

MONEY LAUNDERING IN THE THIRD DEGREE

Penal Law § 470.10(2)(a)

**(Monetary Instrument, Transport,
Drug Sale Proceeds, exceeds \$10,000)**

MONEY LAUNDERING IN THE SECOND DEGREE

Penal Law § 470.15(2)(a)

**(Monetary Instrument, Transport,
Drug Sale Proceeds, exceeds \$50,000)**

(Committed on or after April 7, 2009)

The (*specify*) count is Money Laundering in the (*specify*) Degree.

Under our law, a person is guilty of Money Laundering in the (*specify*) Degree when knowing that one or more monetary instruments represents the proceeds of the criminal sale of a controlled substance he or she transports, transmits, or transfers, [or attempts to transport, transmit or transfer], on one or more occasions, monetary instruments which in fact represent the proceeds of the criminal sale of a controlled substance

Select appropriate alternative(s):

from a place in any county in this state to or through a place outside that county or

to a place in any county in this state from or through a place outside that county

Select appropriate alternative [1] or [2] or both:

[1] with intent to promote the carrying on of specified criminal conduct; or

[2] knowing that such transportation, transmittal, or transfer is designed in whole or in part to:

Select appropriate alternative(s):

conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified criminal conduct; or

avoid any transaction reporting requirement imposed by law;

and the total value of such monetary instrument or instruments exceeds (specify) thousand dollars.

The following terms used in that definition have a special meaning:

(Specify) is a controlled substance.¹

Note: If the sale of a controlled substance is a separate count, a cross-reference to that count may be appropriate. Otherwise, as appropriate add:

A person is guilty of criminal sale of a controlled substance when he knowingly and unlawfully sells a controlled substance.²

SELL means to sell, exchange, give or dispose of to another. [Sell also includes an offer or agreement to sell even if actual delivery does not occur, provided that, at the time of the offer or agreement, the person has the intent and ability to make the sale. An intent is a conscious objective or purpose. Thus, a person acts with intent to sell when that person's conscious objective or purpose is to sell.]³ A person KNOWINGLY sells (specify) when that person is aware that he or she is selling a substance which contains (specify). A person UNLAWFULLY sells (specify) when that person has no legal right to sell that substance.⁵ Under our law, with certain exceptions not applicable here, a person has no legal right to sell (specify).

MONETARY INSTRUMENT means Select appropriate alternative(s): coin and currency of the United States or of any

¹ See Penal Law § 220.00(5).

² See Penal Law § 220.31.

other country; personal checks; bank checks; traveler's checks; money orders; and investment securities and negotiable instruments, in bearer form or otherwise, in such form that title thereto passes on delivery, [except that "monetary instrument" shall not include payments to attorneys for legal services].³

SPECIFIED CRIMINAL CONDUCT⁴ means criminal conduct committed in this state constituting a crime.

[(or) conduct committed in any other jurisdiction which if committed in this state, is or would be a crime.]

Select appropriate alternative:

(Specify) is a crime.

Note: If the crime is charged in a separate count, a cross-reference to that count should suffice. Otherwise, add a definition of the crime:

(Specify) is a crime in *(specify jurisdiction)* that is or would be a crime under the laws of this state and is defined as follows *(specify)*.

Separate occasions involving the transport, transmittal or transfer of monetary instruments may be considered together and the value of the monetary instruments involved may be aggregated, provided that the occasions are all part of a single "criminal transaction."⁵

³ Penal Law § 470.00(1).

⁴ Penal Law § 470.00(5) defines SPECIFIED CRIMINAL CONDUCT to mean: criminal "conduct committed in this state constituting a criminal act, as the term criminal act is defined in section 460.10 of this chapter, or constituting the crime of enterprise corruption, as defined in section 460.20 of this chapter, or conduct committed in any other jurisdiction which is or would be specified criminal conduct if committed in this state." The court must accordingly identify and define the applicable "specified criminal conduct," which must be one or more of the crimes listed in Penal Law § 470.00(5) or "enterprise corruption" [Penal Law § 460.20].

⁵ Penal Law § § 470.03(1). At this point the statute continues: "as defined in subdivision two of section 40.10 of the criminal procedure law."

"Criminal transaction" means conduct which establishes at least one offense, and which is comprised of two or more or a group of acts either:

so closely related and connected in point of time and circumstance of commission as to constitute a single criminal incident, or

so closely related in criminal purpose or objective as to constitute elements or integral parts of a single criminal venture.⁶

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following elements:

(1) That on or about (*date*) in the County of (*County*), the defendant, (*defendant's name*), knowing that one or more monetary instruments represented the proceeds of criminal conduct he or she transported, transmitted, or transferred [or attempted to transport, transmit or transfer] on one or more occasions, monetary instruments which in fact represented the proceeds of the criminal sale of a controlled substance

Select appropriate alternative(s):

from a place in any county in this state to or through a place outside that county [or]

to a place in any county in this state from or through a place outside that county:

(2) That the defendant did so

Select appropriate alternative [1] or [2] or both:

⁶ CPL 40.10(2)

[1] with intent to promote the carrying on of specified criminal conduct; or

[2] knowing that such transportation, transmittal, or transfer was designed in whole or in part to: Select appropriate alternative(s):

conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified criminal conduct; or

avoid any transaction reporting requirement imposed by law;

[and]

(3) the total value of such monetary instrument or instruments exceeded (specify) thousand dollars [and]

Add one or both of the following if applicable:

(4) That the monetary instrument(s) (was/were) not payments to attorneys for legal services.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.