

1 **14-4201. Money laundering; financial transaction to conceal or disguise property, OR to**
2 **avoid reporting requirement; essential elements.**

3 For you to find the defendant guilty of money laundering [as charged in Count _____
4]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following
5 elements of the crime:

6 1. The defendant [conducted] [structured] [engaged in] [participated in]² a financial
7 transaction³ by _____ (*describe the financial transaction*);

8 2. The defendant knew that the property⁴ involved in the financial transaction [was]
9 [was represented to be]² the proceeds of _____ (*name the specified unlawful activity*)⁵;

10 [3. The _____ (*name the alleged activity*) was committed for financial
11 gain;]⁶

12 4. The defendant knew that the financial transaction was designed, in whole or in part,
13 to [[conceal]² [or] [disguise] the nature, location, source, ownership, or control of the property]²

14 [OR]

15 [avoid a transaction reporting requirement under state or federal law];

16 [5. The financial transaction involved over \$ _____⁷]; and

17 6. This happened in New Mexico on or about the ____ day of _____,
18 _____.

19 USE NOTES

20 1. Insert the count number if more than one count is charged.

21 2. Use the applicable alternative or alternatives.

22 3. Unless the parties stipulate that the transaction was a “financial transaction,” give
23 the definitions in UJI 14-4205(D) & (E) NMRA.

1 4. Unless the parties stipulate that the transaction involved “property,” give the
2 definition in UJI 14-4205(F) NMRA.

3 5. Unless the court already has instructed on the specified unlawful activity, the
4 essential elements of the felony should be given immediately following this instruction. *See* UJI
5 14-4205(H), Use Note 8.

6 6. Rarely applicable. Consult UJI 14-4205(H) NMRA (“specified unlawful activity”)
7 to determine if the jury must make an additional factual finding under this bracketed element that
8 the transaction involved proceeds from conduct which constitutes a felony only if committed “for
9 financial gain.”

10 7. If the charge is a [~~second-degree~~second-degree felony (over \$100,000), use
11 \$100,000 in the blank. If the charge is a [~~third-degree~~third-degree felony (over \$50,000), use
12 \$50,000 in the blank. If the charge is a [~~fourth-degree~~fourth-degree felony (over \$10,000), use
13 \$10,000 in the blank. If the charge is a misdemeanor (\$10,000 or less), omit element 5.

14 [Adopted by Supreme Court Order No. 17-8300-012, effective for all cases pending or filed on or
15 after December 31, 2017; as amended by Supreme Court Order No. S-1-RCR-2025-00126,
16 effective for all cases pending or filed on or after December 31, 2025.]

17 **Committee commentary.** — *See* NMSA 1978, § 30-51-4(A)(1) (1998).

18 This instruction sets forth the essential elements of two distinct prongs of the first of four methods
19 of violating New Mexico’s money laundering statute. It is similar, but not identical, to 18 U.S.C.
20 § 1956(a)(1)(B)(i) and 18 U.S.C. § 1956(a)(1)(B)(ii), respectively. Although not directly
21 instructive, reference to the analogous Tenth Circuit and Eighth Circuit instructions and committee
22 commentary, as well as to the Department of Justice’s money laundering guidance to federal
23 prosecutors, may be useful.

1 Unlike the federal money laundering statute, 18 U.S.C. § 1956, in the New Mexico Money
2 Laundering Act, NMSA 1978, Sections 30-51-1 to -5 (1998), there is no explicit prohibition on
3 attempts. *See* § 30-51-4(A).

4 Unlike 18 U.S.C. § 1956(a)(3), there is no separate “sting” provision, [~~i.e.~~] i.e., a deception
5 operation where a law enforcement agent or person acting under the agent’s authority falsely
6 represents money or property to be proceeds of an unlawful activity. Instead, Section 30-51-4(A)
7 directly addresses representation of property to be proceeds from specified unlawful activity.

8 Also unlike the federal statute, New Mexico does not distinguish between “unlawful activity” and
9 “specified unlawful activity.” [~~Cf.~~] Compare § 30-51-2(G),₂ with 18 U.S.C. §§ 1956(a)(1),₂ [~~and~~
10 (c)(7).

11 There is no definition of “structured” in the New Mexico Money Laundering Act. *See* § 30-51-2.
12 Nor is the term defined in the federal money laundering statute, 18 U.S.C. § 1956. *See*
13 [~~Commentary to~~] UJI 14-4205 [~~NMRA~~] comm. cmt. (Definitions).

14 Because under Section 30-51-2(B)(1)-(4) the statutory maximum penalty is controlled by the
15 amount of the illegal transaction, the amount is a sentencing fact which must be found beyond a
16 reasonable doubt by the jury. *See State v. Stevens*, 2014-NMSC-011, ¶ 40, 323 P.3d 901 (Sixth
17 Amendment right to trial by jury guarantees that all facts essential to a defendant’s sentence must
18 be determined by a jury); *see also Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000).

19 Where the property involved in the financial transaction is currency or checks, the face value
20 constitutes the amount involved and the state need not prove that its value is something else. *See*,
21 *e.g.* [~~]~~,₂ *Territory v. Hale*, 1905-NMSC-021, 13 N.M. 181, 81 P. 583 (currency); *State v. Peke*,
22 1962-NMSC-033, 70 N.M. 108, 371 P.2d 226 (checks).

1 The Legislature did not include in the Money Laundering Act that each financial transaction is a
2 separate and distinct offense. *Cf. State v. Faubion*, 1998-NMCA-095, ¶ 11, 125 N.M. 670, 964
3 P.2d 834 (following *State v. Brooks*, 1994-NMSC-062, 117 N.M. 751, 877 P.2d 557, the
4 Legislature amended the embezzlement statute to exclude the single larceny doctrine to make each
5 incident a separate and distinct offense, thereby overruling the prior practice permitting a series of
6 takings from a single victim to be treated as a single offense).

7 UJI 14-4205 (Definitions) contains multiple terms of art incorporated in this instruction. In many
8 cases, the jury will not require a specific definition: A term or description in [~~layman's~~] layperson's
9 language also satisfies the detailed - and often expansive - legal definition. For example, in most
10 cases there will be no question or confusion about whether the transfer of U.S. currency was a
11 "financial transaction" which involved "property." *See* UJI 14-4205(D), [~~&~~] (F). However, where
12 the applicability is neither obvious nor stipulated - such as "proceeds" (*see* UJI 14-4205(G)) that
13 are property "delivered," "indirectly," "by an . . . omission," the jury may require more guidance.
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15 ~~or after December 31, 2017~~]; as amended by Supreme Court Order No. S-1-RCR-2025-00126.]