

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 03-CR-170

LESLIE JOHN HAMILTON, JR, a/k/a JOHN HALVORSON,
and ANGELINA ROEBUCK,

Defendants.

JOINT FINAL PRETRIAL REPORT

The parties, by their respective counsel, hereby file the following pretrial report in accord with the Court's final pretrial order. This report will be in sections numbered consistent with the numbered sections of the Court's order.

1. To summarize the case, the indictment alleges that the defendants, from a date prior to 1997 through August, 2003, engaged in a scheme to defraud investors, which scheme utilized the United States mails, and/or interstate wire communications in its execution. Specifically, defendant Leslie John Hamilton, Jr. a/k/a John Halvorson, operating as Capital Collectibles, Capital Investments, Capital Marketing Corporation and Capital Collectibles of Nevada LLC, personally and through sales agents acting at his direction, offered coin and currency investment opportunities which promised high rates

of return. Hamilton and his sales agents advised investors that they were purchasing actual coins or currency, that the coins and currency were ungraded, would be graded by a professional numismatic grading service, and then would be sold within a specified period of time for a guaranteed profit. When the profits became due, investors were encouraged to re-invest their original investment and the alleged resulting profit in a new lot of coins or currency with the promise of an equal or greater rate of return. In fact, there were few if any coins or currency, and the investor money was largely used to pay earlier investors and to pay the personal expenses of Hamilton and defendant Angelina Roebuck.

When the scheme began to fall apart and Hamilton became unable to pay any investors, he falsely told the investors that this was the result of an unwarranted investigation which prevented him from selling the investment coins. He then personally, and through his sales agents, solicited additional money which he falsely told investors would be used to re-grade the coins and currency which would in turn allow the items to be sold and the investor profits realized.

In furtherance of this scheme, Hamilton and Roebuck caused, personally and through their sales agents, checks to be mailed, and monies to be sent by interstate wire, to business accounts of Capital Collectibles and Capital Collectibles of Nevada, LLC, and to personal accounts of Hamilton or Roebuck. The defendants also caused certificates purporting to represent an actual coin or currency investment, to be mailed to investors.

In total, more than 300 investors invested millions of dollars in the investment

scheme, resulting in millions of dollars in losses.

Based on this allegedly fraudulent activity, Leslie John Hamilton, Jr. a/k/a John Halvorson is charged with 28 counts of mail or wire fraud in counts 1 through 28 of the indictment and Angelina Roebuck is charged with five counts of mail and wire fraud in counts 24 through 28 of the indictment.

The defendants deny these allegations and contend that any losses to investors were due to conduct of other actors.

2. The United States anticipates that the length of this trial will be approximately two weeks.

3. To date there have been no stipulations reached by the parties. The government sought a stipulation to the authenticity of numerous business records, which the defense declined to do. Accordingly, the government intends to offer most of these records under a certificate of authenticity pursuant to Rule 902(11), FRE.

4. Lists of witnesses whom the parties anticipate they will call is attached to this report. The government will seek to have Special Agent John Klugiewicz and DFI Examiner Michael Tuten excluded from any sequestration order, as both are persons essential to the government's presentation of its cause, pursuant to Rule 615(3), FRE. The defense may supplement their witness list after a review of the government witness list and exhibits.

5. A single expert witness is contemplated by the government. He is identified as David Nanz, former intern for the National Numismatic Collection at the

Smithsonian Institution, Museum of American History, and former owner and operator of a retail coin store in Port Jefferson, New York. Agent Nanz is presently employed by the FBI, Las Vegas field office. Agent Nanz has an expertise in the field of collectible coins, as the result of his experience at the Smithsonian Institution and as a retail coin dealer who bought, sold and appraised rare coins. Agent Nanz will offer his opinion regarding the value of the coins that were present at the defendant's former 72 Arlberg Way, Mt. Charleston, Nevada residence when a search warrant was executed at that location on January 28, 2005.

6. Lists of exhibits presently contemplated by the government is attached. Additional exhibits are anticipated. The defense will submit an exhibit list upon review of the government's witness and exhibit list.

7. Voir dire questions requested by the parties are attached.

8. Proposed jury instructions are attached. The defendants object to the the government recitation of the Indictment summary description of the scheme to defraud contained in Government Proposed Instruction 10 paragraphs 1-24 on the grounds that it is akin to an opening statement and proposes that the summary in paragraph one of the Final Pretrial Report be used instead. The Government maintains that its proposed language, which is taken directly from the indictment is appropriate for the jury instruction. The defense objects to Government's Proposed Instruction No. 16, on the grounds that it is argument as to the interpretation and weight of the described evidence and usurps the court function. The defense also objects to Government's

Proposed Instruction No. 18 on the grounds that it supplements the general description of the “knowing element in the standard instructions and may confuse the jury. The government maintains that there is good authority for these instructions and requests that they be given. The defense objects to Government’s Proposed Instruction No. 23 as a misstatement of the law based on the theory of defense. The government maintains that there is good authority for this instruction and requests that it be given. The government has no obligation to tailor its proposed instructions to any defense theory. The defense objects to Government’s Proposed Instruction No. 24 on the grounds that it is argument to the jury regarding the interpretation of evidence. The defense also objects to Government’s Proposed Instructions No. 27, and 29, and do not agree to and reserve objections to No. 8 and No. 28. The defense objects to Government Proposed Instruction No. 28 as the defense is objecting to other acts evidence. The government maintains that there is good authority for these instructions and requests that they be given. The government reserves the right to object to Defense Proposed Instructions 1,2,3 and 5, on the grounds that the evidence is unlikely to make these instructions pertinent, but that it is premature to take a position. The government objects to Defense Proposed Instruction No. 6, as this case does not charge a conspiracy, so that the instruction is inapplicable, and also objects to Defense Proposed Instruction No. 7, based on *United States v. Pryor*, 32 F. 3d 1192, 1194-5 (7th Cir. 1994) and the fact that the cases cited by the defense do not hold that the instruction should be given. Finally, the government objects to the defendants’ verbiage on page 5 reminding the jurors of their voir dire obligations, as the

Seventh Circuit Committee Comment, 1.10 advises against such instruction.

Dated at Milwaukee, Wisconsin this 25th day of March, 2005.

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