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WHAT MUST A PROSECUTOR PROVE IN A MONEY LAUNDERING CASE

Money laundering involves the transfer of money obtained from a criminal activity into legitimate channels to disguise its illegal origins.

Money Laundering consists of three steps:

1) A person obtains cash through a criminal activity such as drug dealing, trafficking, armed robbery, fraud, corruption, blackmail and terrorism.

2) A financial transaction takes place in order to disguise the source of the funds. Money is often moved around to create confusion, sometimes, by wiring or transferring the money to numerous bank accounts.

3) Money is used as legal funds

To be criminally culpable under 18 U.S.C section 1956 (a)(1), a defendant must conduct or attempt to conduct a financial transaction, knowing that the property involved in the financial transaction represents the proceeds of any unlawful activity, which one of the specific intents, and the property must in fact be derived from a specified unlawful activity.

To prove a violation of section 1956(a)(1), a prosecutor must show the following:

1) Either by direct or circumstantial evidence that the defendant knew that the money involved was the proceeds of any felony under State, Federal or foreign law. The prosecutors does not need to show that the defendant knew the specific crime from which the proceeds were derived from, the prosecutor must prove only that the defendant knew that the money was illegally derived in some way.

2) The prosecutor must also prove that the defendant initiated or concluded, or participated in initiating or concluding, a financial transaction. A “transaction” is defined in Section 1956 (c)(3) as a purchase, sale, loan, pledge, gift, withdrawal, transfer between accounts, loan, exchange of currency, extension of credit, purchase or sale-deposit box, or any other payment transfer or delivery by, through or to a financial institution.

    1. A "financial transaction" is defined in Section 1956(c)(4) as a transaction which affects interstate or foreign commerce and; (1) involves the movement of funds by wire or by other means; (2) involves the use of a monetary instrument; (3) involves the transfer of title to real property, a vehicle, a vessel or an aircraft, or (4) involves the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce.

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In conducting the financial transaction, the defendant must have acted with one of the following four specific intents:

- Section 1956(a)(1)(A)(I): intent to promote the carrying on of specified unlawful activity,
- Section 1956(a)(1)(A)(II): intent to engage in tax evasion or tax fraud;
- Section 1956 (a)(1)(B)(I): knowledge that the transaction was designed to conceal of proceeds of the specified unlawful activity; or
- Section 1956(a)(1)(B)(II): knowledge that the transaction was designed to avoid a transaction reporting requirement under State or Federal law [e.g. in violation of 31 U.S.C. Section 5313 (Currency Transaction Reports) or Section 5316 (Currency and Monetary Instruments Reports), or 26 U.S.C. Section 60501 (Internal Revenue Service Form 8300)].

Punishment for money laundering depends on the number of separate offenses, the value amount of the financial transaction, and the defendant's prior conviction record. A conviction for one offense of money laundering may result in a sentence of imprisonment in county jail or state prison for up to one year. However, California law correlates imprisonment to the value of the transaction.

If you have been accused of money laundering, whether you are guilty or not, you will need to hire an attorney who specializes in criminal law. Contact attorney Christopher Morales today for a free initial consultation.