

ISSUING A FALSE FINANCIAL STATEMENT
(A misdemeanor)
(Makes or utters written instrument)
PENAL LAW 175.45(1)
(Committed on or after Sept. 1, 1967)

The _____ count is Issuing a False Financial Statement.

Under our law, a person is guilty of Issuing a False Financial Statement when, with intent to defraud, he or she knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some material respect.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms¹: “written statement,” “intent,” [and] “knowingly,” [and “person”].

WRITTEN INSTRUMENT means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence, of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.²

INTENT means conscious objective or purpose. Thus, a

¹The term “utter” is not defined by statute or in case law. Black’s Law Dictionary (7th ed 1999) defines the term as follows:

“1. To say, express, or publish.... 2. To put or send (a document) into circulation; esp., to circulate (a forged note) as if genuine....” (Examples omitted).

²See Penal Law §175.00(3).

person acts with intent to defraud when that person's conscious objective or purpose is to do so.³

A person KNOWINGLY makes or utters a written instrument when that person is aware that he or she has made or uttered a written instrument.⁴

[PERSON means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or governmental instrumentality.⁵]

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

1. That on or about (date), in the county of (county), the defendant (defendant's name), made or uttered a written instrument which purported to describe the financial condition or ability to pay of some person and which was inaccurate in some material respect;
2. That the defendant did so knowingly;
3. That the defendant did so with intent to defraud.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Issuing a False Financial Statement as charged in the _____ count.

On the other hand, if you find that the People have not

³See Penal Law §15.05(1).

⁴ See Penal Law §15.05(2).

⁵ Penal Law §10.00(7).

proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Issuing a False Financial Statement as charged in the _____ count.