DO NOT ALLOW SYMPATHY, PREJUDICE, FEAR, OR PUBLIC OPINION TO INFLUENCE YOU. YOU SHOULD ALSO NOT BE INFLUENCED BY ANY PERSON'S RACE, COLOR, RELIGION, NATIONAL ANCESTRY, GENDER, OCCUPATION,

ECONOMIC CIRCUMSTANCES, OR POSITION IN LIFE OR IN THE COMMUNITY.

EVIDENCE

8. YOU MUST MAKE YOUR DECISION IN THIS CASE BASED ONLY ON THE EVIDENCE THAT YOU SAW AND HEARD IN THE COURTROOM. DO NOT LET RUMORS, SUSPICIONS, OR ANYTHING ELSE THAT YOU MAY HAVE SEEN OR HEARD OUTSIDE OF COURT INFLUENCE YOUR DECISION IN ANY WAY.

9. THE EVIDENCE FROM WHICH YOU ARE TO FIND THE FACTS CONSISTS OF THE FOLLOWING:

(1) THE TESTIMONY OF THE WITNESSES;

(2) DOCUMENTS AND OTHER THINGS RECEIVED AS EXHIBITS; AND

(3) ANY FACT OR TESTIMONY THAT WAS STIPULATED; THAT IS, FORMALLY AGREED TO BY THE PARTIES.

10. THE FOLLOWING ARE NOT EVIDENCE:

(1) THE INDICTMENTS;

(2) STATEMENTS AND ARGUMENTS OF THE LAWYERS FOR THE PARTIES IN THIS CASE;

(3) QUESTIONS BY THE LAWYERS AND QUESTIONS THAT I MIGHT HAVE ASKED;

(4) OBJECTIONS BY LAWYERS, INCLUDING OBJECTIONS IN WHICH THE LAWYERS STATED FACTS;

(5) ANY TESTIMONY I STRUCK OR TOLD YOU TO DISREGARD; AND

(6) ANYTHING YOU MAY HAVE SEEN OR HEARD ABOUT THIS CASE OUTSIDE THE COURTROOM.

11. YOU SHOULD USE YOUR COMMON SENSE IN WEIGHING THE EVIDENCE. CONSIDER IT IN LIGHT OF YOUR EVERYDAY EXPERIENCE WITH PEOPLE AND EVENTS, AND GIVE IT WHATEVER WEIGHT YOU BELIEVE IT DESERVES. IF YOUR EXPERIENCE AND COMMON SENSE TELLS YOU THAT CERTAIN EVIDENCE REASONABLY LEADS TO A CONCLUSION, YOU MAY REACH THAT CONCLUSION.

12. AS I TOLD YOU IN MY PRELIMINARY INSTRUCTIONS, THE RULES OF EVIDENCE CONTROL WHAT CAN BE RECEIVED INTO EVIDENCE. DURING THE TRIAL THE LAWYERS OBJECTED WHEN THEY THOUGHT THAT EVIDENCE WAS OFFERED THAT WAS NOT PERMITTED BY THE RULES OF EVIDENCE. THESE OBJECTIONS SIMPLY MEANT THAT THE LAWYERS WERE ASKING ME TO DECIDE WHETHER THE EVIDENCE SHOULD BE ALLOWED UNDER THE RULES.

13. YOU SHOULD NOT BE INFLUENCED BY THE FACT THAT AN OBJECTION WAS MADE. YOU SHOULD ALSO NOT BE INFLUENCED BY MY RULINGS ON OBJECTIONS OR ANY SIDEBAR CONFERENCES YOU MAY HAVE OVERHEARD. WHEN I OVERRULED AN OBJECTION, THE QUESTION WAS ANSWERED OR THE EXHIBIT WAS RECEIVED AS EVIDENCE, AND YOU SHOULD TREAT THAT TESTIMONY OR EXHIBIT LIKE ANY OTHER. WHEN I ALLOWED EVIDENCE (TESTIMONY OR EXHIBITS) FOR A LIMITED PURPOSE ONLY, I INSTRUCTED

YOU TO CONSIDER THAT EVIDENCE ONLY FOR THAT LIMITED PURPOSE AND YOU MUST DO THAT.

14. WHEN I SUSTAINED AN OBJECTION, THE QUESTION WAS NOT ANSWERED OR THE EXHIBIT WAS NOT RECEIVED AS EVIDENCE. YOU MUST DISREGARD THE QUESTION OR THE EXHIBIT ENTIRELY. DO NOT THINK ABOUT OR GUESS WHAT THE WITNESS MIGHT HAVE SAID IN ANSWER TO THE QUESTION; DO NOT THINK ABOUT OR GUESS WHAT THE EXHIBIT MIGHT HAVE SHOWN. SOMETIMES A WITNESS MAY HAVE ALREADY ANSWERED BEFORE A LAWYER OBJECTED OR BEFORE I RULED ON THE OBJECTION. IF THAT HAPPENED AND IF I SUSTAINED THE OBJECTION, YOU MUST DISREGARD THE ANSWER THAT WAS GIVEN.

15. ALSO, IF I ORDERED THAT SOME TESTIMONY OR OTHER EVIDENCE BE STRICKEN OR REMOVED FROM THE RECORD, YOU MUST DISREGARD THAT EVIDENCE. WHEN YOU ARE DECIDING THIS CASE, YOU MUST NOT CONSIDER OR

BE INFLUENCED IN ANY WAY BY THE TESTIMONY OR OTHER EVIDENCE THAT I TOLD YOU TO DISREGARD.

16. ALTHOUGH THE LAWYERS MAY HAVE CALLED YOUR ATTENTION TO CERTAIN FACTS OR FACTUAL CONCLUSIONS THAT THEY THOUGHT WERE IMPORTANT, WHAT THE LAWYERS SAID IS NOT EVIDENCE AND IS NOT BINDING ON YOU. IT IS YOUR OWN RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS YOUR DECISION IN THIS CASE. ALSO, DO NOT ASSUME FROM ANYTHING I MAY HAVE DONE OR SAID DURING THE TRIAL THAT I HAVE ANY OPINION ABOUT ANY OF THE ISSUES IN THIS CASE OR ABOUT WHAT YOUR VERDICT SHOULD BE.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

17. TWO TYPES OF EVIDENCE MAY HAVE BEEN USED IN THIS TRIAL, "DIRECT EVIDENCE," AND "CIRCUMSTANTIAL (OR INDIRECT) EVIDENCE." YOU MAY USE BOTH TYPES OF EVIDENCE IN REACHING YOUR VERDICT.

18. “DIRECT EVIDENCE” IS SIMPLY EVIDENCE WHICH, IF BELIEVED, DIRECTLY PROVES A FACT. AN EXAMPLE OF “DIRECT EVIDENCE” OCCURS WHEN A WITNESS TESTIFIES ABOUT SOMETHING THE WITNESS KNOWS FROM HIS OR HER OWN SENSES — SOMETHING THE WITNESS HAS SEEN, TOUCHED, HEARD, OR SMELLED.

19. “CIRCUMSTANTIAL EVIDENCE” IS EVIDENCE WHICH, IF BELIEVED, INDIRECTLY PROVES A FACT. IT IS EVIDENCE THAT PROVES ONE OR MORE FACTS FROM WHICH YOU COULD REASONABLY FIND OR INFER THE EXISTENCE OF SOME OTHER FACT OR FACTS. A REASONABLE INFERENCE IS SIMPLY A DEDUCTION OR CONCLUSION THAT REASON, EXPERIENCE, AND COMMON SENSE LEAD YOU TO MAKE FROM THE EVIDENCE. A REASONABLE INFERENCE IS NOT A SUSPICION OR A GUESS. IT IS A REASONED, LOGICAL DECISION TO FIND THAT A DISPUTED FACT EXISTS ON THE BASIS OF ANOTHER FACT.

20. REMEMBER MY EARLIER EXAMPLE. IF SOMEONE WALKED INTO THE COURTROOM WEARING A WET RAINCOAT AND CARRYING A WET UMBRELLA, THAT WOULD BE CIRCUMSTANTIAL OR INDIRECT EVIDENCE FROM WHICH YOU COULD REASONABLY FIND OR CONCLUDE THAT IT WAS RAINING. YOU WOULD NOT HAVE TO FIND THAT IT WAS RAINING, BUT YOU COULD.

21. SOMETIMES DIFFERENT INFERENCES MAY BE DRAWN FROM THE SAME SET OF FACTS. THE PROSECUTION MAY ASK YOU TO DRAW ONE INFERENCE, AND THE DEFENSE MAY ASK YOU TO DRAW ANOTHER. YOU, AND YOU ALONE, MUST DECIDE WHAT REASONABLE INFERENCES, IF ANY, YOU WILL DRAW BASED ON ALL THE EVIDENCE AND YOUR REASON, EXPERIENCE AND COMMON SENSE.

22. YOU SHOULD CONSIDER ALL THE EVIDENCE THAT IS PRESENTED IN THIS TRIAL, DIRECT AND CIRCUMSTANTIAL. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT THAT YOU SHOULD GIVE TO EITHER DIRECT OR

CIRCUMSTANTIAL EVIDENCE. IT IS FOR YOU TO DECIDE HOW MUCH WEIGHT TO GIVE ANY EVIDENCE.

CREDIBILITY OF WITNESSES

23. AS I STATED IN MY PRELIMINARY INSTRUCTIONS AT THE BEGINNING OF THE TRIAL, IN DECIDING WHAT THE FACTS ARE YOU MUST DECIDE WHAT TESTIMONY YOU BELIEVE AND WHAT TESTIMONY YOU DO NOT BELIEVE. YOU ARE THE SOLE JUDGES OF THE CREDIBILITY OF THE WITNESSES. CREDIBILITY REFERS TO WHETHER A WITNESS IS WORTHY OF BELIEF: WAS THE WITNESS TRUTHFUL? WAS THE WITNESS'S TESTIMONY ACCURATE? YOU MAY BELIEVE EVERYTHING A WITNESS SAYS, OR ONLY PART OF IT, OR NONE OF IT.

24. YOU MAY DECIDE WHETHER TO BELIEVE A WITNESS BASED ON HIS OR HER BEHAVIOR AND MANNER OF TESTIFYING, THE EXPLANATIONS THE WITNESS GAVE, AND ALL THE OTHER EVIDENCE IN THE CASE, JUST AS YOU WOULD IN ANY IMPORTANT MATTER WHERE YOU ARE

TRYING TO DECIDE IF A PERSON IS TRUTHFUL, STRAIGHTFORWARD, AND ACCURATE IN HIS OR HER RECOLLECTION. IN DECIDING THE QUESTION OF CREDIBILITY, REMEMBER TO USE YOUR COMMON SENSE, YOUR GOOD JUDGMENT, AND YOUR EXPERIENCE.

25. IN DECIDING WHAT TO BELIEVE, YOU MAY CONSIDER A NUMBER OF FACTORS. THESE INCLUDE:

(1) THE OPPORTUNITY AND ABILITY OF THE WITNESS TO SEE OR HEAR OR KNOW THE THINGS ABOUT WHICH THE WITNESS TESTIFIED;

(2) THE QUALITY OF THE WITNESS'S KNOWLEDGE, UNDERSTANDING, AND MEMORY;

(3) THE WITNESS'S APPEARANCE, BEHAVIOR, AND MANNER WHILE TESTIFYING;

(4) WHETHER THE WITNESS HAS AN INTEREST IN THE OUTCOME OF THE CASE OR ANY MOTIVE, BIAS, OR PREJUDICE;

(5) ANY RELATION THE WITNESS MAY HAVE WITH A

PARTY IN THE CASE AND ANY EFFECT THE VERDICT MAY HAVE ON THE WITNESS;

(6) WHETHER THE WITNESS SAID OR WROTE ANYTHING BEFORE TRIAL THAT WAS DIFFERENT FROM THE WITNESS'S TESTIMONY IN COURT;

(7) WHETHER THE WITNESS'S TESTIMONY WAS CONSISTENT OR INCONSISTENT WITH OTHER EVIDENCE THAT YOU BELIEVE; AND

(8) ANY OTHER FACTORS THAT BEAR ON WHETHER THE WITNESS SHOULD BE BELIEVED.

26. INCONSISTENCIES OR DISCREPANCIES IN A WITNESS'S TESTIMONY OR BETWEEN THE TESTIMONY OF DIFFERENT WITNESSES MAY OR MAY NOT CAUSE YOU TO DISBELIEVE A WITNESS'S TESTIMONY. TWO OR MORE PERSONS WITNESSING AN EVENT MAY SIMPLY SEE OR HEAR IT DIFFERENTLY. MISTAKEN RECOLLECTION, LIKE FAILURE TO RECALL, IS A COMMON HUMAN EXPERIENCE. IN WEIGHING THE EFFECT OF AN INCONSISTENCY, YOU SHOULD

ALSO CONSIDER WHETHER IT WAS ABOUT A MATTER OF IMPORTANCE OR AN INSIGNIFICANT DETAIL. YOU SHOULD ALSO CONSIDER WHETHER THE INCONSISTENCY WAS INNOCENT OR INTENTIONAL.

27. YOU ARE NOT REQUIRED TO ACCEPT TESTIMONY EVEN IF THE TESTIMONY WAS NOT CONTRADICTED AND THE WITNESS WAS NOT IMPEACHED. YOU MAY DECIDE THAT THE WITNESS IS NOT WORTHY OF BELIEF BECAUSE OF THE WITNESS'S BEARING AND DEMEANOR, OR BECAUSE OF THE INHERENT IMPROBABILITY OF THE TESTIMONY, OR FOR OTHER REASONS THAT ARE SUFFICIENT TO YOU.

28. AFTER YOU MAKE YOUR OWN JUDGMENT ABOUT THE BELIEVABILITY OF A WITNESS, YOU CAN THEN ATTACH TO THAT WITNESS'S TESTIMONY THE IMPORTANCE OR WEIGHT THAT YOU THINK IT DESERVES.

29. THE WEIGHT OF THE EVIDENCE TO PROVE A FACT DOES NOT NECESSARILY DEPEND ON THE NUMBER OF WITNESSES WHO TESTIFIED OR THE QUANTITY OF EVIDENCE

THAT WAS PRESENTED. WHAT IS MORE IMPORTANT THAN NUMBERS OR QUANTITY IS HOW BELIEVABLE THE WITNESSES WERE, AND HOW MUCH WEIGHT YOU THINK THEIR TESTIMONY DESERVES.

30. DURING THE TRIAL, EACH OF YOU WAS SUPPLIED WITH A NOTEBOOK FOR THE PURPOSE OF TAKING NOTES. YOU SHOULD REMEMBER THAT NOTES TAKEN BY ANY JUROR ARE NOT EVIDENCE IN THE CASE AND MUST NOT TAKE PRECEDENCE OVER YOUR INDEPENDENT RECOLLECTION OF THE TESTIMONY AND EVIDENCE PRESENTED DURING TRIAL. NOTES ARE ONLY AN AID TO YOUR RECOLLECTION AND THEY ARE NOT ENTITLED TO ANY GREATER WEIGHT THAN THAT WHICH THE EVIDENCE ACTUALLY IS. ANY NOTES TAKEN BY ANY JUROR CONCERNING THIS CASE SHOULD NOT BE DISCLOSED TO ANYONE OTHER THAN A FELLOW JUROR.

31. YOU WERE NOT OBLIGATED TO TAKE NOTES. IF YOU DID NOT TAKE NOTES YOU SHOULD NOT BE

INFLUENCED BY THE NOTES OF ANOTHER JUROR, BUT YOU SHOULD RELY UPON YOUR OWN RECOLLECTION OF THE EVIDENCE.

32. YOUR DECISION OF THE FACTS IN THIS CASE SHOULD NOT BE DETERMINED BY THE NUMBER OF WITNESSES TESTIFYING FOR OR AGAINST A PARTY. THE NUMBER OF WITNESSES WHO TESTIFY FOR ONE SIDE OR THE OTHER IS NOT CONTROLLING. THE WEIGHT OF THE EVIDENCE ALSO DOES NOT NECESSARILY DEPEND ON THE QUANTITY OF EVIDENCE PRESENTED. WHAT IS MORE IMPORTANT THAN NUMBERS OR QUANTITY IS HOW BELIEVEABLE THE WITNESSES WERE, AND HOW MUCH WEIGHT YOU THINK THEIR TESTIMONY DESERVES. YOU MUST CONSIDER ALL OF THE EVIDENCE AND DETERMINE WHAT THE FACTS ARE AND WHETHER THE GOVERNMENT HAS PROVEN ITS CASE AND ALL OF THE ELEMENTS THEREOF, AS I WILL DEFINE THEM, BEYOND A REASONABLE DOUBT.

33. IF YOU BELIEVE THAT A WITNESS KNOWINGLY TESTIFIED FALSELY CONCERNING ANY IMPORTANT MATTER, YOU MAY DISTRUST THE WITNESS' TESTIMONY CONCERNING OTHER MATTERS. YOU MAY REJECT ALL OF THE TESTIMONY OR MAY ACCEPT SUCH PARTS OF THE TESTIMONY THAT YOU BELIEVE ARE TRUE AND GIVE IT SUCH WEIGHT AS YOU THINK IT DESERVES.

34. THE GOVERNMENT AND THE DEFENDANTS PRICE MONTGOMERY AND JAMES PERRIN ARE ALL EQUAL BEFORE THE LAW. NO GREATER OR LESSER WEIGHT SHOULD BE GIVEN TO THE TESTIMONY OF A WITNESS CONNECTED WITH EITHER PARTY.

35. ALTHOUGH THE PROSECUTION IS REQUIRED TO PROVE THE DEFENDANTS GUILTY BEYOND A REASONABLE DOUBT, THE PROSECUTION IS NOT REQUIRED TO PRESENT ALL POSSIBLE EVIDENCE RELATED TO THE CASE OR TO PRODUCE ALL POSSIBLE WITNESSES WHO MIGHT HAVE SOME KNOWLEDGE ABOUT THE FACTS OF THE CASE. IN

ADDITION, AS I HAVE EXPLAINED, THE DEFENDANTS ARE NOT REQUIRED TO PRESENT ANY EVIDENCE OR PRODUCE ANY WITNESSES AT ALL.

PRESUMPTION OF INNOCENCE; BURDEN OF PROOF; REASONABLE DOUBT

36. THE DEFENDANTS HAVE PLEADED NOT GUILTY TO ALL OFFENSES CHARGED. THE DEFENDANTS ARE PRESUMED TO BE INNOCENT. THEY STARTED THE TRIAL WITH A CLEAN SLATE, WITH NO EVIDENCE AGAINST THEM. THE PRESUMPTION OF INNOCENCE STAYS WITH THE DEFENDANTS UNLESS AND UNTIL THE PROSECUTION HAS PRESENTED EVIDENCE THAT OVERCOMES THAT PRESUMPTION BY CONVINCING YOU THAT A DEFENDANT IS GUILTY OF AN OFFENSE CHARGED BEYOND A REASONABLE DOUBT. THE PRESUMPTION OF INNOCENCE REQUIRES THAT YOU FIND A DEFENDANT NOT GUILTY OF A SPECIFIC CHARGE, UNLESS YOU ARE SATISFIED THAT THE

PROSECUTION HAS PROVED GUILT BEYOND A REASONABLE DOUBT AS TO THAT CHARGE.

37. THE PRESUMPTION OF INNOCENCE MEANS THAT A DEFENDANT HAS NO BURDEN OR OBLIGATION TO PRESENT ANY EVIDENCE AT ALL OR TO PROVE THAT HE IS NOT GUILTY. THE BURDEN OR OBLIGATION OF PROOF IS ON THE PROSECUTION TO PROVE THAT A DEFENDANT IS GUILTY AND THIS BURDEN STAYS WITH THE PROSECUTION THROUGHOUT THE TRIAL.

38. PRICE MONTGOMERY AND JAMES PERRIN DID NOT TESTIFY IN THIS CASE. A DEFENDANT HAS AN ABSOLUTE CONSTITUTIONAL RIGHT NOT TO TESTIFY. THE BURDEN OF PROOF REMAINS WITH THE PROSECUTION THROUGHOUT THE ENTIRE TRIAL AND NEVER SHIFTS TO THE DEFENDANT. THE DEFENDANT IS NEVER REQUIRED TO PROVE THAT HE IS INNOCENT. YOU MUST NOT ATTACH ANY SIGNIFICANCE TO THE FACT THAT PRICE MONTGOMERY AND JAMES PERRIN DID NOT TESTIFY. YOU MUST NOT DRAW ANY ADVERSE

INFERENCE AGAINST THEM BECAUSE THEY DID NOT TAKE THE WITNESS STAND. DO NOT CONSIDER, FOR ANY REASON AT ALL, THE FACT THAT PRICE MONTGOMERY AND JAMES PERRIN DID NOT TESTIFY. DO NOT DISCUSS THAT FACT DURING YOUR DELIBERATIONS OR LET IT INFLUENCE YOUR DECISION IN ANY WAY.

39. IN ORDER FOR YOU TO FIND A DEFENDANT GUILTY OF AN OFFENSE CHARGED, THE PROSECUTION MUST CONVINCE YOU THAT THE DEFENDANT IS GUILTY BEYOND A REASONABLE DOUBT. THAT MEANS THAT THE PROSECUTION MUST PROVE EACH AND EVERY ELEMENT OF AN OFFENSE CHARGED BEYOND A REASONABLE DOUBT. A DEFENDANT MAY NOT BE CONVICTED BASED ON SUSPICION OR CONJECTURE, BUT ONLY ON EVIDENCE PROVING GUILT BEYOND A REASONABLE DOUBT.

40. PROOF BEYOND A REASONABLE DOUBT DOES NOT MEAN PROOF BEYOND ALL POSSIBLE DOUBT OR TO A MATHEMATICAL CERTAINTY. POSSIBLE DOUBTS OR DOUBTS

BASED ON CONJECTURE, SPECULATION, OR HUNCH ARE NOT REASONABLE DOUBTS. A REASONABLE DOUBT IS A FAIR DOUBT BASED ON REASON, LOGIC, COMMON SENSE, OR EXPERIENCE. IT IS A DOUBT THAT AN ORDINARY REASONABLE PERSON HAS AFTER CAREFULLY WEIGHING ALL OF THE EVIDENCE, AND IS A DOUBT OF THE SORT THAT WOULD CAUSE HIM OR HER TO HESITATE TO ACT IN MATTERS OF IMPORTANCE IN HIS OR HER OWN LIFE. IT MAY ARISE FROM THE EVIDENCE, OR FROM THE LACK OF EVIDENCE, OR FROM THE NATURE OF THE EVIDENCE.

41. IF, HAVING NOW HEARD ALL THE EVIDENCE, YOU ARE CONVINCED THAT THE PROSECUTION PROVED EACH AND EVERY ELEMENT OF AN OFFENSE CHARGED BEYOND A REASONABLE DOUBT, YOU SHOULD RETURN A VERDICT OF GUILTY FOR THAT OFFENSE. HOWEVER, IF YOU HAVE A REASONABLE DOUBT ABOUT ONE OR MORE OF THE ELEMENTS OF AN OFFENSE CHARGED, THEN YOU MUST RETURN A VERDICT OF NOT GUILTY OF THAT OFFENSE.

SEPARATE CONSIDERATION – SINGLE DEFENDANT CHARGED WITH MULTIPLE OFFENSES

42. THE DEFENDANTS ARE CHARGED WITH SEVERAL OFFENSES; EACH OFFENSE IS CHARGED IN A SEPARATE COUNT OF THE FORMAL DOCUMENT KNOWN AS THE SECOND SUPERSEDING INDICTMENT. FOR EASE OF REFERENCE, IN GIVING THESE INSTRUCTIONS, I WILL SIMPLY REFER TO THAT FORMAL DOCUMENT AS THE INDICTMENT.

43. THE NUMBER OF OFFENSES CHARGED IS NOT EVIDENCE OF GUILT, AND THIS SHOULD NOT INFLUENCE YOUR DECISION IN ANY WAY. YOU MUST SEPARATELY CONSIDER THE EVIDENCE THAT RELATES TO EACH OFFENSE, AND YOU MUST RETURN A SEPARATE VERDICT FOR EACH OFFENSE. FOR EACH OFFENSE CHARGED, YOU MUST DECIDE WHETHER THE PROSECUTION HAS PROVED BEYOND A REASONABLE DOUBT THAT A DEFENDANT IS GUILTY OF THAT PARTICULAR OFFENSE.

44. YOUR DECISION ON ONE OFFENSE, WHETHER GUILTY OR NOT GUILTY, SHOULD NOT INFLUENCE YOUR DECISION ON ANY OF THE OTHER OFFENSES CHARGED. EACH OFFENSE SHOULD BE CONSIDERED SEPARATELY.

SEPARATE CONSIDERATION - MULTIPLE DEFENDANTS CHARGED WITH DIFFERENT OFFENSES

45. THE DEFENDANTS PRICE MONTGOMERY AND JAMES PERRIN ARE CHARGED WITH DIFFERENT OFFENSES. I WILL EXPLAIN TO YOU IN MORE DETAIL SHORTLY WHICH DEFENDANTS ARE CHARGED WITH WHICH OFFENSES. BEFORE I DO THAT, HOWEVER, I WANT TO EMPHASIZE SEVERAL THINGS. THE NUMBER OF OFFENSES CHARGED IS NOT EVIDENCE OF GUILT, AND THIS SHOULD NOT INFLUENCE YOUR DECISION IN ANY WAY. ALSO, IN OUR SYSTEM OF JUSTICE, GUILT OR INNOCENCE IS PERSONAL AND INDIVIDUAL. YOU MUST SEPARATELY CONSIDER THE EVIDENCE AGAINST EACH DEFENDANT ON EACH OFFENSE CHARGED, AND YOU MUST RETURN A SEPARATE VERDICT

FOR EACH DEFENDANT FOR EACH OFFENSE. FOR EACH DEFENDANT AND EACH OFFENSE, YOU MUST DECIDE WHETHER THE GOVERNMENT HAS PROVED BEYOND A REASONABLE DOUBT THAT A PARTICULAR DEFENDANT IS GUILTY OF A PARTICULAR OFFENSE. YOUR DECISION ON ANY ONE DEFENDANT OR ANY ONE OFFENSE, WHETHER GUILTY OR NOT GUILTY, SHOULD NOT INFLUENCE YOUR DECISION ON ANY OF THE OTHER DEFENDANTS OR OFFENSES. EACH OFFENSE AND EACH DEFENDANT SHOULD BE CONSIDERED SEPARATELY

ROLE OF THE COURT IN RULING ON EVIDENCE

46. DO NOT ATTEMPT TO INTERPRET MY RULINGS ON EVIDENCE AS SOMEHOW INDICATING WHOM I BELIEVE SHOULD WIN OR LOSE THE CASE. UPON ALLOWING TESTIMONY OR OTHER EVIDENCE TO BE INTRODUCED OVER THE OBJECTION OF AN ATTORNEY, THE COURT DOES NOT INDICATE ANY OPINION AS TO THE WEIGHT OR EFFECT OF SUCH EVIDENCE. AS STATED BEFORE, YOU THE JURORS ARE

THE SOLE JUDGES OF THE CREDIBILITY OF ALL WITNESSES AND THE WEIGHT AND EFFECT OF ALL EVIDENCE.

ROLE OF COUNSEL

47. IT IS THE DUTY OF THE ATTORNEY ON EACH SIDE OF THE CASE TO OBJECT WHEN THE OTHER SIDE OFFERS TESTIMONY OR OTHER EVIDENCE WHICH THE ATTORNEY BELIEVES IS NOT PROPERLY ADMISSIBLE. YOU SHOULD NOT SHOW PREJUDICE AGAINST AN ATTORNEY OR HIS CLIENT BECAUSE THE ATTORNEY HAS MADE OBJECTIONS.

JURY RECOLLECTION CONTROLS

48. IF ANY REFERENCE BY THE COURT OR BY COUNSEL TO MATTERS OF TESTIMONY OR EXHIBITS DOES NOT COINCIDE WITH YOUR OWN RECOLLECTION OF THAT EVIDENCE, IT IS YOUR RECOLLECTION WHICH SHOULD CONTROL DURING YOUR DELIBERATIONS AND NOT THE STATEMENTS OF THE COURT OR OF COUNSEL. YOU ARE THE SOLE JUDGES OF THE EVIDENCE RECEIVED IN THIS CASE.

VERDICTS AS TO DEFENDANTS ONLY

49. YOU ARE HERE TO DETERMINE WHETHER THE PROSECUTION HAS PROVEN THE GUILT OF THE DEFENDANTS FOR THE CHARGES IN THE INDICTMENTS BEYOND A REASONABLE DOUBT. YOU ARE NOT CALLED UPON TO RETURN A VERDICT AS TO THE GUILT OR INNOCENCE OF ANY OTHER PERSON OR PERSONS.

50. SO, IF THE EVIDENCE IN THE CASE CONVINCES YOU BEYOND A REASONABLE DOUBT OF THE GUILT OF A DEFENDANT FOR ONE OR MORE CRIMES CHARGED IN THE INDICTMENT, YOU SHOULD SO FIND, EVEN THOUGH YOU MAY BELIEVE THAT ONE OR MORE OTHER UNINDICTED PERSONS ARE ALSO GUILTY OF SOME CRIME. BUT IF ANY REASONABLE DOUBT REMAINS IN YOUR MINDS AFTER IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE IN THE CASE, IT IS YOUR DUTY TO FIND THAT DEFENDANT NOT GUILTY.

“ON OR ABOUT” / “AND”

51. YOU WILL NOTE THAT THE INDICTMENT CHARGES THAT THE OFFENSES WERE COMMITTED ON OR ABOUT OR IN OR AROUND A CERTAIN DATE OR ON OR ABOUT A CERTAIN DATE. THE PROSECUTION DOES NOT HAVE TO PROVE WITH CERTAINTY THE EXACT DATE OF THE ALLEGED OFFENSE. IT IS SUFFICIENT IF THE PROSECUTION PROVES BEYOND A REASONABLE DOUBT THAT THE OFFENSE WAS COMMITTED ON A DATE REASONABLY NEAR THE DATE ALLEGED.

52. I WANT TO INSTRUCT YOU REGARDING THE MEANING OF THE WORD “AND” WHEN IT IS USED IN STATUTES OR INDICTMENTS.

53. A GIVEN CRIMINAL STATUTE MAY PROHIBIT NOT MERELY ONE FORM OF ACTION BUT SEVERAL RELATED FORMS OF ACTION IN WHAT LAWYERS CALL “THE DISJUNCTIVE,” THAT IS, SEPARATED BY THE WORD “OR.” FOR EXAMPLE, THE FEDERAL DRUG STATUTE, 21 U.S.C. § 841(A)(1), MAKES IT ILLEGAL TO KNOWINGLY OR INTENTIONALLY

MANUFACTURE, DISTRIBUTE, OR DISPENSE, OR POSSESS WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DISPENSE, A CONTROLLED SUBSTANCE. THIS STATUTE PROHIBITS SIX DIFFERENT ACTIONS: (1) MANUFACTURING, (2) DISTRIBUTING, (3) DISPENSING, (4) POSSESSING WITH INTENT TO MANUFACTURE, (5) POSSESSING WITH INTENT TO DISTRIBUTE, AND (6) POSSESSING WITH INTENT TO DISPENSE. ALL SIX OF THESE CRIMES ARE SEPARATED BY THE WORD "OR" IN THE STATUTE.

54. IT IS PERMISSIBLE FOR THE PROSECUTION TO CHARGE BOTH DISTRIBUTION AND POSSESSION WITH INTENT TO DISTRIBUTE, AND SEPARATE THEM WITH THE WORD "AND." THIS, HOWEVER, DOES NOT MEAN THAT IF THE PROSECUTION DOES SO, IT MUST PROVE THAT THE DEFENDANT CONSPIRED TO VIOLATE THE DRUG STATUTE IN BOTH WAYS. IF ONLY ONE OF THOSE ALTERNATIVES IS PROVED BEYOND A REASONABLE DOUBT, THAT IS SUFFICIENT FOR CONVICTION. THUS, FOR EXAMPLE, IF THE

EVIDENCE PROVES THAT A DEFENDANT CONSPIRED TO POSSESS WITH THE INTENT TO DISTRIBUTE HEROIN, IT IS IRRELEVANT WHETHER OR NOT HE ALSO DISTRIBUTED IT.

STIPULATED TESTIMONY

55. THE PARTIES HAVE AGREED WHAT CERTAIN WITNESSES' TESTIMONY WOULD BE IF CALLED. YOU SHOULD CONSIDER THAT TESTIMONY IN THE SAME WAY AS IF IT HAD BEEN GIVEN HERE IN COURT BY THE WITNESSES.

STIPULATION OF FACT

56. THE PARTIES HAVE AGREED THAT CERTAIN FACTS ARE TRUE. YOU SHOULD THEREFORE TREAT THOSE FACTS AS HAVING BEEN PROVED. YOU ARE NOT REQUIRED TO DO SO, HOWEVER, SINCE YOU ARE THE SOLE JUDGE OF THE FACTS.

AUDIO/VIDEO RECORDS – NON-CONSENSUAL

57. DURING THE TRIAL, YOU HEARD RECORDINGS OF CONVERSATIONS WITH A DEFENDANT WHICH WERE MADE WITHOUT THE KNOWLEDGE OF THE PARTIES TO THE

CONVERSATIONS, BUT WITH THE CONSENT AND AUTHORIZATION OF A JUDGE. THESE RECORDINGS (SOMETIMES REFERRED TO AS WIRETAPS) WERE LAWFULLY OBTAINED.

58. THE USE OF THIS PROCEDURE TO GATHER EVIDENCE IS LAWFUL AND THE RECORDINGS MAY BE USED BY EITHER PARTY.

AUDIO/VIDEO RECORDS – TRANSCRIPTS

59. YOU HAVE HEARD AUDIO RECORDINGS THAT WERE RECEIVED IN EVIDENCE, AND YOU WERE GIVEN WRITTEN TRANSCRIPTS OF THE RECORDINGS.

60. KEEP IN MIND THAT THE TRANSCRIPTS ARE NOT EVIDENCE. THEY WERE GIVEN TO YOU ONLY AS A GUIDE TO HELP YOU FOLLOW WHAT WAS BEING SAID. THE RECORDINGS THEMSELVES ARE THE EVIDENCE. IF YOU NOTICED ANY DIFFERENCES BETWEEN WHAT YOU HEARD ON THE RECORDINGS AND WHAT YOU READ IN THE TRANSCRIPTS, YOU MUST RELY ON WHAT YOU HEARD, NOT

WHAT YOU READ. AND IF YOU COULD NOT HEAR OR UNDERSTAND CERTAIN PARTS OF THE RECORDINGS YOU MUST IGNORE THE TRANSCRIPTS AS FAR AS THOSE PARTS ARE CONCERNED. THE TRANSCRIPTS NAME THE SPEAKERS. BUT REMEMBER, YOU MUST DECIDE WHO YOU ACTUALLY HEARD SPEAKING IN THE RECORDING. THE NAMES ON THE TRANSCRIPT WERE USED SIMPLY FOR YOUR CONVENIENCE.

OPINION EVIDENCE – EXPERT WITNESSES

61. THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO STATE THEIR OWN OPINIONS ABOUT IMPORTANT QUESTIONS IN A TRIAL, BUT THERE ARE EXCEPTIONS TO THESE RULES.

62. IN THIS CASE, YOU HEARD TESTIMONY FROM STAN BRUE. BECAUSE OF HIS KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION IN THE FIELD OF THE ANALYSIS OF CELL PHONE RECORDS AND CELL TOWER DATA, STAN BRUE WAS PERMITTED TO OFFER OPINIONS IN THAT FIELD AND THE REASONS FOR THOSE OPINIONS.

63. IN THIS CASE, YOU ALSO HEARD TESTIMONY FROM ASHLEY PLATT AND SARAH BITTNER. BECAUSE OF THEIR KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION IN THE FIELD OF DNA ANALYSIS, THEY WERE PERMITTED TO OFFER OPINIONS IN THAT FIELD AND THE REASONS FOR THOSE OPINIONS.

64. IN THIS CASE, YOU ALSO HEARD TESTIMONY FROM JASON VERY. BECAUSE OF HIS KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION IN THE FIELD OF FIREARMS ANALYSIS, HE WAS PERMITTED TO OFFER OPINIONS IN THAT FIELD AND THE REASONS FOR THOSE OPINIONS.

65. IN THIS CASE, YOU ALSO HEARD TESTIMONY FROM DR. KENNETH CLARK. BECAUSE OF HIS KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION IN THE FIELD OF FORENSIC PATHOLOGY, HE WAS PERMITTED TO OFFER OPINIONS IN THAT FIELD AND THE REASONS FOR THOSE OPINIONS.

66. THE OPINIONS THESE WITNESSES STATE SHOULD RECEIVE WHATEVER WEIGHT YOU THINK APPROPRIATE, GIVEN ALL THE OTHER EVIDENCE IN THE CASE. IN WEIGHING THIS OPINION TESTIMONY YOU MAY CONSIDER THE WITNESS'S QUALIFICATIONS, THE REASONS FOR THE WITNESS'S OPINIONS, AND THE RELIABILITY OF THE INFORMATION SUPPORTING THE WITNESS'S OPINIONS, AS WELL AS THE OTHER FACTORS DISCUSSED IN THESE INSTRUCTIONS FOR WEIGHING THE TESTIMONY OF WITNESSES. YOU MAY DISREGARD THE OPINIONS ENTIRELY IF YOU DECIDE THAT THE WITNESS'S OPINIONS ARE NOT BASED ON SUFFICIENT KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION. YOU MAY ALSO DISREGARD THE OPINIONS IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINIONS ARE NOT SOUND, OR IF YOU CONCLUDE THAT THE OPINIONS ARE NOT SUPPORTED BY THE FACTS SHOWN BY THE EVIDENCE, OR IF YOU THINK

THAT THE OPINIONS ARE OUTWEIGHED BY OTHER EVIDENCE.

OPINION EVIDENCE -- LAY WITNESSES

67. AS I STATED, WITNESSES ARE NOT GENERALLY PERMITTED TO STATE THEIR PERSONAL OPINIONS ABOUT IMPORTANT QUESTIONS IN A TRIAL. HOWEVER, A WITNESS MAY BE ALLOWED TO TESTIFY TO HIS OR HER OPINION IF IT IS RATIONALLY BASED ON THE WITNESS' PERCEPTION AND IS HELPFUL TO A CLEAR UNDERSTANDING OF THE WITNESS' TESTIMONY OR TO THE DETERMINATION OF A FACT IN ISSUE.

68. IN THIS CASE, I PERMITTED SPECIAL AGENT MATTHEW TRUESDELL TO OFFER HIS OPINION AS TO CERTAIN MATTERS BASED ON HIS PERCEPTIONS. THE OPINION OF THIS WITNESS SHOULD RECEIVE WHATEVER WEIGHT YOU THINK APPROPRIATE, GIVEN ALL THE OTHER EVIDENCE IN THE CASE AND THE OTHER FACTORS DISCUSSED IN THESE INSTRUCTIONS FOR WEIGHING AND

CONSIDERING WHETHER TO BELIEVE THE TESTIMONY OF WITNESSES.

SPECIFIC INVESTIGATION TECHNIQUES

69. WHEN THE IDENTITY OF THE PERSON WHO COMMITTED A CRIME IS IN QUESTION, THE PARTIES MAY INTRODUCE EVIDENCE TO TRY TO PROVE WHO COMMITTED THE CRIME. TO DO THIS, A PARTY MAY PRESENT A "KNOWN" SAMPLE OF A PERSON'S DNA, ONE THAT IS PROVED TO HAVE COME FROM THAT PERSON. THIS KNOWN DNA SAMPLE IS THEN COMPARED WITH ANY DNA BEING INTRODUCED TO PROVE WHO COMMITTED THE CRIME. IN THIS CASE, THE GOVERNMENT INTRODUCED EVIDENCE OF DNA MATTER WHICH PURPORTEDLY CAME FROM DEFENDANT PRICE MONTGOMERY. THE GOVERNMENT ALSO INTRODUCED EVIDENCE OF DNA MATTER WHICH WAS PURPORTEDLY OBTAINED FROM THE SURFACES OF A CELL PHONE.

70. IN THIS CASE YOU ALSO HEARD THE TESTIMONY OF A WITNESS WHO CLAIMS SPECIAL QUALIFICATION IN THE

FIELD OF DNA ANALYSIS. THE WITNESS WAS ALLOWED TO EXPRESS AN OPINION IN ORDER TO HELP YOU DECIDE WHETHER THE DISPUTED DNA MATTER CONNECTED TO THE CRIME IN QUESTION IS DEFENDANT PRICE MONTGOMERY'S DNA. YOU MAY THEREFORE CONSIDER THE WITNESS'S OPINION IN REACHING YOUR INDEPENDENT DECISION ON THIS ISSUE.

71. DURING THE TRIAL YOU MAY HAVE HEARD TESTIMONY OF WITNESSES AND ARGUMENT BY COUNSEL THAT THE PROSECUTION MAY NOT HAVE USED SPECIFIC INVESTIGATIVE TECHNIQUES AS TO A PARTICULAR MATTER. YOU MAY CONSIDER THESE FACTS IN DECIDING WHETHER THE PROSECUTION HAS MET ITS BURDEN OF PROOF, BECAUSE AS I TOLD YOU, YOU SHOULD LOOK TO ALL OF THE EVIDENCE OR LACK OF EVIDENCE IN DECIDING WHETHER THE DEFENDANT IS GUILTY. HOWEVER, THERE IS NO LEGAL REQUIREMENT THAT THE PROSECUTION USE ANY SPECIFIC

INVESTIGATIVE TECHNIQUES OR ALL POSSIBLE TECHNIQUES TO PROVE ITS CASE.

72. YOUR CONCERN, AS I HAVE SAID, IS TO DETERMINE WHETHER OR NOT THE EVIDENCE ACTUALLY ADMITTED IN THIS TRIAL PROVES THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

CREDIBILITY OF WITNESSES – LAW ENFORCEMENT OFFICERS

73. YOU HAVE HEARD THE TESTIMONY OF LAW ENFORCEMENT OFFICERS. THE FACT THAT A WITNESS IS EMPLOYED AS A LAW ENFORCEMENT OFFICER DOES NOT MEAN THAT HIS TESTIMONY NECESSARILY DESERVES MORE OR LESS CONSIDERATION OR GREATER OR LESSER WEIGHT THAN THAT OF ANY OTHER WITNESS. YOU MUST DECIDE, AFTER REVIEWING ALL THE EVIDENCE, WHETHER YOU BELIEVE THE TESTIMONY OF THE LAW ENFORCEMENT WITNESS AND HOW MUCH WEIGHT, IF ANY, IT DESERVES.

74. AT THE SAME TIME, IT IS QUITE LEGITIMATE FOR DEFENSE COUNSEL TO TRY TO ATTACK THE BELIEVEABILITY OF A LAW ENFORCEMENT WITNESS ON THE GROUND THAT HIS TESTIMONY MAY BE COLORED BY A PERSONAL OR PROFESSIONAL INTEREST IN THE OUTCOME OF THE CASE.

75. YOU MUST DECIDE, AFTER REVIEWING ALL THE EVIDENCE, WHETHER YOU BELIEVE THE TESTIMONY OF THE LAW ENFORCEMENT WITNESS OR WITNESSES AND HOW MUCH WEIGHT, IF ANY, IT DESERVES.

CREDIBILITY OF WITNESSES – SAME OR RELATED OFFENSES, COOPERATING WITNESSES

76. YOU HAVE HEARD EVIDENCE THAT ANDRE AVENT AND DEFENDANT PRICE MONTGOMERY ARE ALLEGED CO-CONSPIRATORS IN THE ALLEGED MONEY LAUNDERING CONSPIRACY OFFENSE. MR. AVENT SAYS HE PARTICIPATED IN THE CRIME CHARGED, HAS MADE A PLEA AGREEMENT WITH THE PROSECUTION, AND MAY RECEIVE A BENEFIT FROM THE PROSECUTION IN EXCHANGE FOR TESTIFYING.

77. YOU HAVE ALSO HEARD THE TESTIMONY OF JEREMIAH PASHUTA WHO TESTIFIED THAT HE MADE PLEA AGREEMENTS WITH THE PROSECUTION AND HAS ALREADY RECEIVED A BENEFIT FROM THE PROSECUTION IN EXCHANGE FOR HIS TESTIMONY.

78. THE TESTIMONY OF THESE WITNESSES WAS RECEIVED IN EVIDENCE AND MAY BE CONSIDERED BY YOU. THE PROSECUTION IS PERMITTED TO PRESENT THE TESTIMONY OF SOMEONE WHO HAS REACHED A PLEA BARGAIN WITH THE PROSECUTION AND RECEIVED A BENEFIT FROM THE PROSECUTION IN EXCHANGE FOR HIS TESTIMONY, BUT YOU SHOULD CONSIDER THE TESTIMONY OF SUCH WITNESSES WITH GREAT CARE AND CAUTION. IN EVALUATING THEIR TESTIMONY, YOU SHOULD CONSIDER THIS FACTOR ALONG WITH THE OTHERS I HAVE CALLED TO YOUR ATTENTION. WHETHER OR NOT THEIR TESTIMONY MAY HAVE BEEN INFLUENCED BY THE PLEA AGREEMENT AND ALLEGED INVOLVEMENT IN THE CRIME CHARGED IS

FOR YOU TO DETERMINE. YOU MAY GIVE THEIR TESTIMONY SUCH WEIGHT AS YOU THINK IT DESERVES.

79. YOU MUST NOT CONSIDER A COCONSPIRATOR'S GUILTY PLEA AS ANY EVIDENCE OF THE GUILT OF EITHER OF THE DEFENDANTS. A WITNESS'S DECISION TO PLEAD GUILTY IS A PERSONAL DECISION ABOUT HIS/HER OWN GUILT. SUCH EVIDENCE IS OFFERED ONLY TO ALLOW YOU TO ASSESS THE CREDIBILITY OF THE WITNESSES; TO ELIMINATE ANY CONCERN THAT THE DEFENDANT HAS BEEN SINGLED OUT FOR PROSECUTION; AND TO EXPLAIN HOW THE WITNESSES CAME TO POSSESS DETAILED FIRST-HAND KNOWLEDGE OF THE EVENTS ABOUT WHICH THEY TESTIFIED. YOU MAY CONSIDER SUCH GUILTY PLEAS ONLY FOR THESE PURPOSES.

IMPEACHMENT OF WITNESS – PRIOR INCONSISTENT STATEMENT FOR CREDIBILITY ONLY

80. YOU HAVE HEARD THE TESTIMONY OF CERTAIN WITNESSES. YOU HAVE ALSO HEARD THAT BEFORE THIS TRIAL THEY MADE STATEMENTS THAT MAY BE DIFFERENT

FROM THEIR TESTIMONY IN THIS TRIAL. IT IS UP TO YOU TO DETERMINE WHETHER THESE STATEMENTS WERE MADE AND WHETHER THEY WERE DIFFERENT FROM THE WITNESSES' TESTIMONY IN THIS TRIAL. THESE EARLIER STATEMENTS WERE BROUGHT TO YOUR ATTENTION ONLY TO HELP YOU DECIDE WHETHER TO BELIEVE THE WITNESSES' TESTIMONY HERE AT THIS TRIAL. YOU CANNOT USE IT AS PROOF OF THE TRUTH OF WHAT THE WITNESSES SAID IN THE EARLIER STATEMENTS. YOU CAN ONLY USE IT AS ONE WAY OF EVALUATING THE WITNESSES' TESTIMONY IN THIS TRIAL.

IMPEACHMENT OF WITNESS, PRIOR CONVICTION

81. YOU HEARD EVIDENCE THAT A WITNESS WAS PREVIOUSLY CONVICTED OF CRIMES. YOU MAY CONSIDER THIS EVIDENCE, ALONG WITH OTHER PERTINENT EVIDENCE, ONLY IN DECIDING WHETHER OR NOT TO BELIEVE SUCH A WITNESS, AND HOW MUCH WEIGHT TO GIVE TO THEIR TESTIMONY.

ELEMENTS OF THE OFFENSES
SUMMARY OF THE INDICTMENT

82. I WILL NOW TELL YOU THE ESSENTIAL ELEMENTS OF THE CRIMES CHARGED AGAINST THE DEFENDANTS IN THE INDICTMENT.

83. PRICE MONTGOMERY IS CHARGED AT COUNT ONE WITH CONSPIRACY TO DISTRIBUTE AND POSSESS WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN; AT COUNT TWO WITH POSSESSION WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN; AT COUNT FOUR WITH POSSESSION OF A FIREARM BY A CONVICTED FELON; AT COUNT FIVE WITH POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME; AT COUNT SIX WITH CONSPIRACY TO LAUNDER MONETARY INSTRUMENTS; AT COUNT SEVEN WITH TAMPERING WITH A WITNESS BY KILLING A PERSON; AT

COUNT EIGHT WITH USING AND DISCHARGING A FIREARM IN RELATION TO A CRIME OF VIOLENCE RESULTING IN DEATH; AT COUNT NINE WITH TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON; AND AT COUNT TEN USING AND DISCHARGING A FIREARM IN RELATION TO A CRIME OF VIOLENCE.

84. JAMES PERRIN IS CHARGED AT COUNT ONE WITH CONSPIRACY TO DISTRIBUTE AND POSSESS WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN; AT COUNT TWO WITH POSSESSION WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN; AT COUNT THREE WITH POSSESSION OF FIREARM BY A CONVICTED FELON; AND AT COUNT FIVE WITH POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME.

85. AS I EXPLAINED AT THE BEGINNING OF TRIAL, AN INDICTMENT IS JUST THE FORMAL WAY OF SPECIFYING THE EXACT CRIMES A DEFENDANT IS ACCUSED OF COMMITTING. AN INDICTMENT IS SIMPLY A DESCRIPTION OF THE CHARGES AGAINST A DEFENDANT. IT IS AN ACCUSATION ONLY. AN INDICTMENT IS NOT EVIDENCE OF ANYTHING, AND YOU SHOULD NOT GIVE ANY WEIGHT TO THE FACT THAT PRICE MONTGOMERY OR JAMES PERRIN HAVE BEEN INDICTED IN MAKING YOUR DECISION IN THIS CASE.

COUNT 1 OF THE INDICTMENT – MONTGOMERY AND PERRIN

86. COUNT 1 OF THE INDICTMENT CHARGES THAT, FROM IN AND AROUND APRIL 2013, AND CONTINUING THEREAFTER TO IN AND AROUND JUNE 2014, IN THE WESTERN DISTRICT OF PENNSYLVANIA AND ELSEWHERE, THE DEFENDANTS, PRICE MONTGOMERY AND JAMES PERRIN, DID KNOWINGLY, INTENTIONALLY, AND UNLAWFULLY CONSPIRE WITH ONE ANOTHER AND WITH PERSONS BOTH

KNOWN AND UNKNOWN TO THE GRAND JURY TO DISTRIBUTE AND POSSESS WITH INTENT TO DISTRIBUTE A QUANTITY OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN, A SCHEDULE I CONTROLLED SUBSTANCE, CONTRARY TO THE PROVISIONS OF TITLE 21, UNITED STATES CODE, SECTIONS 841(A)(1) AND 841(B)(1)(C).

87. COUNT 1 OF THE INDICTMENT FURTHER SPECIFIES THAT EACH OF THESE NAMED DEFENDANTS IS INDIVIDUALLY RESPONSIBLE FOR CONSPIRING TO DISTRIBUTE AND POSSESS WITH INTENT TO DISTRIBUTE ONE (1) KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN, A SCHEDULE I CONTROLLED SUBSTANCE, AS A RESULT OF HIS OWN CONDUCT AND THE CONDUCT OF CONSPIRATORS THAT WAS REASONABLY FORESEEABLE TO HIM, CONTRARY TO THE PROVISIONS OF TITLE 21, UNITED STATES CODE, SECTIONS 841(A)(1) AND 841(B)(1)(A)(I).

88. COUNT ONE CHARGES THAT THIS WAS ALL IN VIOLATION OF TITLE 21, UNITED STATES CODE, SECTION 846.

89. IT IS A FEDERAL CRIME FOR TWO OR MORE PERSONS TO AGREE OR CONSPIRE TO COMMIT ANY OFFENSE AGAINST THE UNITED STATES, EVEN IF THEY NEVER ACTUALLY ACHIEVE THEIR OBJECTIVE. A CONSPIRACY IS A KIND OF CRIMINAL PARTNERSHIP.

90. FOR YOU TO FIND ANY DEFENDANT GUILTY OF CONSPIRACY TO DISTRIBUTE OR POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE, YOU MUST FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT EACH OF THE FOLLOWING THREE (3) ELEMENTS:

91. FIRST: THAT TWO OR MORE PERSONS AGREED TO DISTRIBUTE OR POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE;

92. SECOND: THAT THE DEFENDANT WAS A PARTY TO OR MEMBER OF THAT AGREEMENT; AND

93. THIRD: THAT THE DEFENDANT JOINED THE AGREEMENT OR CONSPIRACY KNOWING OF ITS OBJECTIVE TO DISTRIBUTE OR POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE AND INTENDING TO JOIN TOGETHER WITH AT LEAST ONE OTHER ALLEGED CONSPIRATOR TO ACHIEVE THAT OBJECTIVE; THAT IS, THAT THE DEFENDANT AND AT LEAST ONE OTHER ALLEGED CONSPIRATOR SHARED A UNITY OF PURPOSE AND THE INTENT TO ACHIEVE THAT OBJECTIVE.

94. YOU ARE INSTRUCTED THAT, AS A MATTER OF LAW, HEROIN IS A CONTROLLED SUBSTANCE, THAT IS, SOME KIND OF PROHIBITED DRUG. IT IS SOLELY FOR YOU, HOWEVER, TO DECIDE WHETHER THE PROSECUTION HAS PROVED BEYOND A REASONABLE DOUBT THAT A DEFENDANT CONSPIRED TO DISTRIBUTE OR TO POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE.

CONSPIRACY – EXISTENCE OF AN AGREEMENT

95. THE FIRST ELEMENT OF THE CRIME OF CONSPIRACY IS THE EXISTENCE OF AN AGREEMENT. THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT THAT TWO OR MORE PERSONS KNOWINGLY AND INTENTIONALLY ARRIVED AT A MUTUAL UNDERSTANDING OR AGREEMENT, EITHER SPOKEN OR UNSPOKEN, TO WORK TOGETHER TO ACHIEVE THE OVERALL OBJECTIVE OF THE CONSPIRACY.

96. THE PROSECUTION DOES NOT HAVE TO PROVE THE EXISTENCE OF A FORMAL OR WRITTEN AGREEMENT, OR AN EXPRESS ORAL AGREEMENT SPELLING OUT THE DETAILS OF THE UNDERSTANDING. THE PROSECUTION ALSO DOES NOT HAVE TO PROVE THAT ALL THE MEMBERS OF THE CONSPIRACY DIRECTLY MET, OR DISCUSSED BETWEEN THEMSELVES THEIR UNLAWFUL OBJECTIVE, OR AGREED TO ALL THE DETAILS, OR AGREED TO WHAT THE MEANS WERE BY WHICH THE OBJECTIVE WOULD BE ACCOMPLISHED. THE PROSECUTION IS NOT EVEN REQUIRED TO PROVE THAT ALL

THE PEOPLE NAMED IN THE INDICTMENT WERE, IN FACT, PARTIES TO THE AGREEMENT, OR THAT ALL MEMBERS OF THE ALLEGED CONSPIRACY WERE NAMED, OR THAT ALL MEMBERS OF THE CONSPIRACY ARE EVEN KNOWN. WHAT THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT IS THAT TWO OR MORE PERSONS IN SOME WAY OR MANNER ARRIVED AT SOME TYPE OF AGREEMENT, MUTUAL UNDERSTANDING, OR MEETING OF THE MINDS TO TRY TO ACCOMPLISH A COMMON AND UNLAWFUL OBJECTIVE.

97. YOU MAY CONSIDER BOTH DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN DECIDING WHETHER THE PROSECUTION HAS PROVED BEYOND A REASONABLE DOUBT THAT AN AGREEMENT OR MUTUAL UNDERSTANDING EXISTED. YOU MAY FIND THE EXISTENCE OF A CONSPIRACY BASED ON REASONABLE INFERENCES DRAWN FROM THE ACTIONS AND STATEMENTS OF THE ALLEGED MEMBERS OF THE CONSPIRACY, FROM THE CIRCUMSTANCES SURROUNDING THE SCHEME, AND FROM EVIDENCE OF

RELATED FACTS AND CIRCUMSTANCES WHICH PROVE THAT THE ACTIVITIES OF THE PARTICIPANTS IN A CRIMINAL VENTURE COULD NOT HAVE BEEN CARRIED OUT EXCEPT AS THE RESULT OF A PRECONCEIVED AGREEMENT, SCHEME, OR UNDERSTANDING.

CONSPIRACY – MEMBERSHIP IN THE AGREEMENT

98. IF YOU FIND THAT A CRIMINAL AGREEMENT OR CONSPIRACY EXISTED, THEN TO FIND A DEFENDANT GUILTY OF CONSPIRACY YOU MUST ALSO FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT KNOWINGLY AND INTENTIONALLY JOINED THAT AGREEMENT OR CONSPIRACY DURING ITS EXISTENCE. THE PROSECUTION MUST PROVE THAT THE DEFENDANT KNEW THE GOAL OR OBJECTIVE OF THE AGREEMENT OR CONSPIRACY AND VOLUNTARILY JOINED IT DURING ITS EXISTENCE, INTENDING TO ACHIEVE THE COMMON GOAL OR OBJECTIVE AND TO WORK TOGETHER

WITH THE OTHER ALLEGED CONSPIRATORS TOWARD THAT GOAL OR OBJECTIVE.

99. THE PROSECUTION NEED NOT PROVE THAT A DEFENDANT KNEW EVERYTHING ABOUT THE CONSPIRACY OR THAT A DEFENDANT KNEW EVERYONE INVOLVED IN IT, OR THAT A DEFENDANT WAS A MEMBER FROM THE BEGINNING. THE PROSECUTION ALSO DOES NOT HAVE TO PROVE THAT A DEFENDANT PLAYED A MAJOR OR SUBSTANTIAL ROLE IN THE CONSPIRACY.

100. YOU MAY CONSIDER BOTH DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE IN DECIDING WHETHER A DEFENDANT JOINED THE CONSPIRACY, KNEW OF ITS CRIMINAL OBJECTIVE, AND INTENDED TO FURTHER THE OBJECTIVE. EVIDENCE WHICH SHOWS THAT A DEFENDANT ONLY KNEW ABOUT THE CONSPIRACY, OR ONLY KEPT "BAD COMPANY" BY ASSOCIATING WITH MEMBERS OF THE CONSPIRACY, OR WAS ONLY PRESENT WHEN IT WAS DISCUSSED OR WHEN A CRIME WAS COMMITTED, IS NOT

SUFFICIENT TO PROVE THAT A DEFENDANT WAS A MEMBER OF THE CONSPIRACY EVEN IF A DEFENDANT APPROVED OF WHAT WAS HAPPENING OR DID NOT OBJECT TO IT. LIKEWISE, EVIDENCE SHOWING THAT A DEFENDANT MAY HAVE DONE SOMETHING THAT HAPPENED TO HELP A CONSPIRACY DOES NOT NECESSARILY PROVE THAT THE DEFENDANT JOINED THE CONSPIRACY. YOU MAY, HOWEVER, CONSIDER THIS EVIDENCE, WITH ALL THE OTHER EVIDENCE, IN DECIDING WHETHER THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT A DEFENDANT JOINED THE CONSPIRACY.

CONSPIRACY – SUCCESS IMMATERIAL

101. THE PROSECUTION IS NOT REQUIRED TO PROVE THAT ANY OF THE MEMBERS OF THE CONSPIRACY WERE SUCCESSFUL IN ACHIEVING ANY OR ALL OF THE OBJECTIVES OF THE CONSPIRACY. YOU MAY FIND A DEFENDANT GUILTY OF CONSPIRACY IF YOU FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THE ELEMENTS I

HAVE EXPLAINED, EVEN IF YOU FIND THAT THE PROSECUTION DID NOT PROVE THAT ANY OF THE CONSPIRATORS ACTUALLY COMMITTED ANY OTHER OFFENSE. CONSPIRACY IS A CRIMINAL OFFENSE SEPARATE FROM THE OFFENSE THAT WAS THE OBJECTIVE OF THE CONSPIRACY; CONSPIRACY IS COMPLETE WITHOUT THE COMMISSION OF THAT OFFENSE.

CONSPIRACY – DURATION

102. A CONSPIRACY ENDS WHEN THE OBJECTIVES OF THE CONSPIRACY HAVE BEEN ACHIEVED OR WHEN ALL MEMBERS OF THE CONSPIRACY HAVE WITHDRAWN FROM IT. HOWEVER, A CONSPIRACY MAY BE A CONTINUING CONSPIRACY AND IF IT IS, IT LASTS UNTIL THERE IS SOME AFFIRMATIVE SHOWING THAT IT HAS ENDED OR THAT ALL ITS MEMBERS HAVE WITHDRAWN. A CONSPIRACY MAY BE A CONTINUING ONE IF THE AGREEMENT INCLUDES AN UNDERSTANDING THAT THE CONSPIRACY WILL CONTINUE OVER TIME. ALSO, A CONSPIRACY MAY HAVE A CONTINUING

PURPOSE OR OBJECTIVE AND, THEREFORE, MAY BE A CONTINUING CONSPIRACY. THE CONSPIRACY CHARGES AT COUNTS ONE AND SIX CHARGE THAT A CONSPIRACY EXISTED OVER A CERTAIN PERIOD OF TIME. A DEFENDANT NEED NOT HAVE PARTICIPATED IN THE CONSPIRACY FOR THE ENTIRE TIME PERIOD STATED AS TO THE CONSPIRACY IN ORDER TO BE CONSIDERED AS PART OF THE CONSPIRACY, SO LONG AS THEY WERE PART OF THE CONSPIRACY FOR SOME PORTION OF IT, NO MATTER THE LENGTH OF THAT PORTION.

CONSPIRACY –
ACTS AND STATEMENTS OF CO-CONSPIRATORS

103. EVIDENCE HAS BEEN ADMITTED IN THIS CASE THAT CERTAIN PERSONS, WHO ARE ALLEGED TO BE CO-CONSPIRATORS, DID OR SAID CERTAIN THINGS. THE ACTS OR STATEMENTS OF ANY MEMBER OF A CONSPIRACY ARE TREATED AS THE ACTS OR STATEMENTS OF ALL THE MEMBERS OF THE CONSPIRACY, IF THESE ACTS OR STATEMENTS WERE PERFORMED OR SPOKEN DURING THE

EXISTENCE OF THE CONSPIRACY AND TO FURTHER THE OBJECTIVES OF THE CONSPIRACY.

104. THEREFORE, YOU MAY CONSIDER AS EVIDENCE AGAINST A DEFENDANT ANY ACTS DONE OR STATEMENTS MADE BY ANY MEMBERS OF THE CONSPIRACY, DURING THE EXISTENCE OF AND TO FURTHER THE OBJECTIVES OF THE CONSPIRACY. YOU MAY CONSIDER THESE ACTS AND STATEMENTS EVEN IF THEY WERE DONE AND MADE IN THE DEFENDANT'S ABSENCE AND WITHOUT THE DEFENDANT'S KNOWLEDGE.

105. AS WITH ALL THE EVIDENCE PRESENTED IN THIS CASE, IT IS FOR YOU TO DECIDE WHETHER YOU BELIEVE THIS EVIDENCE AND HOW MUCH WEIGHT TO GIVE IT. ACTS DONE OR STATEMENTS MADE BY AN ALLEGED CO-CONSPIRATOR BEFORE A DEFENDANT JOINED THE ALLEGED CONSPIRACY MAY ALSO BE CONSIDERED BY YOU AS EVIDENCE AGAINST SUCH DEFENDANT. HOWEVER, ACTS DONE OR STATEMENTS MADE BEFORE THE ALLEGED CONSPIRACY BEGAN OR AFTER

IT ENDED MAY ONLY BE CONSIDERED BY YOU AS EVIDENCE AGAINST THE PERSON WHO PERFORMED THAT ACT OR MADE THAT STATEMENT.

CONSPIRACY – SINGLE OR MULTIPLE CONSPIRACIES

106. THE INDICTMENT CHARGES THAT PRICE MONTGOMERY AND JAMES PERRIN WERE MEMBERS OF ONE SINGLE HEROIN DISTRIBUTION CONSPIRACY. WHETHER A SINGLE CONSPIRACY OR MULTIPLE CONSPIRACIES EXISTED IS A QUESTION OF FACT THAT YOU MUST DECIDE.

107. TO FIND A DEFENDANT GUILTY OF THE CONSPIRACY CHARGED IN THE INDICTMENT, YOU MUST FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS A MEMBER OF THAT CONSPIRACY. IF THE PROSECUTION FAILED TO PROVE THAT THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY CHARGED IN THE INDICTMENT, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY OF CONSPIRACY, EVEN IF YOU FIND THAT THERE WERE MULTIPLE CONSPIRACIES AND THAT THE

DEFENDANT WAS A MEMBER OF A SEPARATE CONSPIRACY OTHER THAN THE ONE CHARGED. HOWEVER, PROOF THAT THE DEFENDANT WAS A MEMBER OF SOME OTHER CONSPIRACY WOULD NOT PREVENT YOU FROM ALSO FINDING THE DEFENDANT GUILTY OF THE CONSPIRACY CHARGED IN THE INDICTMENT, IF YOU FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY CHARGED.

108. IN DECIDING WHETHER THERE WAS ONE SINGLE CONSPIRACY OR MORE THAN ONE CONSPIRACY, YOU SHOULD CONCENTRATE ON THE NATURE OF THE AGREEMENT PROVED BY THE EVIDENCE. TO PROVE A SINGLE CONSPIRACY, THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT THAT EACH OF THE ALLEGED MEMBERS OR CONSPIRATORS AGREED TO PARTICIPATE IN WHAT HE OR SHE KNEW OR SHOULD HAVE KNOWN WAS A SINGLE GROUP ACTIVITY DIRECTED TOWARD

A COMMON OBJECTIVE. THE PROSECUTION MUST PROVE THAT THERE WAS A SINGLE AGREEMENT ON AN OVERALL OBJECTIVE.

109. MULTIPLE CONSPIRACIES ARE SEPARATE AGREEMENTS OPERATING INDEPENDENTLY OF EACH OTHER. HOWEVER, A FINDING OF A MASTER CONSPIRACY THAT INCLUDES OTHER, SUB-SCHEMES DOES NOT CONSTITUTE A FINDING OF MULTIPLE, UNRELATED CONSPIRACIES. A SINGLE CONSPIRACY MAY EXIST WHEN THERE IS A CONTINUING CORE AGREEMENT THAT ATTRACTS DIFFERENT MEMBERS AT DIFFERENT TIMES AND WHICH INVOLVES DIFFERENT SUB-GROUPS COMMITTING ACTS IN FURTHERANCE OF AN OVERALL OBJECTIVE.

110. IN DETERMINING WHETHER A SERIES OF EVENTS CONSTITUTES A SINGLE CONSPIRACY OR SEPARATE AND UNRELATED CONSPIRACIES, YOU SHOULD CONSIDER WHETHER THERE WAS A COMMON GOAL AMONG THE ALLEGED CONSPIRATORS; WHETHER THERE EXISTED

COMMON OR SIMILAR METHODS; WHETHER AND TO WHAT EXTENT ALLEGED PARTICIPANTS OVERLAPPED IN THEIR VARIOUS DEALINGS; WHETHER AND TO WHAT EXTENT THE ACTIVITIES OF THE ALLEGED CONSPIRATORS WERE RELATED AND INTERDEPENDENT; HOW HELPFUL EACH ALLEGED COCONSPIRATOR'S CONTRIBUTIONS WERE TO THE GOALS OF THE OTHERS; AND WHETHER THE SCHEME CONTEMPLATED A CONTINUING OBJECTIVE THAT WOULD NOT BE ACHIEVED WITHOUT THE ONGOING COOPERATION OF THE CONSPIRATORS.

111. A SINGLE CONSPIRACY MAY EXIST EVEN IF ALL THE MEMBERS DID NOT KNOW EACH OTHER, OR NEVER SAT DOWN TOGETHER, OR DID NOT KNOW WHAT ROLES ALL THE OTHER MEMBERS WOULD PLAY. A SINGLE CONSPIRACY MAY EXIST EVEN IF DIFFERENT MEMBERS JOINED AT DIFFERENT TIMES, OR THE MEMBERSHIP OF THE CONSPIRACY CHANGED OVER TIME. SIMILARLY, THERE MAY BE A SINGLE CONSPIRACY EVEN THOUGH THERE WERE

DIFFERENT SUB-GROUPS OPERATING IN DIFFERENT PLACES, OR MANY ACTS OR TRANSACTIONS COMMITTED OVER A LONG PERIOD OF TIME. YOU MAY CONSIDER THESE THINGS IN DECIDING WHETHER THERE WAS ONE SINGLE CONSPIRACY OR MORE THAN ONE CONSPIRACY, BUT THEY ARE NOT NECESSARILY CONTROLLING. WHAT IS CONTROLLING IS WHETHER THE PROSECUTION HAS PROVED BEYOND A REASONABLE DOUBT THAT THERE WAS ONE OVERALL AGREEMENT ON A COMMON OBJECTIVE.

COUNT 2 OF THE INDICTMENT – MONTGOMERY AND PERRIN

112. COUNT 2 OF THE INDICTMENT CHARGES THAT ON OR ABOUT JUNE 8, 2014, IN THE WESTERN DISTRICT OF PENNSYLVANIA AND ELSEWHERE, DEFENDANTS PRICE MONTGOMERY AND JAMES PERRIN DID KNOWINGLY, INTENTIONALLY, AND UNLAWFULLY ATTEMPT TO POSSESS WITH INTENT TO DISTRIBUTE AND DISTRIBUTE ONE KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE

CONTAINING A DETECTABLE AMOUNT OF HEROIN, A SCHEDULE I CONTROLLED SUBSTANCE, CONTRARY TO THE PROVISIONS OF TITLE 21, UNITED STATES CODE, SECTIONS 841(A)(1) AND 841(B)(1)(A)(I).

113. COUNT 2 OF THE INDICTMENT CHARGES DEFENDANTS MONTGOMERY AND PERRIN WITH POSSESSING 1 KILOGRAM OR MORE OF A MIXTURE CONTAINING A CONTROLLED SUBSTANCE, SPECIFICALLY HEROIN, WITH THE INTENT TO DISTRIBUTE THE CONTROLLED SUBSTANCE, WHICH IS A VIOLATION OF FEDERAL LAW.

114. IN ORDER TO FIND A DEFENDANT GUILTY OF POSSESSION WITH INTENT TO DISTRIBUTE OR DISTRIBUTION OF HEROIN, YOU MUST FIND THAT THE PROSECUTION PROVED EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

115. FIRST: THAT THE DEFENDANT POSSESSED A MIXTURE OR SUBSTANCE CONTAINING A CONTROLLED SUBSTANCE;

116. SECOND: THAT THE DEFENDANT POSSESSED THE CONTROLLED SUBSTANCE KNOWINGLY OR INTENTIONALLY;

117. THIRD: THAT THE DEFENDANT INTENDED TO DISTRIBUTE OR DISTRIBUTED THE CONTROLLED SUBSTANCE; AND

118. FOURTH: THAT THE CONTROLLED SUBSTANCE WAS HEROIN.

119. TO "POSSESS" A CONTROLLED SUBSTANCE MEANS TO HAVE IT WITHIN A PERSON'S CONTROL. THE PROSECUTION DOES NOT HAVE TO PROVE THAT A DEFENDANT PHYSICALLY HELD THE CONTROLLED SUBSTANCE, THAT IS, HAD ACTUAL POSSESSION OF IT. AS LONG AS THE CONTROLLED SUBSTANCE WAS WITHIN A DEFENDANT'S CONTROL, HE POSSESSED IT. IF YOU FIND THAT A DEFENDANT EITHER HAD ACTUAL POSSESSION OF THE CONTROLLED SUBSTANCE OR HAD THE POWER AND INTENTION TO EXERCISE CONTROL OVER IT, EVEN THOUGH IT WAS NOT IN THE DEFENDANT'S PHYSICAL POSSESSION –

THAT IS, THAT THE DEFENDANT HAD THE ABILITY TO TAKE ACTUAL POSSESSION OF THE SUBSTANCE WHEN THE DEFENDANT WANTED TO DO SO – YOU MAY FIND THAT THE PROSECUTION HAS PROVED POSSESSION. POSSESSION MAY BE MOMENTARY OR FLEETING. PROOF OF OWNERSHIP OF THE CONTROLLED SUBSTANCE IS NOT REQUIRED.

120. THE LAW ALSO RECOGNIZES THAT POSSESSION MAY BE SOLE OR JOINT. IF ONE PERSON ALONE POSSESSES AN ITEM, THAT IS SOLE POSSESSION. HOWEVER, MORE THAN ONE PERSON MAY HAVE THE POWER AND INTENTION TO EXERCISE CONTROL OVER AN ITEM. THIS IS CALLED JOINT POSSESSION. IF YOU FIND THAT A DEFENDANT HAD SUCH POWER AND INTENTION, THEN HE POSSESSED THE ITEM EVEN IF HE POSSESSED IT JOINTLY WITH ANOTHER.

121. MERE PROXIMITY TO A CONTROLLED SUBSTANCE, OR MERE PRESENCE ON THE PROPERTY WHERE IT IS LOCATED, OR MERE ASSOCIATION WITH THE PERSON WHO DOES CONTROL THE CONTROLLED SUBSTANCE OR THE

PROPERTY IS NOT ENOUGH TO SUPPORT A FINDING OF POSSESSION.

122. "DISTRIBUTE," AS USED IN THE OFFENSES CHARGED, MEANS TO DELIVER OR TO TRANSFER POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE FROM ONE PERSON TO ANOTHER. DISTRIBUTE INCLUDES THE SALE OF A CONTROLLED SUBSTANCE BY ONE PERSON TO ANOTHER, BUT DOES NOT REQUIRE A SALE. DISTRIBUTE ALSO INCLUDES A DELIVERY OR TRANSFER WITHOUT ANY FINANCIAL COMPENSATION, SUCH AS A GIFT OR TRADE.

123. IN ORDER TO FIND THAT A DEFENDANT GUILTY OF POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE, AS CHARGED IN COUNT 2 OF THE INDICTMENT, YOU MUST FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT A DEFENDANT INTENDED TO DISTRIBUTE A MIXTURE OR SUBSTANCE CONTAINING A CONTROLLED SUBSTANCE. TO FIND THAT THE DEFENDANT HAD THE INTENT TO

DISTRIBUTE, YOU MUST FIND THAT THE DEFENDANT HAD IN MIND OR PLANNED IN SOME WAY TO DELIVER OR TRANSFER POSSESSION OR CONTROL OVER A CONTROLLED SUBSTANCE TO SOMEONE ELSE.

124. IN DETERMINING WHETHER A DEFENDANT HAD AN INTENT TO DISTRIBUTE, YOU MAY CONSIDER ALL THE FACTS AND CIRCUMSTANCES SHOWN BY THE EVIDENCE PRESENTED, INCLUDING THE DEFENDANT'S WORDS AND ACTIONS. IN DETERMINING A DEFENDANT'S INTENT TO DISTRIBUTE A CONTROLLED SUBSTANCE, YOU MAY ALSO CONSIDER, AMONG OTHER THINGS, THE QUANTITY AND PURITY OF THE CONTROLLED SUBSTANCE, THE MANNER IN WHICH THE CONTROLLED SUBSTANCE WAS PACKAGED, AND THE PRESENCE OR ABSENCE OF WEAPONS, LARGE AMOUNTS OF CASH, OR EQUIPMENT USED IN THE PROCESSING OR SALE OF CONTROLLED SUBSTANCES.

125. TO ACT KNOWINGLY, AS USED IN THE CHARGED OFFENSES, MEANS THAT A DEFENDANT WAS CONSCIOUS

AND AWARE THAT HE WAS ENGAGED IN THE ACTS CHARGED AND KNEW OF THE SURROUNDING FACTS AND CIRCUMSTANCES THAT MAKE OUT THE OFFENSES. KNOWINGLY DOES NOT REQUIRE THAT A DEFENDANT KNEW THAT THE ACTS CHARGED AND SURROUNDING FACTS AMOUNTED TO A CRIME.

126. TO ACT INTENTIONALLY, AS USED IN THE OFFENSES CHARGED, MEANS TO ACT DELIBERATELY AND NOT BY ACCIDENT. INTENTIONALLY DOES NOT REQUIRE THAT A DEFENDANT INTENDED TO VIOLATE THE LAW.

127. THE PHRASE "KNOWINGLY OR INTENTIONALLY," AS USED IN THE CHARGED DRUG TRAFFICKING OFFENSES, REQUIRES THE PROSECUTION TO PROVE BEYOND A REASONABLE DOUBT THAT A DEFENDANT KNEW THAT WHAT HE DISTRIBUTED OR POSSESSED WITH INTENT TO DISTRIBUTE WAS A CONTROLLED SUBSTANCE. IN ADDITION, THE PROSECUTION MUST ALSO PROVE BEYOND A REASONABLE DOUBT THAT THE CONTROLLED SUBSTANCE

WAS, IN FACT, HEROIN AND THAT ANY SPECIFIED WEIGHT LEVELS OF 1 KILOGRAM OR MORE WERE MET. HOWEVER, AS LONG AS YOU FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT A DEFENDANT KNEW THAT WHAT HE DISTRIBUTED OR POSSESSED WITH INTENT TO DISTRIBUTE WAS A CONTROLLED SUBSTANCE, YOU NEED NOT FIND THAT HE KNEW THAT THE CONTROLLED SUBSTANCE WAS HEROIN OR THAT THE WEIGHT OF THE HEROIN WAS AT A SPECIFIED LEVEL.

128. IN DECIDING WHETHER A DEFENDANT ACTED "KNOWINGLY OR INTENTIONALLY," YOU MAY CONSIDER EVIDENCE ABOUT WHAT THE DEFENDANT SAID, WHAT THE DEFENDANT DID AND FAILED TO DO, HOW THE DEFENDANT ACTED, AND ALL THE OTHER FACTS AND CIRCUMSTANCES SHOWN BY THE EVIDENCE THAT MAY PROVE WHAT WAS IN A DEFENDANT'S MIND AT THAT TIME.

COUNTS 3 (PERRIN) AND 4 (MONTGOMERY) OF THE INDICTMENT

129. COUNT 3 CHARGES JAMES PERRIN WITH POSSESSING A FIREARM ON OR ABOUT JUNE 8, 2014 AFTER HE WAS CONVICTED OF COMMITTING A FELONY CRIME PRIOR TO THAT DATE, IN VIOLATION OF 18 U.S.C. § 922(G)(1).

130. COUNT 4 CHARGES PRICE MONTGOMERY WITH POSSESSING A FIREARM ON OR ABOUT JUNE 8, 2014 AFTER HE WAS CONVICTED OF COMMITTING A FELONY CRIME PRIOR TO THAT DATE, IN VIOLATION OF 18 U.S.C. § 922(G)(1).

131. TO FIND A DEFENDANT GUILTY OF POSSESSING A FIREARM AFTER A PRIOR FELONY CONVICTION, THE PROSECUTION MUST PROVE EACH OF THE FOLLOWING THREE ELEMENTS BEYOND A REASONABLE DOUBT:

132. FIRST: THAT THE DEFENDANT WAS CONVICTED OF A FELONY, THAT IS, A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR;

133. SECOND: THAT AFTER THIS CONVICTION, THE DEFENDANT KNOWINGLY POSSESSED A FIREARM AS CHARGED IN THE COUNT OF THE INDICTMENT; AND

134. THIRD: THAT THE DEFENDANT'S POSSESSION WAS IN OR AFFECTING INTERSTATE OR FOREIGN COMMERCE.

135. IN ORDER TO FIND A DEFENDANT GUILTY OF OFFENSE AT COUNTS 3 OR 4, YOU MUST FIND THAT THE PROSECUTION PROVED THAT BEFORE THE DATE THE DEFENDANT IS CHARGED WITH POSSESSING THE FIREARM, THE DEFENDANT HAD BEEN CONVICTED OF A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR.

136. THE PROSECUTION AND DEFENDANT MONTGOMERY HAVE STIPULATED THAT, PRIOR TO JUNE 8, 2014, DEFENDANT MONTGOMERY HAD BEEN CONVICTED OF A CRIME PUNISHABLE BY A TERM OF IMPRISONMENT EXCEEDING ONE YEAR.

137. THE PROSECUTION AND DEFENDANT PERRIN HAVE STIPULATED THAT, PRIOR TO JUNE 8, 2014, DEFENDANT PERRIN HAD BEEN CONVICTED OF A CRIME PUNISHABLE BY A TERM OF IMPRISONMENT EXCEEDING ONE YEAR.

138. TO SATISFY THIS FIRST ELEMENT, YOU NEED ONLY FIND BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS, IN FACT, CONVICTED OF THAT CRIME AND THAT THE CONVICTION WAS PRIOR TO THE DATE OF THE POSSESSION OF THE WEAPON AS CHARGED IN THE INDICTMENT. IT IS NOT NECESSARY THAT THE PROSECUTION PROVE THAT THE DEFENDANT KNEW THAT THE CRIME WAS PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR, NOR IS IT NECESSARY FOR THE DEFENDANT TO HAVE BEEN SENTENCED TO IMPRISONMENT FOR MORE THAN ONE YEAR.

139. YOU HEARD EVIDENCE AND/OR A STIPULATION THAT A DEFENDANT WAS CONVICTED PRIOR TO POSSESSING A FIREARM OF A FELONY CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR. THIS

PRIOR CONVICTION WAS BROUGHT TO YOUR ATTENTION ONLY BECAUSE IT TENDS TO ESTABLISH ONE OF THE ELEMENTS OF THE CRIME OF FELON IN POSSESSION OF A FIREARM AS SET FORTH IN THE INDICTMENT. YOU ARE NOT TO SPECULATE AS TO THE NATURE OF THE CONVICTION. YOU MAY NOT CONSIDER THE PRIOR CONVICTION IN DECIDING WHETHER A DEFENDANT WAS IN KNOWING POSSESSION OF THE FIREARM THAT HE IS CHARGED WITH POSSESSING, WHICH IS A DISPUTED ISSUE IN THIS CASE.

140. THE FACT THAT A DEFENDANT WAS FOUND GUILTY OF ANOTHER CRIME ON ANOTHER OCCASION DOES NOT MEAN THAT HE COMMITTED THE FELON IN POSSESSION CRIME CHARGED IN THE INDICTMENT, AND YOU MUST NOT USE HIS GUILT OF THE PRIOR CRIME AS PROOF OF THE FELON IN POSSESSION CRIME CHARGED IN THE INDICTMENT EXCEPT FOR THE ONE ELEMENT OF THAT CRIME WHICH I HAVE MENTIONED. YOU MAY FIND THE DEFENDANT GUILTY OF THE FELON IN POSSESSION CRIME ONLY IF THE

PROSECUTION HAS PROVED BEYOND A REASONABLE DOUBT ALL OF THE ELEMENTS OF THAT CRIME.

141. AS PREVIOUSLY STATED, A FELON IN POSSESSION OF A FIREARM CRIME HAS AN ELEMENT THAT THE DEFENDANT'S POSSESSION WAS IN OR AFFECTING INTERSTATE OR FOREIGN COMMERCE. THIS MEANS THAT THE PROSECUTION MUST PROVE THAT, AT SOME TIME BEFORE THE DEFENDANT'S POSSESSION, THE FIREARM HAD TRAVELED IN INTERSTATE COMMERCE. IT IS SUFFICIENT FOR THE PROSECUTION TO SATISFY THIS ELEMENT BY PROVING THAT, AT ANY TIME PRIOR TO THE DATE CHARGED IN THE INDICTMENT, THE FIREARM CROSSED A STATE LINE OR THE UNITED STATES BORDER. THE PROSECUTION DOES NOT NEED TO PROVE THAT THE DEFENDANT HIMSELF CARRIED IT ACROSS A STATE LINE OR THE BORDER. THE PROSECUTION ALSO DOES NOT NEED TO PROVE WHO CARRIED IT ACROSS OR HOW IT WAS TRANSPORTED. IT IS ALSO NOT NECESSARY FOR THE PROSECUTION TO PROVE THAT THE DEFENDANT

KNEW THAT THE FIREARM HAD TRAVELED IN INTERSTATE COMMERCE.

142. IN THIS REGARD, THERE HAVE BEEN STIPULATIONS BETWEEN COUNSEL FOR DEFENDANT MONTGOMERY AND GOVERNMENT COUNSEL, AND BETWEEN COUNSEL FOR DEFENDANT PERRIN AND GOVERNMENT COUNSEL, THAT EACH OF THE SIXTEEN FIREARMS IN QUESTION WAS MANUFACTURED OUTSIDE PENNSYLVANIA IN A DIFFERENT STATE OR COUNTRY. YOU ARE PERMITTED TO INFER FROM THIS FACT THAT THE FIREARM TRAVELED IN INTERSTATE COMMERCE; HOWEVER, YOU ARE NOT REQUIRED TO DO SO.

COUNT 5 OF THE INDICTMENT – MONTGOMERY AND PERRIN

143. COUNT 5 OF THE INDICTMENT CHARGES THAT, FROM IN AND AROUND JUNE 8, 2014, IN THE WESTERN DISTRICT OF PENNSYLVANIA, DEFENDANTS PRICE MONTGOMERY AND JAMES PERRIN DID KNOWINGLY AND UNLAWFULLY POSSESS A FIREARM IN FURTHERANCE OF A

DRUG TRAFFICKING CRIME FOR WHICH THEY MAY BE PROSECUTED IN A COURT OF THE UNITED STATES, THAT IS, THE CONSPIRACY CHARGED IN COUNT 1 OF THE INDICTMENT, IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 924(C)(1)(A)(I).

144. FOR ALL PURPOSES IN THIS CASE, THE TERM "FIREARM" MEANS ANY WEAPON WHICH WILL EXPEL, OR IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL, A PROJECTILE BY THE ACTION OF AN EXPLOSIVE. THE TERM INCLUDES THE FRAME OR RECEIVER OF ANY SUCH WEAPON.

145. TO "POSSESS" MEANS TO HAVE SOMETHING WITHIN A PERSON'S CONTROL. THE PROSECUTION DOES NOT HAVE TO PROVE THAT A DEFENDANT PHYSICALLY HELD THE FIREARM, THAT IS, HAD ACTUAL POSSESSION OF IT ON THE DATE ALLEGED IN THE INDICTMENT. AS LONG AS THE FIREARM WAS WITHIN A DEFENDANT'S CONTROL, HE POSSESSED IT. IF YOU FIND THAT A DEFENDANT EITHER HAD ACTUAL POSSESSION OF THE FIREARM OR HAD THE POWER

AND INTENTION TO EXERCISE CONTROL OVER IT, EVEN THOUGH IT WAS NOT IN THE DEFENDANT'S PHYSICAL POSSESSION – THAT IS, THAT THE DEFENDANT HAD THE ABILITY TO TAKE ACTUAL POSSESSION OF THE OBJECT WHEN THE DEFENDANT WANTED TO DO SO – YOU MAY FIND THAT THE PROSECUTION HAS PROVEN POSSESSION.

146. POSSESSION MAY BE MOMENTARY OR FLEETING. THE LAW ALSO RECOGNIZES THAT POSSESSION MAY BE SOLE OR JOINT. IF ONE PERSON ALONE POSSESSES A FIREARM, THAT IS SOLE POSSESSION. HOWEVER, MORE THAN ONE PERSON MAY HAVE THE POWER AND INTENTION TO EXERCISE CONTROL OVER A FIREARM. THIS IS CALLED JOINT POSSESSION.

147. IF YOU FIND THAT A DEFENDANT HAD SUCH POWER AND INTENTION, THEN HE POSSESSED THE FIREARM EVEN IF HE POSSESSED IT JOINTLY WITH ANOTHER. MERE PROXIMITY TO THE FIREARM OR MERE PRESENCE ON THE PROPERTY WHERE IT IS LOCATED OR MERE ASSOCIATION WITH THE

PERSON WHO DOES CONTROL THE FIREARM OR THE PROPERTY, IS INSUFFICIENT TO SUPPORT A FINDING OF POSSESSION.

148. PROOF OF OWNERSHIP OF THE FIREARM IS NOT REQUIRED. THE PROSECUTION MUST PROVE THAT A DEFENDANT KNOWINGLY POSSESSED A FIREARM. THIS MEANS THAT A DEFENDANT POSSESSED A FIREARM PURPOSELY AND VOLUNTARILY, AND NOT BY ACCIDENT OR MISTAKE. IT ALSO MEANS THAT THE DEFENDANT KNEW THE OBJECT WAS A FIREARM.

149. COUNT 5 OF THE INDICTMENT CHARGES THE DEFENDANTS WITH POSSESSING A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME, WHICH IS A VIOLATION OF FEDERAL LAW. THE OFFENSES ALLEGED IN COUNTS 1 AND 2 ARE BOTH DRUG TRAFFICKING CRIMES.

150. IN ORDER TO FIND A DEFENDANT GUILTY OF THIS OFFENSE, YOU MUST FIND THAT THE PROSECUTION PROVED

EACH OF THE FOLLOWING TWO ELEMENTS BEYOND A REASONABLE DOUBT:

151. FIRST: THAT THE DEFENDANT COMMITTED EITHER: (A) THE CRIME CHARGED AT COUNT ONE OF THE INDICTMENT, THAT IS CONSPIRACY TO DISTRIBUTE AND POSSESS WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN, OR (B) THE CRIME CHARGED AT COUNT TWO OF THE INDICTMENT, THAT IS POSSESSION WITH INTENT TO DISTRIBUTE 1 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF HEROIN, AND

152. SECOND: THAT THE DEFENDANT KNOWINGLY POSSESSED A FIREARM IN FURTHERANCE OF THIS CRIME. IF YOU FIND THE DEFENDANT POSSESSED THE FIREARM, YOU MUST CONSIDER WHETHER THE POSSESSION WAS IN FURTHERANCE OF THE UNDERLYING DRUG TRAFFICKING CRIME.

153. YOU DO NOT HAVE TO AGREE ON A SPECIFIC FIREARM POSSESSED BY A DEFENDANT AS LONG AS YOU UNANIMOUSLY AGREE THAT THE DEFENDANT POSSESSED SOME FIREARM IN FURTHERANCE OF THE UNDERLYING DRUG TRAFFICKING CRIME. IF YOU FIND THAT THE DEFENDANT POSSESSED A FIREARM, YOU MUST CONSIDER WHETHER THE POSSESSION WAS IN FURTHERANCE OF THE UNDERLYING DRUG TRAFFICKING CRIME.

154. POSSESSION "IN FURTHERANCE OF" MEANS FOR THE PURPOSE OF ASSISTING IN, PROMOTING, ACCOMPLISHING, ADVANCING, OR ACHIEVING THE GOAL OR OBJECTIVE OF THE UNDERLYING DRUG TRAFFICKING CRIME. MERE PRESENCE OF A FIREARM AT THE SCENE IS NOT ENOUGH TO FIND POSSESSION IN FURTHERANCE OF A DRUG TRAFFICKING CRIME. THE FIREARM'S PRESENCE MAY BE COINCIDENTAL OR ENTIRELY UNRELATED TO THE UNDERLYING CRIME. SOME FACTORS THAT MAY HELP YOU DETERMINE WHETHER POSSESSION OF A FIREARM FURTHERS

A DRUG TRAFFICKING CRIME INCLUDE, BUT ARE NOT LIMITED, TO:

1. THE TYPE OF CRIMINAL ACTIVITY THAT IS BEING CONDUCTED;

2. ACCESSIBILITY OF THE FIREARM;

3. THE TYPE OF FIREARM;

4. WHETHER THE FIREARM IS STOLEN;

5. WHETHER THE DEFENDANT POSSESSED THE FIREARM LEGALLY OR ILLEGALLY;

6. WHETHER THE FIREARM WAS LOADED;

7. THE TIME AND CIRCUMSTANCES UNDER WHICH THE FIREARM WAS FOUND; AND

8. PROXIMITY TO DRUGS OR DRUG PROFITS.

CO-CONSPIRATOR LIABILITY FOR FIREARM POSSESSION

155. THE PROSECUTION MAY ESTABLISH A DEFENDANT'S GUILT FOR A PARTICULAR CRIME, SUCH AS POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME, BY PROVING THAT THE DEFENDANT

PERSONALLY COMMITTED THE OFFENSE. THE PROSECUTION MAY ALSO ESTABLISH A DEFENDANT'S GUILT FOR AN OFFENSE BASED ON THE LEGAL RULE THAT EACH MEMBER OF A CONSPIRACY IS RESPONSIBLE FOR CRIMES AND OTHER ACTS COMMITTED BY THE OTHER MEMBERS, AS LONG AS THOSE CRIMES AND ACTS WERE COMMITTED TO HELP FURTHER OR ACHIEVE THE OBJECTIVE OF THE CONSPIRACY AND WERE REASONABLY FORESEEABLE TO THE DEFENDANT AS A NECESSARY OR NATURAL CONSEQUENCE OF THE AGREEMENT. IN OTHER WORDS, UNDER CERTAIN CIRCUMSTANCES THE ACT OF ONE CONSPIRATOR MAY BE TREATED AS THE ACT OF ALL. THIS MEANS THAT ALL THE CONSPIRATORS MAY BE CONVICTED OF A CRIME COMMITTED BY ANY ONE OR MORE OF THEM EVEN THOUGH THEY DID NOT ALL PERSONALLY PARTICIPATE IN THAT CRIME THEMSELVES.

156. FOR EXAMPLE, FOR YOU TO FIND A DEFENDANT GUILTY OF POSSESSING A FIREARM IN FURTHERANCE OF THE

DRUG TRAFFICKING CRIME CHARGED IN COUNT ONE, BASED ON THIS LEGAL RULE, YOU MUST FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT EACH OF THE FOLLOWING 4 REQUIREMENTS:

157. FIRST: THAT THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY CHARGED IN COUNT 1 OF THE INDICTMENT;

158. SECOND: THAT WHILE THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY, ONE OR MORE OF THE OTHER MEMBERS OF THE CONSPIRACY POSSESSED A FIREARM IN FURTHERANCE OF THE CONSPIRACY;

159. THIRD: THAT THE OTHER MEMBERS OF THE CONSPIRACY COMMITTED THIS OFFENSE WITHIN THE SCOPE OF THE UNLAWFUL AGREEMENT AND TO HELP FURTHER OR ACHIEVE THE OBJECTIVES OF THE CONSPIRACY; AND

160. FOURTH: THAT THIS OFFENSE WAS REASONABLY FORESEEABLE TO OR REASONABLY ANTICIPATED BY THE

DEFENDANT AS A NECESSARY OR NATURAL CONSEQUENCE OF THE UNLAWFUL AGREEMENT.

161. THE PROSECUTION DOES NOT HAVE TO PROVE THAT THE DEFENDANT SPECIFICALLY AGREED OR KNEW THAT THE POSSESSION OF A FIREARM IN FURTHERANCE OF THE CONSPIRACY OFFENSE WOULD BE COMMITTED. HOWEVER, THE PROSECUTION MUST PROVE THAT THAT OFFENSE WAS REASONABLY FORESEEABLE TO THE DEFENDANT AS A MEMBER OF THE CONSPIRACY AND WITHIN THE SCOPE OF THE AGREEMENT AS THE DEFENDANT UNDERSTOOD IT.

COUNT 6 OF THE INDICTMENT -- MONTGOMERY

162. COUNT 6 OF THE INDICTMENT CHARGES THAT, FROM IN AND AROUND MARCH 2012 TO ON OR ABOUT JUNE 1, 2014, IN THE WESTERN DISTRICT OF PENNSYLVANIA AND ELSEWHERE, DEFENDANT PRICE MONTGOMERY DID KNOWINGLY, INTENTIONALLY, AND UNLAWFULLY CONSPIRE, WITH ANDRE AVENT, CHARLES COOK AND WITH

PERSONS BOTH KNOWN AND UNKNOWN TO THE GRAND JURY, TO COMMIT MONEY LAUNDERING, THAT IS TO CONDUCT AND ATTEMPT TO CONDUCT FINANCIAL TRANSACTIONS AFFECTING INTERSTATE COMMERCE, THAT IS, (1) THE EXECUTION OF, AND PAYMENTS IN FURTHERANCE OF, A LEASE-TO-PURCHASE AGREEMENT FOR 414 WILLIAM STREET, PITTSBURGH, PENNSYLVANIA 15211, (2) THE EXECUTION OF, AND PAYMENTS IN FURTHERANCE OF, A LEASE-TO-PURCHASE AGREEMENT FOR 3208 LENOX OVAL, PITTSBURGH, PENNSYLVANIA 15237; (3) THE PURCHASE OF A 2011 AUDI Q5, AND (4) THE PURCHASE OF A 2011 BMW 750LXI, ALL INVOLVING THE PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY, THAT IS, ILLEGAL HEROIN TRAFFICKING, IN VIOLATION OF 21 U.S.C. §§ 841 AND 846, KNOWING THAT THE TRANSACTIONS WERE DESIGNED, IN WHOLE OR IN PART, TO CONCEAL AND DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP, AND CONTROL OF THE PROCEEDS OF THE SPECIFIED UNLAWFUL ACTIVITY, AND KNOWING THAT THE

PROPERTY INVOLVED IN THE FINANCIAL TRANSACTIONS REPRESENTED THE PROCEEDS OF SOME FORM OF UNLAWFUL ACTIVITY, CONTRARY TO THE PROVISIONS OF TITLE 18, UNITED STATES CODE, SECTION 1956(A)(1)(B)(I), AND IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1956(H).

MONEY LAUNDERING

163. TO FIND MR. MONTGOMERY GUILTY OF THE CONSPIRACY CHARGED IN COUNT 6 OF THE INDICTMENT, YOU MUST FIND THAT THE PROSECUTION PROVED EACH OF THE FOLLOWING THREE ELEMENTS BEYOND A REASONABLE DOUBT:

164. FIRST: THAT TWO OR MORE PEOPLE AGREED TO LAUNDER MONEY AS CHARGED IN THE INDICTMENT; THAT IS THEY AGREED TO CONDUCT OR ATTEMPT TO CONDUCT A FINANCIAL TRANSACTION THAT WOULD AFFECT INTERSTATE COMMERCE, WITH THE PROCEEDS OF A SPECIFIED UNLAWFUL ACTIVITY, WITH KNOWLEDGE THAT

THE PROCEEDS INVOLVED SOME FORM OF UNLAWFUL ACTIVITY, AND WITH KNOWLEDGE THAT THE TRANSACTION WAS DESIGNED IN WHOLE OR IN PART TO CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP OR CONTROL OF THE PROCEEDS;

165. SECOND: THAT THE DEFENDANT WAS A PARTY TO, OR MEMBER OF, THE AGREEMENT; AND

166. THIRD: THAT THE DEFENDANT JOINED THE AGREEMENT OR CONSPIRACY KNOWING OF ITS OBJECTIVE TO LAUNDER MONEY AS CHARGED IN THE INDICTMENT AND INTENDING TO JOIN TOGETHER WITH AT LEAST ONE OTHER ALLEGED CONSPIRATOR TO ACHIEVE THAT OBJECTIVE; THAT IS, THAT THE DEFENDANT AND AT LEAST ONE OTHER ALLEGED CONSPIRATOR SHARED A UNITY OF PURPOSE AND THE INTENT TO ACHIEVE THAT OBJECTIVE.

CONDUCTING A FINANCIAL TRANSACTION DEFINED

167. THE FIRST ELEMENT THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT IS THAT THE DEFENDANT CONDUCTED A FINANCIAL TRANSACTION.

168. THE TERM "CONDUCTS" INCLUDES INITIATING, CONCLUDING, OR PARTICIPATING IN INITIATING OR CONCLUDING A TRANSACTION.

169. THE TERM "TRANSACTION" MEANS A PURCHASE, SALE, LOAN, PLEDGE, GIFT, TRANSFER, DELIVERY, OR OTHER DISPOSITION OF PROPERTY. WITH RESPECT TO A FINANCIAL INSTITUTION, THE TERM "TRANSACTION" MEANS THE DEPOSIT, WITHDRAWAL, TRANSFER BETWEEN ACCOUNTS, OR ANY OTHER PAYMENT, TRANSFER, OR DELIVERY BY, THROUGH, OR TO A FINANCIAL INSTITUTION BY WHATEVER MEANS EFFECTED.

170. THE TERM "FINANCIAL TRANSACTION" MEANS ANY "TRANSACTION," AS I JUST EXPLAINED THAT TERM, THAT IN ANY WAY OR DEGREE AFFECTS INTERSTATE OR FOREIGN

COMMERCE AND INVOLVES THE MOVEMENT OF FUNDS BY WIRE OR OTHER MEANS, OR INVOLVES ONE OR MORE MONETARY INSTRUMENTS, OR INVOLVES THE TRANSFER OF TITLE TO ANY REAL PROPERTY, VEHICLE, VESSEL, OR AIRCRAFT; OR INVOLVES THE USE OF A FINANCIAL INSTITUTION THAT IS ENGAGED IN, OR THE ACTIVITIES OF WHICH AFFECT, INTERSTATE OR FOREIGN COMMERCE IN ANY WAY OR DEGREE.

INTERSTATE COMMERCE DEFINED

171. THE TERM "INTERSTATE COMMERCE," AS USED IN THESE INSTRUCTIONS, MEANS COMMERCE BETWEEN ANY COMBINATION OF STATES, TERRITORIES OR POSSESSIONS OF THE UNITED STATES, INCLUDING THE DISTRICT OF COLUMBIA.

172. I INSTRUCT YOU, AS A MATTER OF LAW, THAT THE RENTAL OF REAL ESTATE IS AN ACTIVITY WHICH AFFECTS INTERSTATE COMMERCE.

173. THE PROSECUTION IS NOT REQUIRED TO PROVE THAT A DEFENDANT'S TRANSACTIONS WITH A FINANCIAL INSTITUTION THEMSELVES AFFECTED INTERSTATE OR FOREIGN COMMERCE. THE PROSECUTION IS REQUIRED TO PROVE ONLY THAT THE FINANCIAL INSTITUTIONS OR BANKS THROUGH WHICH THE FINANCIAL TRANSACTIONS WERE CONDUCTED WERE ENGAGED IN OR HAD OTHER ACTIVITIES WHICH AFFECTED INTERSTATE OR FOREIGN COMMERCE IN ANY WAY OR DEGREE.

174. FURTHER, THE PROSECUTION IS NOT REQUIRED TO PROVE THAT THE DEFENDANT KNEW OF OR INTENDED THE EFFECT ON INTERSTATE COMMERCE, MERELY THAT SUCH AN EFFECT OCCURRED.

PROCEEDS OF A SPECIFIED UNLAWFUL ACTIVITY DEFINED

175. THE TERM "PROCEEDS," AS USED IN THESE INSTRUCTIONS, MEANS ANY PROPERTY, OR ANY INTEREST IN PROPERTY, THAT SOMEONE ACQUIRES OR RETAINS AS A

RESULT OF CRIMINAL ACTIVITY. PROCEEDS MAY BE DERIVED FROM AN ALREADY COMPLETED OFFENSE OR FROM A COMPLETED PHASE OF AN ONGOING OFFENSE.

176. THE PROSECUTION IS NOT REQUIRED TO PROVE THAT ALL OF THE FUNDS INVOLVED IN THE CHARGED TRANSACTIONS WERE THE PROCEEDS OF THE SPECIFIED UNLAWFUL ACTIVITY. A FINANCIAL TRANSACTION INVOLVES "PROCEEDS" OF A SPECIFIED UNLAWFUL ACTIVITY EVEN WHEN PROCEEDS OF A SPECIFIED UNLAWFUL ACTIVITY ARE COMMINGLED IN AN ACCOUNT WITH FUNDS OBTAINED FROM LEGITIMATE SOURCES. IT IS SUFFICIENT IF THE PROSECUTION PROVES BEYOND A REASONABLE DOUBT THAT AT LEAST PART OF THE FUNDS INVOLVED IN A TRANSACTION REPRESENTS SUCH PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY.

177. I INSTRUCT YOU, AS A MATTER OF LAW, THAT THE TERM "SPECIFIED UNLAWFUL ACTIVITY" INCLUDES A VIOLATION OF DISTRIBUTING OR CONSPIRING TO

DISTRIBUTE HEROIN AS CHARGED IN COUNTS ONE AND TWO IN THIS CASE. I HAVE PREVIOUSLY EXPLAINED THE ELEMENTS OF DISTRIBUTING OR CONSPIRING TO DISTRIBUTE HEROIN.

KNOWLEDGE THAT PROPERTY REPRESENTS PROCEEDS OF SOME FORM OF UNLAWFUL ACTIVITY DEFINED

178. THE THIRD ELEMENT THAT THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT IS THAT IN CONDUCTING A FINANCIAL TRANSACTION THE DEFENDANT KNEW THAT THE PROPERTY INVOLVED IN THE FINANCIAL TRANSACTION REPRESENTED THE PROCEEDS OF SOME FORM OF UNLAWFUL ACTIVITY. TO SATISFY THIS ELEMENT, THE PROSECUTION MUST PROVE THAT THE DEFENDANT KNEW THE PROPERTY INVOLVED IN THE TRANSACTION REPRESENTED PROCEEDS FROM SOME FORM OF UNLAWFUL ACTIVITY THAT IS A FELONY OFFENSE UNDER STATE, FEDERAL, OR FOREIGN LAW. THE PROSECUTION IS NOT

REQUIRED TO PROVE THAT THE DEFENDANT KNEW WHAT THE UNLAWFUL ACTIVITY WAS.

179. IN THIS CASE, THE PROSECUTION CLAIMS THAT MR. MONTGOMERY KNEW THAT THE PROCEEDS WERE DERIVED FROM UNLAWFUL ACTIVITY WHICH CONSTITUTES A VIOLATION OF DISTRIBUTING OR CONSPIRING TO DISTRIBUTE HEROIN WHICH IS A FELONY UNDER FEDERAL LAW.

INTENT TO PROMOTE,
INTENT TO CONCEAL OR DISGUISE, DEFINED

180. THE FINAL ELEMENT THAT THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT IS THAT A DEFENDANT, IN CONDUCTING THE FINANCIAL TRANSACTIONS, INTENDED TO CONCEAL OR DISGUISE THE NATURE, THE SOURCE, THE OWNERSHIP, OR THE CONTROL OF THE PROCEEDS OF THE SPECIFIED UNLAWFUL ACTIVITY, THAT IS, DISTRIBUTING OR CONSPIRING TO DISTRIBUTE HEROIN.

181. WHETHER THE DEFENDANT KNEW THAT THE PURPOSE OF THE FINANCIAL TRANSACTION WAS TO CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP OR CONTROL OF THE PROCEEDS OF DISTRIBUTING OR CONSPIRING TO DISTRIBUTE HEROIN MAY BE ESTABLISHED BY PROOF OF THE DEFENDANT'S ACTUAL KNOWLEDGE; BY CIRCUMSTANTIAL EVIDENCE; OR BY THE DEFENDANT'S WILLFUL BLINDNESS (OR PURPOSEFUL IGNORANCE). IN OTHER WORDS, YOU ARE ENTITLED TO FIND FROM THE CIRCUMSTANCES SURROUNDING THE FINANCIAL TRANSACTIONS OR ATTEMPTED FINANCIAL TRANSACTIONS THE PURPOSE OF THAT ACTIVITY AND THE DEFENDANT'S KNOWLEDGE.

182. THE PROSECUTION NEED NOT PROVE THAT MR. MONTGOMERY HIMSELF HAD THE INTENT TO CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP OR CONTROL OF THE PROCEEDS OF UNLAWFUL ACTIVITY. IT IS

ENOUGH TO PROVE THAT HE KNEW SOMEONE ELSE HAD THAT PURPOSE.

GENERAL CONSPIRACY INSTRUCTIONS WHICH APPLY TO THE CONSPIRACIES CHARGED IN COUNTS 1 AND 6

183. IN CONSIDERING THE EVIDENCE THAT WAS PRESENTED REGARDING THE MONEY LAUNDERING CONSPIRACY CHARGED IN COUNT 6 OF THE INDICTMENT, KEEP IN MIND THE GENERAL CONSPIRACY INSTRUCTIONS I PROVIDED TO YOU IN DISCUSSING THE LAW REGARDING THE HEROIN DISTRIBUTION CONSPIRACY CHARGED IN COUNT 1 OF THE INDICTMENT. THOSE GENERAL CONSPIRACY INSTRUCTIONS ALSO APPLY TO THE MONEY LAUNDERING CONSPIRACY CHARGED IN COUNT 6 OF THE INDICTMENT.

COUNT 7 OF THE INDICTMENT – MR. MONTGOMERY

184. COUNT 7 OF THE INDICTMENT CHARGES PRICE MONTGOMERY WITH TAMPERING WITH A WITNESS BY KILLING A PERSON ON OR ABOUT AUGUST 22, 2014.

185. IN ORDER TO FIND THE DEFENDANT GUILTY OF THIS OFFENSE, YOU MUST FIND THAT THE GOVERNMENT PROVED EACH OF THE FOLLOWING FOUR ELEMENTS BEYOND A REASONABLE DOUBT:

186. FIRST: THAT MR. MONTGOMERY KILLED TINA CRAWFORD;

187. SECOND: THAT HE WAS MOTIVATED BY A DESIRE TO PREVENT THE COMMUNICATION BETWEEN TINA CRAWFORD AND LAW ENFORCEMENT AUTHORITIES CONCERNING THE COMMISSION OR POSSIBLE COMMISSION OF THE OFFENSE DESCRIBED IN COUNT TWO;

188. THIRD: THAT THE OFFENSE DESCRIBED IN COUNT TWO WAS ACTUALLY A FEDERAL OFFENSE; AND

189. FOURTH: THAT HE BELIEVED THAT THERE WAS A REASONABLE LIKELIHOOD THAT TINA CRAWFORD WOULD IN FACT MAKE A RELEVANT COMMUNICATION TO LAW ENFORCEMENT AUTHORITIES.

190. TO ESTABLISH A "REASONABLE LIKELIHOOD," THERE MUST BE EVIDENCE – NOT MERELY ARGUMENT – OF THE WITNESS'S INTENTION TO COOPERATE WITH LAW ENFORCEMENT. THE GOVERNMENT DOES NOT HAVE TO PROVE THAT, AT THE TIME OF THE KILLING, THE WITNESS HAD ENGAGED IN ANY COMMUNICATION AT ALL WITH LAW ENFORCEMENT AUTHORITIES. NOR DOES THE GOVERNMENT HAVE TO PROVE THE PRECISE NATURE OF THE COMMUNICATION OR INTENDED COMMUNICATION. THE GOVERNMENT NEED ONLY SHOW THAT THE LIKELIHOOD OF COMMUNICATION TO A FEDERAL OFFICER WAS MORE THAN REMOTE, OUTLANDISH OR SIMPLY HYPOTHETICAL.

191. THE GOVERNMENT ALSO DOES NOT HAVE TO PROVE THAT A FEDERAL INVESTIGATION WAS IN PROGRESS AT THE TIME THE DEFENDANT KILLED TINA CRAWFORD.

COUNT 8 OF THE INDICTMENT – MR. MONTGOMERY

192. PRICE MONTGOMERY IS CHARGED WITH USING AND DISCHARGING A FIREARM IN RELATION TO A CRIME OF

VIOLENCE RESULTING IN DEATH ON OR ABOUT AUGUST 22, 2014.

193. COUNT 8 OF THE INDICTMENT CHARGES PRICE MONTGOMERY WITH CARRYING, USING AND DISCHARGING A FIREARM DURING A CRIME OF VIOLENCE, SPECIFICALLY COUNT 7. I INSTRUCT YOU THAT THE OFFENSE ALLEGED IN COUNT 7 IS A CRIME OF VIOLENCE.

194. IN ORDER TO FIND PRICE MONTGOMERY GUILTY OF THE OFFENSE CHARGED IN COUNT 8 OF THE INDICTMENT, YOU MUST FIND THAT THE PROSECUTION PROVED EACH OF THE FOLLOWING FOUR ELEMENTS BEYOND A REASONABLE DOUBT.

195. FIRST: THAT PRICE MONTGOMERY COMMITTED THE CRIME OF TAMPERING WITH A WITNESS BY KILLING A PERSON AS CHARGED IN COUNT 7;

196. SECOND: THAT THE KILLING WAS A MURDER, THAT IS, IT WAS A WILLFUL, DELIBERATE, MALICIOUS AND PREMEDITATED KILLING;

197. THIRD: THAT DURING AND IN RELATION TO THE COMMISSION OF THAT CRIME, PRICE MONTGOMERY KNOWINGLY CARRIED, OR USED A FIREARM. THE PHRASE "CARRIES" A FIREARM MEANS HAVING A FIREARM, OR FIREARMS, AVAILABLE TO ASSIST OR AID IN THE COMMISSION OF THE CRIME OF TAMPERING WITH A WITNESS BY KILLING A PERSON. TO "USE" A FIREARM MEANS MORE THAN MERE POSSESSION OF A FIREARM BY A PERSON WHO COMMITS A CRIME; TO ESTABLISH USE, THE PROSECUTION MUST SHOW ACTIVE EMPLOYMENT OF THE FIREARM. THE GOVERNMENT ALLEGES IN THIS CASE THAT THE DEFENDANT USED THE FIREARM BY DISCHARGING IT. IF THE DEFENDANT DID NOT ACTIVELY EMPLOY IT, THE DEFENDANT DID NOT USE THE FIREARM; AND

198. FOURTH: THAT PRICE MONTGOMERY CARRIED OR USED THE FIREARM DURING AND IN RELATION TO THE CRIME OF TAMPERING WITH A WITNESS BY KILLING A PERSON. THE TERM "DURING AND IN RELATION TO" MEANS THAT THE

FIREARM MUST HAVE HAD SOME PURPOSE OR EFFECT WITH RESPECT TO TAMPERING WITH A WITNESS BY KILLING A PERSON. THE FIREARM MUST HAVE AT LEAST FACILITATED OR HAD THE POTENTIAL OF FACILITATING THE CRIME OF TAMPERING WITH A WITNESS BY KILLING A PERSON.

199. AS PREVIOUSLY DEFINED, THE TERM "FIREARM" MEANS ANY WEAPON WHICH WILL EXPEL, OR IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL, A PROJECTILE BY THE ACTION OF AN EXPLOSIVE. THE TERM INCLUDES THE FRAME OR RECEIVER OF ANY SUCH WEAPON.

COUNT 9 OF THE INDICTMENT – MR. MONTGOMERY

200. PRICE MONTGOMERY HAS BEEN CHARGED AT COUNT 9 IN THE INDICTMENT WITH TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON.

201. IN ORDER TO FIND THE DEFENDANT GUILTY OF THIS OFFENSE, YOU MUST FIND THAT THE GOVERNMENT PROVED EACH OF THE FOLLOWING FOUR ELEMENTS BEYOND A REASONABLE DOUBT:

202. FIRST: THAT PRICE MONTGOMERY ATTEMPTED TO KILL PATSY CRAWFORD;

203. SECOND: THAT HE WAS MOTIVATED BY A DESIRE TO PREVENT THE COMMUNICATION BETWEEN PATSY CRAWFORD AND LAW ENFORCEMENT AUTHORITIES CONCERNING THE COMMISSION OR POSSIBLE COMMISSION OF THE OFFENSE DESCRIBED IN COUNT SEVEN;

204. THIRD: THAT THE OFFENSE DESCRIBED IN COUNT SEVEN IS ACTUALLY A FEDERAL OFFENSE; AND

205. FOURTH: THAT PRICE MONTGOMERY BELIEVED THAT THERE WAS A REASONABLE LIKELIHOOD THAT PATSY CRAWFORD WOULD IN FACT MAKE A RELEVANT COMMUNICATION TO LAW ENFORCEMENT AUTHORITIES.

206. TO ESTABLISH A "REASONABLE LIKELIHOOD," THERE MUST BE EVIDENCE – NOT MERELY ARGUMENT – OF THE WITNESS'S INTENTION TO COOPERATE WITH LAW ENFORCEMENT. THE GOVERNMENT DOES NOT HAVE TO PROVE THAT, AT THE TIME OF THE KILLING, THE WITNESS

HAD ENGAGED IN ANY COMMUNICATION AT ALL WITH LAW ENFORCEMENT AUTHORITIES. NOR DOES THE GOVERNMENT HAVE TO PROVE THE PRECISE NATURE OF THE COMMUNICATION OR INTENDED COMMUNICATION. THE GOVERNMENT NEED ONLY SHOW THAT THE LIKELIHOOD OF COMMUNICATION TO A FEDERAL OFFICER WAS MORE THAN REMOTE, OUTLANDISH OR SIMPLY HYPOTHETICAL.

207. THE GOVERNMENT ALSO DOES NOT HAVE TO PROVE THAT A FEDERAL INVESTIGATION WAS IN PROGRESS AT THE TIME THAT THE DEFENDANT ATTEMPTED TO KILL PATSY CRAWFORD.

COUNT 10 OF THE INDICTMENT – MR. MONTGOMERY

208. COUNT 10 OF THE INDICTMENT CHARGES PRICE MONTGOMERY WITH USING AND DISCHARGING A FIREARM IN RELATION TO A CRIME OF VIOLENCE ON OR ABOUT AUGUST 22, 2014.

209. COUNT 10 OF THE INDICTMENT CHARGES PRICE MONTGOMERY WITH CARRYING, USING AND DISCHARGING

A FIREARM DURING A CRIME OF VIOLENCE, SPECIFICALLY COUNT 9. I INSTRUCT YOU THAT THE OFFENSE ALLEGED IN COUNT 9 IS A CRIME OF VIOLENCE.

210. IN ORDER TO FIND PRICE MONTGOMERY GUILTY OF THE OFFENSE CHARGED IN COUNT 10 OF THE INDICTMENT, YOU MUST FIND THAT THE PROSECUTION PROVED EACH OF THE FOLLOWING THREE ELEMENTS BEYOND A REASONABLE DOUBT.

211. FIRST: THAT PRICE MONTGOMERY COMMITTED THE CRIME OF TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON AS CHARGED IN COUNT 9;

212. SECOND: THAT DURING AND IN RELATION TO THE COMMISSION OF THAT CRIME, PRICE MONTGOMERY KNOWINGLY CARRIED, OR USED A FIREARM. THE PHRASE "CARRIES" A FIREARM MEANS HAVING A FIREARM, OR FIREARMS, AVAILABLE TO ASSIST OR AID IN THE COMMISSION OF THE CRIME OF TAMPERING WITH A WITNESS BY KILLING A PERSON. TO "USE" A FIREARM MEANS MORE

THAN MERE POSSESSION OF A FIREARM BY A PERSON WHO COMMITS A CRIME; TO ESTABLISH USE, THE PROSECUTION MUST SHOW ACTIVE EMPLOYMENT OF THE FIREARM. THE GOVERNMENT ALLEGES IN THIS CASE THAT PRICE MONTGOMERY USED THE FIREARM BY DISCHARGING IT. IF THE DEFENDANT DID NOT ACTIVELY EMPLOY IT, THE DEFENDANT DID NOT USE THE FIREARM; AND

213. THIRD: THAT PRICE MONTGOMERY CARRIED OR USED THE FIREARM DURING AND IN RELATION TO THE CRIME OF TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON. DURING AND IN RELATION TO MEANS THAT THE FIREARM MUST HAVE HAD SOME PURPOSE OR EFFECT WITH RESPECT TO TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON. THE FIREARM MUST HAVE AT LEAST FACILITATED OR HAD THE POTENTIAL OF FACILITATING THE CRIME OF TAMPERING WITH A WITNESS BY ATTEMPTING TO KILL A PERSON.

CONSCIOUSNESS OF GUILT (FLIGHT, CONCEALMENT, USE OF AN ALIAS, ETC.)

214. THE GOVERNMENT PRESENTED EVIDENCE THAT, AFTER THE CRIMES CHARGED IN COUNTS 7-10 WERE COMMITTED, PRICE MONTGOMERY FLED WESTERN PENNSYLVANIA AND ASSUMED A DIFFERENT IDENTITY WHILE RESIDING ELSEWHERE.

215. IF YOU BELIEVE THAT DEFENDANT PRICE MONTGOMERY ENGAGED IN THAT CONDUCT, THEN YOU MAY CONSIDER THIS CONDUCT, ALONG WITH ALL THE OTHER EVIDENCE, IN DECIDING WHETHER THE GOVERNMENT HAS PROVED BEYOND A REASONABLE DOUBT THAT HE COMMITTED ANY OF THE CRIMES CHARGED. THIS CONDUCT MAY INDICATE THAT DEFENDANT PRICE MONTGOMERY THOUGHT HE WAS GUILTY OF THE CRIMES AND WAS TRYING TO AVOID PUNISHMENT. ON THE OTHER HAND, SOMETIMES AN INNOCENT PERSON MAY RELOCATE AND ASSUME A DIFFERENT IDENTITY FOR SOME OTHER

REASON. WHETHER OR NOT THIS EVIDENCE CAUSES YOU TO FIND THAT PRICE MONTGOMERY WAS CONSCIOUS OF GUILT OF THE CRIMES CHARGED, AND WHETHER THAT INDICATES THAT HE COMMITTED THE CRIMES CHARGED, IS ENTIRELY UP TO YOU AS THE SOLE JUDGES OF THE FACTS.

AIDING AND ABETTING

216. COUNTS 3, 4, 6, 7, 8, 9 AND 10 INCLUDE CHARGES UNDER THE FEDERAL AIDING AND ABETTING STATUTE, WHICH IS FOUND AT SECTION 2 OF TITLE 18 OF THE UNITED STATES CODE. THE AIDING AND ABETTING STATUTE STATES AS FOLLOWS:

(A) WHOEVER COMMITS AN OFFENSE AGAINST THE UNITED STATES, OR AIDS, ABETS, COUNSELS, COMMANDS, INDUCES OR PROCURES ITS COMMISSION, IS PUNISHABLE AS A PRINCIPAL.

(B) WHOEVER WILLFULLY CAUSES AN ACT TO BE DONE WHICH IF DIRECTLY PERFORMED BY HIM OR

ANOTHER WOULD BE AN OFFENSE AGAINST THE UNITED STATES, IS PUNISHABLE AS A PRINCIPAL.

217. UNDER THIS STATUTE, IT IS NOT NECESSARY FOR THE GOVERNMENT TO SHOW THAT A DEFENDANT HIMSELF PHYSICALLY COMMITTED THE OFFENSE WITH WHICH HE IS CHARGED IN ORDER FOR YOU TO FIND HIM GUILTY. THIS IS BECAUSE, UNDER THE LAW, A PERSON WHO AIDS AND ABETS ANOTHER TO COMMIT AN OFFENSE IS JUST AS GUILTY OF THAT OFFENSE AS IF HE HAD COMMITTED IT HIMSELF.

218. IN ORDER TO FIND A DEFENDANT GUILTY OF AN OFFENSE BECAUSE HE AIDED AND ABETTED ANOTHER PERSON IN COMMITTING THAT OFFENSE, YOU MUST FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT EACH OF FOLLOWING FOUR (4) REQUIREMENTS:

219. FIRST: THAT SOME PERSON COMMITTED THE OFFENSE CHARGED BY COMMITTING EACH OF THE ELEMENTS OF THE OFFENSE CHARGED, AS I HAVE EXPLAINED THOSE ELEMENTS TO YOU IN THESE

INSTRUCTIONS. THAT PERSON NEED NOT HAVE BEEN CHARGED WITH OR FOUND GUILTY OF THE OFFENSE, HOWEVER, AS LONG AS YOU FIND THAT THE PROSECUTION PROVED BEYOND A REASONABLE DOUBT THAT THE PERSON COMMITTED THE OFFENSE;

220. SECOND: THAT THE DEFENDANT WHO IS CHARGED WITH AIDING AND ABETTING KNEW THAT THE OFFENSE CHARGED WAS GOING TO BE COMMITTED, OR WAS BEING COMMITTED BY THAT OTHER PERSON;

221. THIRD: THAT THE DEFENDANT KNOWINGLY DID SOME ACT FOR THE PURPOSE OF AIDING, ASSISTING, FACILITATING, OR ENCOURAGING THAT OTHER PERSON IN COMMITTING THE SPECIFIC OFFENSE CHARGED AND WITH THE INTENT THAT THE OTHER PERSON COMMIT THAT SPECIFIC OFFENSE; AND

222. FOURTH: THAT THE DEFENDANT PERFORMED AN ACT IN FURTHERANCE OF THE OFFENSE CHARGED.

223. IN DECIDING WHETHER THE DEFENDANT HAD THE REQUIRED KNOWLEDGE AND INTENT TO SATISFY THE THIRD REQUIREMENT FOR AIDING AND ABETTING, YOU MAY CONSIDER BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE INCLUDING THE DEFENDANT'S WORDS AND ACTIONS AND THE OTHER FACTS AND CIRCUMSTANCES. HOWEVER, EVIDENCE THAT THE DEFENDANT MERELY ASSOCIATED WITH PERSONS INVOLVED IN A CRIMINAL VENTURE OR WAS MERELY PRESENT OR WAS MERELY A KNOWING SPECTATOR DURING THE COMMISSION OF THE OFFENSE IS NOT ENOUGH FOR YOU TO FIND THE DEFENDANT GUILTY AS AN AIDER AND ABETTER. IF THE EVIDENCE SHOWS THAT A DEFENDANT KNEW THAT THE OFFENSE WAS BEING COMMITTED OR WAS ABOUT TO BE COMMITTED, BUT DOES NOT ALSO PROVE BEYOND A REASONABLE DOUBT THAT IT WAS THE DEFENDANT'S INTENT AND PURPOSE TO AID, ASSIST, ENCOURAGE, FACILITATE OR OTHERWISE ASSOCIATE HIMSELF WITH THE OFFENSE, YOU MAY NOT

FIND THE DEFENDANT GUILTY OF THE OFFENSES AS AN AIDER AND ABETTOR. THE PROSECUTION MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IN SOME WAY PARTICIPATED IN THE OFFENSE COMMITTED BY THE OTHER PERSON AS SOMETHING THE DEFENDANT WISHED TO BRING ABOUT AND TO MAKE SUCCEED.

224. TO SHOW THAT THE DEFENDANT PERFORMED AN ACT IN FURTHERANCE OF THE OFFENSE CHARGED, TO SATISFY THE FOURTH REQUIREMENT, THE PROSECUTION NEEDS TO SHOW SOME AFFIRMATIVE PARTICIPATION BY THE DEFENDANT WHICH AT LEAST ENCOURAGED THE OTHER PERSON TO COMMIT THE OFFENSE. THAT IS, YOU MUST FIND THAT THE DEFENDANT'S ACT DID, IN SOME WAY, AID, ASSIST, FACILITATE, ENCOURAGE, THE OTHER PERSON TO COMMIT THE OFFENSE. THE DEFENDANT'S ACT NEED NOT FURTHER AID, ASSIST, FACILITATE, ENCOURAGE, EVERY PART OR PHASE OF THE OFFENSE CHARGED; IT IS ENOUGH IF THE DEFENDANT'S ACT FURTHER AIDED, ASSISTED,

FACILITATED, ENCOURAGED, ONLY ONE OR SOME PART OR PHASE OF THE OFFENSE. ALSO, THE DEFENDANT'S ACTS NEED NOT THEMSELVES BE AGAINST THE LAW.

225. THAT CONCLUDES MY INSTRUCTIONS EXPLAINING THE LAW REGARDING THE TESTIMONY AND OTHER EVIDENCE, AND THE OFFENSES CHARGED. NOW LET ME EXPLAIN SOME THINGS ABOUT YOUR DELIBERATIONS IN THE JURY ROOM, AND YOUR POSSIBLE VERDICTS.

226. THE FIRST THING YOU SHOULD DO IN THE JURY ROOM IS CHOOSE SOMEONE TO BE YOUR FOREPERSON. THIS PERSON WILL SPEAK FOR THE JURY HERE IN COURT. HE OR SHE WILL ALSO PRESIDE OVER YOUR DISCUSSIONS. HOWEVER, THE VIEWS AND VOTE OF THE FOREPERSON ARE ENTITLED TO NO GREATER WEIGHT THAN THOSE OF ANY OTHER JUROR.

227. I WANT TO REMIND YOU THAT YOUR VERDICT, WHETHER IT IS GUILTY OR NOT GUILTY, MUST BE UNANIMOUS. TO FIND PRICE MONTGOMERY AND JAMES

PERRIN GUILTY OF AN OFFENSE CHARGED, EVERY ONE OF YOU MUST AGREE THAT THE GOVERNMENT HAS OVERCOME THE PRESUMPTION OF INNOCENCE WITH EVIDENCE THAT PROVES EACH ELEMENT OF THAT OFFENSE BEYOND A REASONABLE DOUBT. TO FIND PRICE MONTGOMERY OR JAMES PERRIN NOT GUILTY, EVERY ONE OF YOU MUST AGREE THAT THE GOVERNMENT HAS FAILED TO CONVINCE YOU BEYOND A REASONABLE DOUBT AS TO ONE OR MORE ELEMENTS OF THE OFFENSE CHARGED.

228. TO ASSIST YOU IN THAT PROCESS, A VERDICT FORM HAS BEEN PREPARED FOR YOU TO RECORD YOUR VERDICT. IF YOU FIND UNANIMOUSLY THAT THE GOVERNMENT HAS PROVED BEYOND A REASONABLE DOUBT EACH OF THE ELEMENTS OF THE OFFENSE AS CHARGED IN THE INDICTMENT, THEN YOU SHOULD FIND PRICE MONTGOMERY AND/OR JAMES PERRIN GUILTY OF THAT OFFENSE AND YOUR FOREPERSON SHOULD NOTE "GUILTY" IN THE SPACE PROVIDED ON THE VERDICT FORM FOR THAT OFFENSE.

229. HOWEVER, IF YOU FIND UNANIMOUSLY THAT THE GOVERNMENT HAS NOT PROVED BEYOND A REASONABLE DOUBT EACH ELEMENT OF THE OFFENSE CHARGED IN THE INDICTMENT, THEN YOU MUST FIND PRICE MONTGOMERY AND/OR JAMES PERRIN NOT GUILTY OF THAT OFFENSE AND YOUR FOREPERSON SHOULD NOTE "NOT GUILTY" IN THE SPACE PROVIDED ON THE VERDICT FORM. YOU SHOULD REMEMBER THAT THE BURDEN IS ALWAYS ON THE GOVERNMENT TO PROVE, BEYOND A REASONABLE DOUBT, EACH AND EVERY ELEMENT OF AN OFFENSE CHARGED IN THE INDICTMENT. ONCE YOU HAVE REACHED YOUR UNANIMOUS VERDICT, YOUR CONSIDERATION OF THE CHARGES IN THIS CASE IS THEN CONCLUDED, AND YOU SHOULD SIGN AND DATE THE VERDICT FORM, AND SIGNAL THAT YOU HAVE REACHED A VERDICT.

230. REMEMBER, PRICE MONTGOMERY AND JAMES PERRIN ARE NOT ON TRIAL FOR ANY ACT OR CONDUCT NOT SPECIFICALLY CHARGED IN THE INDICTMENT. YOUR JOB IS

LIMITED TO DECIDING WHETHER THE GOVERNMENT HAS PROVED BEYOND A REASONABLE DOUBT THE CRIME CHARGED IN THE INDICTMENT.

231. IF PRICE MONTGOMERY OR JAMES PERRIN ARE FOUND GUILTY, IT WILL BE MY DUTY TO DECIDE WHAT THE PUNISHMENT WILL BE. YOU SHOULD NOT BE CONCERNED WITH PUNISHMENT OF PRICE MONTGOMERY OR JAMES PERRIN. IT SHOULD NOT ENTER YOUR CONSIDERATION OR DISCUSSION IN ANY WAY.

232. IN CONDUCTING YOUR DELIBERATIONS AND RETURNING YOUR VERDICT, THERE ARE CERTAIN RULES YOU MUST FOLLOW.

233. WHEN YOU RETIRE I SUGGEST THAT YOU CONDUCT YOUR DELIBERATIONS IN A BUSINESSLIKE MANNER IN ORDER TO DETERMINE THE ISSUES OF FACT IN THIS CASE USING THESE INSTRUCTIONS AS YOUR GUIDE.

234. YOU SHOULD ENGAGE IN A RATIONAL DISCUSSION OF THE EVIDENCE WHICH YOU HAVE HEARD AND SEEN FOR THE PURPOSE OF REACHING A UNANIMOUS VERDICT.

235. YOUR VERDICT MUST REPRESENT THE CONSIDERED JUDGMENT OF EACH JUROR. IN ORDER TO RETURN A VERDICT, IT IS NECESSARY THAT EACH JUROR AGREE TO IT. IN OTHER WORDS, YOUR VERDICT MUST BE UNANIMOUS AS TO EACH SPECIFIC CHARGE.

236. IF DURING YOUR DELIBERATIONS YOU DETERMINE THAT YOU HAVE THE NEED TO COMMUNICATE WITH ME, PLEASE REDUCE YOUR MESSAGE OR QUESTION TO WRITING SIGNED BY THE FOREPERSON, AND THEN FLIP THE SIGNALING BUTTON IN THE JURY ROOM AND GIVE THAT NOTE TO MR. BABIK, MY COURTROOM DEPUTY, WHO WILL BRING IT TO MY ATTENTION. I WILL THEN CONFER WITH THE ATTORNEYS REGARDING YOUR INQUIRY, AND I WILL THEN RESPOND TO YOU AS REASONABLY SOON AS POSSIBLE,

EITHER IN WRITING OR BY HAVING YOU RETURN TO THE COURTROOM SO THAT I CAN SPEAK TO YOU PERSONALLY.

237. I CAUTION YOU, HOWEVER, WITH REGARD TO ANY MESSAGE OR QUESTION YOU MIGHT SEND, THAT YOU SHOULD NEVER STATE, SPECIFY OR EVEN HINT AT ANY NUMERICAL VOTE DIVISION WHICH MAY EXIST AMONG YOU AT THE TIME.

238. AS I NOTED, THE COURT WILL PROVIDE WRITTEN COPIES OF THESE INSTRUCTIONS FOR USE DURING YOUR DELIBERATIONS. ALSO, COPIES OF PHOTOGRAPHIC, DOCUMENTARY, AND MOST PHYSICAL EXHIBITS WILL BE BROUGHT TO YOUR DELIBERATION ROOM. SOME PHYSICAL EXHIBITS WHICH ARE CLAIMED TO CONTAIN DRUG RESIDUE, OR FIREARMS, WILL BE HELD IN SAFEKEEPING. SHOULD YOU WISH TO EXAMINE ANY OF THEM, THAT IS NOT A PROBLEM. PLEASE JUST NOTIFY THE COURT, USING THE PROCESS THAT I JUST DESCRIBED FOR A JURY QUESTION.

239. IT IS YOUR DUTY AS JURORS TO CONSULT WITH ONE ANOTHER AND TO DELIBERATE IN AN EFFORT TO REACH AGREEMENT IF YOU CAN DO SO WITHOUT VIOLENCE TO INDIVIDUAL JUDGMENT. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT ONLY AFTER AN IMPARTIAL CONSIDERATION OF THE EVIDENCE IN THE CASE WITH YOUR FELLOW JURORS.

240. TALK WITH EACH OTHER, LISTEN CAREFULLY AND RESPECTFULLY TO EACH OTHER'S VIEWS, AND KEEP AN OPEN MIND AS YOU LISTEN TO WHAT YOUR FELLOW JURORS HAVE TO SAY.

241. IN THE COURSE OF YOUR DELIBERATIONS, DO NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION IF YOU BECOME CONVINCED THAT IT IS ERRONEOUS. BUT DO NOT SURRENDER YOUR HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE OF THE OPINION OF YOUR

FELLOW JURORS, OR FOR THE MERE PURPOSE OF RETURNING A VERDICT.

242. NO ONE WILL BE ALLOWED TO HEAR YOUR DISCUSSIONS IN THE JURY ROOM, AND NO RECORD WILL BE MADE OF WHAT YOU SAY. YOU SHOULD ALL FEEL FREE TO SPEAK YOUR MINDS.

243. IF YOU ELECTED TO TAKE NOTES DURING THE TRIAL, YOUR NOTES SHOULD BE USED ONLY AS MEMORY AIDS. YOU SHOULD NOT GIVE YOUR NOTES GREATER WEIGHT THAN YOUR INDEPENDENT RECOLLECTION OF THE EVIDENCE. YOU SHOULD RELY UPON YOUR OWN INDEPENDENT RECOLLECTION OF THE EVIDENCE OR LACK OF EVIDENCE AND YOU SHOULD NOT BE UNDULY INFLUENCED BY THE NOTES OF OTHER JURORS. NOTES ARE NOT ENTITLED TO ANY MORE WEIGHT THAN THE MEMORY OR IMPRESSION OF EACH JUROR.

244. REMEMBER AT ALL TIMES, YOU ARE NOT PARTISANS. YOU ARE JUDGES -- JUDGES OF THE FACTS.

YOUR SOLE INTEREST IS TO SEEK THE TRUTH FROM THE EVIDENCE PRESENTED IN THE CASE.

245. YOUR VERDICT MUST BE BASED SOLELY ON THE EVIDENCE AND ON THE LAW WHICH I HAVE GIVEN TO YOU IN MY INSTRUCTIONS. I REPEAT, YOU CANNOT RETURN A VERDICT AS TO THE CHARGES IN THIS CASE, WHETHER GUILTY OR NOT GUILTY, UNLESS IT IS AGREED TO BY ALL OF YOU -- UNANIMOUSLY.

246. FINALLY, THE VERDICT SLIP FORM WE HAVE PREPARED IS SIMPLY THE WRITTEN NOTICE OF THE DECISION THAT YOU REACH IN THIS CASE. THERE IS SPACE FOR TWELVE SIGNATURES ON THE VERDICT SLIP AND ALL OF YOU MUST SIGN IT. THE QUESTIONS YOU WILL BE ASKED ARE AS FOLLOWS:

247. (READ FROM VERDICT FORM)

248. IT IS PROPER TO ADD THE CAUTION THAT NOTHING SAID IN THESE INSTRUCTIONS AND NOTHING IN THE VERDICT SLIP IS MEANT TO SUGGEST OR CONVEY IN ANY

WAY OR MANNER ANY INTIMATION AS TO WHAT VERDICT I THINK YOU SHOULD FIND. WHAT THE VERDICT SHALL BE IS YOUR SOLE AND EXCLUSIVE DUTY AND RESPONSIBILITY.

249. IF YOU HAVE NOT REACHED A VERDICT BY 5:00 P.M. TODAY, YOU MAY CONTINUE TO DELIBERATE LATER, IF ALL OF YOU UNANIMOUSLY AGREE TO DO SO AND YOUR FOREPERSON SO ADVISES ME IN WRITING.

250. IF YOU DO NOT UNANIMOUSLY AGREE TO CONTINUE DELIBERATIONS, THEN YOU MAY LEAVE AT 5:00 P.M. AND REPORT TO THE JURY ROOM TUESDAY AT 9:00 A.M. PLEASE ADVISE THE COURT VIA MR. BABIK OF HOW YOU WILL BE PROCEEDING.

251. YOU ARE INSTRUCTED THAT DURING DELIBERATIONS YOU ARE NOT PERMITTED TO ENGAGE IN ANY RESEARCH ON YOUR OWN. YOU SHOULD NOT SEEK INFORMATION REGARDING ANY ASPECT OF THIS TRIAL FROM ANY SOURCE OUTSIDE OF THE COURTROOM. IT WOULD BE IMPROPER FOR YOU TO DISCUSS ANY OF THE

ISSUES OF THIS CASE WITH ANY PERSON, INCLUDING MEMBERS OF YOUR FAMILY, UNTIL YOUR DELIBERATIONS HAVE CONCLUDED.

252. PLEASE REMEMBER MY INSTRUCTION TO NOT READ ABOUT THE CASE SHOULD THERE BE ANY ARTICLES IN THE NEWSPAPER AND NOT LISTEN TO ANY RADIO BROADCASTS OR TELEVISION BROADCASTS SHOULD THERE BE ANY CONCERNING THIS CASE.

253. YOU WILL NOTE FROM THE OATH TAKEN BY MY COURTROOM DEPUTY, MR. BABIK, AND OTHER MEMBERS OF MY STAFF THAT THEY TOO, AS WELL AS ALL OTHERS, ARE FORBIDDEN TO COMMUNICATE IN ANY WAY OR MANNER WITH ANY MEMBER OF THE JURY ON ANY SUBJECT TOUCHING THE MERITS OF THE CASE.

254. DURING YOUR DELIBERATIONS, YOU MUST CONTINUE TO OBSERVE ALL THE RESTRICTIONS I HAVE INSTRUCTED YOU ON THROUGHOUT THE TRIAL. DO NOT SPEAK AT ALL WITH ANY OF THE PARTIES, THE WITNESSES,

OR THE ATTORNEYS. DO NOT PERMIT ANYONE TO DISCUSS THE CASE WITH YOU. DO NOT EVEN REMAIN IN THE PRESENCE OF ANYONE DISCUSSING THE CASE. IF ANYONE APPROACHES YOU AND TRIES TO TALK TO YOU ABOUT THE CASE, PLEASE REPORT THAT TO ME, THROUGH MY COURTROOM DEPUTY, IMMEDIATELY.

255. DO NOT WATCH OR LISTEN TO ANY NEWS REPORTS CONCERNING THIS TRIAL ON TELEVISION OR RADIO AND DO NOT READ ANY NEWS ACCOUNTS OF THIS TRIAL IN A NEWSPAPER OR ON THE INTERNET. DO NOT USE THE INTERNET TO SEARCH FOR INFORMATION ABOUT THE PARTIES, WITNESSES, LAWYERS, OR ANYTHING ELSE ASSOCIATED WITH THE TRIAL. DO NOT VISIT THE SCENE OF THE ALLEGED OFFENSE OR CONDUCT ANY KIND OF INVESTIGATION OF YOUR OWN. THE ONLY INFORMATION YOU ARE ALLOWED TO CONSIDER IN DECIDING THIS CASE IS WHAT YOU LEARNED IN THIS COURTROOM DURING THE TRIAL.

256. FINALLY, I ADVISE YOU THAT DEPENDING ON THE VERDICT YOU REACH, THERE MAY BE A BRIEF ADDITIONAL PROCEEDING AFTER YOU HAVE RETURNED YOUR VERDICT.