

N.C.P.I.-Crim. 216.61
APPROPRIATION OF PARTNERSHIP FUNDS BY PARTNER TO PERSONAL
USE. CLASS C AND H FELONIES.
GENERAL CRIMINAL VOLUME
MAY 1998
N.C. Gen. Stat. § 14-97

216.61 APPROPRIATION OF PARTNERSHIP FUNDS BY PARTNER TO
PERSONAL USE. CLASS C AND H FELONIES.

*NOTE WELL: For offenses occurring on or after
December 1, 1997, if the value of the partnership funds
appropriated is \$100,000 or more, a violation is a Class
C felony. If the value of the partnership funds
appropriated is less than \$100,000, a violation is a
Class H felony. For offenses occurring before December
1, 1997, a violation is a Class H felony regardless of
the value of the property appropriated.*

The defendant has been accused of appropriation of partnership
funds of \$100,000 or more by a partner to personal use.

Now I charge that for you to find the defendant guilty of
appropriation of partnership funds of \$100,000 or more by a partner to
personal use, the State must prove six things beyond a reasonable
doubt:

First, that the defendant was engaged in a partnership business in
the State of North Carolina.

Second, that the defendant took funds belonging to the partnership
business.

Third, that the defendant took the funds without the knowledge
and consent of *his* partner(s).

Fourth, that the defendant appropriated the funds to *his* own
personal use.

Fifth, that the defendant appropriated the funds with the fraudulent
intent of depriving *his* partner(s) of the use thereof.

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And Sixth, that the funds had a value of \$100,000 or more.

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was engaged in a partnership business in the State of North Carolina, that the defendant took funds belonging to the partnership business without the knowledge and consent of *his* partner(s), that the defendant appropriated the funds to *his* own personal use with the fraudulent intent of depriving *his* partner(s) of the use thereof, and that the funds had a value of \$100,000 or more, it would be your duty to return a verdict of guilty of appropriation of partnership funds of \$100,000 or more to personal use. However, if you do not so find, or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of appropriation of partnership funds of \$100,000 or more to personal use.

If you do not find the defendant guilty of appropriation of partnership funds of \$100,000 or more to personal use, you must determine whether *he* is guilty of appropriation of partnership funds to personal use. Appropriation of partnership funds to personal use differs from appropriation of partnership funds of \$100,000 or more to personal use in that the value of the partnership funds need not be worth \$100,000 or more.

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was engaged in a partnership business in the State of North Carolina, that the defendant took funds belonging to the partnership without the knowledge and consent of *his* partner(s), and that the defendant appropriated the funds to *his* own use with the fraudulent intent of depriving *his* partner(s) of the use thereof, it would be your duty to return a verdict of guilty of

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appropriation of partnership funds by a partner to personal use.
However, if you do not so find, or have a reasonable doubt as to one or
more of these things, it would be your duty to return a verdict of not
guilty.