

N.C.P.I.-Crim. 218.10A  
EMBEZZLEMENT OF PROPERTY VALUED AT \$100,000 OR MORE BY VIRTUE  
OF OFFICE OR EMPLOYMENT. FELONY.  
GENERAL CRIMINAL VOLUME  
JUNE 2010  
N.C. Gen. Stat. §§ 14-90, 58-2-162  
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218.10A EMBEZZLEMENT OF PROPERTY VALUED AT \$100,000 OR MORE  
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 218.15A.*

The defendant has been charged with embezzlement of \$100,000 or more, 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 four things beyond a reasonable doubt:

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

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

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

And Fourth, that the value of the property was \$100,000 or more.

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

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purpose other than that for which *he* received it, and that the value of the property was \$100,000 or more, it would be your duty to return a verdict of guilty of embezzlement of \$100,000 or more. 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 embezzlement of \$100,000 or more,<sup>3</sup> but will determine whether the defendant is guilty of embezzlement of less than \$100,000.

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 *he* received it, it would be your duty to return a verdict of guilty of embezzlement. 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.

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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. For the definition of intent see N.C.P.I.-Crim. 120.10.

3. If there is to be no instruction on lesser included offense, the last phrase should be “. . . it would be your duty to return a verdict of not guilty.”