CONSPIRACY
FOURTH DEGREE
(E Felony)
(Conspiracy to commit money laundering)
PENAL LAW 105.10(3)
(Committed on or after November 1, 2000)

The _____ count is Conspiracy in the Fourth Degree.[1]

Under our law, a person is guilty of Conspiracy in the Fourth Degree when, with intent that conduct constituting the felony of money laundering in the third degree be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct.

The term "intent" used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

INTENT means conscious objective or purpose.[2] Thus, a person acts with the intent that conduct constituting the felony of money laundering in the third degree be performed when his or her conscious objective or purpose is that such conduct be performed.

Under our law, a person is guilty of the felony of money laundering in the third degree when (*read the applicable portion of the statutory definition of Money Laundering in the Third Degree [Penal Law § 470.10]*).

Under our law, the People must also prove that one of the

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[1]This charge contemplates a single integrated conspiracy. Whenever the possibility of more than one conspiracy is supported by a reasonable view of the evidence, the jury must be charged in accordance with the law as set forth in *People v. Leisner*, 73 N.Y.2d 140 (1989).

[2] *See* Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

conspirators committed an overt act in furtherance of the conspiracy.[3] The agreement to engage in or cause the performance of a crime is not itself an overt act. The overt act must be an independent act that tends to carry out the conspiracy. The overt act can be, but need not be, the commission of the crime that was the object of the conspiracy.[4]

In this case, the alleged overt act[s] is [are]: (specify).

[*Note: Add when and to the extent appropriate*:

Under our law, it is no defense to a prosecution for conspiracy that, owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the agreement or the object conduct or of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of conspiracy or the object crime, one or more of the defendant's co-conspirators could not be guilty of conspiracy or the object crime.[5] In other words, a defendant may be convicted of conspiracy even though one or more or all of the other parties to the agreement are not guilty of conspiracy or (specify the object crime).[6]]

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

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[3] See Penal Law § 105.20.

[4] See *People v. Ribowsky*, 77 N.Y.2d 284 (1991).

[5] Penal Law § 105.30.

[6] See *People v. Berkowitz*, 50 N.Y.2d 333 (1980). In an appropriate case, the Court may add the reason one or more of the parties to the agreement is not liable by charging for example, "because that party is a police officer or an agent of a police officer pretending to agree to engage in or cause the performance of the (specify object crime)"; or, "because that party is under sixteen years of age."

1. That on or about (*date*), in the county of (*county*),[7] the defendant, (*defendant's name*), agreed with one or more persons to engage in or cause the performance of conduct constituting the felony of money laundering in the third degree;

2. That the defendant did so with the intent that such conduct be performed; and

3. That the defendant, or one of the persons with whom he/she agreed to engage in or cause the performance of such conduct, committed [the] [at least one] alleged overt act in furtherance of the conspiracy.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Conspiracy in the Fourth Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Conspiracy in the Fourth Degree as charged in the _____ count.

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[7] If venue depends upon the place of the commission of an overt act rather than the situs of the agreement, refer to the county in the third element rather than in the first element. See Penal Law § 105.25(1).