

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YOIRLAN TOME ROJAS,

Defendant.

No. CR 14-4015-MWB

**INSTRUCTIONS  
TO THE JURY**

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**VERDICT FORM**

## No. 1 — INTRODUCTION

Congratulations on your selection as a juror! These Instructions are to help you better understand the trial and your role in it.

In an Indictment, a Grand Jury has charged defendant Yoirlan Tome Rojas with several offenses arising from his alleged use and possession of counterfeit credit cards in 2013. An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to the crimes charged against him, and he is presumed absolutely not guilty of each offense charged, unless and until the prosecution proves his guilt on that offense beyond a reasonable doubt.

You must decide during your deliberations whether or not the prosecution has proved the defendant's guilt on each offense charged against him beyond a reasonable doubt. In making your decision, you are the sole judges of the facts. You must not decide this case based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Do not take anything that I have said or done or that I may say or do as indicating what I think of the evidence or what I think your verdict should be.

Remember, only defendant Yoirlan Tome Rojas, and not anyone else, is on trial. Also, the defendant is on trial *only* for the offenses charged against him in the Indictment, and not for anything else.

Remember that each count charges a separate crime. *You must consider each charge separately and return a separate, unanimous verdict on each charge.*

Please remember that this case is important to the parties and to the fair administration of justice. Therefore, please be patient, consider all of the evidence, and do not be in a hurry to reach a verdict just to be finished with the case.

## **No. 2 — PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF**

The presumption of innocence means that the defendant is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from the defendant's arrest, the charges, or the fact that he is here in court
- This presumption remains with the defendant throughout the trial
- This presumption is enough, alone, for you to find the defendant not guilty of each offense charged against him, unless the prosecution proves, beyond a reasonable doubt, all of the elements of that offense

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove his innocence
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify
- This burden means that, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict
- This burden means that you must find the defendant not guilty of a particular offense charged against him, unless the prosecution proves

beyond a reasonable doubt that he has committed each and every element of that offense

### **No. 3 — REASONABLE DOUBT**

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or the defendant, keeping in mind that the defendant never, ever has the burden or duty to call any witnesses or to produce any evidence
- A reasonable doubt may arise from the prosecution's lack of evidence

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all of the evidence in the case before making a decision
- Proof beyond a reasonable doubt is proof so convincing that you would be willing to rely and act on it in the most important of your own affairs

The prosecution's burden is heavy, but it does not require proof beyond all doubt.

## **No. 4 — OTHER IMPORTANT TERMS**

Before I turn to specific instructions on the offenses charged in this case, I will explain some important terms.

### ***Elements***

Each offense charged consists of “elements,” which are the parts of the offense. The prosecution must prove beyond a reasonable doubt all of the elements of a particular offense against the defendant for you to find him guilty of that offense.

### ***Timing***

The Indictment alleges an approximate date or an approximate time period for each charged offense. The prosecution does not have to prove that a particular offense occurred on an exact date, only that the offense occurred at a time that was reasonably close to the date or reasonably within the time period alleged for that offense in the Indictment.

### ***Location***

You must decide whether the defendant’s conduct occurred in the Northern District of Iowa. Storm Lake and Buena Vista County are in the Northern District of Iowa.

### *Attempt*

**Counts 1, 2, and 4** charge that the defendant completed or attempted to complete an illegal transaction. A person may be found guilty of an offense if he “attempted” the illegal transaction, even if he did not complete the illegal transaction. The defendant can be found guilty of “attempt” of an illegal transaction, if

- he intended to complete the transaction, and
- he voluntarily and intentionally carried out some act that was a substantial step toward completing the transaction
  - A “substantial step”
    - is something more than mere preparation, yet may be less than the last act necessary to complete the transaction
    - need not be incompatible with innocence
    - must be necessary to complete the transaction
    - must be of such a nature that a reasonable observer, viewing it in context, could conclude beyond a reasonable doubt that it was undertaken for the purpose of completing the transaction

When both completion and attempted completion of a transaction are charged,

- you must unanimously agree whether the defendant completed or attempted to complete the transaction



- which one or more of the charged transactions the defendant completed or attempted to complete

The prosecution does not have to prove that the defendant completed or attempted to complete more than one of the transactions alleged in the count in question.

### ***“Commerce” And “Affected Commerce”***

The offenses charged in **Counts 1** through **4** require proof that the defendant’s conduct “affected commerce.” “Commerce” is all economic activity, including, among other things, travel, movement of goods, movement of money, transportation, and communication, either

- between any combination of states, territories, and possessions of the United States; or
- between any state, territory, or possession of the United States and a foreign country

A defendant’s actions “affected commerce,” if

- the defendant’s actions involved or influenced commerce in any way or degree, *or*
- a financial institution or business involved in the transaction with the defendant was engaged in or had other activities that involved or influenced commerce in any way or degree

The prosecution

- *does not* have to prove that the defendant actually intended or anticipated that his actions would affect commerce, *but*

- *does* have to prove that commerce was affected as a natural and probable consequence of the defendant's actions or transactions

***“Access device” and “counterfeit access device”***

All of the counts charge that the defendant used or possessed one or more credit cards that were “access devices” and/or “counterfeit access devices.” A credit card is an “access device,” if

- it is a card for access to a financial account, and
- it can be used, alone or in conjunction with other personal account access information, to obtain money, goods, services, or any other thing of value, or to initiate a transfer of funds

A “counterfeit access device” is

- any access device that is phony, fictitious, altered, or forged, or
- an identifiable part of an access device or a counterfeit access device

***Intent to defraud***

**Counts 1, 2, and 3** require proof that the defendant acted with “intent to defraud.” To act with “intent to defraud”

- means to act with intent to deceive or cheat
- ordinarily means to act for the purpose
  - of causing a financial loss to someone else, or
  - to bring about a financial gain to the defendant or another

### *Possession*

**Counts 3, 5, and 6** require proof that the defendant “possessed” an item. A person “possessed” something if all three of the following are true:

- the person knew about it, and
- the person had the power, or ability, to control it, and
- the person had the intention to control it

More than one person may have possessed something at the same time.

### *Verdict Form*

A Verdict Form is attached to these Instructions.

- A Verdict Form is simply a written notice of your decision
- When you have reached a unanimous verdict, your foreperson will complete one copy of the Verdict Form by marking the appropriate blank or blanks for each question
- You will all sign that copy to indicate that you agree with the verdict and that it is unanimous
- Your foreperson will then bring the signed Verdict Form to the courtroom when it is time to announce your verdict

\* \* \*

I will now give you the “elements” instructions on the charged offenses. The “elements” themselves are set out in **bold**.

**No. 5 — COUNTS 1 AND 2: USING A COUNTERFEIT  
CREDIT CARD**

Counts 1 and 2 of the Indictment charge the defendant with separate “using a counterfeit credit card” offenses. The “using a counterfeit credit card” offenses charged in the Indictment are the following:

Count	Date	Cards Attempted To Be Used	Cards Successfully Used
1	On or about September 13, 2013	#5892	#4594 (belonging to R.H.)
2	On or about November 6, 2013	#5457 #2312 #5575 #9505 #6217 #7838 #7506	#2676 (belonging to K.B)    #6217  #7506 #1321

The defendant denies that that he committed these offenses.

For you to find the defendant guilty of a charged “using a counterfeit credit card” offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against him as to that offense:

***One, on or about the date alleged in the count in question, in the Northern District of Iowa, the defendant knowingly used or attempted to use one or more credit cards identified in that count that were counterfeit access devices.***

I defined “attempt,” “access device,” and “counterfeit access device” for you in Instruction No. 4.

The prosecution

- does *not* have to prove that the defendant used or attempted to use all of the credit cards identified in the count in question
- *does* have to prove that the defendant used one or more of those credit cards

You must unanimously agree which one or more credit cards the prosecution has proved that the defendant used for this element to be proved.

***Two, the defendant knew that the credit card was counterfeit.***

The credit card was “counterfeit” if it was phony, fictitious, altered, or forged.

***Three, the defendant acted with intent to defraud.***

I defined “intent to defraud” for you in Instruction No. 4.

***Four, the defendant’s conduct in some way affected commerce.***

I defined “commerce” and “affected commerce” for you in Instruction No. 4.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to a particular count of “using a counterfeit credit card,” then you must find the defendant not guilty of that offense.

**No. 6 — COUNT 3: POSSESSION OF FIFTEEN OR  
MORE COUNTERFEIT CREDIT CARDS**

**Count 3** charges the defendant with the offense of “possession of fifteen or more counterfeit credit cards” on or about November 12 and November 13, 2013. The defendant denies that he committed this offense.

For you to find the defendant guilty of this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against him:

***One, on or about November 12 and November 13, 2013, the defendant knowingly possessed, at the same time, at least fifteen credit cards that were counterfeit access devices.***

The Indictment charges that the defendant possessed 244 credit cards that were counterfeit access devices. The prosecution

- does *not* have to prove that the defendant possessed all of the credit cards alleged
- *does* have to prove that the defendant possessed at least fifteen credit cards
- *does* have to prove that fifteen or more credit cards were possessed on one occasion
  - The total of fifteen or more cards cannot be the total of cards possessed on separate occasions

I defined “counterfeit access device” for you in Instruction No. 4.

***Two, the defendant knew that fifteen or more of the credit cards were counterfeit.***

The credit cards were “counterfeit,” if they were phony, fictitious, altered, or forged.

***Three, the defendant acted with intent to defraud.***

I defined “intent to defraud” for you in Instruction No. 4.

***Four, the defendant’s conduct in some way affected commerce.***

I defined “commerce” and “affected commerce” for you in Instruction No. 4.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to the defendant, then you must find him not guilty of the “possession of fifteen or more counterfeit credit cards” offense charged in **Count 3**.

## No. 7 — COUNT 4: MONEY LAUNDERING

**Count 4** charges the defendant with a “money laundering” offense on or about November 6, 2013. The defendant denies that he committed this offense.

For you to find the defendant guilty of this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against him:

***One*, on or about November 6, 2013, the defendant purchased or attempted to purchase one or more gift cards at a Wal-Mart store in Storm Lake, Iowa, using one or more credit cards that were counterfeit access devices.**

I defined “attempt,” “access device,” and “counterfeit access device” for you in Instruction No. 4.

***Two*, the transactions to purchase the gift cards affected commerce in some way or degree.**

I defined “commerce” and “affected commerce” for you in Instruction No. 4.

***Three*, the purchase or attempted purchase of the gift cards involved the proceeds of using counterfeit credit cards.**

“Proceeds”

- are any property, or any interest in property, that someone acquired as a result of using counterfeit credit cards
- can be any kind of property, including money
- do not have to be traced to a particular use of a counterfeit credit card, but the



prosecution must prove beyond a reasonable doubt that the proceeds are the result of use of counterfeit credit cards generally

- do not all have to be the result of using counterfeit credit cards, but must be, at least in part, property that resulted from such activity

The prosecution

- does *not* have to prove that the defendant committed the underlying crime of using counterfeit credit cards
- *does* have to prove that the crime of using counterfeit credit cards was committed by some person and that the defendant used the proceeds of that crime

***Four*, at the time that the defendant used the counterfeit credit cards to purchase or to attempt to purchase gift cards, he knew that the money to purchase the gift cards represented the proceeds of some form of unlawful activity.**

***Five*, the defendant purchased or attempted to purchase the gift cards knowing that the transaction was designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds of using counterfeit credit cards.**

You may, but are not required, to find that the defendant knew the purpose of the purchase of the gift cards was to conceal or disguise the nature, location, source, ownership, or control of the proceeds of using counterfeit credit cards, if you find beyond a reasonable

doubt that he was “willfully blind.” The defendant was “willfully blind,” if

- he believed that there was a high probability that the proceeds involved were the proceeds of using counterfeit credit cards, and
- he took deliberate actions to avoid learning that fact, which would otherwise have been obvious to him

You cannot find that the defendant was “willfully blind,” if

- you find that he was
  - merely negligent
  - merely careless, or
  - merely mistaken

as to whether or not the purchase of the gift cards involved the proceeds of using counterfeit credit cards, *or*

- you find that he actually believed that the purchase of the gift cards *did not* involve the proceeds of using counterfeit credit cards

If the prosecution *does not* prove all of these elements beyond a reasonable doubt, then you must find that defendant not guilty of the “money laundering” offense charged in **Count 4**.

**No. 8 — COUNTS 5 AND 6: IDENTITY THEFT**

**Counts 5 and 6** charge the defendant with separate “identity theft” offenses.

The “identity theft” offenses charged in the Indictment are the following:

<b>Count</b>	<b>Date</b>	<b>Alleged Victim</b>	<b>During And In Relation To</b>
<b>5</b>	On or about September 13, 2013	R.H. of Clinton Township, Michigan	<b>Count 1</b>
<b>6</b>	On or about November 6, 2013	K.B. of Centennial, Colorado	<b>Count 2</b>

The defendant denies that that he committed these offenses.

For you to find the defendant guilty of a charged “identity theft” offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against him as to that offense:

***One, on or about the date alleged in the count in question, the defendant knowingly possessed or used a means of identification.***

A “means of identification” is any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual. “Means of identification include

- telecommunication identifying information
- access devices, including credit card information
- unique electronic identification numbers
- addresses, and
- routing codes

You must unanimously agree whether the means of identification of the alleged victim was possessed, used, both, or neither.

***Two*, the defendant knew that the means of identification that he possessed or used belonged to another actual person.**

***Three*, the defendant used or possessed the means of identification without lawful authority.**

“Without lawful authority” means that the defendant possessed or used the means of identification

- without the permission of the person to whom the means of identification belonged, or
- having obtained that person’s permission illegally

***Four*, the defendant possessed or used the means of identification during and in relation to the specified crime of using a counterfeit credit card.**

“During and in relation to” means that the defendant’s possession or use of the means of identification

- was in furtherance of the commission of the specified crime of using a counterfeit credit card
- was to some purpose or effect in committing the specified crime of using a counterfeit credit card, and
- cannot have been the result of accident or coincidence

The means of identification must have facilitated or must have had the potential to facilitate commission of the crime of using a counterfeit credit card.

You cannot find the defendant guilty of an “identity theft” offense, unless you first find that

- he committed the specified crime of using a counterfeit credit card, that is
  - **Count 1 for Count 5**
  - **Count 2 for Count 6**

*and*

- he committed the specified crime using or attempting to use a counterfeit credit card belonging to the victim specified, that is
  - card #4594, encoded with account information belonging to R.H., for **Count 1 and Count 5**
  - card #2676, encoded with account information belonging to K.B., for **Count 2 and Count 6**

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to a particular “identity theft” offense, then you must find the defendant not guilty of that offense.

## No. 9 — DEFINITION OF EVIDENCE

Evidence is the following:

- testimony
- exhibits admitted into evidence, but exhibits are not necessarily more important than any other evidence, just because they are shown to you
- stipulations, which are agreements between the parties that certain facts are true; you must treat stipulated facts as having been proved

The following are not evidence:

- testimony that I tell you to disregard
- exhibits that are not admitted into evidence
- statements, arguments, questions, and comments by the lawyers
- objections and rulings on objections
- anything that you see or hear about this case outside the courtroom

You may have heard of “direct” or “circumstantial” evidence.

- “Direct” evidence is direct proof of a fact
  - An example is testimony by a witness about what that witness personally saw or heard or did
- “Circumstantial” evidence is proof of one or more facts from which you could find another fact

- An example is testimony that a witness personally saw a broken window and a brick on the floor, from which you could find that the brick broke the window
- You should consider both kinds of evidence, because the law makes no distinction between their weight
- The weight to be given any evidence, whether it is “direct” or “circumstantial,” is for you to decide.

Some evidence may be admitted only for a limited purpose.

- I will tell you if that happens
- I will instruct you on the purposes for which the evidence can and cannot be used

## No. 10 — TESTIMONY OF WITNESSES

You may believe all of what any witness says, only part of it, or none of it.

In evaluating a witness's testimony, consider the following:

- the witness's
  - intelligence
  - memory
  - opportunity to have seen and heard what happened
  - motives for testifying
  - interest in the outcome of the case
  - manner while testifying
  - drug or alcohol use or addiction, if any
- the reasonableness of the witness's testimony
- any differences between what the witness says now and said earlier
- any inconsistencies between the witness's testimony and any other evidence that you believe
- whether any inconsistencies are the result of seeing or hearing things differently, actually forgetting things, or innocent mistakes or are, instead, the result of lies or phony memory lapses, and
- any other factors that you find bear on believability or credibility



You should not give any more or less weight to a witness's testimony just because the witness is one of the following:

- a public official or law enforcement officer
- an expert

You may give any witness's opinion whatever weight you think it deserves, but you should consider the following:

- the reasons and perceptions on which the opinion is based
- any reason that the witness may be biased, and
- all of the other evidence in the case

If the defendant testifies,

- you should judge his testimony in the same way that you judge the testimony of any other witness

You may hear evidence that a witness has been convicted of a crime. You may use that evidence only to help you decide

- whether or not to believe that witness, and
- how much weight to give that witness's testimony

You must consider with greater caution and care the testimony of a witness testifying about participation in a charged crime. It is for you to decide

- what weight you think the testimony of such a witness deserves

- whether or not such a witness's testimony has been influenced by that witness's desire to please the prosecutor or to strike a good bargain

Remember, it is your exclusive right to give any witness's testimony whatever weight you think it deserves.

## **No. 11 — OBJECTIONS**

The lawyers may make objections and motions during the trial that I must rule upon.

- If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself
- Do not hold it against a lawyer or a party that a lawyer has made an objection, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

## **No. 12 — BENCH CONFERENCES**

During the trial it may be necessary for me to talk with the lawyers out of your hearing.

- I may hold a bench conference while you are in the courtroom or call a recess
- These conferences are to decide how certain evidence is to be treated, to avoid confusion and error, and to save your valuable time, so please be patient
- We will do our best to keep such conferences short and infrequent

## No. 13 — NOTE-TAKING

You are allowed to take notes during the trial if you want to.

- Be sure that your note-taking does not interfere with listening to and considering all the evidence
- Your notes are not necessarily more reliable than your memory or another juror's notes or memory
- Do not discuss your notes with anyone before you begin your deliberations
- Leave your notes on your chair during recesses and at the end of the day
- At the end of trial, you may take your notes with you or leave them to be destroyed
- No one else will ever be allowed to read your notes, unless you let them

If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence.

An official court reporter is making a record of the trial, but her transcripts will not be available for your use during your deliberations.

## No. 14 — CONDUCT OF JURORS DURING TRIAL

You must decide this case *solely* on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.
- When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.
- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell

them when you must be in court and warn them not to ask you or talk to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, a Blackberry, a PDA, a computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, any blog, or any website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.

- Do not do any research—on the Internet, in libraries, in the newspapers, in dictionaries or other reference books, or in any other way—or make any investigation about this case, the law, or the people involved on your own.
- Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony.
- Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.
- Do not decide the case based on “implicit biases.” As we discussed during jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes—that is, “implicit biases”—that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.
- If, at any time during the trial, you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer (CSO), who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.



## No. 15 — DUTY TO DELIBERATE

A verdict must represent the careful and impartial judgment of each of you. However, before you make that judgment, you must consult with one another and try to reach agreement, if you can do so consistent with your individual judgment.

- If you are convinced that the prosecution has *not* proved beyond a reasonable doubt that the defendant is guilty of a particular charge, say so
- If you are convinced that the prosecution *has* proved beyond a reasonable doubt that the defendant is guilty of a particular charge, say so
- Don't give up your honest beliefs just because others think differently or because you simply want to be finished with the case
- On the other hand, do not hesitate to re-examine your own views and to change your opinions, if you are convinced that they are wrong
- You can only reach a unanimous verdict if you discuss your views openly and frankly, with proper regard for the opinions of others, and with a willingness to re-examine your own views
- Remember that you are not advocates, but judges of the facts, so your sole interest is to seek the truth from the evidence
- The question is never who wins or loses the case, because society always wins, whatever your verdict, when you return a just verdict

based solely on the evidence, reason, your common sense, and these instructions

- You must consider all of the evidence bearing on each question before you
- Take all the time that you feel is necessary
- Remember that this case is important to the parties and to the fair administration of justice, so do not be in a hurry to reach a verdict just to be finished with the case

## No. 16 — DUTY DURING DELIBERATIONS

You must follow certain rules while conducting your deliberations and returning your verdict:

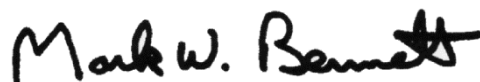
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty of one or more of the charges, I will decide what his sentence should be.
- Communicate with me by sending me a note through a Court Security Officer (CSO). The note must be signed by one or more of you. Remember that you should not tell anyone, including me, how your votes stand. I will respond as soon as possible, either in writing or orally in open court.
- Base your verdict solely on the evidence, reason, your common sense, and these instructions. Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex. To

emphasize the importance of this requirement, the verdict form contains a certification statement. Each of you should carefully read that statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects how you reached your verdict.

- Complete the Verdict Form. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict.
- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

**DATED** this 21st day of October, 2014.



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MARK W. BENNETT  
U.S. DISTRICT COURT JUDGE  
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YOIRLAN TOME ROJAS,

Defendant.

No. CR 14-4015-MWB

**VERDICT FORM**

As to defendant Yoirlan Tome Rojas, we, the Jury, find as follows:

<b>COUNT 1: "USING A COUNTERFEIT CREDIT CARD" ON OR ABOUT SEPTEMBER 13, 2013</b>	
<b>Step 1:</b> Verdict	On the offense of "using a counterfeit credit card" on or about September 13, 2013, as charged in <b>Count 1</b> of the Indictment, and explained in Instruction No. 5, please indicate your verdict. <i>(If you find defendant Yoirlan Tome Rojas "not guilty" of this offense, do not answer the questions in Step 2. Instead, go on to consider your verdict on Count 2. If you find this defendant "guilty" of this offense, go on to consider the additional questions concerning Count 1 in Step 2.)</i>
	<input type="checkbox"/> Not Guilty <span style="margin-left: 150px;"><input type="checkbox"/> Guilty</span>
<b>Step 2:</b> Counterfeit Credit Cards The Defendant Used Or Attempted To Use	<i>If you found defendant Yoirlan Tome Rojas "guilty" in Step 1, which one or more of the counterfeit credit cards alleged did the defendant use or attempt to use? (After answering this question, please go on to consider your verdict on Count 2.)</i> <input type="checkbox"/> attempted use of card #5892 <input type="checkbox"/> successful use of card #4594, belonging to R.H

<b>COUNT 2: “USING A COUNTERFEIT CREDIT CARD” ON OR ABOUT NOVEMBER 6, 2013</b>	
<b>Step 1: Verdict</b>	On the offense of “using a counterfeit credit card” on or about November 6, 2013, as charged in <b>Count 2</b> of the Indictment, and explained in Instruction No. 5, please indicate your verdict. <i>(If you find defendant Yoirlan Tome Rojas “not guilty” of this offense, do not answer the questions in Step 2. Instead, go on to consider your verdict on Count 3. If you find this defendant “guilty” of this offense, go on to consider the additional questions concerning Count 2 in Step 2.)</i>
	<input type="checkbox"/> Not Guilty <span style="margin-left: 200px;"><input type="checkbox"/> Guilty</span>
<b>Step 2: Counterfeit Credit Cards The Defendant Used Or Attempted To Use</b>	<i>If you found defendant Yoirlan Tome Rojas “guilty” in Step 1, which one or more of the counterfeit credit cards alleged did the defendant use, attempt to use, or both attempt to use and actually use? (After answering this question, please go on to consider your verdict on Count 3.)</i>
	<input type="checkbox"/> attempted use of card #5457
	<input type="checkbox"/> attempted use of card #2312
	<input type="checkbox"/> attempted use of card #5575
	<input type="checkbox"/> attempted use of card #9505
	<input type="checkbox"/> attempted use, or <input type="checkbox"/> successful use, or <input type="checkbox"/> both of card #6217
	<input type="checkbox"/> attempted use of card #7838
	<input type="checkbox"/> attempted use, or <input type="checkbox"/> successful use, or <input type="checkbox"/> both of card #7506
<input type="checkbox"/> successful use of card #2676, belonging to K.B.	
<input type="checkbox"/> successful use of card #1321	
<b>COUNT 3: “POSSESSION OF FIFTEEN OR MORE COUNTERFEIT CREDIT CARDS” ON OR ABOUT NOVEMBER 12 AND NOVEMBER 13, 2013</b>	
<b>Verdict</b>	On the offense of “possession of fifteen or more counterfeit credit cards” on or about November 12 and November 13, 2013, as charged in <b>Count 3</b> of the Indictment, and explained in Instruction No. 6, please indicate your verdict. <i>(After entering your verdict on this charge, please go on to consider your verdict on Count 4.)</i>
	<input type="checkbox"/> Not Guilty <span style="margin-left: 200px;"><input type="checkbox"/> Guilty</span>

<b>COUNT 4: “MONEY LAUNDERING” ON OR ABOUT NOVEMBER 6, 2013</b>	
<b>Step 1: Verdict</b>	On the offense of “money laundering” on or about November 6, 2013, as charged in <b>Count 4</b> of the Indictment, and explained in Instruction No. 7, please indicate your verdict. <i>(If you find defendant Yoirlan Tome Rojas “not guilty” of this offense, do not answer the questions in Step 2. Instead, go on to consider your verdict on Count 5. If you find this defendant “guilty” of this offense, go on to consider the additional questions concerning Count 4 in Step 2.)</i>
	<input type="checkbox"/> Not Guilty <span style="margin-left: 200px;"><input type="checkbox"/> Guilty</span>
<b>Step 2: Attempted or Completed Transactions</b>	<i>If you found defendant Yoirlan Tome Rojas “guilty” in Step 1, do you find that he attempted, or completed, or both attempted and completed transactions to purchase gift cards to conceal or disguise the nature, location, source, ownership, and control of the proceeds of using counterfeit credit cards? (After answering this question, please go on to consider your verdict on Count 5.)</i>
	<input type="checkbox"/> attempted transactions
	<input type="checkbox"/> completed transactions
	<input type="checkbox"/> both attempted and completed transactions
<b>COUNT 5: “IDENTITY THEFT” ON OR ABOUT SEPTEMBER 13, 2013</b>	
<b>Step 1: Verdict</b>	On the offense of “identity theft” on or about September 13, 2013, as charged in <b>Count 5</b> of the Indictment, and explained in Instruction No. 8, please indicate your verdict. <i>(Remember that you cannot find the defendant “guilty” of this offense, unless you first find him guilty of the offense in Count 1 and that the offense in Count 1 involved use or attempted use of card #4594, encoded with account information belonging to R.H. If you find defendant Yoirlan Tome Rojas “not guilty” of this offense, do not answer the questions in Step 2. Instead, go on to consider your verdict on Count 6. If you find this defendant “guilty” of this offense, go on to consider the additional questions concerning Count 5 in Step 2.)</i>
	<input type="checkbox"/> Not Guilty <span style="margin-left: 200px;"><input type="checkbox"/> Guilty</span>
<b>Step 2: Possession Or Use Of Stolen Identifying Information</b>	<i>If you found defendant Yoirlan Tome Rojas “guilty” in Step 1, did he possess, or use, or both possess and use identifying information of R.H? (After answering this question, please go on to consider your verdict on Count 2.)</i>
	<input type="checkbox"/> possession of identifying information of R.H.
	<input type="checkbox"/> use of identifying information of R.H
	<input type="checkbox"/> both possession and use of identifying information of R.H.

**COUNT 6: "IDENTITY THEFT"  
ON OR ABOUT NOVEMBER 6, 2013**

<b>Step 1: Verdict</b>	On the offense of "identity theft" on or about November 6, 2013, as charged in <b>Count 6</b> of the Indictment, and explained in Instruction No. 8, please indicate your verdict. <i>(Remember that you cannot find the defendant "guilty" of this offense, unless you first find him guilty of the offense in <b>Count 2</b> and that the offense in <b>Count 2</b> involved use or attempted use of card #2676, encoded with account information belonging to K.B. If you find defendant Yoirlan Tome Rojas "not guilty" of this offense, do not answer the questions in <b>Step 2</b>. Instead, please read the "Certification," sign the verdict form if you agree with the "Certification" and verdict, and notify the Court Security Officer (CSO) that you have reached a verdict. If you find the defendant "guilty" of this offense, go on to consider the additional questions concerning <b>Count 6</b> in <b>Step 2</b>.)</i>
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___ Not Guilty	___ Guilty
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<b>Step 2: Possession Or Use Of Stolen Identifying Information</b>	<i>If you found defendant Yoirlan Tome Rojas "guilty" in <b>Step 1</b>, did he possess, or use, or both possess and use identifying information of K.B.? (After answering this question, please read the "Certification," sign the verdict form if you agree with the "Certification" and verdict, and notify the Court Security Officer (CSO) that you have reached a verdict.)</i>
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	___ possession of identifying information of K.B.
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	___ use of identifying information of K.B.
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	___ both possession and use of identifying information of K.B.
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**CERTIFICATION**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offenses regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

\_\_\_\_\_ Date

\_\_\_\_\_ Foreperson

\_\_\_\_\_ Juror

\_\_\_\_\_ Juror

\_\_\_\_\_ Juror



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