

MONEY LAUNDERING IN THE FIRST DEGREE
Penal Law § 470.20(2)(b)
(Laundering A, B, or C proceeds via
Undercover Representation)
(Committed on or after April 7, 2009)

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

Under our law, a person is guilty of Money Laundering in the First Degree when he or she conducts one or more financial transactions involving property represented to be the proceeds of a class A, B or C felony, [or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state], or represented to be property used to conduct or facilitate such crimes:

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

[1] with intent to: Select appropriate alternative(s)

promote the carrying on of specified criminal conduct; [or]

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 the property involved in such financial transaction or transactions exceeds one million dollars.

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

Select appropriate alternative:

(*Specify*) is a [*specify*: class A, B, or C] felony.

(*Specify*) is a crime in (*specify jurisdiction*) that is or would be a class (*specify*: A, B or C] felony under the laws of this state.

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

CONDUCTS includes initiating, concluding, or participating in initiating or concluding a transaction.¹

TRANSACTION

[*Select appropriate alternative(s)*]

includes a payment, purchase, sale, loan, pledge, gift, transfer, or delivery,

[and] with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected, [except that "transaction" shall not include payments to attorneys for legal services].²

[Note: If the definition of "transaction" that is charged to jury includes a reference to "financial institution," it may be appropriate to add here the applicable portion of the definition of a "financial institution," set forth in Penal Law § 470.00(6).]

¹ Penal Law § 470.00(2).

² Penal Law § 470.00(3).

CRIMINAL CONDUCT means conduct which is a crime under the laws of this state [or conduct committed in any other jurisdiction which is or would be a crime under the laws of this state].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)*.

Financial transaction means a transaction involving:

Select appropriate alternative(s):

- (a) the movement of funds by wire or other means; or
- (b) one or more monetary instruments; or
- (c) the transfer of title to any real property, vehicle, vessel, or aircraft; or
- (d) the use of a financial institution.⁵

³ Penal Law § 470.00(4).

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 § 470.00(7).

[Note: If (b) [“one or more monetary instruments] is read to the jury, it may be appropriate here to add the applicable portion of the definition of “monetary instrument” in Penal Law § 470.00(1).

If (d) [the use of a financial institution] is read to the jury and “financial institution” has not been defined, it may be appropriate to add here the applicable portion of the definition of a “financial institution,” set forth in Penal Law § 470.00(6).]

Financial transactions may be considered together and the value of the property involved may be aggregated, provided that the transactions are all part of a single “criminal transaction.”⁶

"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.⁷

Note: If applicable, add:

It is not unlawful to return funds held in escrow: Select appropriate alternative(s):

as a portion of a purchase price for real property pursuant to a contract of sale; or

⁶ 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.”

⁷ CPL 40.10(2)

to satisfy the tax or other lawful obligations arising out of an administrative or judicial proceeding concerning the person who provided the escrow funds.⁸

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), conducted one or more financial transactions involving property represented to be the proceeds of:

Select appropriate alternative:

a class (specify: A, B or C) felony,

[or of a crime in (specify jurisdiction) that is or would be a class (specify: A, B or C) felony under the laws of this state];

[or represented to be property used to conduct or facilitate such crimes];

2. That the defendant did so with intent to:

Select appropriate alternative(s)

promote the carrying on of specified criminal conduct; [or]

engage in conduct constituting a felony in violation of the tax law]; [or]

avoid any transaction reporting requirement imposed by law;

[and]

⁸ Penal Law § 470,03(3).

3. That the total represented value of the property involved in such financial transaction or transactions exceeds one million dollars; [and]

Add one or both of the following if applicable:

4. That the defendant was not returning funds held in escrow [and]
5. That the transaction(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.