

## 4.8 Knowingly

An act is done knowingly if the defendant is aware of the act and does not [act] [fail to act] through ignorance, mistake, or accident. [The government is not required to prove that the defendant knew that [his] [her] acts or omissions were unlawful.] You may consider evidence of the defendant's words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

### Comment

The second sentence of this instruction should not be given when an element of the offense requires the government to prove that the defendant knew that what the defendant did was unlawful. *See United States v. Liu*, 731 F.3d 982, 994-95 (9th Cir. 2013) (criminal copyright infringement); *United States v. Santillan*, 243 F.3d 1125, 1129 (9th Cir. 2001) (violation of Lacey Act). In the context of a money laundering offense, the second sentence of this instruction may be given if altered to clarify that it applies only to the act of engaging in monetary transactions, and not to whether a defendant knew the money involved in the transaction was the proceeds of criminal activity. *Compare United States v. Lonich*, 23 F.4th 881, 897-901 (9th Cir. 2022), with *United States v. Stein*, 37 F.3d 1407, 1409-10 (9th Cir. 1994), and *United States v. Turman*, 122 F.3d 1167, 1169-70 (9th Cir. 1997), *abrogated on other grounds by Henderson v. United States*, 568 U.S. 266 (2013). *See also United States v. Jaimez*, 45 F.4th 1118, 1123 (9th Cir. 2022) (money laundering conspiracy).

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