

MONEY LAUNDERING IN THE SECOND DEGREE
Penal Law § 470.15(2)(b)
(Monetary Instrument-Specified Crime-Transport
Exceeds \$100,000)
(Committed on or after April 7, 2009)

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

Under our law, a person is guilty of Money Laundering in the Second Degree when knowing that one or more monetary instruments represents the proceeds of specified criminal conduct, 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 specified criminal conduct

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 one hundred thousand dollars.

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

MONETARY INSTRUMENT means Select appropriate alternative(s): coin and currency of the United States or of any 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].¹

SPECIFIED CRIMINAL CONDUCT ² 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)*.

CRIMINAL CONDUCT means conduct which is a crime under the laws of this state [or conduct committed in any other

¹ Penal Law § 470.00(1).

² 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."

jurisdiction which is or would be a crime under the laws of this state].³

Note: If there is evidence of a crime or crimes, add here: (Specify) is a crime under the laws of NY. A person is guilty of (specify) when: (definition).

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."⁴

"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.⁵

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

³ Penal Law § 470.00(4).

⁴ 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."

⁵ 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.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 specified 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 specified criminal conduct

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:

[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

⁶ Penal Law § 470.03(3).

avoid any transaction reporting requirement imposed by law; [and]

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

Add if applicable:

(4) That the defendant was not returning funds held in escrow [and]

(5) 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.