

**IMMIGRANT ASSISTANCE SERVICES FRAUD
IN THE SECOND DEGREE
Penal Law § 190.87
(Committed on or after February 2, 2015)**

The (specify) count is Immigrant Assistance Services Fraud in the Second Degree.

Under our law, a person is guilty of Immigrant Assistance Services Fraud in the Second Degree when, with intent to defraud another person seeking immigrant assistance services¹ from such person, he or she violates² the law on providing immigrant assistance services with intent to obtain property from such other person by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property.

The following terms used in that definition have a special meaning:

IMMIGRANT ASSISTANCE SERVICES means providing assistance, for a fee or other compensation, to persons who have, or plan to, come to the United States from a foreign country, or their representatives, in relation to any proceeding, filing or action affecting the non-immigrant, immigrant or citizenship status of a person which arises under the immigration and nationality law, executive order or presidential proclamation, or which arises

¹ At this point, the statute states “as defined in article twenty-eight-C of the general business law.” That definition of “immigrant assistance services” is recited below in the definition section.

² At this point, the statute references a violation of: “section four hundred sixty-d of the general business law.” General Business Law § 460-d (as amended L 2014, ch 206, § 3, eff. Feb. 2, 2015) is entitled “Prohibited acts” and contains 15 subdivisions. This charge substitutes the language: “the law on providing immigrant assistance services” and provides for the definition of that term below in the definition section.

under actions or regulations of the United States citizenship and immigration services, the United States department of labor, or the United States department of state.³

INTENT means conscious objective or purpose. Thus a person acts with intent to defraud another person seeking immigrant assistance services from him/her, when that person's conscious objective or purpose is to do so.⁴ Similarly, a person acts with intent to obtain property from such other person by false or fraudulent pretenses, representations or promises when that person's conscious objective or purpose is to do so.

The LAW ON PROVIDING IMMIGRANT ASSISTANCE SERVICES requires that:

“No provider [meaning any person (including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person)⁵] that provides immigrant assistance services,” shall:

Here, the Court should insert the applicable General Business Law § 460-d [“Prohibited acts”] provision as included in the indictment.

³ General Business Law § 460-a (1).

⁴ See Penal Law § 15.05 (1). An “expanded” definition of “intent” is available in the charges of General Applicability under Culpable Mental States.

⁵ General Business Law § 460-a (2) defines the term “provider” and that definition, without the statutory exceptions, is included in the phrase which begins “meaning...” The statutory exceptions to that definition are set forth in paragraphs (a) through (d) of the subdivision. If an exception is in issue, the court should separately define the exception.

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), violated the law on providing immigrant assistance services;
2. That the defendant did so both:

with intent to defraud a person seeking immigrant assistance services from him/her, and

with intent to obtain property from that person by false or fraudulent pretenses, representations or promises;
and
3. That the defendant thereby wrongfully obtained such property.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.