

INSTRUCTION NO. 26  
CONSPIRACY TO DEFRAUD THE UNITED STATES

The defendant is charged in Count One the indictment with conspiring to defraud the United States by obstructing the lawful functions of the Internal Revenue Service by dishonest means in violation of Section 371 of Title 18 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, beginning on or about January 6, 1999, and ending on or about April 9, 2009, there was an agreement between two or more persons to defraud the United States by obstructing the lawful functions of Internal Revenue Service by deceitful or dishonest means as charged in the indictment;

Second, the defendant became a member of the conspiracy knowing its object and intending to help accomplish it; and

Third, one of the members of the conspiracy performed at least one overt act for the purpose of carrying out the conspiracy, with all of you agreeing on a particular overt act that you find was committed.

An agreement to defraud is an agreement to deceive or to cheat.

A conspiracy is a kind of criminal partnership—an agreement of two or more persons to

commit one or more crimes. The crime of conspiracy is the agreement to do something unlawful; it does not matter whether the crime agreed upon was committed.

1 For a conspiracy to have existed, it is not necessary that the conspirators made a formal  
 2 agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they  
 3 simply met, discussed matters of common interest, acted in similar ways, or perhaps helped one  
 4 another. You must find that there was a plan to commit at least one of the crimes alleged in the  
 5 indictment as an object of the conspiracy with all of you agreeing as to the particular crime which the  
 6 conspirators agreed to commit.

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 8 One becomes a member of a conspiracy by willfully participating in the unlawful plan with  
 9 the intent to advance or further some object or purpose of the conspiracy, even though the person  
 10 does not have full knowledge of all the details of the conspiracy. Furthermore, one who willfully  
 11 joins an existing conspiracy is as responsible for it as the originators. On the other hand, one who has  
 12 no knowledge of a conspiracy, but happens to act in a way which furthers some object or purpose of  
 13 the conspiracy, does not thereby become a conspirator. Similarly, a person does not become a  
 14 conspirator merely by associating with one or more persons who are conspirators, nor merely by  
 15 knowing that a conspiracy exists.

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 17 An overt act does not itself have to be unlawful. A lawful act may be an element of a  
 18 conspiracy if it was done for the purpose of carrying out the conspiracy. The government is not  
 19 required to prove that the defendant personally did one of the overt acts.

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