

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

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UNITED STATES SECURITIES)	
AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1-15-cv-659-JMS-MJD
)	
TOBIN J. SENEFELD, ET AL.,)	
)	
Defendants,)	
)	
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**PLAINTIFF’S RESPONSE TO THE COURT’S
PROPOSED JURY INSTRUCTIONS**

Plaintiff United States Securities and Exchange Commission (“SEC”), pursuant to the Court’s Final Pretrial Conference Order [Filing No. 415], states as follows:

1. With regard to the Court’s Proposed Preliminary Instructions [Filing No. 415-2], the SEC does not object to proposed Preliminary Instruction No. 1, 6 – 10, or 12 – 14.

2. The SEC objects to the Court’s Proposed Preliminary Instructions No. 2. With regard to the first paragraph of this instruction, the SEC prefers its own proposed preliminary instruction No. 4 on “Burden of Proof.” Mr. Senefeld does not object to the SEC’s proposed instruction. The second and third paragraphs of this instruction are premature.

3. The SEC objects to the Court’s Proposed Preliminary Instruction No. 3. There is only one defendant in this case, and the SEC’s claims are very similar. So the jury should be allowed to consider all of the evidence admitted for each of the SEC’s claims.

4. The SEC objects to the Court’s Proposed Preliminary Instruction No. 4. The SEC prefers its own proposed preliminary instructions No. 2 on “Parties” and No. 5 on

“Province of Judge and Jury.” Mr. Senefeld does not object to either of the SEC’s proposed instructions.

5. The SEC objects to the Court’s Proposed Preliminary Instruction No. 5. The SEC prefers its own proposed preliminary instruction No. 7 on “Rulings and Objections.” Mr. Senefeld does not object to the SEC’s proposed instruction.

6. The SEC objects to the Court’s Proposed Preliminary Instruction No. 11. The SEC prefers its own proposed preliminary instruction No. 8 on “No Transcript Available to Jury,” Mr. Senefeld does not object to the SEC’s proposed instruction.

7. The SEC objects to the Court’s Proposed Preliminary Instruction No. 15. Referring to the parties as “the SEC” and “Mr. Senefeld” is more accurate and less confusing than calling them “Plaintiff” and “Defendant.” The SEC prefers its own proposed preliminary instruction No. 1 on “Order of Trial,” Mr. Senefeld does not object to the SEC’s proposed instruction.

8. With regard to the Court’s Proposed Final Instructions that Apply to All Claims [Filing No. 4150-3], the SEC does not object to Final Instructions Nos. 1 – 5, or 7 – 12.

9. The SEC objects to proposed Final Instruction No. 6, and prefers its own proposed instruction No. 21 on “Burden of Proof.” Mr. Senefeld does not object to the SEC’s proposed instruction.

10. The SEC is filing herewith “Plaintiff’s Proposed Jury Instructions,” which includes preliminary instructions, instructions during trial, generic final instructions, and case-specific final instructions.

11. The SEC and Mr. Senefeld met and conferred about the SEC’s proposed jury instructions by telephone on June 28, 2017. Mr. Senefeld does not object to the majority of the

SEC's proposed instructions. Mr. Senefeld only objects to Nos. 20, 23, 25, 27 and 28. He has no objections to the remaining instructions.

Dated: September 29, 2017

Respectfully submitted,

By: /s/ Robert M. Moye
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*Attorneys for Plaintiff U.S. Securities and
Exchange Commission*

CERTIFICATE OF SERVICE

I hereby certify that on September, 2019, I served copies of **Plaintiff's Response to the Court's Proposed Jury Instructions** on Tobin Senefeld, by email and U.S. mail, and on all counsel of record through the Court's ECF filing system.

/s/Robert M. Moye _____
Robert M. Moye