

18 U.S.C. § 1623
(False declarations before grand jury or court -Elements)

To sustain the charge of false declaration before a grand jury or in a court, the government must prove the following propositions:

First, that the defendant, while under oath, testified falsely before a [United States grand jury, Court of the United States] as charged in the indictment;

Second, that the defendant's testimony related to some material matter; and

Third, that the defendant knew the testimony was false.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, then you should find the defendant not guilty.

Committee Comment

Willfulness is not an element required to establish a violation of 18 U.S.C. § 1623. *United States v. Watson*, 623 F.2d 1198, 1207 (7th Cir. 1980). Watson is still good law on the absence of willfulness as an element after *United States v. Gaudin*, 115 S.Ct. 2310, 2314 (1995).

Also, if recantation is a defense, see instruction on § 1623 Recantation, and add a fourth element to this instruction.