IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

Count \_\_ of the indictment charges the defendant with Disposing of Property to Defraud Creditors.

Disposing of Property to Defraud Creditors occurs in one of three ways:

1. when a person removes any of [his] [her] property out of any county with the intent to prevent the same from being levied upon by any execution; or

2. when a person secretes, assigns or conveys, or otherwise disposes of any of [his] [her] property with the intent to defraud a creditor or to prevent the property from being made liable for payment of debts; or

3. when a person receives the property of another with the intent to defraud a creditor or to prevent the property from being made liable for the payment of debts.

To find the defendant guilty of Disposing of Property to Defraud Creditors, the State must overcome the defendant’s presumption of innocence and prove beyond a reasonable doubt that:

*Ground 1*

1. the defendant,

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] Kanawha County, West Virginia,

4. removed [his] [her] property, that is, [insert description of property],

5. out of [insert county] County,

6. with the intent to prevent the property from being levied upon by any execution.

*Ground 2*

To find the defendant guilty of Disposing of Property to Defraud Creditors, the State must overcome the defendant’s presumption of innocence and prove beyond a reasonable doubt that:

1. the defendant,

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia,

4. secreted, assigned, conveyed, or otherwise disposed

5. of [his] [her] property, that is, [insert description of property]

6. [with the intent to defraud a creditor] [to prevent the property from being made liable for payment of debts]

*Ground 3*

To find the defendant guilty of Disposing of Property to Defraud Creditors, the State must overcome the defendant’s presumption of innocence and prove to you beyond a reasonable doubt that

1. the defendant,

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia,

4. received,

5. the property of another, that is, [insert description of property]

6. [with the intent to defraud a creditor] [to prevent the property from being made liable for the payment of debts].

If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged in Count \_\_ of the indictment. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE