

1 discussed common aims and interests does not  
2 necessarily establish proof of the existence of a  
3 conspiracy. Also, a person who has no knowledge of a  
4 conspiracy, but who happens to act in a way which  
5 advances some purpose of a conspiracy, does not thereby  
6 become a conspirator.

7 As to Counts 28 and 33, interstate travel in  
8 the aid of racketeering, Title 18, United States Code,  
9 Section 1952, makes it a crime for anyone to travel in  
10 interstate or foreign commerce or to use the mail or  
11 any facility in interstate or foreign commerce with the  
12 intent to commit any crime of violence to further any  
13 unlawful activity and thereafter performs or attempt to  
14 perform any crime of violence to further any unlawful  
15 activity.

16 For you to find the defendant guilty of this  
17 crime, you must be convinced that the government has  
18 proved each of the following beyond a reasonable doubt:

19 First: That the defendant traveled or caused  
20 another to travel in foreign commerce and/or used or  
21 caused to be used a facility in foreign commerce  
22 including a telephone.

23 Second: That the defendant did so with the  
24 intent to commit a crime of violence to further any  
25 unlawful activity.

1 And third: That thereafter the defendant did  
2 commit or attempt to commit a crime of violence to  
3 further any unlawful activity.

4 Unlawful activity means any business  
5 enterprise involving narcotics or controlled  
6 substances. The term travel in foreign commerce means  
7 travel between any part of the United States including  
8 its territorial waters and any other country including  
9 its territorial waters.

10 Foreign commerce means commerce or travel  
11 between any part of the United States including its  
12 territorial waters and any other country including its  
13 territorial waters.

14 Commerce includes travel, transportation, and  
15 communications. While it must be proved that the  
16 defendant traveled in foreign commerce or used a  
17 facility in foreign commerce with the intent to commit  
18 a crime of violence in furtherance of any unlawful  
19 activity, it need not be proved that such purpose was  
20 the only reach or motive prompting the defendant's  
21 travel or use of a facility.

22 As to Counts 29 and 34, using or carrying a  
23 firearm during commission of a drug traffic crime or  
24 crime of violence, Title 18, United States Code,  
25 Section 924 C 1 makes it a crime for anyone to possess

ORNELAS REPORTING SERVICES  
P.O. BOX 270115  
AUSTIN, TEXAS 78727-9997



1 a firearm in furtherance of a drug trafficking crime or  
2 a crime of violence.

3 For you to find the defendant guilty of this  
4 crime, you must be convinced that the government has  
5 proved each of the following beyond a reasonable doubt:  
6 Further, Count 29 corresponds to Count One and/or count  
7 28, whereas Count 34 corresponds to Count One and/or  
8 Count 33. Therefore, you are to consider the following  
9 elements as to each of the corresponding counts:

10 First: That the defendant committed the  
11 crime alleged in Count One, Count 28, and/or 33. I  
12 instruct you that conspiracy to possess with intent to  
13 distribute a controlled substance as charged in Count  
14 One is a drug trafficking crime. I further instruct  
15 you that interstate travel in aid of racketeering as  
16 charged in Counts 28 and 33 is a crime of violence.

17 And second: That the defendant knowingly  
18 possessed a firearm in furtherance of the defendant's  
19 alleged commission of the crimes charged Count One  
20 and/or the corresponding count, that is Count 28 as to  
21 Count 29 and/or Count 33 as to Count 34.

22 To prove the defendant possessed a firearm  
23 "in furtherance," the Government must prove that the  
24 defendant possessed a firearm that furthers, advances,  
25 or helps forward the drug trafficking crime and/or the

1 crime of violence.

2 A conspirator is responsible for offenses  
3 committed by another conspirator if the conspirator was  
4 a member of the conspiracy when the offense was  
5 committed and if the offense was committed in  
6 furtherance of or as a foreseeable consequence of the  
7 conspiracy.

8 Therefore, if you have first found the  
9 defendant guilty of the conspiracy charged in Count  
10 One, and if you find beyond a reasonable doubt that  
11 during the time the defendant was a member of that  
12 conspiracy, other conspirators committed the offenses  
13 in Counts Twenty-Eight and Twenty-Nine, Thirty-Three  
14 and/or Thirty-four in furtherance of or as a  
15 foreseeable consequence of that conspiracy, then you  
16 may find the defendant guilty of Counts Twenty-Eight,  
17 Twenty-Nine, Thirty-Three, and/or Thirty-Four, even  
18 though the defendant may not have participated in any  
19 of the acts which constitute the offenses described in  
20 Counts Twenty-Eight, Twenty-Nine, Thirty-Three and  
21 Thirty-Four.

22 As to Counts 28, 29, 33, and 34, the guilt of  
23 a defendant in a criminal case may be established  
24 without proof that the defendant personally did every  
25 act constituting the offense alleged. The law