

LEADER OF DRUG TRAFFICKING NETWORK
(N.J.S.A. 2C:35-3)

The indictment charges defendant with the crime of being a leader of a drug 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 others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into, or transport in this State methamphetamine, lysergic acid diethylamide, phencyclidine, or any controlled dangerous substance classified in Schedule I or II or any controlled substance analog¹ thereof.

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
- (2) That 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 of analog allegedly involved).
- (3) That defendant was an organizer, supervisor, financier or manager in such a conspiracy.
- (4) That defendant occupied a high level position in the conspiracy.
- (5) That defendant engaged in the conspiracy for profit.

If you find that the State has proven these elements beyond a reasonable doubt, then you must find defendant guilty of being a leader of a drug trafficking network. If you find that the State has failed to prove these elements beyond a reasonable doubt, then you must find the defendant not guilty of being a leader of a drug trafficking network.

The first element which the State must prove beyond a reasonable doubt is that defendant conspired with two or more persons. **[Read model charge on conspiracy; if conspiracy**

¹ Pick the appropriate controlled dangerous substance or analog alleged in the indictment.

² State v. Afanador, 134 N.J. 162 (1993).

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already charged, remind jurors of that definition].

The second element which 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)³ 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. . .⁴ 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 analog was brought into this State solely for ultimate distribution or dispensing in another location.

The third element which the State must prove beyond a reasonable doubt is that defendant acted as an organizer, supervisor, financier or manager within the conspiracy.⁵ An organizer is a person who arranges, devises, or plans a drug trafficking conspiracy. A supervisor is one who oversees the operation of a drug trafficking conspiracy. A financier is one who is responsible for providing the funds or resources necessary to operate a drug trafficking conspiracy. A manager is one who directs the operations of a drug trafficking conspiracy. Defendant, however, does not have to be the only or even the primary organizer, supervisor,

³ Choose the appropriate allegation.

⁴ Read statutory exception to definition (N.J.S.A. 2C:35-2) if applicable.

⁵ 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, 574-75 (1994), the Court decided that these terms should be more fully explained to the jury.

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financier or manager.

The fourth element which 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.

The final element which the State must prove beyond a reasonable doubt is that defendant engaged in the conspiracy for profit. However, the State need not prove that any intended profit was actually realized. You may infer that a particular scheme or course of conduct was undertaken for profit from all the surrounding circumstances, among them the number of persons involved in the scheme, the defendant's net worth and his/her expenditures in relation to his/her legitimate source(s) of income, the amount or purity of the controlled dangerous substance or controlled substance analog or the amount of cash or currency involved. **[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.

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