

LIFE SETTLEMENT FRAUD

Penal Law § 176.45 Life settlement fraud in the fifth degree

Penal Law § 176.50 Life settlement fraud in the fourth degree

Penal Law § 176.55 Life settlement fraud in the third degree

Penal Law §176.60 Life settlement fraud in the second degree

Penal Law §176.65 Life settlement fraud in the first degree

(Committed on or after May 18, 2010)

The (*specify*) count is Life Settlement Fraud in the [*specify*]
Degree.

Under our law, a person is guilty of life settlement fraud in
the [*specify*] degree when he or she commits a fraudulent life
settlement act [.]

[and thereby wrongfully takes, obtains or withholds, or
attempts to wrongfully take, obtain or withhold property with
a value in excess of

Select appropriate alternative:

twenty-five thousand dollars.

fifty thousand dollars.

one hundred thousand dollars.

one million dollars.]

The following terms used in that definition have a special
meaning:¹

¹ In addition, to the terms defined here, there are a series of terms in
Insurance Law § 7802 which may be applicable and required to be defined
if in issue, e.g. insurance Law § 7802 (m) ("life settlement provider");
Insurance Law § 7802(j) ("life settlement broker"); Insurance Law § 7802(l)
("life settlement intermediary"); Insurance Law § 7802(n) ("owner"); and
Insurance Law § 7802(o) ("person").

A FRAUDULENT LIFE SETTLEMENT act is committed by any person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to, or by, a life settlement provider, life settlement broker, life settlement intermediary, or any agent thereof, or to any owner any written statement or other physical evidence as part of, or in support of, an application for a life settlement contract, a claim for payment or other benefit under a life settlement contract, which the person knows to:

(1) contain materially false information concerning any material fact thereto; or

(2) conceal, for the purpose of misleading, information concerning any fact material thereto.²

STATEMENT includes, but is not limited to, any notice, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, and other evidence of loss, injury or expense.³

LIFE SETTLEMENT CONTRACT means an agreement establishing the terms under which compensation is provided to an owner, which compensation⁴ is less than the expected death

² Penal Law § 176.40.

³ Penal Law § 176.00(2).

⁴ If in issue, “compensation” is defined in Insurance Law § 7802(d) to mean “anything of value, including money, credits, loans, interest on premium, forgiveness of principal or interest, vacations, prizes, gifts or the payment of employee salaries or expenses, whether paid as commission or otherwise.”

benefit of the policy⁵, in return for the assignment, transfer, sale, release, devise or bequest of any portion of:

- (A) the death benefit;
- (B) the ownership of the policy; or
- (C) any beneficial interest in the policy, or in a trust or any other entity that owns the policy, where a primary purpose of the transaction is to acquire the policy.⁶

A person KNOWINGLY acts with respect to conduct or to a circumstance when that person is aware that his or her conduct is of such nature or that such circumstance exists.⁷

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.⁸

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 (both/each) of the following (two/three) elements:

⁵ If in issue, "policy" is defined in Insurance Law § 7802(p) to mean "an individual or group life insurance policy or certificate."

⁶ Insurance Law § 7802(k)(1). Subdivision (2) of that section reads: (2) "Life settlement contract" shall include an agreement, entered into after the effective date of this article (May 18, 2010), described in paragraph one of this subsection regardless of the date the compensation is provided and regardless of the date the assignment, transfer, sale, devise or bequest is effectuated. Subdivision (3), paragraphs (A) through (L) of that section list what a "life settlement contract" shall "not" include and, if in issue, the appropriate paragraph should be included in the instant definition.

⁷ Penal Law § 15.05 (2).

⁸ Penal Law § 15.05 (1).

1. That on or about (date) in the County of (County), the defendant (defendant's name) committed a life settlement fraud; and
2. That defendant did so knowingly and with intent to defraud; [and]
- [3. That the defendant did thereby wrongfully take, obtain or withhold, [or attempt to wrongfully take, obtain or withhold property] with a value in excess of:

Select appropriate alternative:

twenty-five thousand dollars.

fifty thousand dollars.

one hundred thousand dollars.

one million dollars.]

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