

N.C.P.I.—Crim. 228.35

[ASSISTING] [ABETTING] [SOLICITING] [CONSPIRING WITH] ANOTHER PERSON TO [MAKE] [PREPARE] A FALSE STATEMENT TO PROCURE BENEFIT OF INSURANCE POLICY—CLAIM OF \$100,000 OR MORE. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT MARCH 2024

N.C. Gen. Stat. § 58-2-161(b)(2)

228.35 [ASSISTING] [ABETTING] [SOLICITING] [CONSPIRING WITH] ANOTHER TO [MAKE] [PREPARE] A FALSE STATEMENT TO PROCURE BENEFIT OF INSURANCE POLICY—CLAIM OF \$100,000 OR MORE. FELONY.

NOTE WELL: Use this instruction when the defendant is not the presenter of the false statement and the Insurer is the one defrauded.

NOTE WELL: For situations involving an alleged fraudulent denial of insurance benefits use N.C.P.I.—Crim. 228.35A.

The defendant has been charged with [assisting] [abetting] [soliciting] [conspiring with]¹ another person to [prepare] [make] a false [written] [oral] statement² that is intended to be presented to an insurer [in connection with] [in support of] a claim for [payment] [a benefit] pursuant to the policy of \$100,000 or more.

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

First, that an insurance [policy] [coverage] existed between (*name insured*) (and) (*name insurer*).

Second, that the defendant [assisted] [abetted] [solicited] [conspired with] another person to [prepare] [make] a [written] [oral] statement.

Third, that this statement was intended to be presented to (*name insurer*) [in connection with] [in support of] a claim for [payment] [a benefit] pursuant to the insurance policy.

Fourth, that this statement contained false or misleading information concerning a fact or a matter material to the claim.

Fifth, that the defendant knew that this statement contained false or misleading information concerning a fact or matter material to the claim.

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Sixth, that the defendant acted with the intent³ to [injure] [defraud] [deceive] (*name insurer*).

And Seventh, the amount of the claim for payment or other benefit was \$100,000 or more.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date an insurance policy existed between (*name insured*) (and) (*name insurer*), and that the defendant [assisted] [abetted] [solicited] [conspired with] another person to [prepare] [make] a [written] [oral] statement, this statement was intended to be presented to (*name insurer*) [in connection with] [in support of] a claim for [payment] [a benefit] pursuant to the insurance policy, this statement contained false or misleading information concerning a fact or a matter material to the claim, the defendant acted with the intent to [injure] [defraud] [deceive] (*name insurer*), and the amount of the claim for payment or other benefit was \$100,000 or more, it would be your duty to return a verdict of guilty of [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of an insurance policy with a claim of \$100,000 or more. 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 [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of insurance policy with a claim of \$100,000 or more, but must determine whether the defendant is guilty of [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of an insurance policy.

[Assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of an insurance policy

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differs from [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of an insurance policy with a claim of \$100,000 or more in that the amount of the claim for payment or other benefit need not be \$100,000 or more.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date an insurance policy existed between (*name insured*) (and) (*name insurer*), and that the defendant [assisted] [abetted] [solicited] [conspired with] another person to [prepare] [make] a [written] [oral] statement, this statement was intended to be presented to (*name insurer*) [in connection with] [in support of] a claim for [payment] [a benefit] pursuant to the insurance policy, this statement contained false or misleading information concerning a fact or a matter material to the claim, and the defendant acted with the intent to [injure] [defraud] [deceive] (*name insurer*), it would be your duty to return a verdict of guilty of [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to procure benefit of an insurance policy. 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.

1. For further definitions of “aiding and abetting” see N.C.P.I.—Crim. 202.20, of “solicitation” see N.C.P.I.—Crim. 201.20, of “conspiracy” see N.C.P.I.—Crim. 202.80.

2. For a definition of “statement” see N.C. Gen. Stat. § 58-2-161(b)(2).

3. For a definition of “intent” see N.C.P.I.—Crim. 120.10.