IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION

UNITED STATES OF AMERICA	)	
v.	)	**Criminal No. 5:14-cr-00244**
DONALD L. BLANKENSHIP	)	

DEFENDANT'S EMERGENCY MOTION FOR JURY INSTRUCTION

On or around 11:30 a.m. this morning, November 19, 2015, the Court received a note from the jury indicating that jurors were deadlocked. Subject to and without waiving Mr. Blankenship's objection both to the Court's denial of the defense motion for a mistrial based on the jury note and to the Court's subsequent instruction to the jury in response to the note, the defense hereby moves that the Court provide the following instruction to the jury today, immediately upon its return from lunch:

> I wish to follow up on my instruction before lunch to continue your deliberations. As I instructed you previously:
>
> [I]t is your duty as jurors to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict – whether guilty or not guilty – must be unanimous.
>
> Each of you must make your own conscientious decision, but only after you have considered all of the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.
>
> Do not be afraid to change your opinions if the discussions persuade you that you should. But do not come to a decision simply because other jurors think it is right or simply to reach a verdict.

Trial Tr. at 5963-64.

Dated: November 19, 2015

Respectfully submitted,

/s/ William W. Taylor, III
William W. Taylor, III
Blair G. Brown
Eric R. Delinsky
R. Miles Clark
Steven N. Herman
ZUCKERMAN SPAEDER LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
202-778-1800 (phone) / 202-822-8106 (fax)
wtaylor@zuckerman.com
bbrown@zuckerman.com
edelinsky@zuckerman.com
mclark@zuckerman.com
sherman@zuckerman.com

/s/ James A. Walls
James A. Walls (WVSB #5175)
SPILMAN THOMAS & BATTLE, PLLC
48 Donley Street, Suite 800
Morgantown, WV 26501
304-291-7947 (phone) / 304-291-7979 (fax)
jwalls@spilmanlaw.com

/s/ Alexander Macia
Alexander Macia
SPILMAN THOMAS & BATTLE, PLLC
P.O. Box 273
Charleston, WV 25321-0273
304-340-3800 (phone) / 304-340-3801 (fax)
amacia@spilmanlaw.com

Counsel for Donald L. Blankenship

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been electronically filed and service has been made by virtue of such electronic filing this 19th day of November, 2015 on:

R. Booth Goodwin, II
Steven R. Ruby
Gabriele Wohl
U.S. Attorney's Office
P.O. Box 1713
Charleston, WV 25326-1713

R. Gregory McVey
U.S. Attorney's Office
845 Fifth Avenue, Room 209
Huntington, WV 25701

/s/ Eric R. Delinsky
Eric R. Delinsky