**15.41 False Statement to a Bank or Other Federally**

**Insured Institution (18 U.S.C. § 1014)**

The defendant is charged in [Count \_\_\_\_\_\_\_\_\_of] the indictment with making a false statement to a federally insured [*specify institution*] for the purpose of influencing the [*specify institution*] in violation of Section 1014 of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant [made a false statement or report] [willfully overvalued any land, property or security] to a federally insured [*specify institution*];

Second, the defendant made the false statement or report to the [*specify institution*] knowing it was false; and

Third, the defendant did so for the purpose of influencing in any way the action of the [*specify institution*].

It is not necessary, however, to prove that the [*specify institution*] involved was, in fact, influenced or misled, or that [*specify institution*] was exposed to a risk of loss. What must be proved is that the defendant intended to influence the [*specify institution*] by the false statement.

**Comment**

*See generally* Comment to Instruction 24.10 (False Statement to Government Agency). Materiality is not an element of the crime of knowingly making a false statement to a federally insured bank in violation of 18 U.S.C. § 1014. *United States v. Wells*, 519 U.S. 482, 496-97 (1997). Compare bank fraud under § 1344(2) where materiality is an element. *United States v. Nash*, 115 F.3d 1431 (9th Cir. 1997);  *see* Instruction 15.39 (Bank Fraud—Scheme to Defraud by False Promises).

Depending on the facts in evidence, it may be appropriate to amend this instruction with language requiring specific jury unanimity. *See* Instruction 6.27 (Specific Issue Unanimity).

Federally insured status is an element of the crime. *United States v. Davoudi*, 172 F.3d 1130, 1133 (9th Cir. 1999).

Proof of a risk of loss to a financial institution is not an element of the crime. *United States v. Taylor*, 808 F.3d 1202, 1205 (9th Cir. 2015).

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