

## **Choosing industries wisely: a case of professionals toking up the wrong tree**

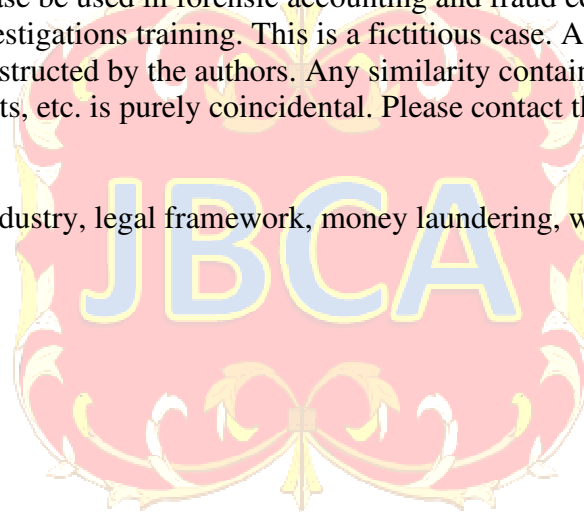
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### **ABSTRACT**

The purpose of this case is to provide students with a learning opportunity to think critically about facts as they relate to a legal framework within the marijuana industry. The students should use logic and reasoning to identify the conditions present in each scenario and determine if the conditions are sufficient to meet the requirements based on the legal definitions. It is suggested that this case be used in forensic accounting and fraud education, legal education, and law enforcement investigations training. This is a fictitious case. All scenario information contained herein was constructed by the authors. Any similarity contained herein to actual persons, businesses, events, etc. is purely coincidental. Please contact the case authors directly with any concerns.

Key Words: marijuana industry, legal framework, money laundering, white-collar crime, accounting



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## INTRODUCTION

The purpose of this case is to provide students with a learning opportunity to think critically about facts as they relate to a legal framework. After initial lessons in symbolic logic and statutory interpretation, an initial assignment is presented wherein students should use logic and reasoning to identify the conditions present in a set of scenarios and determine if the conditions are sufficient to meet the definition of the theft statute. In other words, has theft occurred in each scenario?

Following the initial lessons and assignment, a series of case resources are provided, along with a set of scenarios. The case resources include the federal statute on money laundering and a map of marijuana legality by state. In each of the case scenarios, the student is asked a series of questions, including if money laundering has occurred and if the person portrayed in the scenario has violated state law. Teaching notes and suggested solutions for the initial assignment and the case scenarios are included.

### Learning Objectives

The learning objectives are as follows:

- Read and interpret a statute
- Identify the conditions in which a statute may apply
- Apply those conditions to hypothetical situations:
  - Theft
  - Money laundering

## INITIAL LESSONS AND ASSIGNMENT

### Initial Lesson 1: Symbolic Logic

The logical function of AND requires both conditions for a conclusion. For example:

- If A and B then C,
  - A is the only condition, then not necessarily C.
  - B is the only condition, then not necessarily C.
  - Both A and B are the condition, therefore C.
- If A then B and C,
  - A is the condition, therefore both B and C.

The logical function of OR requires any of the conditions for a conclusion. For example:

- If A or B then C,
  - A is the condition, therefore C.
  - B is the condition, therefore C.
  - Both A and B are the condition, therefore C.

Here are some examples of AND and OR combined:

- A vehicle is something used as an instrument of conveyance by land OR water OR air.
- A train is a vehicle and is comprised of a series of railroad cars moved as a unit AND transports via rails AND by one or more locomotives, AND each locomotive weighs an average of 215 tons.

- Is a trolley a vehicle or a train?
  - Vehicle; not a train → meets one of the conditions for a vehicle – conveyance by land; is not comprised of a series of railroad cars, lacks a locomotive weighing an average of 215 tons.
- Is a railway maintenance truck driven on train tracks a vehicle or a train?
  - Vehicle; not a train → meets one of the conditions for a vehicle – conveyance by land; is not comprised of a series of railroad cars, lacks a locomotive weighing an average of 215 tons.
- Is Amtrak a vehicle or a train?
  - Vehicle and a train → meets one of the conditions for a vehicle – conveyance by land; meets all of the conditions for a train.
- Is a truck driven onto a ferry boat a vehicle or a train?
  - Vehicle; not a train → meets one of the conditions for a vehicle – conveyance by land, then water; is not comprised of a series of railroad cars, does not transport via rails, lacks a locomotive weighing an average of 215 tons.
- Is the ferry boat a vehicle or a train?
  - Vehicle; not a train → meets one of the conditions for a vehicle – conveyance by water; is not comprised of a series of railroad cars, does not transport via rails, lacks a locomotive weighing an average of 215 tons.

## Initial Lesson 2: Reading and Interpreting a Theft Statute

Words have meanings, and those meanings are described in the “definitions” sections of state and federal statutes. Statutes are written with conditions or states of being. A combination of conditions is sufficient for the statute to apply to the circumstances. The term “necessary” means that a condition is required to make a conclusion true. The term “sufficient” means that a condition or combination of conditions that meet the requirements of truth are adequate. For example:

- All circles are shapes.
  - Circles are sufficient to result in a shape, however there are many other shapes that are not circles. This is an example of a sufficient condition of shapes.
- If a person has a circle, it must be a shape.
  - A person cannot have a circle that is not a shape. A necessary condition of circles is that they must be shapes.

The Colorado statute on theft (Colo. Rev. Stat. § 18-4-401, 2022) reads as follows:

(1) A person commits theft when he or she knowingly obtains, retains, or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

(a) Intends to deprive the other person permanently of the use or benefit of the thing of value;

- (b) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
  - (c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;
  - (d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; or
  - (e) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement.
- (1.5) For the purposes of this section, a thing of value is that of “another” if anyone other than the defendant has a possessory or proprietary interest therein.

The interpretation of this statute for theft is as follows:

- A person knowingly AND
  - Obtains OR
  - Retains OR
  - Exercises control over OR
  - Pawns or pledges for a loan OR
  - Disposes of knowing it was stolen
- Something of value of another AND
  - without authorization OR
  - By threat OR
  - By deception
- AND
  - Has intent to deprive permanently OR
  - Deprives via use, abandonment, OR hides OR
  - Will deprive in the future via use, abandonment, OR hides OR
  - Holds for ransom or blackmail OR
  - Knowingly retains more than 72 hours past agreed upon time in a lease or hire agreement

For example: A person knowingly obtains something of value of another without authorization and has intent to deprive permanently → sufficient conditions are met for theft.

### Initial Assignment

Relying on the theft statute and its interpretation, for each of the following scenarios, has theft occurred? Why or why not?

1. Mr. Aguirre was driving along a remote road when he noticed a dog. Mr. Aguirre stopped and approached the dog. The dog seemed to be friendly but was not wearing a collar or tags. Mr. Aguirre put the dog in his vehicle and was in route to a veterinarian when he was pulled over by a local police officer. The police officer asked about the dog, and Mr. Aguirre stated that the dog did not belong to him.
2. While at a jewelry store, Ms. Blanscet’s infant child placed a \$100 ring from the store into Ms. Blanscet’s purse. The next day, Ms. Blanscet notices the ring and deduces what happened. She decides not to return the ring because she has purchased over

- \$10,000 worth of jewelry from this store, despite other stores offering comparable jewelry for half the price.
3. Ms. Collins is paid in advance by Widget, Inc., to create a computer program for its website. After two months Ms. Collins completes the job and applies the changes to the Widget, Inc., website. However, two hours later she hears about how Widget, Inc., is notorious for underpaying its workers, utilizes overseas sweatshops, and supports political causes that Ms. Collins finds abhorrent. Ms. Collins can not bear the notion of her computer program furthering the interests of such a company, so she immediately returns the money, reverts the company website back to the original state, and deletes all files of the program she created.
  4. Mr. Dorr is on academic probation in college. He admits his poor grades are largely due to his obsession with collecting Pokémon cards. His girlfriend, in a desperate attempt to help him pass his classes, takes his Pokémon cards. She puts them in a box at her house and plans on returning them after finals week. Unfortunately, her roommate accidentally throws away the cards.
  5. Mr. Eldridge devises a plan to get his neighbor to pay him back the \$500 he loaned him six months ago. He asks the neighbor if he can borrow his new lawn mower (worth \$1,000). After Mr. Eldridge puts the borrowed mower in his garage, he tells his neighbor that he will not return it until he is paid back the \$500.
  6. Ms. Faraday's roommate, Ms. Hanover, has a terrible drinking problem. Ms. Hanover has been to rehab three times, and her alcoholism has rendered her unable to keep a job. Despite her relatively young age (she is in her late 20s), her doctor says she will suffer complete kidney failure in three years if she does not stop drinking. After trying everything else to get Ms. Hanover to stop, Ms. Faraday pours all of Ms. Hanover's alcohol down the drain as a last resort.
  7. Mr. Griffin went to a shoe store to buy a gift for his brother. While there, he notices a pair of new Air Jordans in his favorite color and in his size sitting by the front door unattended. He had no intention of stealing anything that day, but the temptation was just too much. He forgot about his original reason for going to the store and took the Air Jordans without paying. The next morning, he felt guilty and decided to return them. However, a severe snowstorm had blown in, and all the roads to the shoe store were shut down, so Mr. Griffin decided he would do it the next day. Unfortunately, before the next day arrived, police came to his house and found the stolen shoes.

## **CHOOSING INDUSTRIES WISELY CASE**

### **Case Resources**

The following case resources are available for the case scenarios and questions that follow:

- US Code § 1956: Laundering of Monetary Instruments
- Definitions of terms used in US Code § 1956
- Map of Marijuana Legality by State
- Colorado Revised Statutes (CRS) Title 44, Article 10, Section 101 § 44-10-101, Colorado Marijuana Code (in part)

- Colorado Board of Accountancy's Position Statement Regarding Certified Public Accountant Certificate Holders Providing Services to the Marijuana Industry

The federal statute on money laundering (18 U.S.C. § 1956, 2018) reads as follows (single quotes are used to delineate the terms that are defined below):

(a) (1) Whoever, 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity', 'conducts' or attempts to conduct such a 'financial transaction' which in fact involves the 'proceeds' of specified unlawful activity—

(A) (i) With the intent to promote the carrying on of 'specified unlawful activity'; or

(A) (ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986 (i.e., tax evasion); or

(B) knowing that the transaction is designed in whole or in part—

(B) (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(B) (ii) to avoid a transaction reporting requirement under State or Federal law, shall be sentenced to a fine of not more than \$500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

The definitions used in US Code § 1956 are as follows:

- 'knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law, regardless of whether or not such activity is specified in paragraph (7).
  - Paragraph (7): the term 'specified unlawful activity' means any act or activity with respect to a financial transaction occurring in whole or in part in the United States, involving the manufacture, importation, sale, or distribution of a 'controlled substance' (as such term is defined for the purposes of the 'Controlled Substances Act').
  - The Controlled Substances Act (CSA) places all substances that were in some manner regulated under existing federal law into one of five schedules. This placement is based upon the substance's medical use, potential for abuse, and safety or dependence liability. More information can be found in the Controlled Substances Act (2018).
    - 'Schedule I drugs' are those that have the following characteristics according to the United States Drug Enforcement Agency (DEA) (Anderson, 2022):
      - The drug or other substance has a high potential for abuse.
      - The drug or other substance has no currently accepted medical treatment use in the US.
      - It has a lack of accepted safety for use under medical supervision.

- List of Controlled Substances includes (Drug Enforcement Administration, n.d.):
  - Substance: Marihuana [Note: This is how it is spelled in the DEA's schedule]
  - DEA Number: 7360
  - CSA Schedule: I
  - Narcotic: No
  - Other Names: Cannabis, marijuana
- 'conducts' includes initiating, concluding, or participating in initiating, or concluding a transaction.
- 'financial transaction'
  - (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or
  - (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.
- 'proceeds' means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

The current map of Marijuana Legality by State may be found in Appendix A.

The Colorado statute pertaining to the legal use of marijuana, in part, (Colo. Rev. Stat. § 44-10-701, 2022) reads as follows:

Any Person who buys, transfers, or acquires Regulated Marijuana outside the requirements of the Colorado Marijuana Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, dispensing, transferring, transporting, or testing Medical Marijuana or Retail Marijuana must be properly licensed to be in compliance with Colorado law.

The Colorado State Board of Accountancy's position statement (Colorado Board of Accountancy's Position Statement Regarding Certified Public Accountant Certificate Holders Providing Services to the Marijuana Industry, December 2015) [<https://dpo.colorado.gov/Accountancy/Laws/>] reads as follows:

It is the Board's position that offering to perform or performing professional services for clients in the marijuana industry who are in compliance with the Colorado Marijuana Code is not in itself specifically prohibited by the Accountancy Act codified in Section 2 of Title 12 of the Colorado Revised Statutes or the State Board of Accountancy Rules.

Certificate holders who choose to provide professional services to the marijuana industry will be held to the professional standards, laws, and rules applicable to all certificate holders for services provided.

The Board's Position Statement should not be construed: (a) as an endorsement for certificate holders to provide professional services to the

marijuana industry; (b) as a statement about the feasibility of meeting applicable professional standards in providing services to the marijuana industry; or (c) as a statement about marijuana enforcement in any other jurisdiction or by any other local, state, or federal authority.

### Case Scenarios

Utilizing the above case resources and based on the information provided below, for each of the following scenarios:

- a. Has money laundering occurred per US Code § 1956? Why or why not?
  - b. Is the activity described in violation of Colorado state law CRS § 44-10-701? Why or why not?
  - c. Relying only on the provided map, is the activity described in violation of state laws in any other states present in the scenario? Why or why not?
  - d. If a Certified Public Accountant (CPA) is involved in the scenario, is he or she in violation of the Accountancy Act or the State Board of Accountancy Rules? Why or why not?
1. Ms. Hue, a CPA licensed in the state of Colorado, in a firm located in Colorado, performs operational accounting services, including accounting, bookkeeping, and tax preparation for Zuma, Inc., a business in the marijuana industry located in Colorado. Ms. Hue accepts payment in the form of cash.
  2. Mr. Ingram, a CPA licensed in the state of Colorado, in a firm located in Colorado, performs accounting and business consulting services for Yu, Inc., a business in the marijuana industry located in the state of Washington. Mr. Ingram accepts payment in the form of wire transfer.
  3. Ms. Jameson, a CPA licensed in the state of Colorado, in a firm with locations in Colorado, Utah, and Wyoming, performs accounting and business consulting services for Wolfe, Inc., a business in the marijuana industry located in the state of Colorado. Ms. Jameson accepts payment in the form of a fully restored 1958 Ford Thunderbird.
  4. Mr. Keahi, a resident of the state of Wyoming, wishes to invest in Vickers, Inc., a business in the marijuana industry located in the state of Colorado. Presume “clean” money invested; Keahi receives a dividend/distribution from Vickers.
  5. Ms. Lee, a CPA licensed in the state of Colorado, in a firm located in Colorado, performs operational accounting services, including accounting, bookkeeping, and tax preparation for Uintah, Inc., a business in the hotel industry in Colorado. During her work, Ms. Lee discovers some peculiar discrepancies that suggest some of the money may be coming from marijuana sales. Out of fear of losing her top client, Ms. Lee decides not to investigate further, reasoning that as long as she is not absolutely certain marijuana money is involved, she can continue her business relationship.



## TEACHING NOTES

The authors used Colorado laws and accountancy rules. Instructors are invited to utilize their own state's statutes and related information. They are likely similar and will make the assignment and case more realistic and relevant for the students.

Teaching options:

- **Face-to-face:** Have initial lessons and assignment at least one class period prior. Provide feedback on the assignment prior to class with case coverage, or run as an in-class discussion with more immediate feedback. Have contents of the case itself conducted as a Think-Pair-Share exercise: Think (individually, 15-20 minutes), Pair (in groups of 2 to 3, 15-20 minutes), Share (whole class discussion, 15-20 minutes).
- **Online:** Have initial lessons and individual assignment earlier in the week or the week before. Provide feedback on the assignment prior to case coverage. Set up the case as a small group project with the deliverable of a video presentation. Instructor provides feedback to each group.
- **Online:** Have initial lessons and individual assignment earlier in the week or the week before. Provide feedback on the assignment prior to covering the case. Set up the case as a discussion thread assignment. For example, post the case, students provide initial thoughts on answers (must post prior to seeing other posts), then students reply on a requisite number of other students' posts. Instructor then provides a recap session either synchronously (e.g., via a Zoom session) or asynchronously (e.g., via a recorded video) to walk through solutions with students.
- In general, encourage students to expand on the scenarios: What if x, y, or z? Would this change anything?

Note: Should these current circumstances change, e.g., marijuana is no longer a Schedule I substance, the process still remains relevant for any activity deemed illegal at some level, e.g., interstate commerce with one state having something legalized and the other state does not, e.g., prostitution is legal in Nevada in a licensed house of prostitution.

For further exploration: Have students research Bitcoin transactions and determine what, if any, transactions might result in money laundering.

## SUGGESTED SOLUTIONS

### Initial Assignment Suggested Solutions

For each of the follow scenarios, has theft occurred? Why or why not?

1. Mr. Aguirre: This is likely not theft. If the dog had been abandoned, then no one would have a possessory interest in the dog, and it would not be a thing of value of "another." Alternatively, if the dog was only lost, rather than abandoned, then the determination hinges on Mr. Aguirre's motivation for taking the dog to a veterinarian. If his intentions were to find the rightful owner, then he did not intend to deprive anyone of ownership and therefore is not guilty of theft. However, if his intention of taking the dog to the veterinarian was to have it bathed and checked out so Mr. Aguirre could keep it, then this could constitute theft. The fact that Mr. Aguirre did not know the identity of the true owner is irrelevant. The statute only refers to

- property “of another.” Therefore, the identity of the owner does not need to be known.
2. Ms. Blanscet: Ms. Blanscet has committed theft under the Colorado theft statute. While the facts clearly established that she did not remove the ring from the store, the fact that Ms. Blanscet kept the ring after she discovered it in her purse and knew where it came from supports the elements of the theft statute. She is knowingly retaining someone else’s property with the intent to deprive another of its value. Ms. Blanscet’s attempt to rationalize her behavior by pointing out how she has overpaid for jewelry in the past is also irrelevant.
  3. Ms. Collins: This is likely theft. The facts point out that Ms. Collins has been paid for her work on the company’s website. The computer program belongs Widget, Inc. Thus, her destruction (disposal) of the computer program with the intent to deprive the company of its use meets the elements of the statute. Ms. Collins’ altruistic motivations are irrelevant to the legal question of theft. Also, the fact that Ms. Collins returned the money is irrelevant, as doing so does not change who is the rightful owner of the computer program. While a computer program is not tangible, it is still property that can be possessed. There would, however, be an issue of who possessed the computer program. Furthermore, regardless of where the computer servers that house the computer program are located, despite any explicit language in their contract for services that stated otherwise, the computer program would be considered the property of Widget, Inc.
  4. Mr. Dorr: While Mr. Dorr was permanently denied possession of his property, his girlfriend never manifested the requisite intent for theft, nor did her roommate. Neither intended to permanently deprive Mr. Dorr of the cards, did not knowingly conceal them in such a manner as to permanently deprive him of the cards, and did not conceal them intending that doing so would permanently deprive him of the cards. Therefore, no theft occurred.
  5. Mr. Eldridge: Mr. Eldridge’s actions meet the elements of theft for the Colorado statute. Mr. Eldridge is clearly exercising control of his neighbor’s mower. In addition, the mower has value based on Mr. Eldridge using it as undocumented collateral for the previous loan as well as the \$1,000 mentioned in the fact pattern. Mr. Eldridge’s actions and communication to the neighbor clearly supports his intent to use the mower as a bargaining chip (collateral), depriving his neighbor of its use. The fact that Mr. Eldridge is owed money by the neighbor does not support his actions.
  6. Ms. Faraday: The fact that Ms. Faraday’s heart was in the right place can be taken into consideration at the sentencing phase of the trial as a mitigating factor, but it does not change the fact that she intentionally and permanently deprived Ms. Hanover of her property. Yes, Ms. Hanover’s property was causing her great harm, but if she had a legal right to possess it, then that is irrelevant to the determination of theft. The facts point out that Ms. Faraday obtained and disposed of something of value of another. She did so with the intent to deprive Ms. Hanover of the alcohol permanently. Thus, her disposal of the alcohol with the intent to deprive Ms. Hanover of it, meets the elements of the statute.
  7. Mr. Griffin: Mr. Griffin has committed theft under the theft statute. He obtained Air Jordans (something of value) from another with the intent to deprive another of them

permanently. The fact that he did not have the intent when he walked in the store does not matter; he formed intent when he left the store without paying. Furthermore, the fact that he later felt guilt and was going to return the shoes does not diminish the fact that he met all the elements of the theft statute when he took the shoes, intending to permanently deprive the store of the property.

### Case Scenarios Suggested Solutions

Based on the information provided below, for each of the following scenarios:

- a. Has money laundering occurred per US Code § 1956? Why or why not?
  - b. Is the activity described in violation of Colorado state law CRS § 44-10-101? Why or why not?
  - c. Relying only on the provided map, is the activity described in violation of state laws in any other states present in the scenario? Why or why not?
  - d. If a Certified Public Accountant (CPA) is involved in the scenario, are they in violation of the Accountancy Act or the State Board of Accountancy Rules? Why or why not?
1. Ms. Hue, a CPA licensed in the state of Colorado
    - a. This is possibly money laundering. While this transaction itself is not interstate commerce, the definitions of the money laundering statute only require that the transaction “in any way or degree affect interstate or foreign commerce.” Courts apply a very expansive standard here (See *Wickard v. Filburn* (1942), where a man growing his own wheat for personal consumption was held to be involved in interstate commerce because doing so meant that he did not have to buy wheat on the open market, thus having some small effect on the interstate market for wheat.). Likewise, by procuring its accounting services from Ms. Hue, Zuma, Inc., does not need to acquire services from someone out of state, thus affecting the interstate market for accounting services. It can be argued that because it was a cash transaction conducted solely within the borders of a US state no violation of the federal statute occurred.
    - b. This is likely not in violation of Colorado state law. Presuming Zuma, Inc., is appropriately licensed to conduct its business in Colorado, the CPA’s services are legal (as they would be for any other business).
    - c. N/A
    - d. Presuming Zuma, Inc., is appropriately licensed to conduct its business in Colorado and remains in compliance with state law, the CPA is not in violation of the Accountancy Act or State Board Rules.
  2. Mr. Ingram, a CPA licensed in the state of Colorado
    - a. This is likely money laundering because the performing of accounting and business consulting services probably qualifies as “the intent to promote the carrying on of specified unlawful activity” under USC § 1956(a)(1)(A)(i). Additionally, accepting a wire transfer between two states from the sale proceeds of an illegal substance clearly impacts interstate commerce.

- b. This is likely not in violation of Colorado state law. Presuming Yu, Inc., is appropriately licensed to conduct its business in Washington, the CPA's services are legal (as they would be for any other business).
      - c. It is likely that the business operating in other state in this scenario, Washington, is not in violation of Washington state laws, as marijuana is fully legalized in Washington.
      - d. Presuming Yu, Inc., is appropriately licensed to conduct its business in Colorado and remains in compliance with state law, the CPA is not in violation of the Accountancy Act or State Board Rules.
  3. Ms. Jameson, a CPA licensed in the state of Colorado
    - a. This transaction would likely be held to affect interstate commerce (see analysis in question 1 explanation). The 1958 Ford Thunderbird that Ms. Jameson received as payment might not be "the proceeds of some form of unlawful activity." Perhaps Wolf, Inc., acquired the vehicle before they were involved in any illegal activity, for example. But this distinction is irrelevant because Ms. Jameson knows that the transactions involved in Wolfe, Inc.'s business "represent the proceeds of some form of unlawful activity." Additionally, if Ms. Jameson's firm constitutes a financial institution, it would be money laundering because the transaction involves the use of a financial institution which is engaged in interstate commerce.
    - b. This is likely not in violation of Colorado state law. Presuming Wolfe, Inc., is appropriately licensed to conduct its business in Colorado, the CPA's services are legal (as they would be for any other business) in Colorado. The form of payment is irrelevant.
    - c. While the business in this scenario is located in Colorado, the CPA firm is licensed in two other states along with Colorado. Utah is a state where medical marijuana is available but has not been decriminalized. It is likely that the CPA is violating state law in Utah by performing services for a business in the marijuana industry. Wyoming is a state where marijuana is fully illegal. It is likely that the CPA is violating state law in Wyoming by performing services for a business in the marijuana industry.
    - d. Due to the issues raised in point (c) above, the CPA likely has violated the Accountancy Act or State Board Rules due to other "professional standards, laws, and rules applicable to all certificate holders for services provided." If the CPA firm is illegally operating in the states of Utah and Wyoming due to providing services for a business in the marijuana industry, this illegal status likely violates the Rule.
  4. Mr. Keahi, a resident of the state of Wyoming
    - a. Likely money laundering because financial investment probably qualifies as "the intent to promote the carrying on of specified unlawful activity" under USC § 1956(a)(1)(A)(i). Mr. Keahi is intentionally involved in a financial transaction with a business in an industry that sells marijuana, which the federal government has classified as a Schedule I controlled substance. His acceptance of a dividend from an investment shows an intent to promote the carrying on of a specified unlawful activity.

- b. Presuming Vickers, Inc., is appropriately licensed to conduct its business in Colorado, it is not in violation of this state statute. The investor, Mr. Keahi, would also be in compliance with Colorado law in this scenario.
  - c. As discussed in the previous question, Wyoming is a state where marijuana is fully illegal. It is likely that Mr. Keahi is in violation of state law in Wyoming with this investment in a company in the marijuana industry.
  - d. N/A
5. Ms. Lee, a CPA licensed in the state of Colorado
- a. This is likely money laundering under US Code § 1956(a)(1)(B)(i) if some of the money is in fact coming from marijuana sales. The relevant questions would be whether Ms. Lee knew that the proceeds were from unlawful activity and whether she knew that the transaction was designed to conceal or disguise the nature of the proceeds. There is no objective standard for how certain a defendant must be regarding the existence of illegal activity to satisfy the “knowing” standard. This would be up to juror interpretation. However, case law demonstrates that willful blindness does not per se render a defendant immune from the “knowing” element of the money laundering statute. The element of knowledge for purposes of the money laundering statute can be proven through circumstantial evidence of willful blindness.
  - b. This is likely in violation of the state statute due to hotel management likely operating “outside the requirements of the Colorado Marijuana Code” with purchase, transfer, and or acquisition of marijuana.
  - c. N/A
  - d. The CPA likely has violated the Accountancy Act or State Board Rules due to other “professional standards, laws, and rules applicable to all certificate holders for services provided.” As a licensed professional, Ms. Lee has a duty to investigate the peculiar discrepancies.

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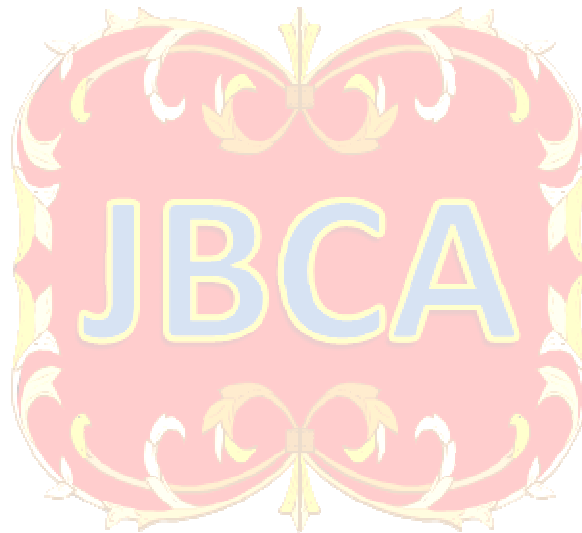
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Wickard v. Filburn, 317 U.S. 111 (1942).



**APPENDIX A**

Map of Marijuana Legality by State (updated June 2022). (Disa, n.d.).

