

FRAUDULENT ACCOSTING
(A Misdemeanor)
(Accosting With Intent to Defraud)
PENAL LAW 165.30(1)
(Committed on or after Sept. 1, 1971)

The _____ count is Fraudulent Accosting.

Under our law, a person is guilty of Fraudulent Accosting when that person accosts another person in a public place with intent to defraud such person of money or property by means of a trick, swindle or confidence game.

The term "intent" used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

INTENT means conscious objective or purpose.¹ Thus, a person acts with intent to defraud another person of money or property by means of a trick, swindle or confidence game, when his or her conscious objective or purpose is to defraud such person of money or property by means of a trick, swindle or confidence game.

Under our law, a person who accosts another in a public place and [either] at that time and place [or at some subsequent time] [or at some other place] makes statements to such other person [or engages in conduct with respect to such other person] of a kind commonly made [or performed] in the perpetration of a known type of confidence game, is presumed to intend to defraud such other person of money or property.² This means that, if the People have proven beyond a reasonable doubt that the defendant accosted another person in a public place and, [either] at that time [or at some subsequent time] [or at some other

¹See Penal Law § 15.05(1).

²See Penal Law § 165.30(2).

place], made statements to such other person [or engaged in conduct with respect to such other person] of a kind commonly made [or performed] in the perpetration of a known type of confidence game, you may, but you are not required to, infer from those facts that the defendant intended to defraud such other person of money or property.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), accosted (name of victim) in a public place; and
2. That the defendant did so with the intent to defraud (name of victim) of money or property by means of a trick, swindle or confidence game.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Fraudulent Accosting as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Fraudulent Accosting as charged in the _____ count.