

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	CR. NO. 97-20063
	)	
JAMES C. CRITTENDEN and	)	
SHIRLEY MOORE CHAPMAN,	)	
	)	
Defendants.	)	

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JURY INSTRUCTIONS

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Members of the Jury:

It is now my duty to instruct you on the rules of law that you must follow and apply in deciding this case. When I have finished you will go to the jury room and begin your discussions -- what we call your deliberations.

It will be your duty to decide whether the government has proved beyond a reasonable doubt the specific facts necessary to find the defendants guilty of the crimes charged in the indictment.

You must make your decision only on the basis of the testimony and other evidence presented here during the trial; and you must not be influenced in any way by either sympathy or prejudice for or against the defendants or the government.

You must also follow the law as I explain it to you whether you agree with that law or not; and you must follow all of my instructions as a whole. You may not single out, or disregard, any of the Court's instructions on the law.

The indictment or formal charge against the defendants is not evidence of guilt. Indeed, a defendant is presumed by the law to be innocent. The law does not require a defendant to prove his innocence or produce any evidence at all. The government has the burden of proving a defendant guilty beyond a reasonable doubt as to each count, and if it fails to do so as to any count, you must find the defendant not guilty as to that count or counts.

Reasonable  
Doubt

While the government's burden of proof is a strict or heavy burden, it is not necessary that a defendant's guilt be proved beyond all possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning a defendant's guilt.

A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

2.01C  
Multiple Defendants  
Same Crimes

The defendants have both been charged with several crimes. The number of charges is no evidence of guilt, and this should not influence your decision in any way. And in our system of justice, guilty or innocence is personal and individual. It is your duty to separately consider the evidence against each defendant on each charge, and to return a separate verdict for each of them. For each one, you must decide whether the government has presented proof beyond a reasonable doubt that a particular defendant is guilty of a particular charge.

Your decision on any one defendant or charge, whether it is guilty or not guilty, should not influence your decision on any of the other defendant or charges.

## Stipulations

While we were hearing evidence, you were told that the government and the defendants agreed, or stipulated to certain facts. This means simply that the government and the defendants both accept these facts. There is no disagreement over these facts, so there was no need for evidence by either side on these points. You must accept these facts, even though nothing more was said about them one way or the other.

Facts stipulated to by the government and the defendants in this case are as follows:

1. All Numident printouts provided by the Social Security Administration were kept in the ordinary course of business and would have been admitted as evidence pursuant to Federal Rules of Evidence, Rule 803(6).
2. There are no objections to the admission of the Numident printouts, documents in Counts 1 through 27, as evidence in the trial of this cause. That Numident printouts will be marked as exhibits and admitted as evidence without objection as to chain of custody, authenticity, and admissibility.

### Transcriptions of Tape Recordings (7.17)

You have heard some tape recordings that were received in evidence, and you were given some written transcripts of the tapes.

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 tapes themselves are the evidence. If you noticed any differences between what you heard on the tapes 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 tapes, you must ignore the transcripts as far as those parts are concerned.

## Evidence

As stated earlier, you must consider only the evidence that I have admitted in the case. The term "evidence" includes the testimony of the witnesses, the exhibits admitted in the record and any facts of which the court has taken judicial notice. Remember that anything the lawyers say is not evidence in the case. It is your own recollection and interpretation of the evidence that controls. What the lawyers say is not binding upon you.

In considering the evidence you may make deductions and reach conclusions which reason and common sense lead you to make; and you should not be concerned about whether the evidence is direct or circumstantial. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eye witness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating that a defendant is either guilty or not guilty. The law makes no distinction between the weight you may give to either direct or circumstantial evidence.

Also you should not assume from anything I may have said or done that I have any opinion concerning any of the issues in this case. Except for my instructions to you, you should disregard anything I may have said in arriving at your own decision concerning the facts.

Now, in saying that you must consider all of the evidence, I do not mean that you must accept all of the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

In deciding whether you believe or do not believe any witness, I suggest that you ask yourself a few questions: Did the person impress you as one who was telling the truth? Did he or she have any particular reason not to tell the truth? Did he or she have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to observe accurately the things he or she testified about? Did he or she appear to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses?

You should also ask yourself whether there was evidence tending to prove that the witness testified falsely concerning some important fact; or, whether there was evidence that at some other



time the witness said or did something, or failed to say or do something, which was different from the testimony he or she gave before you during the trial.

The fact that a witness has been convicted of a felony offense is another factor you may consider in deciding whether you believe his or her testimony.

You should keep in mind, of course, that a simple mistake by a witness does not necessarily mean that the witness was not telling the truth as he or she remembers it, because people naturally tend to forget some things or remember other things inaccurately. So, if a witness has made a misstatement, you need to consider whether that misstatement was simply an innocent lapse of memory or an intentional falsehood; and that may depend on whether it has to do with an important fact or with only an unimportant detail.

Cross-Examination of Witness  
on Defendant's Character (5-16)

The prosecution asked certain questions on cross-examination of the defendant's character witness about specific acts supposedly committed by the defendant. I caution you that the prosecution was allowed to ask these questions only to help you decide whether the witness was accurate in forming his or her opinion or in describing the reputation of the defendant's character. You may not assume that the acts described in these questions are true, nor may you consider them as evidence that the defendant committed the crime for which he or she is charged. You may therefore consider the questions only in deciding what weight, if any, should be given to the testimony of the character witness and for no other purpose. You should not consider such questions as any proof of the conduct stated in the question.

(1) You have heard the defendant Shirley Chapman testify. Earlier, I talked to you about the "credibility" or the "believability" of the witnesses. And I suggested some things for you to consider in evaluating each witness's testimony.

(2) You should consider those same things in evaluating a defendant's testimony.

Defendant's Failure to Testify (7.07A)

A defendant has the absolute right not to testify. The fact that Mr. Crittenden did not testify cannot be considered by you in any way. Do not even discuss it in your deliberations.

Remember that it is up to the government to prove the defendant is guilty beyond a reasonable doubt. It is not up to the defendant to prove that he is innocent.

You have heard the testimony of law enforcement officials. The fact that a witness may be employed by the government as a law enforcement official does not mean that her testimony is necessarily deserving of more or less consideration or greater or lesser weight than that of an ordinary witness.

It is your decision, after reviewing all the evidence, whether to accept the testimony of the law enforcement witness and to give to that testimony whatever weight, if any, you find it deserves.

(1) You have heard the testimony of Preston Butts and Tony Ford. You have also heard that they were involved in the same crime that the defendants are charged with committing. You should consider Preston Butts's and Tony Ford's testimony with more caution than the testimony of other witnesses.

(2) Do not convict the defendants based on the unsupported testimony of such a witness, standing alone, unless you believe his testimony beyond a reasonable doubt.

(3) The fact that Preston Butts and Tony Ford have pleaded guilty to a crime is not evidence that the defendants are guilty, and you cannot consider this against the defendants in any way.

Testimony of a Witness Under  
Grant of Immunity or Reduced Liability (7.07)

You have heard the testimony of Lawrence E. Watson, Jr. You have also heard that the government has granted him immunity from prosecution in this case in exchange for his testimony in this case.

It is permissible for the government to make such a grant. But you should consider Mr. Watson's, testimony with more caution than the testimony of other witnesses. Consider whether his testimony may have been influenced by the government's actions.

Do not convict a defendant based on the unsupported testimony of such a witness, standing alone, unless you believe his testimony beyond a reasonable doubt.

Indictment  
Not Guilty Plea

I told you at the outset that this case was initiated through an indictment. An indictment is but a formal method of accusing a defendant of a crime. It includes the government's theory of the case, and we will be going over in a few minutes the substance of the indictment. The indictment is not evidence of any kind against an accused.

The defendants have pleaded not guilty to the charges contained in the indictment. This plea puts in issue each of the essential elements of the offenses described in these instructions and imposes upon the government the burden of establishing each of these elements by proof beyond a reasonable doubt.

I will summarize the indictment to you once again so that you are well aware of the charges made in the indictment.

The indictment reads, in part, as follows:



\_\_\_\_\_(1) I want to say a word about the dates mentioned in the indictment.

(2) The indictment charges that the crimes charged happened "on or about" certain dates set out in the indictment. The government does not have to prove that the crime charged in each count happened on each exact date alleged. But the government must prove that each alleged crime happened reasonably close to the date alleged.

The indictment charges in Counts 1 through 8 that the defendants, devised a scheme to defraud and in furtherance of that scheme knowingly caused the mails to be used.

The relevant statute on this subject is Section 1341 of Title 18 of the United States Code. It provides:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises ... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service ... or knowingly causes to be delivered by mail according to the direction thereon ... any such matter or thing, shall be [guilty of a crime].

In order to sustain the charges in Counts 1 through 8, the government must prove as to each count each of the following elements beyond a reasonable doubt:

First, that there was a scheme or artifice to defraud or to obtain money or property by false and fraudulent pretenses, representations or promises, as alleged in the indictment.

Second, that the defendant knowingly and willfully participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with specific intent to defraud; and

Third, that in execution or in furtherance of that scheme, the use of the mails occurred as specified in the indictment.

The first element the government must prove beyond a reasonable doubt in each of Counts 1 through 8 is that there was a scheme or artifice to defraud or to obtain money or property by means of false or fraudulent pretenses, representations or promises.

This first element is almost self-explanatory.

A "scheme or artifice" is merely a plan for the accomplishment of an object.

A scheme to defraud is any plan, device, or course of action to obtain money or property, by means of false or fraudulent pretenses, representations or promises reasonably calculated to deceive persons of average prudence.

"Fraud" is a general term which embraces all the various means which human ingenuity can devise and which are resorted to by an individual to gain an advantage over another by false representations, suggestions or suppression of the truth, or deliberate disregard of the truth.

Thus, a "scheme to defraud" is merely a plan to obtain something of value by trick, deceit, deception or swindle.

A statement, representation, claim or document is false if it is untrue when made and was then known to be untrue by the person making it or causing it to be made.

A representation or statement is fraudulent if it was falsely made with the intent to deceive.

Deceitful statements or half truths or the concealment of material facts may also constitute fraud under the statute.

The express of an opinion not honestly entertained is a factual misrepresentation.

The deception need not be premised upon verbalized words alone. The arrangement of the words, or the circumstances in which they are used may convey the false and deceptive appearance. If there is deception, the manner in which it is accomplished is immaterial.

The fraudulent representation or statement must relate to a material fact or matter. A material fact is one which would reasonably be expected to be of concern to a reasonable and prudent

person in relying upon the representation or statement in making a decision.

This means if you find a particular statement of fact to have been false, you must determine whether that statement was one that a reasonable person might have considered important in making his or her decision. The same principle applies to fraudulent half truths or omissions of material facts.

It is not required that every misrepresentation or act charged in the indictment be proved. It is sufficient if the prosecution proves beyond a reasonable doubt as to each count (counts 1 through 8) that one or more of the alleged material misrepresentations were made in furtherance of the alleged scheme to defraud.

In order to establish a scheme to defraud, the government is not required to establish that the defendant you are considering originated the scheme to defraud. Nor is it necessary that the defendant you are considering actually realized any gain from the scheme nor that the intended victim actually suffered any loss. In this case, it so happens that the government does contend the proof establishes that TennCare was defrauded and that each defendant benefitted. Although whether or not the scheme actually succeeded is really not the question, you may consider whether it succeeded in determining whether a scheme existed.

A scheme to defraud need not be shown by direct evidence, but may be established by all the circumstances and facts in the case.

If you find that the government has sustained its burden of proof that a scheme to defraud did exist, as charged, you next should consider the second element.

The second element that the government must establish beyond a reasonable doubt in each of Counts 1, 2, 3, 4, 5, 6, 7, and 8 is that the defendant participated in the scheme to defraud knowingly, willfully and with intent to defraud.

"Knowingly" means to act voluntarily and deliberately, rather than mistakenly or inadvertently.

"Willfully" means to act knowingly and purposely, with an intent to do something the law forbids, that is to say, with bad purpose either to disobey or to disregard the law.

"Intent to defraud" means to act knowingly and with the specific intent to deceive, for the purpose of causing some financial or property loss to another.

The question of whether a person acted knowingly, willfully and with intent to defraud is a question of fact for you to determine, like any other fact question. This question involves one's state of mind.

Direct proof of knowledge and fraudulent intent is almost never available. It would be a rare case where it could be shown



that a person wrote or stated that as of a given time in the past he committed an act with fraudulent intent. Such direct proof is not required.

The ultimate facts of knowledge and criminal intent, though subjective, may be established by circumstantial evidence, based upon a person's outward manifestations, his words, his conduct, his acts and all the surrounding circumstances disclosed by the evidence and the circumstances disclosed by the evidence and the rational or logical inferences that may be drawn therefrom.

Circumstantial evidence, if believed, is of no less value than direct evidence. In either case, the essential elements of the crime charged must be established beyond a reasonable doubt.

Since an essential element of the crime charged is intent to defraud, it follows that good faith on the part of a defendant is a complete defense to a charge of mail fraud. A defendant, however, has no burden to establish a defense of good faith. The burden is on the government to prove fraudulent intent and consequent lack of good faith beyond a reasonable doubt.

Under the antifraud statutes, even false representations or statements or omissions of material facts do not amount to a fraud unless done with fraudulent intent. However misleading or deceptive a plan may be, it is not fraudulent if it was devised or

carried out in good faith. An honest belief in the truth of the representations made by a defendant is a good defense, however inaccurate the statements may turn out to be.

In considering whether or not a defendant acted in good faith, you are instructed that a belief by the defendant, if such belief existed, that ultimately everything would work out so that no one would lose any money does not require a finding by you that he or she acted in good faith. No amount of honest belief on the part of a defendant that the scheme will ultimately benefit anyone else or may not ultimately harm the victim will excuse fraudulent actions or false representations by him or her to obtain money.

As a practical matter, then, in order to sustain the charges against a defendant, the government must establish beyond a reasonable doubt that the defendant knew that his or her conduct as a participant in the scheme was calculated to deceive and nonetheless, the defendant associated himself or herself with the alleged fraudulent scheme.

The government can also meet its burden of showing that a defendant had actual knowledge of falsity if it establishes beyond a reasonable doubt that he or she acted with deliberate disregard of whether the statements were true or false, or with a conscious purpose to avoid learning the truth. If the government establishes beyond a reasonable doubt that the defendant acted with deliberate

disregard for the truth, the knowledge requirement would be satisfied unless the defendant actually believed the statements to be true. This guilty knowledge, however, cannot be established by demonstrating that the defendant was merely negligent or foolish.

To conclude on this element, if you find that the defendant was not a knowing participant in the scheme and lacked the specific intent to deceive, you should acquit the defendant as to the count you are considering.

Contrariwise, if you find that the government has established beyond a reasonable doubt not only the first element, namely, the existence of a scheme to defraud, but also this second element, that the defendant was a knowing participant and acted with specific intent to defraud, and if the government also establishes the third element, as to which I am about to instruct you, then you have a sufficient basis upon which to convict the defendant.

Third Element - Use of the Mails

The third and final element that the government must establish beyond a reasonable doubt in each of Counts 1 through 8 is the use of the mails in furtherance of the scheme to defraud.

It is not necessary for the defendant to be directly or personally involved in any mailing, as long as the mailing is reasonably foreseeable in the execution of the alleged scheme to defraud in which the defendant is accused of participating.

In this regard, it would be sufficient to establish this element of the crime if the testimony justifies a finding that the defendant caused the mailing by others; and this does not mean that the defendant must specifically have authorized others to do the mailing. When one does an act with knowledge that the use of the mails will follow in the ordinary course of business or where such use of the mails can reasonably be foreseen, even though not actually intended, then the defendant causes the mails to be used. The government contends that it was reasonably foreseeable that the mails would be used in the ordinary course of business in sending TennCare enrollment forms under the alleged scheme and therefore that the defendant caused the mailings.

The mailed matter need not disclose on its face a fraudulent representation or purpose or request for money but need only be

intended to further or assist in carrying out the scheme to defraud.

With respect to the use of the mails, the government must establish beyond a reasonable doubt the particular use charged in the indictment. However, the government does not have to prove that the mailings were made on the exact date charged in the indictment. It is sufficient if the evidence establishes beyond a reasonable doubt that the mailings were made on a date reasonably near the dates alleged in the indictment.

(1) For you to find the defendant guilty of Counts 1 through 8, it is not necessary for you to find that the defendant you are considering personally committed the crime himself or herself. You may also find a defendant guilty if that defendant intentionally helped or encouraged someone else to commit the crime. A person who does this is called an aider and abettor.

(2) But for you to find the defendant you are considering guilty of Counts 1 through 8, as an aider and abettor, you must be convinced that, as to the count you are considering, the government has proved each and every one of the following elements beyond a reasonable doubt:

(a) First, that the crime set out in the count you are considering was committed.

(b) Second, that the defendant helped to commit the crime or encouraged someone else to commit the crime in the count you are considering.

(c) And third, that the defendant intended to help commit or encourage the crime in the count you are considering.

(3) Proof that the defendant may have known about the crime, even if that defendant was there when it was committed, is not enough for you to find that defendant guilty. You can consider this in deciding whether the government has proved that the defendant was an aider and abettor, but without more it is not enough.

(4) What the government must prove is that the defendant did something to help or encourage the crime with the intent that the crime be committed.

(5) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on each count as to which you are so convinced. If you have a reasonable doubt about any one of these elements as to a count you are considering, then you cannot find the defendant guilty on that count as an aider and abettor.

Summary

If, as to the count you are considering (count 1, 2, 3, 4, 5, 6, 7, or 8), you are convinced that the government has proven beyond a reasonable doubt each of the three (3) elements set out in these instructions or that the government has proved beyond a reasonable doubt that the defendant was an aider and abettor, then, as to that count, you should return a verdict of guilty as to the defendant you are considering. If you are not so convinced as to any count you are considering, then, as to the count and defendant you are considering, you should return a verdict of not guilty.



Social Security Fraud (42 U.S.C. § 408(a)(7)(B))

Counts 9 through 25 of the indictment charge that defendant knowingly and with the intent to deceive, and for the purpose of obtaining payment or benefit to which he or she was not entitled, falsely represented to the Bureau of TennCare a number to be the social security numbers assigned to Tommy Green; James Allen; Mark Wakins; Philip Vaughn; Jimmy Ray; Milton Reynolds; Rickey Sutton; Raymond Baker; Tommy L. Maidson (Tommi Lee Midison); Kevin Lee; Ralph Preston Matthies; Lamar Lane; Katherine Mullnee; Shun Mosby; Lenanld/lenand fisher; Paul E. Parish; and Betty Nicholes by the Secretary of Health and Human Services, when such numbers were not, in fact, assigned to those names.

Section 408(a)(7)(B) of Title 42 of the United States Code provides, in part, that:

Whoever ... for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled...

with intent to deceive, falsely represents a number to be the social security number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person . . .

shall be guilty of an offense against the United States.

## Elements

In order to sustain its burden of proof for the crime of using a false social security number, the government must prove the following essential elements beyond a reasonable doubt:

First, that the defendant represented a particular social security number to belong to a particular person (that is, applicant) named in the count that you are considering;

Second, that the defendant did so for the purpose of obtaining a benefit or payment to which they were not entitled;

Third, that the representation was material.

Fourth, that the representation was false when made; and

Fifth, that the defendant falsely represented the social security number to be that of the applicant knowingly and with the intent to deceive;

The elements set out above are largely self explanatory. The words used have their common meaning and are consistent with the instructions as to other counts in this case.

A representation is "material" if it has a natural tendency to influence, or is capable of influencing, the decision of the agency. However, whether a representation is "material" does not depend on whether the agency was actually deceived.

As with Counts 1 through 8, the defendants in Counts 9 through 25 are also charged as aiders and abettors. Therefore, as in counts 1 through 8, the government may also rely on that second theory in order to establish criminal conduct. I again instruct you as to aiding and abetting.

(1) For you to find the defendant guilty of Counts 9 through 25, it is not necessary for you to find that the defendant you are considering personally committed the crime himself or herself. You may also find a defendant guilty if that defendant intentionally helped or encouraged someone else to commit the crime. A person who does this is called an aider and abettor.

(2) But for you to find the defendant you are considering guilty of Counts 9 through 25, as an aider and abettor, you must be convinced that, as to the count you are considering, the government has proved each and every one of the following elements beyond a reasonable doubt:

(a) First, that the crime set out in the count you are considering was committed.

(b) Second, that the defendant helped to commit the crime or encouraged someone else to commit the crime in the count you are considering.

(c) And third, that the defendant intended to help commit or encourage the crime in the count you are considering.

(3) Proof that the defendant may have known about the crime, even if that defendant was there when it was committed, is not enough for you to find that defendant guilty. You can consider this in deciding whether the government has proved that the defendant was an aider and abettor, but without more it is not enough.

(4) What the government must prove is that the defendant did something to help or encourage the crime with the intent that the crime be committed.

(5) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on each count as to which you are so convinced. If you have a reasonable doubt about any one of these elements as to a count you are considering, then you cannot find the defendant guilty on that count as an aider and abettor.

If, as to the count and defendant you are considering, the evidence establishes beyond a reasonable doubt each of the five elements as to that count and that defendant, or establishes that the defendant was an aider and abettor, you must return a verdict of guilty. If, as to any count and any element, the evidence does not support guilt beyond a reasonable doubt, then, as to that defendant and that count, you must return a verdict of not guilty.

You must, of course, consider each count and each defendant separately.





The defendant, James C. Crittenden, is charged in Counts 26 and 27 with knowingly and willfully making false statements to the Department of Health, Bureau of TennCare, an agency of the United States.

The indictment charges that the defendant knowingly and willfully made and caused to be made a false document, knowing the same to contain a false, fictitious and fraudulent statement.

In this case, the government contends that the evidence shows that the defendant in counts 26 and 27 made and caused to be made false documents, in that, in forms titled TennCare Enrollment Form, submitted to the TennCare Bureau, representing and causing to be represented that the TennCare enrollment forms represented real persons eligible for TennCare, when in fact that information was not true and Mr. Crittenden knew it was not true.

The relevant statute on this subject is section 1001 of Title 18 of the United States Code. It provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false,

fictitious or fraudulent statement or entry [is guilty of a crime].

The purpose of section 1001 is to protect the authorized functions of the various governmental departments from any type of misleading or deceptive practice and from the adverse consequences which might result from such deceptive practices.

To establish a violation of section 1001 in Counts 26 and 27, it is necessary for the government to prove certain essential elements -- which I will shortly describe for you -- beyond a reasonable doubt. However, I want to point out now that it is not necessary for the government to prove that the government agency was, in fact, misled as a result of the defendant's action. It does not matter that the agency was not misled, or even that it knew of the misleading or deceptive act, should you find that the act occurred. These circumstances would not excuse or justify a concealment undertaken, or a false fictitious or fraudulent statement made, or a false writing or document submitted, willfully and knowingly about a matter within the jurisdiction of a department or agency of the United States.

A statement, representation, or entry is "fraudulent," if known to be untrue, and made or caused to be made with the intent to deceive the government agency to whom it was submitted.

A statement, representation, or entry is "false" or "fictitious," if untrue when made, and known at that time to be untrue by the person making it or causing it to be made.

In order to prove a defendant guilty of the crimes charged in Counts 26 and 27 the government must establish beyond a reasonable doubt that:

1. On or about the date specified, the defendant made or used a writing or document;
2. The writing or document contained a false or fictitious or fraudulent statement or entry;
3. The statement was material;
4. The defendant knew that the writing or document contained a false or fictitious or fraudulent statement or entry, and unlawfully, knowingly and willfully used said writing or document; and
5. The document or writing was made or used in a matter within the jurisdiction of a department or agency of the United States or federal funds were involved.

First Element - Use of a Writing or Document

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The first element that the government must prove beyond a reasonable doubt is that the defendant made or used a writing or document. In this regard, the government need not prove that the defendant personally prepared the writing or document. It is sufficient to satisfy this element if you find that he caused the writing or document charged in the indictment to be made or used.

Second Element - False and Fictitious Statement

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A statement, representation, or entry is "false" or "fictitious," if untrue when made, and known at the time to be untrue by the person making it or causing it to be made.



The third element that the government must prove beyond a reasonable doubt is that the falsification was material.

Materiality is a question of fact for the jury to decide.

A statement is "material" if it has a natural tendency to influence, or is capable of influencing, the decision of the agency. However, whether a statement is "material" does not depend on whether the agency was actually deceived.

The fourth element which the government must prove beyond a reasonable doubt is that the defendant acted knowingly and willfully.

An act is done knowingly if it is done purposely and voluntarily, as opposed to mistakenly or accidentally.

An act is done willfully if it is done with an intention to do something the law forbids, with a bad purpose to disobey the law or, with deliberate disregard for the law; however, if the defendant actually believed the statements were true, you must acquit.

As I have told you, the fifth element with respect to each of Counts 26 and 27 is that the document or statement or concealment be used, made or undertaken with regard to a matter within the jurisdiction of a department or agency of the United States. It is asserted that the Department of Health, Bureau of TennCare is a Department of the State of Tennessee that receives funding from an agency of the United States. The Department of Health and Human Services.

There is no requirement that the document be actually directed to or given to the Department of Health, Bureau of TennCare. All that is necessary is that you find that it was contemplated that the document was to be utilized in a matter which was within the jurisdiction of any agency or department of the United States or that federal funds were involved.

In this regard, it is not necessary for the government to prove that the defendant had actual knowledge that the false statement was to be utilized in a matter which was within the jurisdiction of an agency or department of the United States. It is sufficient to satisfy this element if you find that the false statement was made with regard to a matter within the jurisdiction of a department of the United States.

(1) For you to find a defendant guilty of Counts 26 and 27 it is not necessary for you to find that that defendant personally committed the crime him or herself. You may also find him guilty if he intentionally helped or encouraged someone else to commit the crime. A person who does this is called an aider and abettor.

(2) But for you to find the defendant guilty of Counts 26 and 27, as an aider and abettor, you must be convinced, as to the count you are considering, that the government has proved each and every one of the following elements beyond a reasonable doubt:

(a) First, that the crime set out in the count you are considering was committed.

(b) Second, that the defendant helped to commit the crime or encouraged someone else to commit the crime in the count you are considering.

(c) And third, that the defendant intended to help commit or encourage the crime in the count you are considering.

(3) Proof that the defendant you are considering may have known about the crime, even if he or she was there when it was committed, is not enough for you to find him guilty. You can consider this in deciding whether the government has proved that he or she was an aider and abettor, but without more it is not enough.

(4) What the government must prove is that the defendant did something to help or encourage the crime with the intent that the crime be committed.

(5) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on each count as to which you are so convinced. If you have a reasonable doubt about any one of these elements as to a count you are considering, then you cannot find the defendant guilty on that count as an aider and abettor.

## Summary

If, as to the count you are considering (either count 26 or 27), you are convinced that the government has proven beyond a reasonable doubt each of the five (5) elements set out in these instructions or that defendant was an aider and abettor, then, as to that count, you should return a verdict of guilty. If you are not so convinced as to either count you are considering, then, as to the count you are considering, you should return a verdict of not guilty.

The Indictment  
and the Statute (19-1)

The defendants are charged in Count 28 with conspiracy to violate federal law.

The relevant statute on this subject is 18 U.S.C. § 371. It provides:

If two or more persons conspire ... to commit any offense against the United States ..., and one or more of such persons do any act to effect the object of the conspiracy, each [is guilty of an offense against the United States].

Purpose of the Statute (19-2)

In this case, the defendants are accused of having been members of a conspiracy to violate certain federal laws. A conspiracy is a kind of criminal partnership - a combination or agreement of two or more persons to join together to accomplish some unlawful purpose.

The crime of conspiracy to violate a federal law is an independent offense. It is separate and distinct from the actual violation of any specific federal laws, which the law refers to as "substantive crimes."

Indeed, you may find the defendant you are considering guilty of the crime of conspiracy to commit an offense against the United States even though the substantive crime which was the object of the conspiracy was not actually committed.

Congress has deemed it appropriate to make conspiracy, standing alone, a separate crime even if the conspiracy is not successful. This is because, collective criminal activity poses a greater threat to the public's safety and welfare than individual conduct, and increases the likelihood of success of a particular criminal venture.



Elements of Conspiracy (19-3)

In order to satisfy its burden of proof, the government must establish each of the following four essential elements beyond a reasonable doubt:

First, that two or more persons entered the unlawful agreement charged in the indictment starting on or about May 1, 1994;

Second, that the defendant knowingly and willfully became a member of the conspiracy;

Third, that one of the members of the conspiracy, knowingly committed at least one of the overt acts charged in the indictment; and

Fourth, that the overt act which you find to have been committed was committed to further some objective of the conspiracy.

#### Existence of Agreement (19-4)

The first element which the government must prove beyond a reasonable doubt to establish the offense of conspiracy is that two or more persons entered the unlawful agreement charged in the indictment.

In order for the government to satisfy this element, you need not find that the alleged members of the conspiracy met together and entered into any express or formal agreement. Similarly, you need not find that the alleged conspirators stated, in words or writing, what the scheme was, its object or purpose, or every precise detail of the scheme or the means by which its object or purpose was to be accomplished. What the government must prove is that there was a mutual understanding, either spoken or unspoken, between two or more people to cooperate with each other to accomplish an unlawful act.

You may, of course, find that the existence of an agreement to disobey or disregard the law has been established by direct proof. However, since conspiracy is, by its very nature, characterized by secrecy, you may also infer its existence from the circumstances of this case and the conduct of the parties involved.

In a very real sense, then, in the context of conspiracy cases, actions often speak louder than words. In this regard, you

may, in determining whether an agreement existed here, consider the actions and statements of all of those you find to be participants as proof that a common design existed on the part of the persons charged to act together to accomplish an unlawful purpose.

Membership in the Conspiracy (19-6)

The second element which the government must prove beyond a reasonable doubt to establish the offense of conspiracy is that the defendant knowingly, willfully, and voluntarily became a member of the conspiracy.

If you are satisfied that the conspiracy charged in the indictment existed, you must next ask yourselves who the members of that conspiracy were. In deciding whether the defendant was, in fact, a member of the conspiracy, you should consider whether the defendant knowingly and willfully joined the conspiracy. Did he or she participate in it with knowledge of its unlawful purpose and with the specific intention of furthering its business or objective as an associate or worker?

In that regard, it has been said that in order for a defendant to be deemed a participant in the conspiracy, he or she must have had a stake in the venture or its outcome. You are instructed that, while proof of a financial interest in the outcome of a scheme is not essential, if you find that the defendant had such an interest, that is a factor which you may properly consider in determining whether or not the defendant was a member of the conspiracy charged in the indictment.

As I mentioned a moment ago, before a defendant can be found to have been a conspirator, you must first find that he or she knowingly joined in the unlawful agreement or plan. The key question, therefore, is whether the defendant joined the conspiracy with an awareness of at least some of the basic aims and purposes of the unlawful agreement.

It is important for you to note that the defendant's participation in the conspiracy must be established by independent evidence of his or her own acts or statements, as well as those of the other alleged co-conspirators, and the reasonable inferences which may be drawn from them.

The defendant's knowledge is a matter of inference from the facts proved. In that connection, I instruct you that to become a member of a conspiracy, the defendant need not have known the identities of each and every other member, nor need he or she have been apprised of all their activities. Moreover, the defendant need not have been fully informed as to all of the details, or the scope, of the conspiracy in order to justify an inference of knowledge on his part. Furthermore, the defendant need not have joined in all the conspiracy's unlawful objectives.

The extent of a defendant's participation has no bearing on the issue of a defendant's guilt. A conspirator's liability is not measured by the extent or duration of his or her participation.

Indeed, each member may perform separate and distinct acts and may perform them at different times. Some conspirators play major roles, while others play minor parts in the scheme. An equal role is not what the law requires. In fact, even a single act may be sufficient to draw the defendant within the ambit of the conspiracy.

I want to caution you, however, that the defendant's mere presence at the scene of the alleged crime does not, by itself, make him or her a member of the conspiracy. Similarly, mere association with one or more members of the conspiracy does not automatically make the defendant a member. A person may know, or be friendly with, a criminal, without being a criminal himself or herself. Mere similarity of conduct or the fact that they may have assembled together and discussed common aims and interests does not necessarily establish proof of the existence of a conspiracy.

I also want to caution you that mere knowledge or acquiescence, without participation, in the unlawful plan is not sufficient. Moreover, the fact that the acts of a defendant, without knowledge, merely happen to further the purposes or objectives of the conspiracy, does not make the defendant a member. More is required under the law. What is necessary is that the defendant must have participated with knowledge of at least some of the purposes or objectives of the conspiracy with the intention of aiding in the accomplishment of those unlawful ends.

In sum, the defendant, with an understanding of the unlawful character of the conspiracy, must have intentionally engaged, advised, or assisted in it for the purpose of furthering the illegal undertaking. He or she thereby becomes a knowing and willing participant in the unlawful agreement - that is to say, a conspirator.

Commission of Overt Act (19-7)

The third element which the government must prove beyond a reasonable doubt, to establish the offense of conspiracy, is that at least one of the overt acts charged in the indictment was knowingly committed by at least one of the conspirators, at or about the time and place alleged.

The indictment charges that the following overt acts were committed in the Western District of Tennessee. [Read overt acts Indictment, p.29, para. 8.]

In order for the government to satisfy this element, it is not required that all of the overt acts alleged in the indictment be proven.

Similarly, you need not find that the defendants in this case committed the overt act. It is sufficient for the government to show that one of the conspirators knowingly committed an overt act in furtherance of the conspiracy, since such an act becomes, in the eyes of the law, the act of all the members of the conspiracy.

You are further instructed that the overt act need not have been committed at precisely the time alleged in the indictment. It is sufficient if you are convinced beyond a reasonable doubt, that it occurred at or about the time and place stated.



Finally, you must find that the overt act was committed in the Western District of Tennessee, which includes the City of Memphis, County of Shelby, Tennessee.

Commission of Overt Act  
in Furtherance of the Conspiracy (19-8)

\_\_\_\_\_The fourth, and final, element which the government must prove beyond a reasonable doubt is that the overt act was committed for the purpose of carrying out the unlawful agreement.

In order for the government to satisfy this element, it must prove, beyond a reasonable doubt, that at least one overt act was knowingly and willfully done, by at least one conspirator, in furtherance of some object or purpose of the conspiracy, as charged in the indictment. In this regard, you should bear in mind that the overt act, standing alone, may be an innocent, lawful act. Frequently, however, an apparently innocent act sheds its harmless character if it is a step in carrying out, promoting, aiding, or assisting the conspiratorial scheme. You are therefore instructed that the overt act does not have to be an act which, in and of itself is criminal or constitutes an objective of the conspiracy.

Acts and Declarations  
of Co-Conspirators (19-9)

You will recall that I have admitted into evidence against the defendants the acts and statements of others including Preston Butts, Tony Ford, Gayle Blackiston, Veronica Bausley, and Betty Ann Huntley, because these acts and statements were committed by persons who, the government charges, were also confederates or co-conspirators of the defendants on trial.

The reason for allowing this evidence to be received against the defendants has to do with the nature of the crime of conspiracy. A conspiracy is often referred to as a partnership in crime. Thus, as in other types of partnerships, when people enter into a conspiracy to accomplish an unlawful end, each and every member becomes an agent for the other conspirators in carrying out the conspiracy.

Accordingly, the reasonably foreseeable acts, declarations, statements, and omissions of any member of the conspiracy and in furtherance of the common purpose of the conspiracy, are deemed, under the law, to be the acts of all of the members, and all of the members are responsible for such acts, declarations, statements, and omissions.

If you find, beyond a reasonable doubt, that the defendant whose guilt you are considering was a member of the conspiracy

charged in the indictment, then, any acts done or statements made in furtherance of the conspiracy by persons also found by you to have been members of that conspiracy, may be considered against that defendant. This is so even if such acts were done and statements were made in the defendant's absence and without his or her knowledge.

However, before you may consider the statements or acts of a co-conspirator in deciding the issue of a defendant's guilt, you must first determine that the acts and statements were made during the existence, and in furtherance of the unlawful scheme. If the acts were done or the statements made by someone whom you do not find to have been a member of the conspiracy or if they were not done or said in furtherance of the conspiracy, they may be considered by you as evidence only against the member who did or said them.

Inferring Required Mental State

In your consideration of each count in the case, as to each defendant:

(1) I want to explain further something about proving a defendant's state of mind.

(2) Ordinarily, there is no way that a defendant's state of mind can be proved directly, because no one can read another person's mind and tell what that person is thinking.

(3) But a defendant's state of mind can be proved indirectly from the surrounding circumstances. This includes things like what the defendant said, what the defendant did, how the defendant acted, and any other facts or circumstances in evidence that show what was in the defendant's mind.

(4) You may also consider the natural and probable results of any acts that the defendant knowingly did [or did not do], and whether it is reasonable to conclude that the defendant intended those results. This, of course, is all for you to decide.

Deliberate Ignorance (2.09)

As to each count in the case, as to each defendant, I also want to explain something about proving a defendant's knowledge.

No one can avoid responsibility for a crime by deliberately ignoring the obvious. If you are convinced that a defendant deliberately ignored a high probability that a materially false representation was being used, then you may find that he or she knew that fact.

But to find this, you must be convinced beyond a reasonable doubt that the defendant was aware of a high probability that a materially false representation was being used, and that the defendant deliberately closed his or her eyes to what was obvious. Carelessness, or negligence, or foolishness on his or her part is not the same as knowledge, and is not enough to convict. This, of course, is all for you to decide.

(1) You have heard testimony that after the crime was supposed to have been committed, the defendants made false exculpatory statements.

(2) If you believe that a defendant made false exculpatory statements, 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 or she committed the crime charged. This conduct may indicate that he or she thought he or she was guilty and was trying to avoid punishment. On the other hand, sometimes an innocent person may make false exculpatory statements to avoid being arrested, or for some other innocent reason.

You are instructed that the Department of Health, Bureau of TennCare, is an agency of the State of Tennessee and that the Department of Health and Human Services is a department of the United States of America.



Specific Offense Charged

I caution you, members of the jury, that you are here to determine from the evidence in this case whether the defendants are guilty or not guilty on each count. The defendants are on trial only for the specific offenses alleged in the indictment.

Also, the question of punishment should never be considered by the jury in any way in deciding the case. If a defendant is convicted the matter of punishment is for the judge to determine.

Some of you have taken notes during the trial. Remember your notes are to aid you in recalling the testimony in the case. Your notes are not evidence in the case. You must rely on your memory -- on your recollection -- in determining the facts in this case.

If you did not take notes, you should rely upon your own memory of what was said and not be overly influenced by the notes of other jurors.

## Guilt or Innocence Of Other Persons

You are here to determine the guilt or innocence of the accused defendants from the evidence in this case. You are not called upon to return a verdict as to the guilt or innocence of any other person or persons. You must determine whether or not the evidence in the case convinces you beyond a reasonable doubt of the guilt of the accused without regard to any belief you may have about guilt or innocence of any other person or persons.

The jury may not consider the acts of others in mitigating the defendants' culpability. In other words, each individual bears responsibility for his or her own actions. Later actions or failures to act by others, do not excuse the original acts of a defendant.

## Verdict Must Be Unanimous

Any verdict you reach in the jury room, whether guilty or not guilty, must be unanimous. In other words, to return a verdict you must all agree. Your deliberations will be secret; you will never have to explain your verdict to anyone.

It is your duty as jurors to discuss the case with one another in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after full consideration of the evidence with the other members of the jury. While you are discussing the case do not hesitate to re-examine your own opinion and change your mind if you become convinced that you were wrong. But do not give up your honest beliefs solely because the others think differently or merely to get the case over with.

Remember, that in a very real way you are judges -- judges of the facts. Your only interest is to seek the truth from the evidence in the case.

When you go to the jury room you should first select one of your members to act as your foreperson. The foreperson will preside over your deliberations and will speak for you here in court.

A form of verdict has been prepared for your convenience. The verdict form will be placed in a folder and handed to you by the Court Security Officer. At any time that you are not deliberating (i.e., when at lunch or during a break in deliberations), the folder and verdict form should be delivered to the Court Security Officer who will deliver it to the courtroom clerk for safekeeping.

[EXPLAIN VERDICT]

You will take the verdict form to the jury room and when you have reached unanimous agreement you will have your foreperson fill in the verdict form, date and sign it, and then return to the courtroom.

If you should desire to communicate with me at any time, please write down your message or question and pass the note to the marshal who will bring it to my attention. I will then respond as promptly as possible, either in writing or by having you returned to the courtroom so that I can address you orally. I caution you, however, with regard to any message or question you might send, that you should not tell me your numerical division at the time.

I will have a copy of these instructions and the indictment itself sent back to you. If you feel a need to see the exhibits which are not being sent to you for further examination, advise the marshal and I will take up your request at that time.

[ANY JURY ALTERNATES NOT ALREADY EXCUSED,  
SHOULD BE EXCUSED AT THIS TIME].

You may now retire to begin your deliberations.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	No. 97-20063
	)	
JAMES C. CRITTENDEN	)	
	)	
Defendants.	)	

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VERDICT FORM AS TO JAMES CRITTENDEN

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We, the jury, on the charges in the indictment for our verdict  
say:

1. We find the defendant, JAMES CRITTENDEN, as to Count 1

\_\_\_\_\_.  
(Guilty) or (Not Guilty)

2. We find the defendant, JAMES CRITTENDEN, as to Count 2

\_\_\_\_\_.  
(Guilty) or (Not Guilty)

3. We find the defendant, JAMES CRITTENDEN, as to Count 3

---

(Guilty) or (Not Guilty)

4. We find the defendant, JAMES CRITTENDEN, as to Count 4

---

(Guilty) or (Not Guilty)

5. We find the defendant, JAMES CRITTENDEN, as to Count 5

---

(Guilty) or (Not Guilty)

6. We find the defendant, JAMES CRITTENDEN, as to Count 6

---

(Guilty) or (Not Guilty)

7. We find the defendant, JAMES CRITTENDEN, as to Count 7

---

(Guilty) or (Not Guilty)

8. We find the defendant, JAMES CRITTENDEN, as to Count 8

---

(Guilty) or (Not Guilty)

9. We find the defendant, JAMES CRITTENDEN, as to Count 9

---

(Guilty) or (Not Guilty)

10. We find the defendant, JAMES CRITTENDEN, as to Count 10

\_\_\_\_\_.

(Guilty) or (Not Guilty)

11. We find the defendant, JAMES CRITTENDEN, as to Count 11

\_\_\_\_\_.

(Guilty) or (Not Guilty)

12. We find the defendant, JAMES CRITTENDEN, as to Count 12

\_\_\_\_\_.

(Guilty) or (Not Guilty)

13. We find the defendant, JAMES CRITTENDEN, as to Count 13

\_\_\_\_\_.

(Guilty) or (Not Guilty)

14. We find the defendant, JAMES CRITTENDEN, as to Count 14

\_\_\_\_\_.

(Guilty) or (Not Guilty)

15. We find the defendant, JAMES CRITTENDEN, as to Count 15

\_\_\_\_\_.

(Guilty) or (Not Guilty)



16. We find the defendant, JAMES CRITTENDEN, as to Count 16

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(Guilty) or (Not Guilty)

17. We find the defendant, JAMES CRITTENDEN, as to Count 17

---

(Guilty) or (Not Guilty)

18. We find the defendant, JAMES CRITTENDEN, as to Count 18

---

(Guilty) or (Not Guilty)

19. We find the defendant, JAMES CRITTENDEN, as to Count 19

---

(Guilty) or (Not Guilty)

20. We find the defendant, JAMES CRITTENDEN, as to Count 20

---

(Guilty) or (Not Guilty)

21. We find the defendant, JAMES CRITTENDEN, as to Count 21

---

(Guilty) or (Not Guilty)

22. We find the defendant, JAMES CRITTENDEN, as to Count 22

---

(Guilty) or (Not Guilty)

23. We find the defendant, JAMES CRITTENDEN, as to Count 23

---

(Guilty) or (Not Guilty)

24. We find the defendant, JAMES CRITTENDEN, as to Count 24

---

(Guilty) or (Not Guilty)

25. We find the defendant, JAMES CRITTENDEN, as to Count 25

---

(Guilty) or (Not Guilty)

26. We find the defendant, JAMES CRITTENDEN, as to Count 26

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(Guilty) or (Not Guilty)

27. We find the defendant, JAMES CRITTENDEN, as to Count 27

\_\_\_\_\_.

(Guilty) or (Not Guilty)

28. We find the defendant, JAMES CRITTENDEN, as to Count 28

\_\_\_\_\_.

(Guilty) or (Not Guilty)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
FOREPERSON

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

UNITED STATES OF AMERICA,                    )  
  )  
      Plaintiff,                                )  
  )  
VS.   )     No. 97-20063  
  )  
SHIRLEY MOORE CHAPMAN,                    )  
  )  
      Defendants.                              )

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VERDICT FORM AS TO SHIRLEY MOORE CHAPMAN

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We, the jury, on the charges in the indictment for our  
verdict say:

1. We find the defendant, SHIRLEY CHAPMAN, as to Count 4

\_\_\_\_\_ .  
(Guilty) or (Not Guilty)

2. We find the defendant, SHIRLEY CHAPMAN, as to Count 6

\_\_\_\_\_ .  
(Guilty) or (Not Guilty)

3. We find the defendant, SHIRLEY CHAPMAN, as to Count 7

\_\_\_\_\_ .  
(Guilty) or (Not Guilty)

4. We find the defendant, SHIRLEY CHAPMAN, as to Count 8

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(Guilty) or (Not Guilty)

5. We find the defendant, SHIRLEY CHAPMAN, as to Count 23

---

(Guilty) or (Not Guilty)

6 We find the defendant, SHIRLEY CHAPMAN, as to Count 24

---

(Guilty) or (Not Guilty)

7. We find the defendant, SHIRLEY CHAPMAN, as to Count 25

---

(Guilty) or (Not Guilty)

9. We find the defendant, SHIRLEY CHAPMAN, as to Count 28

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(Guilty) or (Not Guilty)

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DATE

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FOREPERSON

CHARGE CONTROL SHEET  
CRIMINAL CHARGE BOOK

USA v. Crittenden/Chapman  
No. 97-20063

1. General Instruction
2. Reasonable Doubt
3. Separate Consideration - Multiple Defendants Charged with the Different Crimes (2.01D)
4. Evidence (Direct and Circumstantial)
5. Stipulations
6. Transcriptions of Tape Recordings (7.17)
6. Evidence/Number of Witnesses/Credibility
7. Defendant's Testimony (7.02B)
8. Defendant's Failure to Testify (7.02A)
9. Testimony of Law Enforcement Officials
10. Testimony of Accomplice (7.08)  
(who has pled guilty)
11. Testimony of a Witness Under Grant of Immunity or Reduced Criminal Liability (7.07)
12. Indictment Not Evidence/Not Guilty Plea
13. Reading of Indictment
14. On or About (2.04)
15. Mail Fraud (18 U.S.C. § 1341)
  - (a) Sand 44-1 (The Indictment and the Statute)
  - (b) Sand 44-3 (Elements of the Offense)
  - (c) Sand 44-4 (First Element-Existence of Scheme or Artifice)
  - (d) Sand 44-5 (Second Element-Participation in Scheme with Intent)
  - (e) Sand 44-6 (Third Element-Use of the Mails)
  - (f) Aiding and Abetting (4.01) (18 U.S.C. § 2)
  - (g) Summary
16. Social Security Number Fraud (42 U.S.C. § 408(a)(7)(B))
  - (a) The Indictment and the Statute
  - (b) Elements of the Offense
17. False Statements (18 U.S.C. § 1001)  
  
General Instructions
  - (h) Sand 36-1 (The Indictment and the Statute)
  - (i) Sand 36-2 (The Purpose of the Statute)
  - (j) Sand 36-3 ("Fraudulent" Defined)
  - (k) Sand 36-4 ("False" and "Fictitious" Defined)

False Writing or Document

- (a) Sand 36-15 (Elements of the Offense)
  - (b) Sand 36-16 (First Element - Use of a Writing or Document)
  - (c) Sand 36-17 (Second Element - False of Fictitious Statement)
  - (d) Sand 36-18 (Third Element - Materiality)/G-1
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  - (f) Sand 36-20 (Fifth Element - Department of the United States)
  - (l) Aiding and Abetting (4.01) (18 U.S.C. § 2)
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18. Conspiracy to Violate Federal Law (18 U.S.C. § 371)
- (a) Sand 19-1 (The Indictment and the Statute)
  - (b) Sand 19-2 (Purpose of the Statute)
  - (c) Sand 19-3 (Elements of the Conspiracy)
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  - (e) Sand 19-5 (Multiple Conspiracies)
  - (f) Sand 19-6 (Membership in the Conspiracy)
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  - (h) Sand 19-8 (Commission of Overt Act in Furtherance of the Conspiracy)
  - (i) Sand 19-9 (Acts and Declarations of Co-Conspirators)
  - (j) Sand 19-10 (Withdrawal from the Conspiracy)
19. Inferring Required Mental State (2.08)
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23. Specific Offense Charged/Punishment Not To Be Considered
24. Disregard Belief as to Guilt or Innocence of Other Persons
25. Verdict Must Be Unanimous/Duty to Discuss With Each Other
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27. Verdict Form
28. Copy of Indictment