

### 37. TESTIMONY OF WITNESSES

The law does not require you to accept or credit the evidence admitted. In determining what evidence you will accept, you must make your own evaluation of the testimony given by each of the witnesses, and the weight you choose to give to his or her testimony.

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe everything a witness says or only part of it or none of it.

In deciding what to believe, you may consider a number of factors, including the following: (1) the witness's ability to see or hear or know the things the witness testifies to; (2) the quality of the witness's memory; (3) the witness's manner while testifying; (4) whether the witness has an interest in the outcome of the case or any motive, bias, or prejudice; (5) whether the witness is contradicted by anything the witness said or wrote before trial or by other evidence; and (6) how reasonable the witness's testimony is when considered in light of other evidence which you believe.

Inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses may or may not cause you to disbelieve or discredit such testimony. Two or more persons witnessing an incident or a transaction may simply see or hear it differently. Innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, however, always consider whether it pertains to a matter of importance or an insignificant detail and consider whether the discrepancy results from innocent error or from intentional falsehood.

### 38. OPINION EVIDENCE – EXPERT WITNESS

The rules of evidence ordinarily do not permit witnesses to testify as to opinions or

conclusions. An exception to this rule exists as to those whom we call "expert witnesses." Such witnesses, who have special training or experience in a technical field, may state an opinion concerning that technical matter may also state the reasons for their opinion.

Merely because an expert witness has expressed an opinion, of course, does not mean that you must accept it. As with any other witness, you should consider the testimony and give it such weight as you think it deserves.

39. CAUTION AS TO COOPERATING WITNESS/ACCOMPLICE/PAID INFORMANT

You have heard the testimony of Linneth O'Neill, Jason Roman, and Tonia Rawlinson. Each of these individuals provided evidence under agreements with the government.

Some people in this position are entirely truthful when testifying. Still, you should consider the testimony of these individuals with particular caution. They may have had reason to make up stories or exaggerate what others did because they wanted to help themselves.

40. STATEMENTS BY THE DEFENDANT

You have heard evidence that the defendant made a statement in which the government claims he admitted certain facts. It is for you to decide

- (1) whether the defendant made the statement; and
- (2) if so, how much weight to give it.

In making those decisions, you should consider all of the evidence about the statement, including the circumstances under which the statement may have been made and any facts or circumstances tending to corroborate or contradict the version of events described in the statement.