

JUL 14 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TU NGOC TRAN,

Defendant - Appellant.

No. 13-30104

D.C. No. 3:11-cr-00202-MO-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, District Judge, Presiding

Submitted July 9, 2014**
Portland, Oregon

Before: PREGERSON, PAEZ, and WATFORD, Circuit Judges.

Defendant Tu Ngoc Tran appeals his conviction for wire fraud, *see* 18
U.S.C. § 1343, as well as his 63 month sentence of imprisonment. We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1. The district court did not err in refusing to give Tran's proposed specific intent instruction. To sustain a conviction for wire fraud, the government was required to show "only" that Tran had "[a] specific intent to defraud." *United States v. Jinian*, 725 F.3d 954, 966 (9th Cir. 2013). The district court's instructions were sufficient because they specifically required the jury to find that Tran "acted with the intent to defraud."

2. The district court also did not clearly err in finding that Tran was a "manager" under U.S.S.G. § 3B1.1(c). The district court's finding was supported by factual statements in the presentence report and evidence in the record showing that Tran organized and directed the activities of two other participants, Huy Anh Nguyen and Minhthy Nguyen. *See United States v. Ingham*, 486 F.3d 1068, 1075 (9th Cir. 2007); *United States v. Narte*, 197 F.3d 959, 966 (9th Cir. 1999); *United States v. Beltran*, 165 F.3d 1266, 1271 (9th Cir. 1999).

AFFIRMED.