

**SCHEME TO DEFRAUD IN THE FIRST DEGREE**  
**(Class E felony)**  
**(Ten or more persons)**  
**PENAL LAW 190.65(1)(a)**  
**(Committed on or after January 1, 1977)**

The \_\_\_\_\_ count is Scheme to Defraud in the First Degree

Under our law, a person is guilty of a scheme to defraud in the first degree when that person engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons.

It is necessary to prove the identity of at least one person from whom the defendant so obtained property, but it is not necessary to prove the identity of any other intended victim.<sup>1</sup>

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. Thus, a person acts with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, when that person's conscious objective or purpose is to do so.<sup>2</sup>

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), engaged in a scheme constituting a systematic ongoing course of

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<sup>1</sup> Penal Law § 190.65(2).

<sup>2</sup>See Penal Law § 15.05(1).

conduct;

2. That the defendant did so with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises; and
3. That the defendant so obtained property from one or more of such persons, at least one of whom has been identified.

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 Scheme to Defraud in the First Degree 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 Scheme to Defraud in the First Degree as charged in the \_\_\_\_\_ count.