

N.C.P.I.-Crim. 218.10
EMBEZZLEMENT OF PROPERTY BY VIRTUE OF OFFICE OR EMPLOYMENT.
FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2010
N.C. Gen. Stat. §§ 14-90, 58-2-162

218.10 EMBEZZLEMENT OF PROPERTY BY VIRTUE OF OFFICE OR
EMPLOYMENT. FELONY.

NOTE WELL: This instruction applies to offenses occurring between December 1, 1997 and November 31, 2009. For offenses occurring on or after December 1, 2009, use N.C.P.I.-Crim. 218.15.

The defendant has been charged with embezzlement, which occurs when a(n) *(name fiduciary capacity)* rightfully receives property in his role as *(name fiduciary capacity)* and then intentionally, fraudulently and dishonestly uses it for some purpose other than that for which *he* received it.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was a(n) *(name fiduciary capacity)* of the victim.¹

Second, that while acting as the victim's *(name fiduciary capacity)*, the defendant rightfully received *(describe property)*.

And Third, that the defendant intentionally,² fraudulently and dishonestly used *(describe property)* for some purpose other than that for which the defendant received it.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant rightfully received *(describe property)* as a(n) *(name fiduciary capacity)* of the victim and that *he* intentionally, fraudulently and dishonestly used that property for some purpose other than that for which the defendant received it, it would be your duty to return a verdict of guilty. If you do not so find or have a

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reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. If there is some dispute as to whether the defendant was in a particular fiduciary capacity, the nature of that capacity should be explained to the jury. If the defendant is an insurance agent, broker, or administrator refer also to N.C. Gen. Stat. § 58-2-162.

2. See N.C.P.I.-Crim. 120.10.