

**LEADER OF NARCOTICS TRAFFICKING NETWORK**

**(N.J.S.A. 2C:35-3)**

**[For crimes committed after January 12, 1998]**

Count \_\_\_\_\_ of the indictment charges defendant with the crime of being a leader of a narcotics trafficking network. That section of our statutes provides in pertinent part that

A person is a leader of a narcotics trafficking network if he conspires with two or more other persons in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into, or transport in this State methamphetamine, lysergic acid diethylamide, phencyclidine, gamma hydroxybutyrate,<sup>1</sup> flunitrazepam<sup>2</sup> or any controlled dangerous substance classified in Schedule I or II or any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the body,<sup>3</sup> or any controlled substance analog<sup>4</sup> thereof as a financier, or as an organizer, supervisor or manager of at least one other person.

In order to convict defendant of the charge, the State must prove each of the following elements beyond a reasonable doubt:

- (1) That defendant conspired with two or more persons.
- (2) That the purpose of the conspiracy included a scheme or course of conduct to unlawfully (manufacture, distribute, dispense, bring into, or transport) in this State (name controlled dangerous substance or analog allegedly involved), and
- (3) That defendant was a financier

**OR**

That defendant was an organizer, supervisor or manager of at least one other person and

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<sup>1</sup> Effective June 25, 1999.

<sup>2</sup> Effective June 25, 1999.

<sup>3</sup> See definition of controlled dangerous substance in N.J.S.A. 2C:35-2 (effective August 19, 1999).

<sup>4</sup> Pick the appropriate controlled dangerous substance or analog alleged in the indictment.

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- (4) That defendant occupied a high level position in the conspiracy.

The first element that the State must prove beyond a reasonable doubt is that defendant conspired with two or more persons. **[Read model jury charge on conspiracy; if conspiracy already charged, remind jurors of that definition].**

The second element that the State must prove beyond a reasonable doubt is that the conspiracy included a scheme or course of conduct to unlawfully (manufacture, distribute, dispense, bring into or transport)<sup>5</sup> controlled dangerous substances or an analog. Manufacture means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container . . .<sup>6</sup> Distribute means to deliver, *i.e.*, the transfer from one person to another of controlled dangerous substance or a controlled substance analog. The transfer can be actual, constructive or attempted. Dispensing means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. Transport means to carry from one place to another. **[IF APPLICABLE, CHARGE THE FOLLOWING]**. It is not a defense to this charge that the controlled dangerous substance or controlled substance analog was brought into this State solely for ultimate distribution or dispensing in another location.

The third element that the State must prove beyond a reasonable doubt is that defendant acted as **[CHOOSE APPLICABLE]** a financier **[OR]** as an organizer, supervisor or manager of at least one other person.<sup>7</sup> A financier is a person who, with the intent to derive a profit, provides money or credit or other thing of value in order to purchase a controlled dangerous substance or an immediate precursor, or otherwise to finance the operations of a drug trafficking network. The

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<sup>5</sup> Choose the appropriate allegation.

<sup>6</sup> Read statutory exception to definition (N.J.S.A. 2C:35-2) if applicable.

<sup>7</sup> In State v. Afanador, 134 N.J. 162, 171 (1993), the Supreme Court indicated that the trial court was under no obligation to define these terms. However, in State v. Alexander, 136 N.J. 563, 574-575 (1994), the Court decided that these terms should be more fully explained to the jury.

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State need not prove that any intended profit was actually realized. **[IF APPLICABLE, CHARGE THE FOLLOWING]**. It is not a defense to this charge that the profit, if any, involved in this scheme was intended to be made in another location.

An organizer is a person who purposely arranges, devises, or plans a drug trafficking conspiracy. A supervisor is one who purposely oversees the operation of a drug trafficking conspiracy. A manager is one who purposely directs the operations of a drug trafficking conspiracy.

A person acts purposely with respect to the nature of his/her conduct or the result of that conduct if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if the person is aware of the existence of such circumstances or believes or hopes that they exist. "With purpose," "designed," "with design," or equivalent terms have the same meaning. Purposely is a state of mind that cannot be seen and can only be determined by inference from conduct, words or acts. Therefore, it is not necessary that the State produce witnesses to testify that a defendant said that he/she purposely did something. His/Her purpose may be gathered from his/her acts and conduct, from all that he/she said and did at the particular time and place, and from all the surrounding circumstances reflected in the testimony [and evidence adduced at trial].

The fourth element that the State must prove beyond a reasonable doubt is that defendant held a high-level position in the drug trafficking conspiracy. In other words, the State must prove that defendant occupied a position of superior authority or control over other persons in a scheme or organization of drug distribution (or manufacture, dispensing or transportation) and that in that position the defendant exercised supervisory power or control over others engaged in the drug trafficking conspiracy.<sup>8</sup>

Defendant, however, does not have to be the only or even the primary financier, organizer, supervisor, or manager, and it is no defense that defendant was subject to the supervision or management of another, nor that another person or persons were also leaders of the narcotics trafficking network.

If the State has proven each of these elements beyond a reasonable doubt, then you must find the defendant guilty. If the State has failed to prove beyond a reasonable doubt any element of this offense, then you must find the defendant not guilty.

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<sup>8</sup> Query whether the rationale of State v. Alexander, 136 N.J. 563 (1994), i.e., that the defendant occupies a supervisory position, applies to financier.