

ISSUING A FALSE FINANCIAL STATEMENT
(A misdemeanor)
(Represents in writing)
PENAL LAW 175.45(2)
(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 represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to such person's current financial condition or ability to pay, whereas he or she knows it is materially inaccurate in that 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 terms: "written statement," "intent," 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.¹

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud when that person's conscious objective or purpose is to do so.²

PERSON means a human being, and where appropriate, a

¹See Penal Law §175.00(3).

²See Penal Law §15.05(1).

public or private corporation, an unincorporated association, a partnership, a government or governmental instrumentality.³

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 four elements:

1. That on or about (date), in the county of (county), the defendant (defendant's name), represented in writing that a written instrument purporting to describe a (specify's) financial condition or ability to pay as of (specify prior date) was accurate with respect to (specify's) current financial position or ability to pay;
2. The written instrument contained materially inaccurate information with respect to (specify's), current financial condition or ability to pay;
3. That the defendant knew that the written instrument contained materially inaccurate information regarding (specify's) current financial condition or ability to pay; and
4. That the defendant made the representation in writing with the 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 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 _____

³Penal Law §10.00(7).

_____ count.