

**SCHEME TO DEFRAUD IN THE FIRST DEGREE**  
**(Class E felony)**  
**(more than one person, more than one of**  
**whom is a vulnerable elderly person)**  
**PENAL LAW 190.65 (1) (c)**  
**(Committed on or after Sept. 19, 2008)**

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 he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person, more than one of whom is a vulnerable elderly person, or to obtain property from more than one person, more than one of whom is a vulnerable elderly person, by false or fraudulent pretenses, representations or promises, and so obtains property from one or more such persons.

It is necessary for the prosecution to prove the identity of at least one such vulnerable elderly person, but it shall not be necessary to prove the identity of any other intended victim.<sup>1</sup>

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: "vulnerable elderly person" and "intent."

**VULNERABLE ELDERLY PERSON** means a person sixty years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by demonstrable physical, mental or emotional dysfunction to the extent that the person is incapable of adequately providing for his or her own health or personal care.<sup>2</sup>

**INTENT** means conscious objective or purpose. Thus, a person acts with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent

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<sup>1</sup> Penal Law § 190.65 (2).

<sup>2</sup> Penal Law § 260.30 (3).