

State of Delaware vs. Elliot



Dear Mock Trial Teams and Coaches for the 2018 competition:

We want to welcome you to the 2018 Delaware High School Mock Trial season. All of us at the Delaware Law Related Education Center look forward to this year's competition.

This year's case is a criminal case that focuses on an indictment of theft. Our hope is that the case will provide you with the chance to analyze and deal with some interesting legal issues, as well as some interesting characters.

This year's 2018 Delaware High School Mock Trial problem was made possible by the input of the following individuals from the Case Committee: Jason C. Jowers, Pete Jones, Chris Griffiths, Daniel Attaway, Kate Keller, Andrew Vella, Lisa Grubb, and Paul Sunshine. We would additionally like to thank Pat Quann, the Executive Director of DELREC, for her continued support.

This competition would not be possible without the continued generous support of the Delaware legal community, the Delaware Courts, and our other donors and volunteers. As you participate in mock trial this season, please remember that there are numerous individuals, including the teacher sponsors, the coaches, courthouse staff, and the numerous attorneys and judges, who give their time to support mock trial. We would ask that you please take a moment at some point during the season to thank those individuals for their commitment to the program.

As a reminder, this year's competition will take place on February 23 and 24, 2017 at the Leonard L. Williams Justice Center (formerly New Castle County Courthouse).

To the extent that there are questions concerning the materials for this year's competition, please send them to MockTrialDE@gmail.com no later than Friday, January 26, 2018. We will provide responses and/or updates to the materials no later than Friday, February 9, 2018.

We look forward to a great competition again this year!

The Mock Trial Committee

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Case Background

In the early morning hours of Tuesday, March 3, 1999, two people disguised as police officers stole six prized pieces from the Andrew Wyeth Art Exhibit that had just opened the week before. For the next 15 years the theft had been investigated, tips and leads chased, with no suspects charged and no art recovered.

But then, in late November, 2016, Brooke Benjamin, an investigative reporter with the News Journal , who had grown up in Wilmington and followed the case since s/he was a cub reporter with the Cape Gazette, was contacted by his/her childhood friend Elliot Stewart. Elliot told Brooke s/he had uncovered something interesting and asked Brooke to get in touch next time s/he was in town.

About Andrew Wyeth

Andrew Wyeth (1917 – 2009) was an artist from Chadds Ford, Pennsylvania (just north of Wilmington) who, despite undergoing no formal or conventional artistic training, is especially admired for his unique use of found and homemade materials, graphic skill, and the visual and conceptual range that characterized his works. Wyeth was a visual artist, focusing on realist paintings.

By all accounts, deaf from birth and never having acquired much verbal ability, Wyeth turned the production of drawn images into his primary mode of communication with the world around him.

Wyeth created drawings, handmade books, and other constructions for nearly seventy years. His works are collected by major museums, libraries and individuals throughout the US and Europe. His themes tell the story of a life lived in rural Pennsylvania during the early 20th century and capture the simple beauty and mystery of ordinary places and things.

Disclaimer

This is a work of fiction. The names, characters, businesses, organizations, places, events, and incidents herein are the product of the authors' very vivid imaginations.

Version Changes & Clarifications

1. Version 1.0, dated 22 November, 2017 does not include any changes.
2. Version 1.1, dated December 15, 2017, includes the following changes and clarifications:
 - a. Page 4: “Thanksgiving in 2015” is changed to “Thanksgiving in 2016”
 - b. Page 13, “March 3, 1998” is changed to “March 3, 1999”
 - c. In response to a question regarding the indictment: The indictment is correct as written.

Stipulations

1. All exhibits included in the case materials are authentic and accurate representations of the items they depict, and the proper chain of custody with regard to the exhibits has been maintained. All parties must still use the proper procedures for admitting exhibits into evidence, and all exhibits are subject to objection other than as to their authenticity.
2. The signatures and signature representations (items marked with /s/) on the witness statements and all other documents, including exhibits, are authentic. No challenges based on the authenticity of witnesses’ signed documents will be entertained. Each witness was given an opportunity to update or amend his/her statement shortly before trial, and no changes were made.
3. The dates of witness statements are not relevant and are not included. No challenges based on the dates of the witness statements will be entertained. All statements were taken after the alleged incidents but before trial.
4. The jurisdiction and venue are proper.
5. All parties have agreed to the jury instructions.
6. Each witness can be portrayed by a student of either gender. Any instances where a witness is referred to as only “him” or “her” or only “he” or “she” is inadvertent.
7. It is anticipated that the trial time will not permit the use of all the exhibits provided in the following materials. Each party should select and use only those exhibits that best support and illustrate that party’s theory of the case.

8. The statute of limitations for the original art theft has passed 11 *Del. C.* § 205.
9. There is a monetary reward of \$100,000 for the return of any of the paintings.

Indictment

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

THE STATE OF DELAWARE

V.

ELLIOT STEWART

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INDICTMENT BY GRAND JURY

ID No. IDMT2017

The Grand Jury charges ELLIOT STEWART with the following offenses:

COUNT I. A FELONY

#N17-11-3024

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended. Elliot Stewart on or between the 17th day of October, 2016 and the 5th day of January, 2017, in the County of New Castle, State of Delaware, did, take, exercise control over, or obtain property of another, consisting of SIX (6) paintings valued in the aggregate at \$100,000.00 or more, intending to deprive that person and/or the owner of same, or to appropriate same.

A TRUE BILL

(FOREPERSON)

MATTHEW P. DENN
ATTORNEY GENERAL

DEPUTY ATTORNEY GENERAL

Witness Statements

Prosecution Witness Statements

Brooke Benjamin, Reporter

1 My name is Brooke Benjamin. I'm 42 years old. I grew up in Wilmington and graduated
2 from Bonneville High School in 1992. I went to Delaware State University and earned a
3 degree in Mass Communications in 1995. During my college years, it became clear to me
4 that I was meant to be a journalist. All through college I worked at the student run
5 newspaper at Delaware State, the Hornet.

6 In fact, during my senior year, when I was editor of the paper, the Hornet won what is
7 the student equivalent of a Pulitzer Prize for some investigative work we did on the unfair
8 working conditions for adjunct professors. It really was a shame that some of those adjuncts
9 ended up getting fired for talking with me and the other reporters, but it really helped me
10 learn that sometimes you have to make sacrifices to get the story. Plus, it was that work
11 that earned me my acceptance to the Missouri School of Journalism, arguably among the
12 finest J-Schools in the nation. I received my MA in Journalism. Despite the fact that I still
13 have a lot of debt from my education, I still believe that going to graduate school was the
14 best thing I ever did. It gave me the right foundation for my career.

15 Since graduating, I have spent almost 20 years working as a reporter. In fact, I would
16 say that trying to be a good reporter is how I got involved in this mess. That and having
17 grown up next door to Elliot Stewart.

18 I have known Elliot Stewart most of my life, going all the way back to Fort DuPont
19 Elementary School. We were neighbors when we were kids and were good friends through
20 middle school, but pretty much took different paths in high school—Elliot was really into
21 status and wanted to hang out with all the rich kids and I was really into all my activities,
22 like yearbook and the school newspaper. You know how that stuff goes. One day you look
23 back and realize you've left your childhood behind.

24 I mean, Elliot and I would run into each other on occasion when I was working at the
25 Cape Gazette and it was always cordial enough, but it's not like we were going to each
26 other's houses for family barbeques. We really didn't run in the same circles. That's why it
27 was a little odd when Elliot called me right before Thanksgiving in 2016, but not so weird

28 that it was out of the realm of possibility. Besides, I'm a reporter at heart, so it's really my
29 life's work to chase a story at any cost.

30 Let me back up a little bit and fill in some of the missing puzzle pieces. One of my first
31 jobs after graduate school was at the Cape Gazette. I was technically a beat reporter,
32 assigned to cover metro news, but in a place like Lewes, Rehoboth Beach, or even
33 Wilmington, pretty much anything could be metro news. You just do whatever you need to
34 do to get the paper to print. One day you might be covering an accident on Route 1 and the
35 next day you might need to cover the local football game. You just go where the stories take
36 you. And on March 3, 1999, that's how I ended up at the Wilmington Library, covering a
37 robbery and it's been a bit of an obsession with me ever since.

38 When you're a reporter and the phone rings in the early morning hours, you can pretty
39 much rest assured that it's going to be big. And that night in March, it was. My editor at
40 the time had gotten a call from the library director that something big had happened and
41 that the paper needed to send someone over to cover it. I know it may seem odd that
42 someone who had been the victim of such a massive robbery would think to notify the press,
43 but my editor and the library director ran in the same circles, and I think she figured it
44 would be best to have as many people investigating this as possible.

45 I'm sure Finley Gardner feels differently. S/he's always treated the press in general and
46 me in particular like a nuisance, getting in the way of his/her case-solving glory. Suffice it
47 to say, I was the one who cracked this case wide open, not Finley Gardner. I'm sure that's
48 part of the reason Finley's been so keen to implicate me in this.

49 Anyway, barely awake, filling myself as quickly as I could with coffee as leaded as I
50 could find, I show up at the Wilmington Library to find out that two people dressed as
51 police officers had shown up in the middle of the night and pulled off what was certainly the
52 biggest art heist in Delaware's history, especially given Andrew Wyeth's prominence as a
53 local artist. And my small town paper was the one that got the scoop. Within a day, my
54 account of the Wyeth Art Heist was picked up by every major paper in the country. It was a
55 great story. It was also my ticket out of "Lameville."

56 I'm sure most people know the story by now, but the robbers convinced the security
57 guard, Lou Hammersmith, that they had heard reports of a disturbance in the area and
58 were sent to check it out. Look. Lou is not the sharpest tool in the shed. If I'm being honest,

59 the robbers could have said they were aliens come to take Lou back to his/her home planet
60 and Lou probably would have said, “OK. Come on in.” But there we were; several hours
61 later. Lou Hammersmith had spent the night duct taped to a chair while the robbers took
62 their sweet time removing the precise paintings they came to steal. From the beginning, it
63 was clear that this wasn’t just some smash-and-grab job. Our two thieves knew exactly
64 what they wanted.

65 Of course, it took about a week before I could get Hammersmith to talk to me. Lou
66 insisted at the time that s/he had nothing to do with the robbery and I believed him/her.
67 S/he was clearly shaken up by the incident and continued to express regret that s/he was
68 fooled into letting two people commit such a heinous act. At the time, I just didn’t think Lou
69 was the kind of person who had it in him/her to do something this nefarious. And if Lou was
70 in any way involved, it would have been more as a lackey. I can assure you, mastermind
71 has never been a term applied to Lou Hammersmith. Besides, the police never publicly
72 referred to Hammersmith as a suspect.

73 I spent close to three years chasing down leads on the Wyeth Art Heist and nothing ever
74 came of it. No one was identified as a suspect. I was really not able to uncover any trail of
75 evidence. Certainly, whoever had stolen the paintings was not trying to sell them on the
76 black market. Everything I chased turned out to be a dead end. The only good thing was
77 that it catapulted my career. I was able to leverage my good reporting into a job with the
78 News Journal. I know. I know. It’s not like USA TODAY came knocking. But at least I got
79 to move to a place with more than one Starbucks, to a job with better pay, and to a market
80 with more opportunities.

81 So, I moved to Greenville and mostly put the Wyeth Art Heist behind me, settling into
82 my life as a reporter for the News Journal. Every once in a while, I would do a little
83 digging, but for the most part, I really began to believe that the Wyeth paintings were lost
84 to us forever. And then, on August 13, 2006, I got this mysterious phone call. As a reporter
85 it’s incumbent upon me not to reveal my sources, but I will say that the person I spoke with
86 was a knowledgeable rogue antique dealer who claimed to have some information about the
87 heist and offered to show me one of the Wyeth works, *Christina’s World*—arguably one of
88 Wyeth’s most famous painting. And down the rabbit hole I went again, just like Alice to the
89 tea party.

90 Nothing really came of the lead—you can read all about it in the story I wrote—but I am
91 still pretty certain that what I saw that day in August 2006 was one of the missing Wyeth
92 paintings. What did come of that incident is that it put me on the wrong side of Finley
93 Gardner. My attempts to verify the lead without contacting him/her made Gardner furious.
94 At the time, s/he referred to me as someone who was, at best, only in it to get the reward
95 money and, at worst, an accomplice who was interfering with the investigation. To this day,
96 Finley still dismisses my 2006 sighting of *Christina's World* as a fraud, but I'm not quite as
97 certain as the self-assured Agent Gardner. The situation definitely hurt my reputation as a
98 crack reporter for a while, but we live in a world where you're only the focus of attention
99 until the next big story comes along. And let's face it, none of us has that long of an
100 attention span, which for once worked to my benefit. I do suppose that this misstep could
101 have been why I was willing to go along with Elliot Stewart on yet another lead when s/he
102 contacted me.

103 As I mentioned earlier, I was a little surprised when Elliot got in touch with me. The
104 voicemail s/he left seemed so cloak and dagger. Elliot said, "I have some items you'll be
105 interested in. I can't tell you anything else over the phone. Call me." I was curious so I
106 returned the call. In that first conversation Elliot seemed to have calmed down and was
107 pretty casual. Elliot told me that that s/he had followed my stories on the Wyeth Art Heist
108 and said s/he'd uncovered something interesting. Elliot wouldn't say what on the phone, but
109 said we should meet next time I was in town. Elliot didn't offer a lot of details at the time
110 and frankly I didn't press, mostly because Elliot's tone made it seem like it was no big deal
111 but partly because I did not want to get my hopes up again that I'd uncover something
112 about the Wyeth Heist that would lead to a great story only to find out I'd been suckered
113 once again. Fool me once. Blah, blah, blah. You know the drill.

114 But it turns out Elliot did have something big. Something huge! Could it be I would
115 finally get my Pulitzer? That was really all that was going through my mind when I met
116 with Elliot on December 28, 2016 and s/he took me to a storage facility in Monchanin. Elliot
117 said s/he had discovered the storage unit address and a key in a drawer in his/her father's
118 desk after his/her father died in October. Elliot said I was welcome to do whatever I wanted
119 with what I found in the unit, but there was one condition: I could not under any
120 circumstances tie it back to the Stewart family. Of course, I said I would not reveal my
121 source. Elliot said, "my dad and I are much more than a 'source.' I need to deal with this,

122 but I have to keep my family's name out of it." I agreed, and Elliot opened the door. There
123 they were; what looked like four of the six missing Wyeth paintings in your basic self-serve
124 storage unit. It couldn't possibly be that they had been there all along, could it?

125 And that's probably where things started to go south. In spite of my dislike for Finley
126 Gardner, I told Elliot that we should contact him/her to get involved with this case but I let
127 Elliot talk me out of it. S/he said, "I know you want a story. How about a little cash, too?" I
128 asked Elliot if s/he wanted me to return the paintings to the library for the reward money.
129 S/he said, "that would be one way to get it." I thought that was a strange comment, but I
130 was so excited by the paintings that I let it pass. Elliot insisted that it would be better to
131 get the paintings authenticated before we did anything else and claimed s/he really wanted
132 to keep the Stewart family name out of the press with regard to the theft. And since I had
133 been burned before, I decided it couldn't hurt to go the extra step. Of course, it also wouldn't
134 hurt that I would get the scoop when this story broke, but that was just a side benefit.

135 So, I contacted Grayson Kennedy who I had gotten to know during my research for this
136 case. I was sure Grayson would be discrete. Boy was I wrong on so many fronts. On the way
137 to Grayson's gallery, I couldn't stop thinking about what a coup this was, and about my
138 Pulitzer Prize. I was even thinking about my acceptance speech. But the more I thought
139 about it, the less sure I was. The story up to this point wasn't very exciting – "Paintings
140 Found in Shed: Returned to Library" was not a great headline. So I thought up my own
141 idea. What if I could juice it up a little bit? What if I could set the stage for a story that
142 went behind the scenes, and exposed the dark underworld of art theft? I decided to see if
143 there was a way to sell the paintings on the black market, and then recover them. Now that
144 would be a story! I was sure Grayson knew some shady characters. If Grayson could set me
145 up with a buyer, then I could call in Finley and have him/her make an arrest.

146 I contacted Grayson at his/her gallery. I wanted to feel Grayson out first, to see whether
147 I could trust him/her. I had talked to Grayson several times about the case, so I knew it
148 would be okay if I brought it up. I put it as a hypothetical. I said, "Just suppose that some of
149 the Wyeth pieces turned up. How would someone go about selling them?" Well, Grayson at
150 first played dumb and acted like s/he had no idea how it would work. I pushed a little more,
151 though. "You must know people who buy stolen art," I said. "Well," said Grayson, "it would
152 be important to know how much they're worth." I asked, "Isn't finding a buyer the best way
153 to know what they're worth?" Grayson got quiet, and I could see s/he was thinking. Grayson

154 said that the only way anyone would be interested was if Grayson could authenticate the
155 pieces first. Now I knew I had him/her! I told Grayson to meet me at the storage unit on
156 January 5th at 6:00 a.m. and I would show him/her the pieces. I thought Grayson would be
157 discreet. Little did I know how wrong I was!

158 I told Elliot about my conversation with Grayson. Well, most of it. I didn't think Elliot
159 would be too happy with my idea to make the story better. But I did tell Elliot that Grayson
160 was going to authenticate the pieces and tell us what they were worth. Elliot agreed to take
161 me to the storage unit on the 5th, but insisted that s/he would stay in the car, up the road
162 and out of sight. S/he didn't want to take any chance that s/he would be attached to the
163 Wyeth pieces.

164 I met Grayson at the storage unit like we planned. I should have known something
165 wasn't right. Grayson was acting stranger than usual. S/he kept fiddling with his/her shirt
166 and talking kind of loudly. Once we got in the storage unit I went to the shelf where the
167 Wyeths were. I couldn't believe it. There were only two pieces! I looked around but couldn't
168 find the other two. I should have known for sure at that point that something was very
169 wrong. Elliot must have taken the other pieces out of the unit. S/he must have double-
170 crossed me! I think I started babbling at that point to distract Grayson and try to get
171 him/her out of there quickly. But s/he just kept looking at the pieces. Finally, s/he looked up
172 at me and said, "Yes, these look like the real deal."

173 At that point all hell broke loose. Cops came in from all directions with guns pointed
174 right at me. Next thing I knew, I was being arrested and charged with possession of stolen
175 property! I looked around for Elliot, hoping s/he'd come to the rescue, but the car was gone
176 and s/he was nowhere to be seen. I decided I'd had enough, and I told Finley everything.
177 S/he was much more interested in Elliot than in me.

178 Look. In the end, if I'm guilty of anything, it's being overly ambitious. When Elliot
179 contacted me, all I could think about was finally getting that story I had been working to
180 get for my entire career. I got Pulitzer stars in my eyes and it caused me to throw caution to
181 the wind and not be thoughtful or careful enough about who and what I was getting
182 involved with. That's why I took the plea agreement, not because I was a conspirator in any
183 of this. I'm a conspirator in my own stupidity and in not letting my common sense dictate
184 how I should have proceeded in this situation. As long as I testify truthfully at Elliot's trial,

185 I'll only have to plead to a misdemeanor charge of petit theft. I'll get no jail, and a little
186 probation. That's better than 10 years in the slammer. Totally worth it!

187 At this point, I just want to put it behind me and move on with my life. I've lost my job
188 but it's looking like I will get a great book deal out of all of this; certainly at least in the
189 upper six figures, which is, ironically more than I would have gotten in reward money.

190 So, that's why I'm testifying for the prosecution, even if it means giving Finley Gardner
191 the win after s/he arrested me, falsely accused me of a crime, and made me take a plea deal.
192 I am being held to a higher degree of responsibility than I deserve in this situation and I
193 want Elliot to be held responsible for his/her part in all of this too. At this point, it's still
194 hard to believe that someone I have known most of my life is involved in such an awful
195 crime. Elliot wasn't just involved in the theft of some pictures.

196 Elliot Stewart and the Stewart family have perpetuated a crime on the people of
197 Delaware and a precious piece of our local history. I'm just grateful that at least some of
198 Andrew Wyeth's art is unharmed and back where it belongs. History will show that I
199 helped recover these treasures. And you know what they say? To the victor goes the spoils.

200 **WITNESS ADDENDUM**

201 I have reviewed this statement and I have nothing of significance to add at this time.
202 The material facts are true and correct.

Signed:


Brooke Benjamin

Finley Gardner, Special Agent, Delaware State Police

1 My name is Finley Gardner. Since 1994 I've been a special agent with the Delaware
2 State Police (DSP). I was born in 1962 in Wilmington, Delaware. My parents were art
3 dealers and operated a world-renowned art brokerage. Their extensive connections gave
4 them access to some of the world's great treasures. I was working for them as soon as I was
5 old enough to tote and carry. I couldn't help but develop a deep interest in and knowledge of
6 art.

7 I graduated from Wilmington High School in 1980. I loved Wilmington, but decided to
8 see some of the world. I got my Bachelor of Arts in Visual and Critical Studies from the
9 School of the Art Institute in Chicago (SAIC) in 1984 and my Master of Arts in Critical and
10 Historical Studies from the Royal College of Art in London in 1986. The art brokerage made
11 my parents wealthy, so money was not an object. Plus, I was talented enough to earn
12 substantial scholarships. The extra money enabled me to travel from London all over
13 Europe to visit the incredible museums with their astounding collections.

14 The plan was that I would take over the brokerage from my parents after I was done
15 with school, but, since they were in no hurry to retire, I decided to work in the world's great
16 museums before coming home. I spent a year each at The Louvre, The Acropolis Museum in
17 Greece, The State Hermitage in St. Petersburg, and The Prado in Madrid. I spent hours
18 admiring the paintings and drawings of the great artists, and developed a good eye to be
19 able to distinguish between artists based on styles, pigments, and strokes.

20 I returned to Wilmington in 1991 and continued to work with my parents, but my heart
21 was in it less and less. I was still traveling the world on the pretense of looking for great art
22 finds and broker deals, but I was really using that as an excuse to see great paintings and
23 drawings on "the company dime."

24 My law enforcement career came, ironically, as a result of being the target of an FBI
25 investigation. In 1993, I was approached by an FBI agent who wanted to question me about
26 a Rodin sketch that he said was stolen! Apparently, De Profundis Clamavi disappeared
27 from the Musée Rodin in Paris during the time I was working at The Louvre. Of course, I
28 didn't steal anything, and I completely cooperated. Through my extensive contacts I was
29 able to help the FBI track down the Rodin and recover it by participating in a sting
30 operation. In fact, the agent who initially accused me of the theft said that I should consider

31 a career in law enforcement. I did enjoy the intrigue, and it gave me a chance to focus on
32 my passion—great art.

33 My parents were disappointed when I told them. They could not understand why I
34 wanted to be “just a cop” when I could carry on a respected family business. They felt I was
35 sullyng myself. My father went so far as to tell me he couldn’t respect me for what I was
36 doing, and he refused to even acknowledge it for the rest of his life. I’d always wanted to
37 make him proud of me, but unfortunately he died in 1997, and never had the chance to see
38 me make a name for myself. I think that old wound is still a significant part of what drives
39 me. It’s too bad he’s not around to see me crack the Wyeth theft.

40 While I had to take a substantial pay cut, as law enforcement does not pay anywhere
41 near as well as the antique business, I decided I enjoyed the intrigue enough to give it a try.
42 I liked the rural Delaware life, so I went to work for the Delaware State Police (“DSP”).
43 While I am a DSP employee and mainly work in Delaware, they freely loan me to other
44 agencies across the country and world that can use my expertise. Let’s face it; there isn’t
45 that much great art to steal in Delaware. The opportunity to travel the country and the
46 world keeps me sane.

47 I’m very familiar with the Wyeth theft that took place on March 3, 1999. I was the lead
48 investigator at the time. The Wyeth exhibit was significant because it was the first public
49 exhibition of his work. Collectors and aficionados from around the world attended, and
50 security was extra tight. At least, it was supposed to be. Lou Hammersmith was the
51 security guard on duty on the night of the theft, and was the only person in the building.
52 That by itself made Hammersmith the prime suspect. The library had a sophisticated
53 security and alarm system, at least for 1999. The security staff were the only people who
54 knew how to deactivate it. The vast majority of library thefts are inside jobs for books and
55 small collectables, with a security guard acting as either the thief or the accomplice that
56 lets the thieves in the building.

57 When I interviewed Hammersmith, s/he told me that around 1:30 a.m., two police
58 officers approached the entrance and knocked on the large wooden door. Hammersmith said
59 s/he did not think twice about letting uniformed police in. They entered the library and told
60 Hammersmith they had a warrant for his/her arrest. They did not tell Hammersmith what
61 the arrest was for, but Hammersmith was involved with enough shady people that it could

62 have been any number of things. Hammersmith said the officers sat him/her in a chair and
63 handcuffed him/her, and that they put duct tape over his/her mouth and a blindfold on
64 him/her. Hammersmith was discovered by library staff the next morning, and by then the
65 “officers” and the Wyeth works were gone. Hammersmith could not give any kind of helpful
66 description of the “officers.” Hammersmith’s key card record showed the pattern of
67 movement the thieves used during the heist. Hammersmith’s card and security code were
68 used to “check in” with the alarm system, so even though the alarm was remotely connected
69 to the police station, the system did not alert the police that there was anything wrong.

70 I was suspicious of Hammersmith’s story from the start. The only way the thieves could
71 have obtained the code for Hammersmith’s shift was to have another accomplice who gave
72 it to them, or they got it directly from Hammersmith. There were no signs that
73 Hammersmith tried to free him/herself at any time during the night; s/he just sat docilely
74 until s/he was found the next morning. Hammersmith’s connections to the Pocatello club
75 scene gave him/her an opportunity to mingle with underworld types. I could not find any
76 evidence to corroborate Hammersmith’s story. I was convinced s/he was in on the heist.

77 I concluded that whoever committed the theft did not work alone. The theft was
78 expertly done. The thief knew just what to take and what not to take, and knew how to
79 thwart the library alarm system. Neither the thieves nor Hammersmith could have just
80 turned it off—it was automatic, and could not be controlled by a minimum wage night
81 watchman. Whoever stole the art knew the inner workings of the system.

82 I immediately thought of Myles Amore. Amore is the Frank Abagnale of the art world.
83 Amore had just been released from prison and put on parole in January 1999 after serving
84 five years for breaking and entering. I worked that case; it was not hard, as Amore got
85 careless and was caught in the act. What proved impossible was convicting Amore of all the
86 other thefts s/he was suspected of. They had two things in common—a full moon and the
87 thief got around very sophisticated state-of-the-art alarm systems. Amore liked to work
88 during a full moon, as it minimized the need for artificial light, which might attract
89 attention—when the moon’s in the sky like a big Ciao’s pizza pie, that’s Amore. I checked
90 the records, and sure enough on March 3, 1998, at 1:30 a.m. a full moon was high in the
91 sky. Amore is a master at alarm systems, and now makes his/her living as a security
92 consultant for libraries. Not that s/he’s suddenly honest. S/he probably consults just as
93 much for the bad guys. Once a thief, always a thief.

94 On March 7, 1999, I interviewed Amore at his/her apartment in Wilmington. Amore
95 talked easily to me. S/he didn't seem to hold any grudge, and s/he was even complimentary
96 of my work, saying that "it's always good to understand how the other side works." Amore
97 denied any involvement with the Wyeth theft. S/he denied going near the library, and said
98 s/he'd gone straight and was looking for legitimate work. I surreptitiously scanned Amore's
99 room while I was talking to him/her. My attention was drawn to a book on a table about the
100 artist Andrew Wyeth. It was one of those coffee table books, which included images of
101 Wyeth's work. Amore said s/he was an admirer of Wyeth family, and that it was too bad
102 that the most expensive painting, Christina's World, had been stolen. This stood out to me
103 because the specific works and their value had not been released to the public or the press.
104 On top of the book I saw a business card for the Stewart Foundation. I asked Amore about
105 that. S/he said that s/he and Monte Stewart went way back, and that Monte gave him/her a
106 job after s/he got out of prison.

107 This struck me as suspicious, as I had discovered a Stewart Foundation business card in
108 Hammersmith's wallet on the night of the theft. I'm familiar with the Stewart family, so I
109 called the Foundation and Monte was willing to talk to me about Lou and Amore. According
110 to Monte, Lou did odd jobs for him and his/her son/daughter, Elliot, so it was not surprising
111 that the Foundation's number would be in Lou's wallet. I asked Monte what he knew about
112 Myles Amore. Monte confirmed that he had known Myles for years—every art collector did.
113 Monte also confirmed he helped Amore out by giving him/her a job after s/he was released
114 from prison. Monte said he was sure that Amore was on the straight and narrow.

115 While I had no particular reason to connect Monte to the crime, the circumstances were,
116 shall we say, intriguing. The Stewart family was very well to do, and Monte Stewart had a
117 private collection of rare fine art works. Monte had a particular fondness for sketches of
118 rural Pennsylvania and Delaware scenes, and Andrew Wyeth's works focused heavily on
119 that theme. The Wilmington exhibition was the first time these particular paintings had
120 seen the light of day in over 20 years. During that time, many museum curators and
121 private collectors, including Monte Stewart, tried to obtain access to these works. Even I
122 was strongly attracted to them and tried to get the Wyeth estate to at least give me a
123 private showing. More than once I heard Monte say at art gatherings that he was desperate
124 to see the Wyeths, and would even steal them if he could think of a way. He laughed when
125 he said it, but now I had to wonder if he was really joking.

126 So I had Lou Hammersmith, the library guard, and Myles Amore, an expert art thief,
127 both connected to Monte Stewart, a wealthy art collector and die-hard Wyeth fan. From
128 there the trail went stone cold. Usually stolen art will go underground for a few weeks or
129 months, and then word will spread that it's for sale, or someone will come forward to claim
130 the reward. But not the Wyeth works—they just disappeared. It was the disappointment of
131 my career that I was never able to break the case for all those years. I'm just glad I am able
132 to bring this to justice now. It certainly will help my reputation as an investigator.

133 Anyway, the case warmed up again on December 30, 2016. That's the day I got a phone
134 call from Grayson Kennedy. Grayson is an art appraiser and dealer. S/he's a little eccentric,
135 and s/he's been connected with some shady people, but s/he's good at what s/he does and
136 someone whose opinion I highly value.

137 Grayson told me that s/he was contacted by Brooke Benjamin about authenticating
138 some purported Andrew Wyeth works. Brooke is a newspaper reporter whose ambitions far
139 outweigh his/her abilities. Brooke has been obsessed with the Wyeth case. I can't tell you
140 the number of times since 1999 s/he has contacted me with bogus leads and crackpot
141 theories. I figured this was just one more, but then Grayson told me that Brooke was acting
142 unusually strange and talking about selling the paintings on the black market. It was also
143 odd that Brooke had not contacted me directly, so I decided to pursue it.

144 Grayson told me about his/her conversation with Brooke, and that Brooke wanted to
145 meet Grayson at a storage unit to show him/her the art. I immediately went to work setting
146 up a sting operation. The meeting was to take place on January 5, 2017 at 6:00 a.m. At 4:00
147 a.m., I and several other officers took concealed positions where we could keep the storage
148 unit in sight. Grayson went to the DSP office at 5:00 a.m. so s/he could be set up with a wire
149 that would transmit his/her conversation with Brooke to my officers. Brooke appeared at
150 the storage unit at 5:55 a.m., and Grayson arrived two minutes later. The entire
151 conversation between Brooke and Grayson was recorded and transcribed. Brooke used a
152 key s/he took from his/her pocket to unlock the storage unit and both Brooke and Grayson
153 went inside. I lost sight of them for approximately three minutes while they were inside the
154 unit. The conversation at that point consisted primarily of Brooke pontificating about
155 Andrew Wyeth, while I assume Grayson was examining the art. At the end of three
156 minutes I heard Grayson give the code phrase—"real deal." That was our signal to move in.

157 As we did, a car parked approximately 100 yards up the road started, and its tires
158 squealed as it pulled away from the curb and sped off. I placed Brooke under arrest for
159 possession of stolen property and advised him/her of his/her rights.

160 I searched Brooke and recovered a key that fit the padlock to the storage unit, and
161 Brooke's wallet containing Brooke's driver's license and Grayson Kennedy's business card.
162 Brooke did not have any car keys.

163 I searched the storage shed and recovered two Wyeth works: *Christina's World* and
164 *Lovers*. Also in the shed were several items of sound equipment with "Pocatello Rox"
165 written on them in black marker. Pocatello Rox is a nightclub owned by Lou Hammersmith.
166 The sound equipment was covered with a thick layer of dust. I recovered several pieces of
167 luggage with the name "Elliot Stewart" on them. These were clean, and did not appear to
168 have been in the storage shed very long. Finally, there were several old books and filing
169 cabinets full of business records, all with Monte Stewart's name on them. The filing
170 cabinets had dust on them, but there were marks in the dust that were clearly fingerprints.
171 None of them were distinct enough to collect.

172 Brooke was cooperative with me, and said that s/he had only been hoping for a scoop on
173 the Wyeth theft story. Brooke said the storage unit belonged to Elliot Stewart, and that
174 Elliot had contacted him/her about getting rid of the Wyeth works. Brooke said it was all
175 Elliot's idea to sell the works on the black market, and that s/he was only going to let things
176 go far enough to make the story good enough for a Pulitzer, at which point s/he would call
177 me to recover the paintings for the library. Brooke said Elliot drove them both to the
178 storage unit to meet with Grayson, but that Elliot wanted to stay out of sight. Brooke said
179 it was Elliot who sped off when the police moved in.

180 I believed that Brooke was being honest with me, mostly because Brooke is not savvy
181 enough to be a mastermind of anything. However, being naive is no defense to a criminal
182 act, so we arranged with the prosecutor to cut Brooke a deal in exchange for cooperation
183 with the case against Elliot. As long as Brooke testifies truthfully at the trial, s/he will only
184 have to plead guilty to a misdemeanor with a suspended jail sentence and a short time on
185 probation. Brooke will also have to donate 50% of the profits on any book deals coming from
186 this to the library.

187 While I did not catch Elliot in the act, I did have sufficient evidence to charge Elliot with
188 possession of stolen property. Elliot was arrested at his/her home without incident. Elliot
189 claimed that s/he only wanted to return the paintings without anyone knowing that his/her
190 father had arranged to have them stolen back in 1999. Elliot blamed Brooke for any plan to
191 sell the paintings on the black market. I asked Elliot if s/he was innocent why s/he sped off
192 when Brooke was arrested. Why didn't Elliot stay and explain? At that point Elliot said s/he
193 had nothing left to say.

194 **WITNESS ADDENDUM**

195 I have reviewed this statement and I have nothing of significance to add at this time.
196 The material facts are true and correct.

Signed:



Agent Finley Gardner

Lou Hammersmith, Small Business Owner

1 My name is Lou Hammersmith. I own Pocatello Rox. I used to be a security guard,
2 which is how I got mixed up in all this. Pretty cool, huh? Rising from nothing to become the
3 proprietor of one of Delaware’s top night spots. At one point I coulda been the next big pop
4 star. That was the plan, anyway. But I’m still working it. My nightclub is great. Amazing.
5 Legendary. Huge.

6 I grew up in Milton, Delaware in a farming family. But I wanted more from life. My dad
7 wanted me to get into the family business, but I was in to other things. It was the 1990s. I
8 wanted to be in a pop band. You know, like Taylor Swift or Hanson. That’s what I wanted.
9 But that wasn’t how my family rolls so they kinda disowned me. I dropped out of school, got
10 a GED, and moved to the big city—Wilmington!

11 But when I was hanging out in the Wilmington clubs I got too mixed up with the
12 nightlife. All night parties, dancing, the rhythm of the night. It became too much and my
13 own music career just wasn’t going anywhere. So I took a part time job as a security guard
14 at the Wilmington Library. This was around November of 1998.

15 From working at the library, I learned about the Stewart family. Monte and Elliot are
16 both well-known. They’re rich and all. They were all big in the art world so they were in
17 and out of the library constantly. They were like serious VIPs in Delaware. Elliot used to
18 pay me to do personal stuff for him/her and Monte. Like driving people to and from the
19 library, helping set up at fundraisers, and serving drinks at library parties and stuff.

20 Sometimes I did stupid stuff. Elliot came to me one night in February or early March of
21 1999 and told me s/he had a ‘special project’ for me. “You’ve worked for my dad a few
22 months now, Lou. He trusts you. He knows you want to do more with your life than be a
23 security guard. He wants to give you that chance. What do you think?”

24 Well, of course I was interested. I could never open a club on minimum wage, and my
25 family wasn’t going to invest. I was surprised Monte Stewart was interested, as he’d always
26 been pretty buttoned down. I wouldn’t have guessed he would finance a line dancing club. I
27 asked Elliot what I had to do. His/her answer surprised me.

28 “Just some favors. You know; some extra work to show you have what it takes to take
29 risks, be smart, and be discreet. The first one is easy. In fact, you don’t really have to do
30 anything—just don’t do something. My dad has arranged for some VIPs to have private

31 access to the library on March 3, early in the morning, before the public shows up. I've
32 arranged for you to work the night shift. All you have to do is not lock the back door to the
33 alley.”

34 That sounded really weird to me—VIPs late at night, through an unlocked back door—
35 at the library? But, hey, I'm not proud of it now, but if that's all I had to do to get my club
36 going, who was I to complain? Who was I to question the Stewarts' business? Anyway,
37 Elliot gave me \$200 cash on the spot, and told me there would be more to come. “And
38 whatever happens,” s/he said, “just play along. You're smart. You'll know what to do.”

39 So I played along. I left the door open, and about 1:30 in the morning a couple of “cops”
40 showed up. They were really acting it up, with their guns all out and stuff. It was pretty
41 obvious. Their shirts weren't tucked in and they were wearing funny hats. They looked
42 more like they were dressed as Canadian Mounties for Halloween. People said they saw the
43 fake cop dudes staking out the library for an hour, waiting in a Hyundai Santa Fe. Not the
44 kind of car a real cop would drive. Anyway, they said they had a warrant for my arrest, so
45 they put me against the wall and handcuffed me. Then I let them duct tape me to a chair.
46 They took my security key card, and that's the last I saw of them. They apparently took a
47 bunch of art made by a famous local dude named Andrew Wyeth. But I knew what was
48 going on. I did just what Elliot told me—I played along, and that's the story I told the real
49 cops. Well, of course I didn't let on that I knew the fake cops were fake. I had to say they
50 looked legit so that it would make sense that I let them in. The real cops totally bought it.
51 And, hey, what I said was technically nothing but the truth.

52 For years afterward, everyone thought my story was pretty thin, and that I was
53 involved with the Delaware art theft people. Of course, the cops also thought I was involved
54 'cause I was a club kid and I hung out with underworld types. But the thing of it is, I never
55 did get caught. Questioned a couple of times, but never arrested. The lesson I learned from
56 that is a lie is only a lie if someone can prove it.

57 Elliot Stewart turned out to be a real coward. S/he skipped town shortly after the heist,
58 and I never heard anything at all about him/her until s/he dropped back in when Monte
59 was dying. What an opportunist! After Elliot left, I think Monte pretty much wrote him/her
60 off. Monte came to rely more and more on me. He had me take care of a lot of personal and

61 business matters for him. Monte looked on me as sort of a replacement for Elliot—the
62 dependable child Monte should have had.

63 My status with Monte all changed when Elliot came back. Like I say, total opportunist.
64 Elliot played the whole prodigal child routine, and I can't blame Monte for buying it. I
65 mean, what parent wouldn't? No one wants to die hating their own kid. I was pretty much
66 frozen out after that. I understand how Monte felt, but there was no reason to kick me to
67 the curb. I blame Elliot's influence for that.

68 Anyway, money-wise, Monte proved good to his word. He invested heavily in Pocatello
69 Rox. If it wasn't for him, I'd still be a lowly security guard wanna-be club owner. I wasn't in
70 Monte's will, even after all I'd done, but I'm fine with that. Setting me up with my own club
71 is all the reward I need.

72 It wasn't until just recently that I admitted that I was involved in the art heist. I know
73 that the statute of limitations is way gone and they can't prosecute me, so I don't even care.
74 I knew Elliot and his/her family were involved in the thefts since Elliot paid me to leave the
75 door open that night. For Elliot to be playing dumb now is a joke. I never said anything
76 since Monte was always cool with me and invested in my club, and nobody would believe
77 me anyway. But now Elliot's trying to pin his/her stuff on Brooke Benjamin. You just don't
78 do that. Monte never would have. You do your thing, and you keep a low profile. If you get
79 caught, you keep your mouth shut. Nobody likes a rat, especially a lying rat who squeals on
80 people who had nothing to do with it. I hope Elliot gets everything that's coming to him/her.

81 I don't know anything about what may or may not have been in that storage shed. Sure,
82 my name is on the rental agreement, and I had my bookkeeper send the rent every month,
83 but that was all for Monte. He liked to have some stashes that he could keep out of the
84 public eye, and when his name was on something word tended to get around. I put some old
85 sound gear in there years ago, but I haven't been in since. I don't even know if I could find
86 the key. I had no idea priceless stolen paintings were in there, that's for sure. Why should
87 you believe me? Because if I had known they were there we wouldn't be here now; as soon
88 as Monte passed I would have taken them and sold them off myself.

89 Yeah, I know Myles Amore. We're not pals or anything, but s/he comes in the club now
90 and then. See, the Pocatello Rox has lots of little nooks and crannies where you can have a
91 private tete-a-tete. Myles and Monte used to meet there, and I also saw Myles with some of

92 the shadier sort, even after claiming to go straight. I know Myles says s/he's strictly for the
93 good guys now, so who am I to say? It's not my business. The Pocatello Rox is my business,
94 and any other business that goes on in my business is not my business, if you know what I
95 mean.

96 So, I may do stupid stuff sometimes but I'm actually a refined business person. Like I
97 totally leveraged Elliot's and his/her family's involvement in the 1999 Wyeth heist to
98 encourage him/her to invest in Pocatello Rox. Information is power, you know what I mean?
99 I have no idea where Elliot's investment funds came from but I know it wasn't his/her
100 family money. S/he is a strictly silent investor. Those kinds of folks don't want to be publicly
101 associated with a person like me.

102 But Elliot's family is actually not as pristine as most people think. S/he acts like his/her
103 dad is like this paragon of virtue, but I saw with my own eyes that Monte Stewart was good
104 friends with Myles Amore. I also overheard a conversation between Amore and Elliot that
105 confirmed Elliot knew a lot more than s/he's letting on. Elliot was in the Rox with Amore.
106 Elliot told Amore that when Monte died Elliot had sniffed around looking for the stolen
107 Wyeth art. Elliot told Amore that s/he found what s/he was looking for in the old man's
108 storage unit. Elliot asked Amore for help moving the stuff. At that point I had to go deal
109 with another customer, so that's all I heard.

110 As I said, knowledge is power and I had an investor. What more did I need?

111 **WITNESS ADDENDUM**

112 I have reviewed this statement and I have nothing of significance to add at this time.
113 The material facts are true and correct.

114 Signed:


Lou Hammersmith

Defense Witness Statements

Elliot Stewart, Defendant

1 My name is Elliot Stewart. I am proud to say I am a native Delawarean, born and bred
2 in Wilmington. I grew up there; graduated from high school there. Class of 1994. Man, I
3 remember those days; I was such a young, wild thing. You see, growing up I never wanted
4 for anything because we had so much money. My parents, my father in particular, were
5 great role models and tried to steer me down the right path, but I was bull headed and
6 thought I knew everything. Like most high school kids, right? But other kids don't have a
7 trust fund that allows them to act on their whims. I did. I'm not proud of it looking back,
8 but I thought I was entitled to much, much more than Wilmington had to offer.

9 I think my father saw that. He tried everything he could to get me on the straight and
10 narrow. After high school, he forced me to help out with the family foundation. I am sure
11 you don't need me to explain it, everyone from Delaware has heard of the Stewart
12 Foundation. But I guess I will go into detail if you need me to. The Stewart Family
13 Foundation is a charitable organization that advances Delaware's interests by providing
14 funding to worthy causes, such as educating Delaware's youth through scholarship and
15 providing grants to causes that advance local community interests throughout Delaware. I
16 always knew the importance of the Foundation, but back then, like I said, I wanted to be
17 running things.

18 My father made me a glorified personal assistant. I ran errands. I paid contractors. I
19 was the foot soldier. "Pay so and so, Elliot." or "Arrange to pick up so and so at the airport,
20 Elliot," my father would say. But though I was doing a ton of the running around, he
21 wouldn't let me help with the decision making, He didn't even keep me in the loop on who it
22 was I was picking up or what I was paying for. That is actually how I met Lou
23 Hammersmith. S/he was a security guard at the library. Not too bright, but my dad seemed
24 to like him/her. I paid him/her a few times. I have no idea what for. Like I said, I was just a
25 foot soldier. This whole story that I paid Lou to leave the door of the library open on the
26 night of the Wyeth thefts is ridiculous. Like I said, I paid him/her ALL THE TIME for
27 random things, but I never knew what they were for. If s/he is saying I specifically told
28 him/her what to do, you know s/he is lying because s/he didn't do anything for me. S/he
29 answered solely to my father.

30 Looking back on it, my father was just trying to teach me what it is like at the bottom,
31 so I could appreciate the position at the top. My father was always looking out for the little
32 people and wanted to make sure I appreciated what it was like to be a have-not. But I
33 didn't see it that way at the time. You can imagine how much I regret that now. My father
34 was such a great man, and I never gave him/her much credit for it. Nope, I basically
35 tolerated being the Foundation's stooge for about five years. In March 1999, I hit the road. I
36 know Finley Gardner is saying I was running from the law, but that's a lie. I had nothing to
37 do with the Wyeth theft. The only law I was running from was my old man. And yes, I may
38 have been running around with a rough crowd at that time, but that's no reason to think I
39 was on the wrong side of the law. I was never charged with a crime. I had my trust fund
40 that basically allowed me to do whatever I wanted. So I told my father I wouldn't tolerate
41 being his lackey anymore and began travelling the world on my family's dime.

42 I was the prodigal child for practically thirteen years. I only came home for occasional
43 holidays or other brief periods of time. I think my dad might have put a stop to it, but my
44 mother is such a kind-hearted woman and I am her only child. She wanted to let me figure
45 it out on my own.

46 And wow did I, in the harshest way. I was almost out of money, the terms of my trust
47 are a bit strict about how much I can pull out during a certain period of time, and was such
48 a floater that they had a hard time tracking me down when my father was diagnosed with
49 foot-in-mouth disease in 2013. I was heartbroken. I came home straight away. The doctors
50 only gave him a year, and that put everything into perspective really quickly, let me tell
51 you. All that lost time with my father, it still gets me. Anyway, once I got home, I got to
52 work. My father was ill and had a fighter's spirit, he lived two years past what the doctors
53 gave him. So I took over the Foundation operations to give my dad what he couldn't have
54 had without me, the time and space he needed to fight that fight.

55 And boy, did that make me grow up in a whole new way, and probably in the way my
56 father always wanted me to. Taking care of my sick father and completely distraught
57 mother was a full-time job in itself. Not to mention all the operations that go into the
58 Foundation. A lot of things were a mess. Apparently my dad let Lou Hammersmith do a lot
59 of work for him over the years. Like I said, Lou is not too bright. I don't know what
60 convinced my father Lou had any kind of head for business. When I was young, I just
61 thought it was all fun and prestige. Ordering people around and throwing events. It's not; it

62 is a lot of work, organization, and diplomacy. I understood finally the value of money to so
63 many people that didn't have it. I got Lou out of the way, but I invested in his/her nightclub
64 to help ease the transition. I stopped my money-wasting ways and threw myself into
65 making the Foundation an even better vehicle for social change. My father was able to help
66 me with the transition before he passed away. I think he was proud of me at that point. I
67 idolized my father, I am glad I got to make him proud.

68 That is why I was so shocked when I found those two Wyeth paintings in his storage
69 unit. You see, my father died on October 17, 2016, and I am the executor of my father's
70 estate. When I was cataloguing all the property, I found an envelope with a key and the
71 address of a storage facility in Monchanin. I visited the site in early November because I
72 didn't have any specifics on the paperwork I was reviewing for the probate proceedings.
73 Anyway, like I said, I grew up in Wilmington and was actively working for the Foundation
74 in 1999 when the robbery occurred. So I recognized the paintings right away. The
75 Foundation was very involved in the library and helped with funding. And that kind of
76 crime gets a lot of press regardless. And let's not forget the reward money. When those
77 paintings went missing there was a reward for their return, and the pot kept getting bigger
78 the longer the paintings were at large. And unlike the trust fund, there were no strings
79 attached; that is the one thing about trust-fund money, you can't just do whatever you want
80 to with it.

81 Anyway, I had no clue what to do. I was confused and hurt. Why are these paintings in
82 storage that belonged to my father? Was he involved in some way? I didn't want to believe
83 it. But I knew who to talk to, right? I mean Myles Amore had gone to prison for being a
84 high end thief. And, s/he knew my father when they were younger. I figured Myles would
85 have the answers I needed so I called him/her. I know that probably makes me look guilty,
86 but I had to know my father's involvement.

87 Amore told me the whole story—how back in the late 1990s, Amore was struggling
88 financially, how my father coveted those pieces of art; how my father suggested in January
89 of 1999 that Amore steal the Wyeth pieces, everything. I was crushed. I know I should have
90 called the police to turn in the paintings after I found them, but my father was my idol, I
91 didn't want to expose him. And the family name would have been tarnished right along
92 with his. But I always planned on returning the artwork; I just thought I would figure out a
93 way to do it that did not expose my father or the family name. My poor mother, she had

94 already lost the love of her life, could I put her through the knowledge that he had
95 committed such a huge crime?

96 Anyway, I called on an old childhood friend, Brooke Benjamin. Back when I was still a
97 kid, the Benjamins were our neighbors. The Stewarts and the Benjamins did so much
98 together, and almost always had Sunday brunch together. My good friend from that time
99 was Brooke; we did everything together and I trusted him/her. I also hadn't spoken with
100 him/her for years, but a friendship like that with such a solid foundation, it was the kind of
101 friendship that you could pick up after years and it would be just as strong as when you left
102 it, or so I thought. Of course I now completely regret trusting Brooke, but how was I to
103 know s/he was a no-good con-artist? All I can tell you is, the Brooke that I know now is not
104 the Brooke I knew then.

105 So I contacted Brooke, not only because s/he was a childhood friend that I thought I
106 could trust, but because Brooke was an investigative journalist. I figured s/he would have
107 lots of contacts that might make it easier for me to get the artworks where they belonged
108 without dragging the Stewart name through the mud. Don't reporters always have to
109 protect their sources and work in clandestine ways? Anyway, that was my gamble. Plus, I
110 knew that Brooke had a particular interest in the robbery from way back. So I figured we
111 could figure out a way to get the art to the proper owner and Brooke could make his/her
112 name in reporting. It would have been a win/win, if Brooke had not gotten greedy.

113 I found out too late that once Brooke got a look at those two paintings, all s/he was
114 seeing was dollar signs for him/herself. I honestly had no idea that Brooke planned to sell
115 them all along. I should have seen it though. There were signs. For example, I wanted to
116 act on the paintings right away, but Brooke convinced me to wait until we could
117 authenticate the paintings. S/he said Amore was not trustworthy and the paintings could
118 be fakes, why face exposure if we don't have the real deal, right? It made sense, so I agreed.
119 Brooke said s/he knew someone from a previous story, Grayson Kennedy, that could
120 authenticate the paintings. S/he even said that Grayson would be able to tell us how much
121 the paintings were worth. I didn't know why that would be relevant, because we were just
122 trying to figure out if the paintings were real. But I shrugged it off at the time thinking it
123 must just be a part of the process. I was so relieved to have a plan, and blinded by my trust
124 in my childhood friend, that I didn't look deeper.

125 After Brooke met with Grayson, s/he said s/he arranged a meeting at the storage unit. I
126 thought that was crazy! The last thing I wanted was for anyone else to know the storage
127 unit even existed! I told Brooke that was a dumb idea, and that I'd take him/her there but
128 no way would I get out of the car or be anywhere that I could be seen. Brooke told me to
129 calm down and said that would be fine. S/he assured me s/he would not tell Grayson about
130 me. It didn't occur to me that my father's name was plastered all over the filing cabinets in
131 there. We arrived at the unit about ten minutes early, and then Grayson showed up. Brooke
132 met him/her at the gate and I watched them go in toward the unit. I was getting really
133 nervous. I had no idea how long it took to authenticate a painting, but it seemed like it was
134 taking forever.

135 Everything went nuts. The place was swarming with cops. I freaked out and got out of
136 there fast! In hindsight that wasn't a good idea. Later that day Findley Gardner showed up
137 to arrest me. I cooperated—I had no reason not to. But then s/he asked me where the other
138 two paintings were. I told him/her there were no "other two paintings." That's when I
139 realized Brooke had turned on me.

140 I don't know why Brooke would betray me, but that is exactly what this is, betrayal. I
141 never intended on keeping or selling those paintings. I don't know why Brooke is saying
142 there were four pieces. That's just not true. There were only two in the storage unit, and
143 they are back at the library. I didn't keep any for myself. Why would I? I was always going
144 to give them back to their rightful owner as soon as I realized what they were. What motive
145 do I have to sell the paintings? I told you, I have stopped my spendthrift ways. Brooke is
146 just trying to save his/her own skin by throwing me under the bus so s/he can get a plea
147 deal.

148 It's true that after I left home my father wrote me out of his will. I don't blame him.
149 What I did was pretty rotten. But after I came back and we patched things up, he told me
150 he'd put me back in. I didn't ask him to or anything—I still had a little money left in my
151 trust fund. Then he died before he could meet with the lawyers to change it. But that would
152 not turn me into a thief!

153

154 In hindsight, I wish I had taken Amore up on his/her offer to use his/her influence and
155 connections to help me get rid of the paintings, instead of calling Brooke. Then all the
156 paintings would be resting safely in the library, I'd have the reward money, and I for sure
157 wouldn't be in the trouble I am now.

158 **WITNESS ADDENDUM**

159 I have reviewed this statement and I have nothing of significance to add at this time.
160 The material facts are true and correct.

Signed:



Elliot Stewart

Myles Amore, Consultant

1 My name is Myles Amore. I was born in Manhattan in 1955, but when I was about 10 or
2 so, my family moved to Jackson Hole, Wyoming, where my mother ran an art gallery. But I
3 still consider myself a New Yorker at heart. As a child, we would take annual trips back to
4 New York to visit my Nonna and to spend time in the city. My mom never wanted me to
5 lose touch with my roots.

6 Maybe art is just in my blood, but I always loved the museums. I could spend days
7 getting lost in the Met or wandering around the MoMA, the Guggenheim, or the Whitney.
8 New York is the place to be if you have a love for art like I do. In fact, the Whitney is where
9 I first discovered Andrew Wyeth's art; they have a pretty big collection there.

10 My love of art followed me to the University of Denver, where I obtained my
11 undergraduate degree in Art History and my Masters in International Business. The plan
12 had always been to travel and become an art dealer; I've always loved to travel and my
13 degree allowed me to study different regions, languages, and cultures.

14 University of Denver is where I met Monte Stewart. We bonded immediately. Monte
15 came from money and, like me, he loved to travel. During our sophomore year, we spent the
16 summer touring Europe visiting all the famous art museums on the Continent. It was an
17 incredible trip and one I still remember fondly to this day.

18 Following college, Monte and I stayed in touch, though we took different paths. Monte
19 settled down and ran the Stewart Family Foundation. Image was very important to Monte
20 and, at least from the outside, his life always appeared perfect. My life, on the other hand,
21 was a little more complicated. After college, I couldn't find work in my field, so I took what
22 jobs I could and went to work for Simplot, where I was an international business manager.
23 My work took me around the globe and allowed me to meet many new and exciting people.
24 So, while I was not necessarily dealing with art, I was still able to satisfy my wanderlust.

25 I ended up loving my job and put everything I had into my work until June 1988 when I
26 was unexpectedly downsized. To think that I had dedicated my career to those people! The
27 loss of my jet-set lifestyle was devastating. I missed the excitement of it all—the travel, the
28 food, the culture. It took months for me to find a new job and even then, it was nothing like
29 the job I had at Simplot.

30 As the months passed, I began to run low on money. In my travels, I had met few people
31 dealing in fenced art and other high end items, which gave me an idea: I could steal a
32 couple pieces and secure some additional money. I never meant it to be a career; it was just
33 meant to tide me over until I could get back on my feet. It never occurred to me that I'd be
34 good at being a cat burglar or that I'd like it so much.

35 My first burglary was both terrifying and thrilling. I planned each detail to perfection.
36 The best part was the feeling of having the painting in my hands—it was so incredibly
37 beautiful and I felt richer just holding it. I left the more obvious items, the TVs, the
38 furniture, and jewelry as those items were less marketable on the European market where
39 I had my contacts. I continued to burgle homes for several years, both for the money and for
40 the thrill of holding those glorious paintings. And then one evening in August 1992, that all
41 came to a halt. I was unexpectedly surprised by a homeowner returning home early. I spent
42 the next five years of my life in what was formerly known as Gander Hill Prison.

43 After prison, it was difficult for me to secure a new job. I had become a pariah to the
44 people in my old life. But Monte was still quietly there for me, which says a lot about
45 Monte. His public reputation really meant everything to him, and even though he would do
46 everything to keep his image tarnish free, he still found a way to help an old friend. After a
47 few months of trying to keep my head above water, I reached out to Monte to see if he could
48 help. Monte was a true friend—in January 1998, he found a job for me at a warehouse he
49 owned through the Stewart Foundation.

50 I worked for a year at the warehouse packing and delivering crates until one day, in
51 January 1999, Monte approached me and asked if I was interested in a side-project to make
52 a little extra money. We met for lunch at a local hole-in-the wall, Libby's. It was a
53 Thursday, I remember because we both had chicken and orzo—which is Libby's Thursday
54 special. Anyway, Monte, to my dismay, explained that the Foundation was desperately low
55 on funding. His father had started the Foundation and he was so afraid of what would
56 happen if people knew that he had run the Foundation into the ground. He was scared and
57 desperate. With tears in his eyes, he told me about the Andrew Wyeth Art Exhibit, set to be
58 released for public viewing in the coming weeks. He played to my love of art and the thrill
59 of the steal to convince me to help him. So I did. Monte was an old friend and he had helped
60 me in my time of need so I was more than glad to return the favor. Besides, I missed that
61 feeling of a rare painting between my fingertips.

62 I don't have any problem with telling you all about the Wyeth Heist. The statute of
63 limitations was up long ago, and I've paid all my debts to society. I can tell you,
64 unequivocally, that Elliot Stewart had nothing to do with the Wyeth Heist. Elliot Stewart
65 knew nothing about it. At the time s/he was a snot-nosed kid buried in his/her teen angst,
66 worrying about prom dates. Monte would do everything in his power to protect Elliot from
67 the seamier side of his life. That continued to until the day Monte died. And as a close
68 friend of his, I have also been very protective of Elliot.

69 I can also corroborate that Lou Hammersmith was involved in the original heist. I had
70 an errand guy—not Elliot—pay Lou \$200 to leave a door unlocked, go along with whatever
71 happened, and then act like s/he'd been robbed. I was a little surprised that part went as
72 well as it did. Lou is a nice enough person, but not the brightest bulb on the Christmas tree,
73 if you know what I mean. I mean: what kind of idiot settles for a \$200 in a theft worth
74 hundreds of thousands? AND never thinks to ask to get in on more of the action? I don't
75 know why Elliot decided to invest in Lou's club. That seemed like a sure way to lose money.

76 On March 3, 1999, I and an accomplice (who is long gone now) disguised ourselves as
77 cops and went to the library at about 1:30 a.m. I was a little surprised Lou didn't recognize
78 me. The disguises weren't that good. It just goes to show how dumb Lou is. We duct taped
79 Lou to a chair, I took his/her key card, and we took six of the Wyeth pieces. Getting around
80 the alarm was a piece of cake. Monte and I were able to sell two of the Wyeth pieces:
81 Spindrift and Cider Barrel, I think, to a private interest in Spain and split the profits. That
82 was all both of us needed to get back on our feet and from that day on we both vowed to go
83 straight. I really never knew what Monte planned to do with the other four pieces and I
84 didn't ask. Not my circus. Not my monkeys. I have no idea what happened to the two that
85 are missing. Maybe Monte sold them through someone else. Maybe Brooke wanted a piece
86 of the action. Who knows?

87 Once I started stealing again, I couldn't stop. It finally caught up with me, though. In
88 2002, I went back to prison where I spent the next five years. After I got out, I went
89 straight for good. I have lots of expertise in library security, both from personal experience
90 and because I kept up my technical knowledge to make the prison time go faster. So now I
91 act as a consultant for libraries and law enforcement, telling them how to keep guys like me
92 away from their books and other collectibles. I don't really know why I never anonymously
93 tipped anyone off to the heist. Probably partially out of loyalty to the Stewart family. But

94 mostly because I treat that period of my life like someone else's history. I know the tale like
95 a well-worn book that I've read over and over, but it just doesn't belong to me anymore. I
96 think that's how I could move on with my life.

97 But back to the original heist. To avoid any suspicion after the heist, Monte and I went
98 our separate ways. We remained close, but never in public. To this day, I can't believe that
99 Finley Gardner never put two and two together and connected the Wyeth Heist to us. I'd
100 say that makes the intrepid Agent Gardner not very good at his/her job. S/he couldn't break
101 Lou Hammersmith? Really? S/he couldn't create a connection from the Wyeth art to Monte
102 Stewart, who was instrumental in bringing the exhibit to a small Delaware city, to one of
103 Monte Stewart's college friends who was a known art thief? Almost 20 years to figure that
104 out and s/he never made the connection. I was only questioned once and never charged with
105 anything. And once again, Gardner is getting the connection wrong. S/he has let Brooke
106 Benjamin snow him/her into thinking that Elliot is behind this. Come on, man. Wasn't it
107 Agent Gardner who once called Brooke Benjamin an accomplice in the original crime? How
108 can s/he keep getting this so wrong?

109 After I left prison, I was trying to move on with my life and then in 2013, I found myself
110 pulled back into my past. Monte Stewart contacted me and told me he was sick; foot-in-
111 mouth disease with only a few months left to live. The years we had spent together quickly
112 flooded my memory. He stepped away from his principal role at the Foundation and Elliot
113 took his place. I met with him and he told me that he was planning on putting the full story
114 of the Wyeth Heist in his will with instructions on how Elliot could turn the paintings in.
115 He promised to keep my name out of it. But I guess he died before he could change his will.

116 After Monte passed, I received a heart-breaking call from Elliot. S/he seemed
117 devastated and confused. S/he was cleaning out Monte's storage unit and found the
118 paintings. Elliot had so many questions! I didn't want to be the one to tell Elliot about the
119 heist, but s/he would not relent and was on the verge of hysteria.

120 I couldn't lie to Elliot and I knew Monte wanted Elliot to know the truth, so I told
121 him/her about the Foundation troubles and about the heist. S/he could hardly believe what
122 I was saying and asked me what to do with the art without ruining the reputation of Monte
123 or the Stewart family or the Foundation. S/he wanted to know how much the art was worth

124 and how to get rid of it without getting anyone in trouble. I told Elliot that I still had
125 contacts in the European market if s/he really wanted to dispose of the art.

126 I told Elliot to hang tight and that I would get back with him/her after I figured out how
127 to work this all out. I had lots of contacts and channels I could move the paintings through.
128 To get them back to the library, that is. Of course I was tempted. Knowing the paintings
129 were within reach brought up the same old thrill, and I could certainly have unloaded
130 them. But my loyalty to Monte was too strong. Selling them would have put Elliot in a bad
131 spot. I couldn't ask him/her to be an accomplice to a crime. Besides, I didn't need the money.
132 My current legitimate career is very lucrative. Museums and libraries will pay a lot to
133 protect valuable art. Anyway, the next thing I knew, Elliot was working with Brooke. I
134 knew that would go nowhere good and fast.


135 Let's recap, shall we? You have Brooke Benjamin, who has been involved with trying to
136 figure out this heist at any cost, no matter who gets caught in the middle. You have Lou
137 Hammersmith who admits to being involved from the beginning. And you have Grayson
138 Kennedy who has known about these missing paintings for at least 10 years and just now
139 suddenly decides s/he has to do something about getting them recovered? And you have
140 Agent Gardner who hasn't been able to solve this case for over 20 years.

141 What's that add up to? You are charging the wrong person. Elliot has never had any
142 suspicion in being involved with the stolen Wyeth paintings and not need to be involved in
143 perpetuating this situation any longer. S/he was trying to do the right thing and get them
144 returned to their rightful owner while at the same time trying to protect the Foundation
145 and his/her family's honor.

146 **WITNESS ADDENDUM**

147 I have reviewed this statement and I have nothing of significance to add at this time.
148 The material facts are true and correct.

Signed:


Myles Amore

Grayson Kennedy, Art Dealer

1 My name is Grayson Kennedy. By profession, I am an historian of the arts. By trade, I
2 am an appraiser of the arts. An historian chronicles the journey of the arts and artists. An
3 appraiser assists the benefactors of the arts in their patronage of artists. An artist, of
4 course, is the conduit through which life and all of its emotions are expressed. As Tolstoy
5 wrote, art “is a means of union among men, joining them together in the same feelings, and
6 indispensable for the life and progress toward well-being of individuals and of humanity.”

7 I was born and raised in southern Delaware, but my education has taken me to Paris,
8 Prague, Vienna, Florence, Milan—the palaces of Western Civilization’s expressions of art.
9 My formal education began with the Highland Secondary School, followed by an
10 undergraduate education in art history from the École du Louvre. I then took a master’s
11 degree in fine arts from the Rhode Island School of Design, followed by a Ph.D. from
12 Columbia.

13 While completing my Ph.D., I began a fellowship with the Winterthur Foundation.
14 Upon completion of my fellowship, I was retained as an associate specialist, researching
15 and writing about Foundation art that was loaned out to libraries. I provided historical
16 context and interpretation of the art for the libraries to use in their exhibits. I cultivated
17 valuable and rewarding relationships with museums and libraries all over the world.

18 In 2001, I was hired as an assistant director at the National Museum of Wildlife Art in
19 Jackson Hole, Wyoming. As an assistant director, I managed exhibit curation and played a
20 special role in fundraising and relations. Although my skills clearly rest in historical
21 context and explication, my relationships with other libraries, museums and foundations
22 allowed me to perform the academic role and to leverage contacts to secure art loans that a
23 small museum like the MWA would not normally attract.

24 By 2005, word of my success spread and I was recruited by the renowned Ivan Draahgo
25 banking family to become director of the Musée de Klüber-Láng in Geneva. It appeared to
26 be a dream come true. Geneva, the heart of the old world. The finest collection of art in the
27 world—from antiquities to post-modern and contemporary. Top of the world.

28 And then came the World Jewish Restitution Organization’s report on the Swiss
29 banking industry’s complicity with the Nazis. The WJRO uncovered documents in former
30 East German archives proving conclusively that in 1944, Nazi SS Chief and German

31 Interior Minister Heinrich Himmler sent a train loaded with hundreds of millions of
32 dollars' worth of gold, jewelry and art objects to Switzerland for deposit in the vaults of
33 Swiss banks. Within a month those documents had been traced to the Draahgo family and
34 the galleries of the Musée de Klüber-Láng itself.

35 I was horrified and immediately resigned my position and returned to southern
36 Delaware. It's difficult enough staying "clean" in the art world when you reach positions of
37 eminence such as I've held. You can't investigate Nazism's dark past without running into
38 some very shady characters who would either like to keep their own family history hidden,
39 or want to keep stolen works in their own private collections. When I discovered I was
40 actually working for such people, it was the last straw. I refused to be associated with such
41 a wretched hive of scum and villainy.

42 When I returned home to Delaware, I happily took a volunteer position with the
43 Wilmington Library. The Wilmington Library had a wonderful small collection in its
44 gallery, including several Wyeth paintings. I've also got my own gallery here in town. It's
45 small and general, not specialized, but occasionally, I get something really unique and
46 interesting. Both positions are very rewarding. I've been fortunate to have such a beautiful
47 journey in the art world. I've been to the peak and I've been to the valley. I am at the peak
48 here in Wilmington.

49 Of course, I know all about the famous March 3, 1999 robbery of the Wyeth works from
50 the library. I'd been contacted repeatedly by law enforcement over the years—Finley
51 Gardner in particular—to discuss tips, monitor my contacts, and to consult on identification
52 of suspicious pieces.

53 On December 29, 2016, a journalist named Brooke Benjamin emailed me about
54 reviewing some works s/he was tipped off about that were suspected to be Andrew Wyeth's.
55 I'd known Brooke over the years as s/he researched into the Wyeth thefts. S/he had some
56 kind of obsession with the Wyeth thefts and had been tracking the case for years. Frankly,
57 it seemed like an unhealthy relationship between s/he and Andrew Wyeth's work. In the
58 summer of 2006, I spoke with Brooke and passed a tip I'd received about a possible location
59 of the missing pieces on to her/him. Brooke said s/he'd gotten a tip about the heist from
60 some antique dealer. I don't know what became of it. I tried to find out, but Brooke was
61 oddly reluctant to fill me in. I'm not sure if Brooke was trying to make a big splash in the

62 news world or if Brooke just wanted the Wyeth works for him/herself. At any rate, I was
63 immediately intrigued by the new tip and made plans to meet with Brooke at my gallery on
64 Market Street the next day. That was December 30, 2016.

65 The next day, when I met with Brooke at my gallery, Brooke said s/he had “discovered”
66 (his/her word) some of the stolen Wyeth works, and that “if they are real this could be the
67 story of a lifetime.” Brooke was obviously very excited, but I was skeptical this was just
68 another symptom of an unhealthy obsession. I asked Brooke where the paintings were, and
69 how s/he came across them, but Brooke was very evasive. S/he would not give me any
70 details. Brooke said, “I need to know whether these are real. I need to know what they’re
71 worth.” I asked Brooke why the value mattered, as I assumed they were going straight back
72 to the library. “I have my reasons,” Brooke said. “You must know people who buy stolen
73 art.” Well, I was shocked at such a question, and never would have thought Brooke’s
74 obsession would go so far as to actually try to sell stolen art works. I told Brooke that the
75 Wyeth pieces should be returned to the library. I told Brooke there is a substantial reward,
76 if money was a concern. Brooke asked, “how much is the reward up to?” I told him/her, and
77 s/he replied, “can’t we get more money some other way?”

78 I had no idea who s/he meant by “we.” I certainly hoped s/he didn’t think I would have
79 anything to do with his/her scheme. Although, since we were having this conversation, s/he
80 apparently did. At the same time, I realized that if Brooke really had found the stolen
81 Wyeth art, then this would be a golden opportunity to recover art that had been missing for
82 almost 19 years. As much as it pained me, I decided to play along. I told Brooke that I
83 would need to see the works to verify their authenticity, and that I could ascertain their
84 value myself. Brooke was very hesitant to agree to this. “I’d really like to keep this as quiet
85 as possible,” s/he said. “Isn’t finding a buyer the best way to know what they’re worth?” I
86 led Brooke on, and said that my contacts would not be interested unless I could personally
87 verify that I had seen the works and that they were authentic. You don’t just call up
88 underworld art collectors and say you know someone who says s/he has original stolen
89 Wyeths. It took some convincing, but Brooke finally agreed to let me see them. Brooke told
90 me to meet him/her at 6:00 a.m. on January 5th at a storage shed in Monchanin. I was
91 surprised that Brooke gave me so much detail about the location - after all, why should s/he
92 trust me? But I wasn’t about to object.

93 Given Brooke's seemingly unhealthy obsession with the Wyeth works, I did not trust
94 her/him and as soon as s/he departed, I contacted Delaware State Police Special Agent
95 Finley Gardner. Gardner had been investigating the Wyeth thefts for years. I've been a
96 background source for Special Agent Gardner for years. S/he's become quite an effective law
97 enforcement agent but really came from an art background. Finley has an impeccable art
98 education so s/he doesn't need my art knowledge as much as you'd think – although we do
99 often share our own thoughts on art, artists, and the world of art. Finley has talked with
100 me quite a bit over the years about people in the art world – library people, as we say, and
101 academics, as patrons. The information I've shared with him/her has led to successful
102 beginnings in a number of his/her investigations.

103 Special Agent Gardner suggested setting up a sting operation where I would meet with
104 Brooke to discuss assisting him/her to find a buyer for the Wyeth works. The idea repulsed
105 me initially. The thought that I would act as a fence to assist in such cruelty violated my
106 duty as a guardian of art. Soon, though, Special Agent Gardner convinced me that it was
107 indeed that same duty that compelled me to play a role in the operation – to join him/her in
108 his/her journey to liberate the pieces. Gardner said it was the only way to get the evidence
109 necessary to charge Brooke with a crime.

110 On the morning I was to meet Brooke at the storage shed, I first met with Gardner and
111 other officers at the DSP office. I wore a wire so Special Agent Gardner and his/her
112 confederates would know when to step in and arrest the evildoers. S/he gave me a code
113 phrase—"real deal" —that I should say once I was satisfied that the works were in fact the
114 stolen Wyeths. I then went to the address Brooke gave me, arriving about five minutes
115 before 6:00 a.m.

116 Brooke arrived and led me to the storage unit - number 245, I believe it was. Before s/he
117 opened it, s/he said to me, "Look Grayson, I have to know I can trust you to keep quiet. My
118 career, my life, are on the line here. You have to keep this between us." I assured Brooke I
119 would be discreet. At that point Brooke pulled a key out of his/her pocket, unlocked a
120 padlock, and opened the unit. It was full of a lot of stereo equipment, travel gear, and what
121 looked to me like old junk, and my first thought was that this was all for naught. Then
122 Brooke pulled a sheet off some items on a shelf and stepped back. I was appalled that, real
123 or not, anyone would be so careless with art. Brooke, or whoever put them there, did not
124 appear to realize what they could be.

125 I inspected the pieces and immediately knew they were obviously the stolen Wyeth
126 works. There was no mistaking the Wyeth sensitivity expressed through found items—
127 bound together, literally, with spit and paper. They instantly revealed their authenticity.
128 Meanwhile, Brooke wouldn't stop talking about Wyeth. S/he knew everything there was to
129 know about Wyeth's work—materials, style, influences, technique. Brooke kept rambling
130 about Wyeth's childhood in Chadds Ford, then onto Glenn Mills, and then Wilmington. S/he
131 talked about Wyeth's family members as if they were friends—like she had drinks with
132 N.C. Wyeth on a daily basis! S/he talked about Wyeth's mother, Carolyn Bockius Wyeth,
133 and what it must have been like to raise an artistic child with four siblings and a husband
134 who was also a famous painter in his own right. I'm an internationally recognized art
135 expert and I thought Brooke was pedantic. At first I thought s/he was testing me but then I
136 realized it was nearly pathological.

137 I had all I needed, so I told Brooke these were the “real deal.” And then it came to an
138 end. The authorities liberated Wyeth's long concealed works and arrested Brooke. In a
139 rush, my senses rejoined my physical person and I was emotionally spent.

140 I don't know why Elliot Stewart is now being charged with this crime. My only contact
141 about the Wyeths was Brooke Benjamin. I never had any communication with Elliot, and
142 had no idea s/he was involved. However, I have known Finley Gardner well enough to know
143 that s/he always gets his/her man. I don't know how Elliot Stewart is involved, but I'm sure
144 Finley knows what s/he's doing. I'm just glad the works are back at the library where they
145 belong.


146 Yes, I am aware that my reputation is not above reproach, but rest assured that all
147 alleged transgressions are completely innocent. Although I did indeed work with the
148 Winterthur Foundation and the Musée de Klüber-Láng I obviously had nothing to do with
149 art stolen by the Nazis nor with the Swiss banking industry's complicity.

150 All of that happened decades before and I had no knowledge of the ties. It is also true
151 that I was reprimanded by Columbia University for allegedly plagiarized work in my
152 dissertation. That was all unintentional and any finding to the contrary is libelous.

153 **WITNESS ADDENDUM**

154 I have reviewed this statement and I have nothing of significance to add at this time.
155 The material facts are true and correct.

Signed:



Grayson Kennedy

Exhibits

The subsequent pages of this section include the following exhibits:

Exhibit 1: Article Written by Brooke Benjamin for the Cape Gazette

Exhibit 2: Article Written by Brooke Benjamin for the News Journal

Exhibit 3: List of Stolen Wyeth Works

Exhibit 4: Letter from Columbia University to Grayson Kennedy

Exhibit 5: Myles Amore's Curriculum Vitae

Exhibit 6: Incident Report Written by Finley Gardner

Exhibit 7: Storage Unit Agreement

Exhibit 8: Bank Statement for Elliot Stewart

Exhibit 9: Plea Agreement for Brooke Benjamin

Exhibit 1: Article Written by Brooke Benjamin for the Cape Gazette

Andrew Wyeth Art Stolen from the Wilmington Library

By: Brooke Benjamin, Cape Gazette

March 4, 1999

WILMINGTON— In what was described as the biggest art theft in Delaware history, two people posing as police officers gained entry to the Wilmington Library early yesterday, restrained a security guard, and left with an estimated \$750,000 worth of art, police said. The stolen works were all paintings and drawings by Andrew Wyeth.

In a daring, middle-of-the-night robbery, police said, the people knocked on a side door of the library at about 1:15 a.m. and told the security guard there was a disturbance in the area, and were allowed to enter. Police officials said the thieves then overcame the guard, tied him/her with tape and spent about an hour in the library, stealing six art objects.

The stolen items include: *Christina's World*, *Lovers*, *Spindrift*, *Cider Barrel*, *Letter to Richard Carr*, and *Heavy Snow*.

Wilmington Police were called to the scene shortly after a maintenance worker discovered the guard at about 7:30 a.m. Local police contacted the Delaware State Police, which has art experts on its staff.

Finley Gardner, the DSP agent in charge of the investigation, said s/he could not reveal details about the robbery, including how the security system, including alarms and cameras, was foiled.

"We will be looking at what system was in place, how it operated, if it was bypassed and how it had been bypassed," Gardner said. S/he also

Said that while investigators believe there were two thieves involved, "there might well be more."

The guard was questioned extensively. Law enforcement sources said investigators are trying to learn whether the robbery was staged in order to ransom back the heavily insured objects, or to sell them to a private collector.

Said Gardner, "This is one of those thefts where people actually spent some time researching and took specific things. The job was a professional job."

Gardner would not identify the name or age of the guard, but said the library hires and trains its own security staff.

A police source said investigators believe the crime was the most lucrative ever in Delaware. The exhibit of Wyeth works was the most comprehensive ever for the reclusive local artist. It has been open for less than a week. "These are some of Wyeth's masterpieces," a library official said. "It's a very sad feeling."

Although Gardner would not say how the works were taken, law enforcement sources said they appeared to have been cut out of their frames.

Agent Gardner said "What is very, very important right now is to let the public know what articles were taken from the library in the event they can be recovered at a later date, or anybody having any information at all about the robbery or the art treasures, where they might be, or if an attempt is being made to sell them or pass them on, to get in touch with the Delaware State Police or the Wilmington Police Department as soon as possible."

S/he added, "We will be following every lead to get these art works back and solve this robbery."

Exhibit 2: Article Written by Brooke Benjamin for the News Journal

Andrew Wyeth Art Heist: 15 Years of Theories

By: Brooke Benjamin

March 3, 2014

DELAWARE — The hallway in the Monchanin warehouse was dark, the space cramped. But soon there was a flashlight beam, and I was staring at one of the most sought-after stolen art pieces in the United States: Andrew Wyeth's Christina's World. Or was I?

My tour guide that night in August 2006 was a rogue antiques dealer. I was a reporter at The News Journal, consumed like many people before me and since with finding any of the Wyeth art stolen in March 1999 from the Wilmington Library. The theft was big news then and remains so today as it nears its anniversary. The stolen works are valued at \$750,000, making the robbery the largest art theft in Delaware history.

Which explains why I found myself in Monchanin, a few miles from the scene of the crime, tracking yet another lead. My guide had phoned me suggesting he knew something of the robbery, and he had some street credibility because he was allied with a known thief. He took me into a storage locker and flashed his light on the painting and abruptly ushered me out. The entire visit had taken all of two minutes.

Call me Inspector Clouseau — I've been called worse in this matter, including a "criminal accomplice" by a noted art investigator — but I felt certain I was feet from the real thing, that Christina's World, and perhaps all the stolen art, would soon be home. I wrote a front-page article about the furtive unveiling for The Journal — with a headline that bellowed "We've Seen It!" — and stood by for the happy ending.

It never came. Officials did not dismiss my "viewing" out of hand, but the agents in charge back then portrayed me as a dupe. Years later, I still wonder whether what I saw that night was a

work of art or an effort to con an eager reporter. The Delaware State Police continue to discount my warehouse viewing. (They say they have figured out the identity of my guide, but I promised the guide anonymity.)

Such have been the vicissitudes in my coverage of the case for nearly two decades, during which I have gathered hundreds of investigative documents and photos, interviewed scores of criminals and crackpots, and met with dozens of law enforcement officials and library executives.

Anyone who expected the art to appear rapidly on the black market or to be used for some kind of ransom was disappointed. Instead, there was dead silence. Seven years after the heist, the library and private interests raised the reward to \$100,000 from \$50,000.

Early on, investigators focused on Myles Amore, a career thief. Information from Amore ultimately led to my dark trip through that Monchanin warehouse. Investigators have privately told me they believed there had been a second sighting of one of the stolen items, though I'm sad to say it was not the picture I encountered in the warehouse. A tipster, they said, told them in 2010 that he had seen a work resembling *Spindrift*.

"At first, the stolen art was seen as too hot, and there were no takers," Agent Gardner once told me. But, what happens now? The investigators will keep looking. Gardner has rejected the notion that the art was destroyed by the thieves as soon as they realized what they had. Gardner claimed: "That rarely happens in art thefts. Most criminals are savvy enough to know such valuable paintings are their ace in the hole."

Exhibit 3: List of Stolen Wyeth Works

The following list of paintings was verified by Grayson Kennedy in February, 2017 in the course of his/her business as an art appraiser.

Painting	Value as of February 2017
Christina's World	\$500,000
Lovers	\$35,000
Spindrift	\$40,000
Cider Barrel	\$25,000
Letter to Richard Carr	\$50,000
Heavy Snow	\$100,000

Exhibit 4: Letter from Columbia University to Grayson Kennedy



September 14, 1988

Mr. Grayson Kennedy
6214 West 62nd Street
Apartment 2140
New York, New York 10036

Re: Disciplinary Action 87-0014

Mr. Kennedy:

I am writing to inform you that the Office of Academic Integrity and Responsible Conduct of Research has found in the above-referenced matter that you have violated Columbia University's plagiarism policy, Columbia Code of Conduct § 5-110, in three sections of your dissertation introduction which was submitted during the Spring semester of 1987.

As you know, this an extremely serious violation that often results in revocation of your doctoral degree. In this instance, though, the Office of Academic Integrity and Responsible Conduct of Research has decided not to impose discipline because the investigation did not reveal intentional misconduct. Regardless, a finding that you have violated the University's plagiarism policy is required because it was conclusively established that you unintentionally misappropriated the intellectual property of another and submitted as your own original work. While your violation may have been coincidental, the University maintains the highest standards of academic integrity.

The Office of Academic Integrity and Responsible Conduct of Research appreciates your cooperation in this investigation.

Sincerely,



Frankie Mittens

Administrative Dean and Director of the
Office of Academic Integrity and
Responsible Conduct of Research

Exhibit 5: Myles Amore's Curriculum Vitae

Myles Amore's CV, on this page and the next, are part of the same exhibit.

Myles Amore's CV, on this page and the next page, are part of the same exhibit.

Myles Amore

MYLES AMORE

CURRICULUM VITAE

MYLES AMORE, born July 4, 1954, Manhattan, New York.

Education:

University of Denver – B.A. in Art History, Masters in International Business

Member:

Met Board Member – New York

Employment History:

Simplot – Wilmington, Delaware – International Business Manager

Stewart Foundation – Wilmington, Delaware – Shipping Manager and Consultant

Self-Employed – Art Consultation Services, Museum Security Consultant

Notable Cases:

As an art consultant, I have worked for a variety of museums providing detailed security schematics and advising on security risks and weak-points. I have also been engaged by local and national police and investigatory agencies to consult on high-end art heists. Notably, and during the last 10 years, I served as an expert on the following cases:

State v. Kenny—Smithsonian Institution, Washington, D.C.—Robbery of Dorothy's ruby red slippers (Defense Expert)

State v. Evelyn—the Metropolitan Museum of Art, New York City, New York—Burglary of "Adam and Eve," a well-known engraving by Albrecht Durer (Prosecution Expert)

State v. Body—The Frick Collection, New York City, New York—Burglary of La Promenade, Renoir (Defense Expert)

State v. Mason—San Francisco Museum of Modern Art—Burglary of La Conversation, Henri Matisse (Defense Expert)

State v. Highland—Museum of Fine Arts, Boston, Massachusetts—Burglary of Paul Revere by John Singleton Copley (Prosecution Expert)

Published Articles:

Behind the Wires, published in the D'Orsay Digest, 2013

To Catch a Thief, published in the Manhattan Met, 2012

Of Thieves and Men, published in the Museum Monthly, 2011

Exhibit 6: Incident Report Written by Finley Gardner

Finley Gardner's Incident Report, on this page and the next, are part of the same exhibit. This report was submitted on January 6, 2017.

On December 30, 2016 at 1340 hours I, DSP Officer Findley Gardner, received a telephone call from Grayson Kennedy. Kennedy is known to me to be an art appraiser and art dealer. Kennedy told me that earlier that day s/he had received a personal contact from Brooke Benjamin. Benjamin is also known to me as a newspaper reporter for the News Journal. According to Kennedy, Benjamin wanted Kennedy to identify and authenticate artwork that Benjamin had reason to believe was produced by Andrew Wyeth (deceased), and that had been stolen from a library on March 3, 1999.

According to Kennedy, Benjamin said s/he had found what s/he believed to be stolen Wyeth art works, and that Benjamin wanted to write a story about them. Kennedy said that Benjamin wanted Kennedy to authenticate the works and give an estimate of their value. Kennedy said s/he told Benjamin the works should be returned to the library, and that there was a reward for their recovery. Kennedy said that Benjamin was reluctant to return the paintings to the library, and instead asked Kennedy if s/he would help Benjamin sell the works on the black market.

Kennedy said Benjamin was insistent on pursuing an illegal sale, so Kennedy decided to "play along" in an effort to locate the works. Kennedy said that Benjamin agreed to meet Kennedy at a storage unit in Monchanin, Delaware, at 6:00 a.m. on January 5, 2017. Kennedy understood from Benjamin that the artwork was located in the storage unit. Kennedy said that s/he contacted me immediately after Benjamin left his/her gallery.

After my conversation with Kennedy I assembled a team to set up a covert operation. Since the meeting was to take place on January 5th at 6:00 a.m., our plan was to be on scene and in position by 4:00 a.m. I recontacted Kennedy and asked him to be at the DSP office at 5:00 a.m. so s/he could be set up with a wire.

On January 5, 2017 the covert team took positions around the storage unit where we could remain concealed but keep the storage unit in view. At approximately 0500 on January 5th a vehicle drove slowly past the main entrance to the storage units and parked approximately 100 yards away. This was outside the perimeter established by the covert team, but officers were able to see Benjamin exit the passenger side of the vehicle and walk to the main entrance of the storage units. Benjamin arrived at the main entrance at 0555. Kennedy arrived at 0557. Kennedy was wearing a wireless transmitter, and the entire conversation between Benjamin and Kennedy was recorded and transcribed.

Benjamin and Kennedy proceeded to a storage unit, which Benjamin unlocked with a key s/he removed from his/her left front pants pocket. Both Benjamin and Kennedy went inside the storage unit. While officers could see Benjamin and Kennedy at all times while they were on the outside of the unit, we lost sight of them for approximately three minutes while they were inside the unit. While they were in the unit Benjamin talked constantly about Andrew Weyth and his artwork. The covert team had given Kennedy a code phrase - "real deal" - that s/he was to say after s/he had examined the artwork and determined they were authentic, and that they were pieces stolen from the library on March 3, 1999. At 0605 I heard Kennedy give the code

phrase - "real deal." At that point I gave the officers on the covert team the signal to move in.

As we did so, the car that Benjamin arrived in quickly pulled away and left the scene. Since the car was outside the perimeter and our immediate concern was apprehending Benjamin and recovering the artwork, I instructed officers not to pursue the vehicle.

When I arrived at the storage unit I placed Benjamin under arrest for possession of stolen property and advised him/her of his/her rights. I searched Benjamin incident to arrest and recovered a key that fit the padlock to the storage unit, and Benjamin's wallet containing Benjamin's driver's license and Grayson Kennedy's business card. Benjamin did not have any car keys.

I searched the storage unit and recovered two Wyeth works that Kennedy indicated. Also in the shed were several items of sound equipment with "Pocatello Rox" written on them in black marker. Pocatello Rox is a nightclub owned by Lou Hammersmith. The sound equipment was covered with a thick layer of dust. I observed several pieces of luggage with the name "Elliot Stewart" on them. These were clean, and did not appear to have been in the storage shed very long. Finally, there were several old books and filing cabinets full of business records, all with Monte Stewart's name on them.

I asked Benjamin if s/he was willing to waive his/her rights and answer questions. Benjamin was cooperative, and said that s/he had asked Kennedy to authenticate the artwork so that Benjamin could be instrumental in recovering the paintings and write a story on the Wyeth theft. Benjamin said the storage unit belonged to Elliot Stewart. Stewart is well known as the child of Monte Stewart, a wealthy businessman and art collector who died in October 2016. According to Benjamin, Stewart said s/he discovered the artwork while inventorying his/her father's estate. Benjamin said Stewart contacted him/her and asked for Benjamin's assistance in "getting rid" of the Wyeth works in a way that would not implicate the Stewart family. Benjamin said it was Stewart's idea to sell the works on the black market, and that Benjamin was only going to play along long enough to make the story good enough for a Pulitzer prize. Benjamin said his/her intent had been to contact me at some point in the future to recover the paintings for the library. Benjamin identified Stewart as the driver of the car that brought Benjamin to the storage unit and that drove off when police moved in.

After clearing the scene and transporting Benjamin to jail I made contact with Elliot Stewart at his/her residence. I advised Stewart that s/he was not under arrest, and that I wanted to talk to him/her about his/her involvement with Benjamin and the stolen Wyeth works. Stewart admitted to knowing that the works were in the storage unit, and that as executor of Monte Stewart's estate s/he took possession of them. Stewart claimed that s/he wanted to return the paintings without anyone knowing that his/her father had arranged to have them stolen back in 1999. Prior to this I had not known that Monte Stewart was involved in the earlier theft.

Stewart said that s/he was unaware of Benjamin's plan to sell the paintings on the black market. I asked Stewart why s/he sped off when Benjamin was arrested if Stewart was innocent? I asked Stewart why s/he didn't he stay and explain? At that point Stewart said he had nothing left to say. I placed Stewart under arrest for possession of stolen property and transported him/her to jail.

Exhibit 7: Storage Unit Agreement

Landlord: <u>Blackfoot</u> <u>Rents</u>	STORAGE SPACE RENTAL AGREEMENT Tenant: <u>Lou Hammersmith</u>
Description of space leased: <u>245</u>	
<p>IN CONSIDERATION of the mutual covenants and agreements herein contained, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the above described property under the following terms and conditions:</p>	
1. TERM. This lease shall commence on <u>9 - 4</u> , 19 <u>99</u> , and continue until terminated as provided herein.	
2. RENT. The rent shall be \$ <u>15.00</u> per month payable on or before the <u>15</u> day of each month. In the event the rent is received more than <u>5</u> days late, a late fee of \$ <u>5.00</u> shall be due. In the event a check bounces, a fee of \$ <u>30.00</u> shall be due.	
3. DEFAULT. In the event Tenant fails to pay the rent due under this Agreement, Landlord may deny access until paid in full and whenever the rent is more than 30 days in arrears, Landlord may remove any property in the storage space and relet it to a new Tenant.	
4. LIEN. Landlord shall have a lien on any property placed in the storage space and shall have the right to sell the property at public or private sale or as provided by law.	
5. USE. Tenant shall not keep in the storage space any explosive, inflammable, hazardous or illegal substances or any animals or pets. Tenant shall not assign or sublet the storage space. Tenant shall abide by the rules and regulations of Landlord which are attached hereto. Landlord shall have the right to enter the storage space for inspection or repairs. Tenant shall make no alterations to the storage space without the written consent of Landlord.	
6. LIABILITY. This Agreement is made on the express condition that, while Landlord shall exercise reasonable care in the operation of the premises, Landlord shall not be liable for any loss or damage to Tenant.	
7. CASUALTY. In the event the premises are damaged by fire or other casualty, and are rendered untenantable, either party may cancel this Agreement.	
8. SECURITY DEPOSIT. Tenant shall deposit with Landlord the sum of \$ <u>50.00</u> to be returned upon the termination of this Agreement provided Tenant is not in default hereof.	
9. TERMINATION. This agreement may be terminated by either party upon the giving of written notice at least 30 days prior to the end of any rental month.	
IN WITNESS WHEREOF, the parties have executed this lease the <u>4</u> day of <u>Sept.</u> , 19 <u>99</u> .	
LANDLORD: <u>Mark Kemp</u>	TENANT: <u>Lou Hammersmith</u>

Exhibit 8: Bank Statement for Elliot Stewart

Statement Date: January 15, 2017

Checking Account Number: XXX-XXXX-XXX5423

Account Owner: Elliot Quimby Stewart

Activity Summary

Current Posted Balance	\$834.21
Available Balance	\$834.21

Activity Detail

DATE	DESCRIPTION	DEPOSITS/CREDITS	WITHDRAWALS/DEBITS
01/14/17	Visa		387.84
01/14/17	Mastercard		450.00
01/11/17	Dingle Diner		33.00
01/10/17	WinCo		378.97
01/10/17	Tony Tiger Pizza		25.00
01/06/17	Delmarva Power		294.56
01/04/17	Intercontinental Gas, Co.		145.66
01/02/17	ATM Withdrawal		200.00
01/02/17	Direct Deposit - Fiduciary Inc.	5,000.00	
12/29/16	Julianne's Cupcakery		225.54
12/29/16	Christine's Catering		1,450.00
12/29/16	Zimbini's Party Supplies		1,377.23
12/28/16	Target		526.01
12/28/16	Mastercard		500.45
12/23/16	Citibank		1,249.62
12/22/16	Visa		1,654.88
12/20/16	WinCo		315.89
12/20/16	Tony Tiger Pizza		35.00
12/20/16	Dingle Diner		25.00
12/15/16	Dingle Diner		25.00

Exhibit 9: Plea Agreement for Brooke Benjamin

Brooke Benjamin's Plea Agreement, on this page and the next, are part of the same exhibit.

IN THE SUPERIOR COURT IN AND FOR THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
Plaintiff,)	
)	CASE NO. MT-2017-08324
vs.)	
)	PLEA AGREEMENT
BROOKE BENJAMIN,)	
)	
Defendant.)	
)	

COME NOW the State of Delaware, by and through its attorney, Jem Trotter, prosecuting attorney in and for the County of New Castle, and Brooke Benjamin, individually and by through his attorney, Vincent Gambini, and do hereby agree as follows:

Benjamin is charged with the crime of THEFT in violation of Delaware Code Section 11 Del. C. § 841, a felony, as follows:

That the defendant, Brooke Benjamin, on or between December 18, 2016 and January 5, 2017 did wrongfully take, obtain, or withhold property with the intent to deprive the owner of the property, and/or to appropriate the property to himself or a third person, to wit: the defendant retained, concealed, obtained control over, or possessed two (2) Andrew Wyeth paintings which the defendant knew had been stolen from, or should have reasonably believed had been stolen from, The Wilmington Library, which property had a value in excess of \$1,000, with the intent to deprive the owner of the property and/or to appropriate the property to himself or a third person, while within the County of New Castle, State of Delaware, in violation of Delaware Code Section 11 Del. C. § 841.

The State of Delaware has offered, and Benjamin has accepted, a plea agreement on the following terms and conditions:

A. Benjamin shall enter a guilty plea to the felony offense of theft as set forth above;

B. The court shall set sentencing for a time and date after completion of the trial in State of Delaware v. Elliot Stewart.

C. Benjamin shall cooperate in the investigation of Elliot Stewart, and shall testify truthfully at said trial;

D. If Benjamin fulfills the obligations described in paragraph C, above, which shall be determined in the sole discretion of the prosecuting attorney, then the State of Delaware agrees as follows:

1. Benjamin may withdraw his guilty plea to the felony offense of theft;
2. The State of Delaware shall amend the charge to petit theft, a misdemeanor;
3. Benjamin shall enter a guilty plea to the misdemeanor charge of petit theft;
4. The State of Delaware shall recommend a sentence which includes suspended jail time, a period or probation, and a fine; the amount of suspended jail time, the period of probation, and the amount of the fine may be argued by the parties and shall be determined by the court;
5. If at any time Benjamin shall produce any written or motion picture account of his involvement with the theft of the Wyeth artworks, s/he agrees to donate 50% of the proceeds of the sale of such account to the library.

E. If Benjamin fails to fulfill the obligations described in paragraph C, then the State of Delaware and Benjamin shall proceed to the sentencing on the felony count with no agreement on what the appropriate sentence shall be.

The State of Delaware and Benjamin agree and understand that the court is not a party to this plea agreement, and is not bound hereto.

This is the complete agreement between the parties.

Entered into this 1st day of February, 2017.

JEM TROTTER
New Castle County Prosecuting Attorney

BROOKE BENJAMIN, Defendant

VINCENT GAMBINI, Attorney at Law
Attorney for the Defendant

Jury Instructions

Before the commencement of the trial and at its conclusion, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury, they would look something like these.

A copy of these instructions may not be used as an exhibit during the mock trial competition; however students may use these concepts in fashioning their case and making arguments to the jury.

Instruction No. 1

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

Instruction No. 2:

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence from which you are to find the facts consists of the following:

1. The sworn testimony of the witnesses;
2. Documents and other items received as exhibits; and
3. Any facts that are stipulated – that is, formally agreed to by the parties.

The following things are not evidence:

1. Arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times are included

to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;

2. Any testimony that has been excluded, stricken, or which you have been instructed to disregard;
3. Anything you may have seen or heard about this case when the court was not in session.

Instruction No. 3

The production of evidence in court is governed by rules of law. At times during the trial, an objection was made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I was being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustained an objection to a question or to an exhibit, the witness could not answer the question or the exhibit could not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

Instruction No. 4

Some of you have probably heard the terms “circumstantial evidence,” “direct evidence” and/or “hearsay evidence.” Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

Instruction No. 5

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

Instruction No. 6

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

Instruction No. 7

The law presumes that every person charged with a crime is innocent. This presumption of innocence requires a verdict of not guilty, unless you are convinced by the evidence that the defendant is guilty beyond a reasonable doubt.

The burden of proof is upon the State to prove all of the facts necessary to establish each and every element of the crime charged beyond a reasonable doubt. The State's ability to satisfy its burden of proof is not affected by the number of witnesses it calls. You must consider the quality, not the quantity of the evidence.

Reasonable doubt is a practical standard. Proof that a defendant is probably guilty is not sufficient. However, there are very few things in this world that we know with absolute certainty. The law does not require proof that overcomes every possible doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Therefore, based upon your conscientious consideration of the evidence, if you are firmly convinced that the defendant is guilty of the crime charged, you should find the defendant guilty. If, on the other hand, you think there is a reasonable doubt that the defendant is guilty, you must give the defendant the benefit of the doubt by finding the defendant not guilty.

Instruction No. 8

This criminal case has been brought by the State of Delaware. The defendant, Elliot Stewart, is charged by the State of Delaware with the crime of Theft. The charge against the defendant is set forth in the Indictment. An indictment is a mere accusation and should not be used as evidence.

Instruction No. 9

Evidence has been introduced for the purpose of showing that the defendant committed crimes, wrongs, or acts other than that for which the defendant is on trial.

Such evidence, if believed, is not to be considered by you to prove the defendant's character or that the defendant has a disposition to commit crimes.

Such evidence may be considered by you only for the limited purpose of proving the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Instruction No. 10

In order to find Defendant guilty of Theft, you must find the State has proved the following three (3) elements beyond a reasonable doubt:

- (1) Defendant took or exercised control over the property of another person;
- (2) Defendant meant to deprive the person of the property; and
- (3) Defendant acted intentionally.

The State contends that the aggregate value of the property is \$100,000.00 or more. In order to find Defendant guilty, you must find beyond a reasonable doubt that the value of the property is at least \$100,000.00.

“Value” means the market value of the property at the time and place of the offense, or if that cannot be easily determined, the cost of replacing the property within a reasonable time after the crime occurred.

“Intentionally” means it was Defendant’s conscious objective or purpose to deprive the person of the property, or to appropriate the property.

“Deprive” means to withhold someone else’s property permanently or for such an extended period of time so as to withhold a major part of its economic value.

"Appropriate" means to exercise control over someone else's property permanently or for such an extended period of time so as to obtain a major part of its economic value.

"Property of another" means property that belongs to someone other than

Defendant and Defendant does not have permission to take.

If, after careful and conscientious consideration of the evidence you find that the State has established each of the elements of the offense charged by proof beyond a reasonable doubt you should find the Defendant guilty. If you do not so find, or if you have a reasonable doubt as to any element of the offense charged, you should find the Defendant not guilty.

Your verdict must be unanimous.