

120981PKe

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HARRY J. WILFORD; )  
EVERETT G. DAGUE; )  
HERMAN J. CASTEN; and )  
HERMAN B. BOEDING, )  
 )  
Defendants. )

NO. CR 81-10

INSTRUCTIONS TO THE JURY

**FILED**  
CEDAR RAPIDS HDQTRS OFFICE  
NORTHERN DISTRICT OF IOWA

DEC 10 1981

4PM  
WILLIAM J. KANAK - Clerk  
By: *J. Jacobsen*  
DEPUTY

INTRODUCTIONINSTR. NO. 1

## MEMBERS OF THE JURY:

Now that you have heard the evidence and arguments, the time has come to instruct you as to the law governing this case.

Although you as jurors are the sole judges of the facts, you must follow the law as stated in these instructions of the court, and apply the law so given to the facts as you find them from the evidence before you.

You are not to single out one instruction alone as stating the law, but must consider the instructions as a whole and should pay particular attention to my reading of these instructions since you will not be given a copy for use during your deliberations.

Neither are you to be concerned with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your sworn duty to base a verdict upon any other view of the law than that given in the instructions of the court.

DUTY OF JURORS

INSTR. NO. 2

You have been chosen and sworn as jurors in this case to try the issues of fact presented by the allegations of the Indictment and the denial made by the "Not Guilty" plea of the accused. You are to perform this duty without bias or prejudice as to any party. The law does not permit jurors to be governed by sympathy, prejudice, or public opinion. The accused and the public expect that you will carefully and impartially consider all the evidence, follow the law as stated by the court and reach a just verdict, regardless of the consequences.

INDICTMENT AND EVIDENCE

INSTR. NO. 3

An Indictment is but a formal method of accusing a defendant of a crime. It is not evidence of any kind against the accused, and does not create any presumption or permit any inference of guilt.

There are two types of evidence from which a jury may properly find a defendant guilty of an offense. One is direct evidence -- such as the testimony of an eyewitness. The other is circumstantial evidence -- the proof of a chain of circumstances pointing to the commission of the offense.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that, before convicting a defendant, the jury be satisfied of the defendant's guilt beyond a reasonable doubt from all the evidence in the case.

PRESUMPTION OF INNOCENCE--BURDEN OF PROOFINSTR. NO. 4

The law presumes a defendant to be innocent of crime. Thus, although accused, a defendant begins the trial with a clean slate with no evidence against him. And the law permits nothing but legal evidence presented before the jury to be considered in support of any charge against the accused. So the presumption of innocence alone is sufficient to acquit a defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt from all the evidence in the case.

A reasonable doubt, as the name implies, is a doubt based on reason, a doubt for which you can give a reason. It is such a doubt as would cause a juror, after careful and candid and impartial consideration of all the evidence, to be so undecided that he cannot say that he has an abiding conviction of the defendant's guilt. It is such a doubt as would cause a reasonable person to hesitate or pause in the graver or more important transactions of life. However, it is not a fanciful doubt nor a whimsical doubt, nor a doubt which is based on conjecture. It is a doubt which is based on reason. The government is not required to establish guilt beyond all doubt, or to a mathematical certainty or a scientific certainty. Its burden is to establish guilt beyond a reasonable doubt.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove the accused guilty beyond a reasonable doubt of every essential element of the crime charged, a defendant has the right to rely upon failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution. The law does not impose upon a defendant the duty of producing any evidence.

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APPLIES TO EACH DEFENDANT

INSTR. NO. 5

Unless otherwise indicated, each instruction given should be considered by you as referring separately and individually to each defendant.

INDICTMENT CHARGESINSTR. NO. 6

The 16 count indictment in this case charges the defendants, Harry J. Wilford, Everett G. Dague, Herman J. Casten, and Herman B. Boeding, while officers and representatives of Local 238 of the Teamsters Union, with violating certain federal conspiracy and labor laws by allegedly conspiring to obstruct commerce by extortion; by obstructing and attempting to obstruct commerce by extortion; and by unlawfully obtaining money from the Darin and Armstrong Construction Company and its various suppliers and truck drivers while engaged in the construction of a sewage disposal plant in Cedar Rapids, Iowa.

Specifically, count 1 charges all of the defendants with conspiracy to obstruct commerce by extortion in violation of 18 USC § 1951.

Counts 2, 4, 5, and 6 charge defendants Dague and Boeding with obstructing and attempting to obstruct commerce by extortion, in violation of 18 USC § 1951.

Count 3 charges defendants Casten and Boeding with obstructing and attempting to obstruct commerce by extortion, in violation of 18 USC § 1951.

Count 7 charges defendants Wilford, Casten, and Boeding with unlawfully demanding and receiving money from an employer on behalf of a union, and aiding and abetting, in violation of 29 USC § 186(b)(1) and 18 USC § 2.

Counts 9 and 10 charge defendants Wilford, Dague, and Boeding with unlawfully demanding and receiving money from an employer on behalf of a union, and aiding and abetting, in violation of 29 USC § 186(b)(1) and 18 USC § 2.

Counts 11, 13, and 16 charge defendants Wilford, Dague, and Boeding with demanding an unlawful unloading fee, and aiding and abetting, in violation of 29 USC § 186(b)(2) and 28 USC § 2.

Counts 12 and 14 charge defendants Wilford, Casten, and Boeding with demanding an unlawful unloading fee, and aiding and abetting, in violation of 29 USC § 186(b)(2) and 18 USC § 2.

Counts 8 and 15 have been dismissed by the Government.



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SEPARATE CRIME EACH COUNT

INSTR. NO. 7

The defendants are charged with a separate crime in each count. Each crime and the evidence pertaining to it should be considered separately by the jury, and a separate verdict should be returned as to each count. The defendants' guilt or innocence of the crime charged in one count should not affect the jury's verdict on any other count. If the jury finds that the defendants are guilty beyond a reasonable doubt of any one of the crimes charged, a verdict of guilty should be returned as to that count.

STATUTESINSTR. NO. 8

§ 1951 of Title 18 provides in part:

- (a) whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by . . . extortion or attempts or conspires so to do, . . . shall be guilty of an offense against the laws of the United States.

§ 186 of Title 29 provides in part:

- (a) It shall be unlawful for any employer . . . to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value --
- (1) to any representative of any of his employees who are employed in an industry affecting commerce; or
- (2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce;
- (b)(1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a).
- (b)(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of such labor organization, to demand or accept from the operator of any motor vehicle . . . employed in the transportation of property in commerce, or the employer of any such operator, any money or other thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: Provided, that nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for services as employees.

§ 2 of Title 18 provides:

- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

121081PKe  
584 F.2d 252 (8th Cir. 1978)  
583 F.2d 1014 (8th Cir. 1978)  
451 F.2d 49 (3rd Cir. 1971)  
527 F.2d 716 (6th Cir. 1975)

ELEMENTS

INSTR. NO. 9

The following are the elements which the Government must prove beyond a reasonable doubt as to each defendant for that defendant to be found guilty under these statutes:

18 USC § 1951 (Conspiracy) Count 1

1. That 2 or more persons conspired to obstruct commerce by extortion;
2. That the defendant knowingly and willfully participated in this conspiracy, with the intent to commit the offense which was the object of the conspiracy;
3. That during the existence of the conspiracy at least one overt act was committed by one or more of its members in furtherance of the objectives of the conspiracy.

18 USC § 1951 (obstructing commerce by extortion) Counts 2-6

1. That the defendant intentionally induced or attempted to induce a victim to part with money;
2. That he did so by extortion;
3. That interstate commerce was delayed, obstructed, or affected, in any way or degree;

29 USC § 186(b)(1) and (d) (Unlawfully demanding <sup>OR</sup> and receiving money on behalf of Union) Counts 7, 9, and 10

1. That defendant demanded or received money from an employer or person acting in the interest of an employer;

2. That the money was paid or delivered to a labor organization either representing, seeking to represent, or would admit to membership any of the employees of the employer who made the payment, or any representative of his employees;

3. That the employer was engaged in an industry affecting commerce;

4. That the acts were done knowingly and willfully.

29 USC § 186(b)(2) and (d) (Demanding an unlawful unloading fee) Counts 11, 12, 13, 14, and 16.

1. That a labor organization, or any person acting as an officer, agent, representative, or employee of a labor organization;

2. Demanded or accepted money from the operator of any motor vehicle transporting property in interstate commerce, or from his employer;

3. That such money was a fee or charge for unloading the cargo of the motor vehicle;

4. That these acts were done knowingly and willfully.

CONSPIRACY DEFINED

INSTR. NO. 10

A conspiracy is a combination of two or more persons to accomplish an unlawful purpose, or a lawful purpose by unlawful means. While it involves an agreement to violate the federal law, it is not necessary that the persons charged met together and entered into an express or formal agreement, or that they stated, in words or writing, what the scheme was, or how it was to be effected. It is sufficient to show that they tacitly came to a mutual understanding to accomplish an unlawful act.

Such an agreement may be inferred from the circumstances and the conduct of the parties, since ordinarily a conspiracy is characterized by secrecy. However, mere similarity of conduct among various persons, and the fact they may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy.

One who willfully joins an existing conspiracy is charged with the same responsibility as if he had been one of the originators or instigators of the conspiracy.

In determining whether a conspiracy existed, the jury should consider the actions and declarations of all of the alleged participants. However, in determining whether a particular defendant was a member of the conspiracy, if any, the jury should consider only his acts and statements. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed, and that he was one of its members.

If the jury should find beyond a reasonable doubt from

CONSPIRACY DEFINED (cont'd)

INSTR. NO. 10 (cont'd)

the evidence in the case that existence of the conspiracy charged in the indictment has been proved, and that during the existence of the conspiracy one of the overt acts alleged was knowingly done by one of the conspirators in furtherance of some object or purpose of the conspiracy, then proof of the conspiracy offense charged is complete; whether or not object or purpose of the conspiracy was actually accomplished and it is complete as to every person found by the jury to have been willfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act.

To be a member of the conspiracy, a defendant need not know all of the other members, nor all of the details of the conspiracy, nor the means by which the objects were to be accomplished. Each member of the conspiracy may perform separate and distinct acts. It is necessary, however, that the government prove beyond a reasonable doubt that the defendant was aware of the common purpose, and was a willing participant, with the intent to advance the purpose of the conspiracy.

An overt act means any act committed by one or more of the conspirators to accomplish a purpose of the conspiracy. It need not be in violation of the law, and the other conspirators need not join in it, or even know about it. It is necessary only that such act be in furtherance of the purpose or objects of the conspiracy. It is not necessary that all of the overt acts charged in the indictment were performed. One overt act is sufficient.

121081PKe  
D & B § 14.21  
560 F.2d 884 (8th Cir. 1977)  
463 F.2d 187 (8th Cir. 1972)

ATTEMPT, 18 USC § 1951

INSTR. NO. 11

The defendants are also charged in counts 2 through 6 with attempting to obstruct, delay, and affect commerce by extortion. To attempt an offense means to willfully do some act in an effort to bring about or accomplish something the law forbids. To establish the offense of attempted extortion, the Government must prove beyond a reasonable doubt that the defendants have attempted to induce their victims to part with property or money. However, it is not necessary for the Government to prove that the defendants themselves, or Teamsters Local 238, either directly or indirectly, received any money or property as a result of the attempted extortion.

U.S. v. Kelton, 446  
F.2d 669 (8th Cir.  
1971); U.S. v.  
Thomas, 469F.2d145  
(8th Cir. 1972)  
022277Si

AIDS AND ABETS

INSTR. NO. 12

Whoever aids, abets, counsels, commands, induces or procures the commission of a crime is punishable as a principal. In order to aid or abet the commission of a crime a person must associate himself with the criminal venture, participate in it, and try to make it succeed. Mere association and presence at the scene is not sufficient to establish guilt. Presence must be accompanied by participation and a culpable purpose before it can be equated with aiding and abetting.



121081PKe  
583 F.2d 1014, 1026  
(8th Cir. 1978)  
558 F.2d 397, 403  
(8th Cir. 1977)  
18 USC § 1951(a)(2)

EXTORTION DEFINED

INSTR. NO. 13

Extortion is defined as the obtaining of property or money from another person, with his consent, induced by the wrongful use of actual or threatened fear of economic loss; in other words, under some form of compulsion. As used here "wrongful" means without lawful right.

KNOWINGLY DEFINED

INSTR. NO. 14

The word "knowingly" as used in the crimes charged means that the act or omission was done voluntarily and purposely, and not because of mistake, inadvertence, accident or other innocent reason. Knowledge may be proven by defendant's conduct, and by all the facts and circumstances surrounding the case.

121081PKe  
331 F.2d 257 (7th Cir. 1964)  
300 F.2d 836 (7th Cir. 1962)  
292 F.2d 374 (7th Cir. 1961)

WILLFULLY DEFINED

INSTR. NO. 15

The word "willfully" means that the defendant knowingly and intentionally committed the acts which constitute the particular offense charged; and that he was either aware of the specific law that he allegedly violated, or acted in reckless disregard for that law.

112977Si  
483 F2d 535  
456 F2d 1157

INTENT - PROOF

INSTR. NO. 15A

Intent may be proved by circumstantial evidence. It rarely can be established by any other means. While witnesses may see and hear and thus be able to give direct evidence of what a defendant does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged.

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STIPULATIONS

INSTR. NO. 76

For the purposes of this case and within the meaning of the statutes involved:

Teamsters Union Local 238 is a labor organization;

Darin and Armstrong, Inc. was engaged in an industry affecting commerce;

that the trucks driven by the alleged victims were motor vehicles; and

defendants Wilford, Dague, and Casten were acting as officers, agents, or representatives of Local 238.

121081PKe  
628 F.2d 1069, 1075-77  
(8th Cir. 1980)  
18 USC § 1951(b)(3)

COMMERCE

INSTR. NO. 16A

Interstate commerce is defined as the movement or transportation of goods, including construction materials, supplies, and machinery, from a point located in one state to a point located in a different state, no matter how slight the distance between these two states.

120881PKe  
350 U.S. 299 (1956)  
634 F.2d 258  
(6th Cir. 1981)  
556 F.2d 855  
(7th Cir. 1977)

REPRESENTATIVE, 29 USC § 186(b)(2)

INSTR. NO. 17

The term "representative" means and includes any person authorized by the employees to act for them in dealings with their employers, including union stewards.

120781PKe  
I.C. Chap. 731  
583 F.2d 1014, 1029  
(8th Cir. 1978)  
540 F.2d 364, 381  
(8th Cir. 1976)

IOWA "RIGHT TO WORK" LAW

INSTR. NO. 18

The laws of the State of Iowa provide that no person within its boundaries shall be deprived of the right to work at his chosen occupation for any employer because of refusal to join any labor union and that any contract which contravenes this policy is null and void.

The Iowa law also makes it unlawful for any labor organization to enter into any understanding, contract, agreement, whether written or oral, to exclude from employment any person who does not belong to or refuses to join a labor union, organization or association.

This law was enacted in 1947, and is relevant solely as to the intent and knowledge of the defendants.



PRIOR ACTS

INSTR. NO. 19

Evidence that an act was done at one time or on one occasion is not any proof whatever that a similar act was done at another time or on another occasion. That is to say, evidence that a defendant may have committed an earlier act of a like nature may not be considered in determining whether the accused committed any offense charged in the indictment.

Nor may evidence of alleged earlier acts of a like nature be considered for any other purpose, unless the jury first find that the other evidence in the case, standing alone, establishes beyond a reasonable doubt that the accused did the particular acts charged in the particular counts of the indictment then under deliberation.

If the jury should find beyond a reasonable doubt from other evidence in the case that the accused did the acts charged in the particular counts under deliberation, then the jury may consider evidence as to an alleged earlier acts of a like nature, in determining the state of mind or intent with which the accused did the acts charged in the particular counts. And where proof of an alleged earlier act of a like nature is established by evidence which is clear and conclusive, the jury may draw therefrom the inference that in doing the acts charged in the particular counts under deliberation, the accused acted willfully and with specific intent and not because of mistake or inadvertence or other innocent reason.

TESTIMONY RE: STATE OF MIND

INSTR. NO. 20

You may consider the testimony of the state of mind of an alleged victim of extortion in determining whether economic fear existed and whether such fear was reasonable. The testimony of an alleged victim as to what people other than the defendant had told him is admissible not for the truth of what was said but only as to whether or not the victim heard the statements and whether or not the hearing of such statements would have tended to produce a reasonable fear in the victim's mind. Statements by people other than the defendant to a victim may only be considered in determining the victim's state of mind.

Likewise, testimony of the alleged victims as to their own state of mind was admitted solely for the purpose of showing their state of mind, and not for the truth of what was said. If you find that such testimony did show a state of mind, you can consider it for that purpose only, and for no other purpose. You are not bound by the statements of the alleged victims, but you may consider all the facts and circumstances in determining the state of mind of the alleged victims at the time they agreed to pay money to the defendant, if you do in fact find that the payment of monies were made.

120881PKe  
342 US 246 (1952)  
410 US 396 (1973)

DEFENDANTS' THEORY OF DEFENSE

INSTR. NO. 21

The defendants claim that their actions were not with the intent to extort money or to charge an unloading fee, but were for the purpose and with the intent of enforcing their rights under a contract with the general contractor, or to enforce area standards of wages and pay or other legal rights.

You may consider these claims on the issue of intent, and unless the government has convinced you beyond a reasonable doubt that a defendant had the requisite criminal intent you should find that defendant not guilty.

**PAGE(S)  
MISSING**

27 FRD 74  
§3.12  
120981PKe

CREDIBILITY OF ACCUSED

INSTR. NO. 23

A defendant who wishes to testify is a competent witness;  
and the defendant's testimony is to be judged in the same way  
as that of any other witness.

CHARACTER AND REPUTATION OF DEFENDANT

INSTR. NO. 24

The defendant has introduced evidence of his good reputation in his community. Such evidence may indicate to you that it is improbable that a person of good character would commit the crime charged. Therefore, you should consider this evidence along with all the other evidence in the case in determining the guilt or innocence of the defendant.

The circumstances may be such that evidence of good character may alone create a reasonable doubt of a defendant's guilt, although without it the other evidence would be convincing. Notwithstanding evidence of good character and reputation, however, you may convict the defendant if, after weighing all the evidence, including the evidence of good character, you are convinced beyond a reasonable doubt that the defendant is guilty of the crime charged.

**PAGE(S)  
MISSING**

STATEMENTS AND ARGUMENTS OF COUNSEL

INSTR. NO. 26

Statements and arguments of counsel are not evidence in the case, unless made as an admission or stipulation of fact. When the attorneys on both sides stipulate or agree as to the existence of a fact, the jury must accept the stipulation as evidence and regard that fact as conclusively proved.

The evidence in the case consists of the sworn testimony of the witnesses, all exhibits which have been received in evidence, all facts which have been admitted or stipulated, and all applicable presumptions stated in these instructions. Any evidence as to which an objection was sustained by the court, and any evidence ordered stricken by the court, must be entirely disregarded.

You are to consider only the evidence in the case. But in your consideration of the evidence, you are not limited to the bald statements of the witnesses. On the contrary, you are permitted to draw, from facts which you find have been proved, such reasonable inferences as seem justified in the light of your own experience.



SOLE JUDGE

INSTR. NO. 27

You are the sole judge of the weight of the evidence, the credibility of the witnesses, and the conclusions to be drawn from the facts and circumstances proved.

If the testimony or any part of it is conflicting, you will reconcile it, if you can, that it may all have weight and effect, but if you cannot, you will then give credit to the testimony and those witnesses that to you, as fair-minded persons, seem most entitled thereto.

In passing on the credibility of the witnesses and weighing their testimony, you should consider their appearance and conduct on the witness stand; their age, intelligence, strength of memory, and means of knowledge whereof they speak; their interest or lack of interest in the result of the trial, their relation or feeling, if any, toward the parties, the motives, if any, actuating them as witnesses; their candor, fairness, bias or prejudice; the time that has elapsed since the occurrence of which they testify; the reasonableness and probability of their statements or the want thereof; whether their testimony is corroborated or contradicted by other witnesses or by facts proven; and every fact and circumstance proved, thus giving to the testimony of each witness and to every fact and circumstance proved, such weight and only such weight as it ought reasonably and justly to be given in view of all the evidence.

UNANIMOUS VERDICTINSTR. NO. 28

The verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree thereto. In other words, your verdict must be unanimous.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

You are not partisans. You are judges of the facts. Your sole interest is to ascertain the truth from all the evidence in the case.

8.12(m); 15.06 M&D  
See U.S. v. Tarvest  
F2d (8th Cir.)  
12/10/69  
012577Si

USE SENSE

INSTR. NO. 29

In your consideration of the evidence you are expected to use your good sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your common knowledge of the natural tendencies and inclinations of human beings.

If the accused be proved guilty, say so. If not proved guilty, say so.

Keep constantly in mind that it would be a violation of your sworn duty to base a verdict upon anything but the evidence in the case.

Remember also that the question before you can never be: Will the government win or lose the case? The government always wins when justice is done, regardless of whether the verdict is guilty or not guilty.

8.13  
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PUNISHMENT

INSTR. NO. 30

The punishment provided by law for the offenses charged is a matter exclusively within the province of the court, and is not to be considered by the jury in arriving at an impartial verdict as to the guilt or innocence of the accused.

JURY'S DUTYINSTR. NO. 31

It is proper to add the caution that nothing said in these instructions -- nor in the form of verdict is to suggest any intimation whatsoever what verdict I think you should ~~find~~. What the verdict shall be is the sole and exclusive duty and ~~responsi-~~ bility of you the jury.

SEALED VERDICTINSTR. NO. 32

Upon retiring to the jury room you will select one of your number to act as foreman or forewoman who will preside over your deliberations.

A form of verdict has been prepared for your convenience.

(Form of verdict read.)

You will take this form to the jury room and when you have reached unanimous agreement as to your verdict, you will have your foreman or forewoman fill in, date and sign the form which sets forth the verdict upon which you agree; place the verdict in the envelope marked "sealed verdict", seal it, deliver the sealed envelope, together with the exhibits to the Marshal who shall forthwith deliver them to the Clerk. Thereafter, your duties in this case are at an end, and you may return to your homes. Bear in mind you are not to reveal to anyone how the jury stands, numerically or otherwise, until you have reached an unanimous verdict.

INSTRUCTION ON DISCHARGE

INSTR. NO. 33

Finally, after you have completed your deliberations and returned your verdict, you are instructed that you are under no obligation to discuss or talk about your verdict to anyone, including the attorneys for the parties, although you are free to do so if you wish.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

HARRY J. WILFORD )  
EVERETT G. DAGUE )  
HERMAN J. CASTEN )  
HERMAN B. BOEDING, )

Defendants. )

NO. CR CR 81-10

I N D I C T M E N T

18 U.S.C. §1951

18 U.S.C. §2

29 U.S.C. §186(b)(1) and

§186(b)(2) and (d)

**FILED**

CEDAR RAPIDS HDQTRS OFFICE  
NORTHERN DISTRICT OF IOWA

AUG 21 1981

10:30 AM

WILLIAM J. KANAK - Clerk

By: J. Jacobsen  
DEPUTY

The Grand Jury charges:

COUNT 1

1. At all times pertinent, Darin and Armstrong, Inc., a corporation with principal offices in Southfield, Michigan, was engaged in the general construction business in various states in the United States, and more particularly was engaged in the construction at Cedar Rapids, Iowa, of a water pollution control facility; and that for the purpose of performing such construction, Darin and Armstrong, Inc. transported, moved and caused to be transported and moved, articles, commodities, material, supplies and machinery in interstate commerce.
2. At all times pertinent, Home Transportation, Marietta, Georgia, Sammons Trucking Co., Missoula, Montana, Hofer, Inc., United Tool Company, Oelwein, Iowa, Best Transfer Co., Banner Cut Stone, Bedford, Indiana, International Transport, Rochester, Minnesota, Owens Fiberglass Company, Noerr Motor Freight, Ace-Doran Hauling and Rigging, Elyria, Ohio, Custom Fabrication and Erection Company, C and H Transportation, Dallas, Texas, Aetna Trucking Company, Progressive Crane, Inc., White Brothers Company, Wasco, Illinois, Superior Transportation Company, Atlanta, Georgia, and Corn Sweeteners, Cedar Rapids, Iowa, were corporations, with their principal offices located throughout the United States, engaged in the businesses of manufacturing, selling



and/or shipping materials, commodities, supplies, machinery and products in interstate commerce; and that said corporations supplied Darin and Armstrong, Inc. and its subcontractors with said materials, commodities, supplies, machinery and products at the water pollution control facility construction site in Cedar Rapids, Iowa, through interstate commerce.

3. At all times pertinent, the above named corporations in paragraph 2 of this Count hired individuals as employees or independent contractors to work as operators of motor vehicles (hereinafter referred to as "operators") in an industry engaged in the movement of articles, commodities, supplies, machinery and products in interstate commerce.

4. At all times pertinent, the Defendant Harry J. Wilford, was Secretary/Treasurer of the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

5. At all times pertinent, the Defendant Everett G. Dague, was Business Agent of Teamsters Local 238.

6. At all times pertinent, the Defendant Herman J. Casten, was Business Agent of Teamsters Local 238.

7. At all times pertinent, the Defendant Herman B. Boeding, was a member of and functioned as a union steward for Teamsters Local 238.

8. That commencing on or about October, 1976, and continuously thereafter to on or about October, 1979, in the Northern District of Iowa, and elsewhere, Defendants Harry J. Wilford, Everett G. Dague, Herman J. Casten and Herman B. Boeding, unlawfully, wilfully and knowingly combined, conspired, confederated

and agreed together, and with each other, and with persons to the Grand Jury unknown, to obstruct, delay and affect commerce, as that term is defined in Section 1951 of Title 18 United States Code, and the movement of articles and commodities in such commerce, by extortion, as that term is defined in Section 1951 of Title 18 United States Code.

9. It was a part of said conspiracy that said Defendants agreed to obtain certain property of those corporations named in paragraph two of this Count, of the operators of said corporations' motor vehicles, and of Darin and Armstrong, Inc., to wit: a quantity of United States currency with the consent of those corporations named in paragraph two of this Count, the operators of said corporations' motor vehicles, Darin and Armstrong, Inc., and their officers and agents; such consent being induced by the wrongful use of threatened and actual force, violence, fear, and including the fear of financial and economic injury to said corporations, to the operators of their motor vehicles and to Darin and Armstrong, Inc.; in that during the construction of a water pollution control facility at Cedar Rapids, Iowa, said Defendants did directly and indirectly threaten to and did delay and disrupt the delivery of materials and commodities by said corporations and operators to Darin and Armstrong, Inc. and its subcontractors, in that Defendants further threatened said operators with physical force, violence and fear; unless and until said operators of motor vehicles, said corporations, or Darin and Armstrong paid an "initiation-membership" fee to the Chauffeurs, Teamsters and Helpers Local Union No. 238.

10. At all times pertinent, Chauffeurs, Teamsters, and Helpers Local Union 238, had no legal right, under any applicable collective bargaining unit, to coerce, demand or force said operator-drivers to involuntarily join or pay any fee to said union.

11. At all times pertinent, Chauffeurs, Teamsters, and Helpers Local Union 238, was not in fact, and did not function as, the representative of said operator-drivers for the purposes of collective bargaining with any employer, and the Defendants did not intend such representation to be a result or goal of said conspiracy.

All of the above in violation of Title 18, United States Code Section 1951.

#### OVERT ACTS

In furtherance of the conspiracy and to effect its objects, the Defendants performed the following overt acts:

1. In late 1976 or early 1977, when Darin and Armstrong, Inc. began receiving deliveries of reinforcing steel at its water pollution control facility construction site in Cedar Rapids, Iowa, Everett G. Dague told Anthony DiPonio, Project Superintendent for Darin and Armstrong, Inc., that operator-drivers bringing shipments in who were not Teamsters Union Members would not be allowed on the construction site to unload. He also said that if non-union trucks did get unloaded that the construction job would be "flagged."
2. From October 1976, through August 1979, Martin J. Baecker was project engineer for Darin and Armstrong, Inc., at its construction site in Cedar Rapids, Iowa, and observed Everett G. Dague and Herman J. Casten collect fees from non-Teamster member operator-drivers at the construction site.
3. On or about October 1 or 2, 1977, Forrest Bowling White had leased to and was driving his tractor-trailer for Home Transportation when he was not allowed by Herman B. Boeding to unload his cargo of cooling pipe at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.
4. On or about October 6, 1977, Richard Leroy Fuerst had leased to and was driving his tractor-trailer for Sammons Trucking Co. Missoula, Montana, when he was not allowed by Herman B. Boeding and Herman J. Casten to unload his cargo at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

5. On or about October 27, 1977, Defendants Everett G. Dague and Herman B. Boeding refused to allow James A. Husband, a motor vehicle operator for the Hofer, Inc., to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

6. On or about April 3, 1978, Calvin R. Swanson, a driver for United Tool Company of Oelwein, Iowa, was told by Harry J. Wilford and Herman B. Boeding that his cargo would not be unloaded at the Darin and Armstrong, Inc. construction site unless he paid a fee to Teamsters Local 238.

7. From November 1, 1977 through February, 1979, C. Neil Brotherton was field office manager for Darin and Armstrong, Inc., at the Cedar Rapids, Iowa, construction site. During that time period, he observed Everett G. Dague and Harry J. Wilford come to the construction site and collect fees from non-Teamster member drivers.

8. On or about December 1, 1977, Defendants Herman B. Boeding and Everett G. Dague refused to allow Warren Craig, a motor vehicle operator for the Best Transfer Co., to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

9. During late 1977 and a part of 1978, Charles W. Higgs was driving a truck for Banner Cut Stone, Bedford, Indiana, when on three different occasions he was not allowed by Everett G. Dague to unload his cargo of cut stone at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

10. On or about December 12, 1977, Defendant Herman B. Boeding refused to allow David Jorde, a motor vehicle operator for the International Transport, Rochester, Minnesota, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

11. On or about January 4, 1978, Defendants Herman B. Boeding and Everett G. Dague refused to allow Mark W. Bartlett, a motor vehicle operator delivering materials for Owens Corning Fiberglass Company and Noerr Motor Freight, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

12. On or about January 9, 1978, Donald K. Zieber, a driver for Ace-Doran Hauling and Rigging, Elyria, Ohio, was not allowed by Herman J. Casten to unload his cargo at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

13. On or about January 13, 1978, Defendants Herman B. Boeding and Everett G. Dague refused to allow Charles Unsel, a motor vehicle operator for Custom Fabrication and Erection Company, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

14. On or about January 17, 1978, Charles David Boyd had leased to and was driving his tractor-trailer for C and H Transport, Dallas, Texas, when he was not allowed by Everett G. Dague to unload his cargo of cooling pipe at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

15. On or about November 21, 1977, Defendants Herman B. Boeding and Everett G. Dague refused to allow John C. Kimbel, Jr., a motor vehicle operator for C and H Transport Company, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

16. On or about March 7, 1978, Defendants Herman B. Boeding and Everett G. Dague refused to allow Gordon L. Opelt, a motor vehicle operator for Aetna Trucking Company, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

17. On or about March 15, 1978, Defendants Herman B. Boeding and Herman J. Casten refused to allow Orville Thomas Taylor, a motor vehicle operator for Progressive Crane, Incorporated, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

18. On or about March 15, 1978, Clifford Grice was driving a tractor-trailer for White Brothers Company, Waukegan, Illinois, when he was not allowed by Everett G. Dague to unload his cargo of fabricated steel at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

19. On or about March 16, 1978, Defendants Herman B. Boeding and Herman J. Casten refused to allow Scott W. Raven, a motor vehicle operator for C and H Transportation Company, to unload his vehicle at the Darin and Armstrong construction site until said Defendants had demanded and received a fee for Teamsters Local 238.

20. On or about April 7, 1978, J. W. Coon had leased to and was driving his tractor-trailer for Superior Transportation Company, Atlanta, Georgia, when he was not allowed by Herman J. Casten to unload his cargo of structural aluminum parts at the Darin and Armstrong, Inc. construction site, Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

21. On or about April 10, 1978, Bruce DeFeyer was driving a tractor-trailer for C and H Transportation Company, Dallas, Texas, when he was not allowed by Herman B. Boeding to unload his cargo at the Darin and Armstrong, Inc. construction site, Cedar Rapids, Iowa, without paying a fee to Teamsters Local 238.

22. On or about January 6, 1978, Gary L. Pierce was driving a tractor-trailer for Home Transportation Company, Marietta, Georgia, when he was not allowed by Defendants Herman B. Boeding and Everett G. Dague to deliver his cargo of air conditioning and cooling units to the Darin and Armstrong construction site until said Defendants had received a fee payable to Teamsters Local 238.

23. On or about January 6, 1978, said Gary L. Pierce referred to in paragraph 22 above, asked Defendant Everett G. Dague whether Pierce would get all the Teamsters Union benefits such as hospitalization if Pierce paid the membership fee to the Union; whereupon Defendant Dague replied, "Hell no, you won't get nothing. You only get benefits if all your company's drivers belong to the Union too."

24. On or about April 11, 1978, Defendants Herman B. Boeding, Herman J. Casten and Everett G. Dague, each gave verbal statements to Floyd M. Child, II, Field Examiner from the National Labor Relations Board, that were knowingly and purposefully false, misleading and inaccurate in a deliberate attempt to cover-up or deny the existence of the Defendants conspiracy to extort a fee from operators of motor vehicles delivering supplies to the Darin and Armstrong construction site.

25. During the fall of 1979, Defendant Harry J. Wilford threatened officials at Corn Sweeteners, Cedar Rapids, Iowa, a business engaged in manufacturing products then transported in interstate commerce, with strikes, walkouts and economic loss if non-Teamster member operator-drivers were allowed to haul cargo into the Corn Sweeteners' facility.

26. On or about April 10, 1978, Douglas Watson had leased to and was driving his tractor-trailer for C and H Transportation Company, when Herman B. Boeding attempted to not allow him to unload his cargo at the Darin and Armstrong, Inc. construction site in Cedar Rapids, Iowa, without first paying a fee to Teamsters Local 238.

COUNT 2

The Grand Jury hereby incorporates by reference paragraphs 1 through and including 7 of Count 1 of this Indictment.

8. That on or about May 13, 1977, in the Northern District of Iowa, and elsewhere, the Defendants Herman B. Boeding and Everett G. Dague herein, did unlawfully, willfully and knowingly obstruct, delay and affect commerce, and did attempt to obstruct, delay and affect commerce, as that term is defined in Section 1951, Title 18, United States Code, and the movement of articles and commodities in such commerce by extortion, as that term is defined in Section 1951, Title 18, United States Code, in that the Defendants Herman B. Boeding and Everett G. Dague did obtain and attempt to obtain, the property of John R. Strang, a construction project manager for Darin and Armstrong, Inc. in Cedar Rapids, Iowa, to wit, One Hundred forty-one dollars (\$141.00) in United States currency, said property being obtained and attempted to be obtained from John R. Strang with his consent, which was induced by the wrongful use of threatened force, violence, fear and including fear of economic loss and injury to John R. Strang and Darin and Armstrong, Inc., in that the Defendants Herman B. Boeding and Everett G. Dague did directly and indirectly threaten John R. Strang and Darin and Armstrong, Inc. with economic loss and refusal to allow unloading of materials unless the One Hundred forty-one dollars (\$141.00) fee were paid to the Chauffeurs, Teamsters, and Helpers Local Union 238.

All of the above in violation of Title 18, United States Code Section 1951.



COUNT 3

The Grand Jury hereby incorporates by reference paragraphs 1 through and including 7 of Count 1 of this Indictment.

8. That on or about October 5, 1977, in the Northern District of Iowa, and elsewhere, the Defendants Herman B. Boeding and Herman J. Casten herein, did unlawfully, willfully and knowingly obstruct, delay and affect commerce, and did attempt to obstruct, delay and affect commerce, as that term is defined in Section 1951, Title 18, United States Code, and the movement of articles and commodities in such commerce by extortion, as that term is defined in Section 1951, Title 18, United States Code, in that the Defendants Herman B. Boeding and Herman J. Casten did obtain and attempt to obtain, the property of Richard L. Fuerst, a motor vehicle operator driving for Sammons Trucking Company, Missoula, Montana, to wit, Forty-nine dollars (\$49.00) in United States currency, said property being obtained and attempted to be obtained from Richard L. Fuerst with his consent, which was induced by the wrongful use of threatened force, violence, fear and including fear of economic loss and injury to Richard L. Fuerst in that the Defendants Herman B. Boeding and Herman J. Casten did directly and indirectly threaten Richard L. Fuerst with economic loss and refusal to allow unloading of materials unless the Forty-nine dollar (\$49.00) fee were paid to the Chauffeurs, Teamsters and Helpers Local Union 238.

All of the above in violation of Title 18, United States Code, Section 1951.

COUNT 4

The Grand Jury hereby incorporates by reference paragraphs 1 through and including 7 of Count 1 of this Indictment.

8. That on or about the winter of 1977, in the Northern District of Iowa, and elsewhere, the Defendant Herman B. Boeding herein, did unlawfully, willfully and knowingly obstruct, delay and affect commerce, and did attempt to obstruct, delay and affect commerce, as that term is defined in Section 1951, Title 18, United States Code, and the movement of articles and commodities in such commerce by extortion, as that term is defined in Section 1951, Title 18, United States Code, in that the Defendant Herman B. Boeding did obtain and attempt to obtain, the property of John C. Kimbel, Jr., a motor vehicle operator driving for C and H Transport, Dallas, Texas, to wit, Forty-nine dollars (\$49.00) in United States currency, said property being obtained and attempted to be obtained from John C. Kimbel, Jr. with his consent, which was induced by the wrongful use of threatened force, violence, fear and including fear of economic loss and injury to John C. Kimbel, Jr. and Darin and Armstrong, Inc., in that the Defendant Herman B. Boeding did directly and indirectly threaten John C. Kimbel, Jr. and Darin and Armstrong, Inc. with economic loss and refusal to allow unloading of materials unless the Forty-nine dollar (\$49.00) fee were paid to the Chauffeurs, Teamsters, and Helpers Local Union No. 238.

All of the above in violation of Title 18, United States Code Section 1951.

COUNT 5

The Grand Jury hereby incorporates by reference paragraphs 1 through and including 7 of Count 1 of this Indictment.

8. That on or about March 7, 1978, in the Northern District of Iowa, and elsewhere, the Defendants Herman B. Boeding and Everett G. Dague herein, did unlawfully, willfully and knowingly obstruct, delay and affect commerce, and did attempt to obstruct, delay and affect commerce, as that term is defined in Section 1951, Title 18 United States Code, and the movement of articles and commodities in such commerce by extortion, as that term is defined in Section 1951, Title 18, United States Code, in that the Defendants Herman B. Boeding and Everett G. Dague did obtain and attempt to obtain, the property of Gordon L. Opelt, a motor vehicle operator driving for Aetna Trucking, Warren, Ohio, to wit, Forty-nine dollars (\$49.00) in United States currency, said property being obtained and attempted to be obtained from Gordon L. Opelt with his consent, which was induced by the wrongful use of threatened force, violence, fear and including fear of economic loss and injury to Gordon L. Opelt, in that the Defendants Herman B. Boeding and Everett G. Dague did directly and indirectly threaten Gordon L. Opelt with economic loss and refusal to permit unloading of materials unless the Forty-nine dollar (\$49.00) fee were paid to the Chauffeurs, Teamsters, and Helpers Local Union No. 238.

All of the above in violation of Title 18, United States Code Section 1951.

COUNT 6

The Grand Jury hereby incorporates by reference paragraphs 1 through and including 7 of Count 1 of this Indictment.

8. That on or about November 7, 1977, and on or about early 1978, in the Northern District of Iowa, and elsewhere, the Defendants Herman B. Boeding and Everett G. Dague herein, did unlawfully, willfully and knowingly obstruct, delay and affect commerce, and did attempt to obstruct, delay and affect commerce, as that term is defined in Section 1951, Title 18, United States Code, and the movement of articles and commodities in such commerce by extortion, as that term is defined in Section 1951, Title 18, United States Code, in that the Defendants Herman B. Boeding and Everett G. Dague did obtain and attempt to obtain, the property of Charles W. Higgs, a motor vehicle operator driving for Banner Cut Stone, Bedford, Indiana, to wit, Forty-nine dollars (\$49.00) in United States currency, said property being obtained or attempted to be obtained from Charles W. Higgs with his consent, which was induced by the wrongful use of threatened force, violence, fear and including fear of economic loss and injury to Charles W. Higgs and Banner Cut Stone in that the Defendants Herman B. Boeding and Everett G. Dague did directly and indirectly threaten Charles W. Higgs and Banner Cut Stone with economic loss and refusal to permit unloading of materials unless the Forty-nine dollar (\$49.00) fee or some other amount unknown to the Grand Jury, were paid each time to the Chauffeurs, Teamsters and Helpers Local Union No. 238.

All of the above in violation of Title 18, United States Code Section 1951.

COUNT 7

1. At all times pertinent, Darin and Armstrong, Inc., a corporation with principal offices in Southfield, Michigan, was an employer of employees who were employed in an industry affecting commerce, to wit, the building and construction industry.

2. At all times pertinent, the Chauffeurs, Teamsters and Helpers Local Union 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, was a labor organization which represented and would admit to membership the employees of Darin and Armstrong, Inc.

3. On or about January 31, 1978, in the Northern District of Iowa and elsewhere, Defendant Harry J. Wilford, aided and abetted by Defendants Herman B. Boeding and Everett G. Dague, did unlawfully, willfully and knowingly request, demand, receive or accept money in the amount of Forty-nine dollars (\$49.00), more or less, paid by Darin and Armstrong, Inc. to Teamsters Local 238.

All in violation of Title 29, United States Code, Section 186(b)(1) and (d) and Title 18, United States Code, Section 2.

COUNT 8

1. At all times pertinent, Hofer [redacted] employer of employees who were employed in an industry [redacted] commerce, to wit, the motor freight shipping industry.

2. At all times pertinent, James [redacted] operator-driver for the above mentioned employer in the interest of said employer.

3. At all times pertinent, the [redacted] Teamsters and Helpers Local Union 238 affiliated with [redacted] Brotherhood of Teamsters, Chauffeurs, Warehousemen of America, was a labor organization which refused to admit to membership the employees of Hofer [redacted].

4. On or about May 6, 1977, in [redacted] District of Iowa and elsewhere, Defendant Everett [redacted] abetted by Defendants Herman B. Boeding and [redacted], did unlawfully, willfully and knowingly request [redacted] and accept money in the amount of One Hundred [redacted] (\$141.00), more or less, paid by James Hus [redacted] Local 238.

All in violation of Title 29, United States Code [redacted] 186(b)(1) and (d) and Title 18, United States Code [redacted] 2.

COUNT 9

1. At all times pertinent, Darin and Armstrong, Inc., a corporation with principal offices in Southfield, Michigan, was an employer of employees who were employed in an industry affecting commerce, to wit, the building and construction industry.

2. At all times pertinent, the Chauffeurs, Teamsters and Helpers Local Union 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, was a labor organization which represented and would admit to membership the employees of Darin and Armstrong, Inc.

3. On or about March 14, 1978, in the Northern District of Iowa and elsewhere, Defendant Everett G. Dague, aided and abetted by Defendants Herman B. Boeding and Harry J. Wilford, did unlawfully, willfully and knowingly request, demand, receive and accept money in the amount of Forty-nine dollars (\$49.00) more or less, paid by Darin and Armstrong, Inc. to Teamsters Local 238.

All in violation of Title 29, United States Code, Section 186(b)(1) and (d) and Title 18, United States Code, Section 2.

COUNT 10

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding and Everett Dague acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, David Jorde, was an operator of a motor vehicle, (as defined by the Interstate Commerce Act) a truck tractor semi-trailer, employed by International Transport, Rochester, Minnesota, in the transportation of property in commerce.

3. On or about November or December, 1978, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Everett G. Dague, aided and abetted by Defendants Harry J. Wilford and Herman B. Boeding, did unlawfully, willfully and knowingly demand and accept money from David Jorde in the amount of \$49.00, more or less, payable to the above named labor organization as a fee and charge for the unloading and in connection with the unloading of the cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code Section 2.



COUNT 11

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding and Everett G. Dague, acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Gordon L. Opelt, was an operator of a motor vehicle, (as defined by the Interstate Commerce Act), a tractor trailer/flatbed, employed by Aetna Trucking, Warren, Ohio, in the transportation of property in commerce.

3. On or about March 7, 1978, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Everett G. Dague, aided and abetted by Defendants Harry J. Wilford and Herman B. Boeding, did unlawfully, willfully and knowingly demand and accept money from Gordon L. Opelt in the amount of \$49.00, more or less, payable to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of the cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code, Section 2.

COUNT 12

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding and Everett G. Dague acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Scott W. Rawson, was an operator of a motor vehicle, (as defined by the Interstate Commerce Act), a tractor trailer/flatbed, employed by C and H Transportation, Dallas, Texas, in the transportation of property in commerce.

3. On or about June or July, 1978, in the Northern District of Iowa, Cedar Rapids, Iowa, Defendant Everett G. Dague, aided and abetted by Defendants Harry J. Wilford and Herman B. Boeding, did unlawfully, willfully and knowingly demand and accept money from Scott W. Rawson in the amount of \$49.00, more or less, payable to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of the cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code, Section 2.

COUNT 13

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding, Everett G. Dague and Herman J. Casten, acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Charles W. Higgs was an operator of a motor vehicle (as defined by the Interstate Commerce Act), a tractor-trailer, employed by Banner Cut Stone, Bedford, Indiana, in the transportation of property in commerce.

3. On or about November 7, 1977, and early 1978, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Everett G. Dague, aided and abetted by Defendants Harry J. Wilford and Herman B. Boeding, did unlawfully, willfully and knowingly demand and accept money from Charles W. Higgs in the amount of \$49.00, more or less, or some other amount unknown to the Grand Jury, payable each time to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of his cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code, Section 2.

COUNT 14

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding, Everett G. Dague and Herman J. Casten, acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Richard L. Fuerst was an operator of a motor vehicle (as defined by the Interstate Commerce Act), a tractor-trailer, employed by Sammons Trucking Company, Missoula, Montana, in the transportation of property in commerce.

3. On or about October 6, 1977, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Herman J. Casten, aided and abetted by Defendants Harry J. Wilford and Herman B. Boeding, did unlawfully, willfully and knowingly demand and accept money from Richard L. Fuerst in the amount of \$49.00 more or less, or some other amount unknown to the Grand Jury, payable each time to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of his cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code Section 2.

COUNT 15

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding, Everett G. Dague and Herman J. Casten, acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Forrest B. White was an operator of a motor vehicle (as defined by the Interstate Commerce Act), a tractor-trailer, employed by Home Transportation, in the transportation of property in commerce.

3. On or about October 1 or 2, 1977, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Herman B. Boeding, aided and abetted by Defendants Harry J. Wilford and Everett G. Dague, did unlawfully, willfully, and knowingly demand money from Forrest B. White in the amount of \$125.00, more or less, or some other amount unknown to the Grand Jury, payable each time to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of his cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code, Section 2.

COUNT 16

1. At all times pertinent, Defendants Harry J. Wilford, Herman B. Boeding, Everett G. Dague and Herman J. Casten, acted as agents and representatives of a labor organization, to wit, the Chauffeurs, Teamsters and Helpers Local Union No. 238, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehouseman and Helpers of America, in Cedar Rapids, Iowa.

2. At all times pertinent, Douglas Watson was an operator of a motor vehicle (as defined by the Interstate Commerce Act), a tractor-trailer, employed by C and H Transportation, Dallas, Texas, in the transportation of property in commerce.

3. On or about April 1978, in the Northern District of Iowa, Cedar Rapids, Iowa, and elsewhere, Defendant Herman B. Boeding, aided and abetted by Defendants Harry J. Wilford and Everett G. Dague, did unlawfully, willfully, and knowingly demand money from Douglas Watson in the amount of \$49.00, more or less, or some other amount unknown to the Grand Jury, payable each time to the above named labor organization as a fee and charge for the unloading, and in connection with the unloading of his cargo.

All in violation of Title 29, United States Code, Section 186(b)(2) and (d), Title 18, United States Code, Section 2.

A TRUE BILL,

*Barbara D. Hemmer*

Foreman

PRESENTED IN OPEN COURT

-BY THE-

FOREMAN OF THE GRAND JURY

IN THE PRESENCE OF THE

GRAND JURY

And filed by me this 21st

day of August 1981

*W. A. [Signature]*

*Judith A. Whetstine*  
JUDITH A. WHETSTINE  
Assistant United States Attorney  
Northern District of Iowa