**23.4 Embezzlement or Misapplication by Officer or Employee of**

**Lending, Credit or Insurance Institution (18 U.S.C. § 657)**

**Comment**

The Committee recommends that when the defendant is charged with embezzlement or willful misapplication in violation of 18 U.S.C. § 657, Instruction 23.3 (Theft, Embezzlement, or Misapplication of Bank Funds) should be used with appropriate modifications. Section 656 and Section 657 contain the same elements. *United States v. Musacchio*, 968 F.2d 782, 787 n.6 (9th Cir. 1991).

*See United States v. Bennett*, 621 F.3d 1131, 1138 (9th Cir. 2010) (interpreting “financial

institution” under 18 U.S.C. § 1344 to exclude wholly owned subsidiary of financial institution

and *criticizing United States v. Cartwright*, 632 F.2d 1290 (5th Cir. 1980), which held that “a

subsidiary’s assets ‘belonged to’ a parent corporation for purposes of 18 U.S.C. § 657”).

*Revised Sept. 2018*