

N.C.P.I.—Crim. 228.35A

[ASSISTING] [ABETTING] [SOLICITING] [CONSPIRING WITH] ANOTHER PERSON TO [MAKE] [PREPARE] A FALSE STATEMENT TO DENY 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)

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228.35A [ASSISTING] [ABETTING] [SOLICITING] [CONSPIRING WITH] ANOTHER TO [MAKE] [PREPARE] A FALSE STATEMENT TO DENY 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 insurance claimant is the one injured.*

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

The defendant has been charged with [assisting] [abetting] [soliciting] [conspiring with]<sup>1</sup> another person to [prepare] [make] a false [written] [oral] statement<sup>2</sup> that is intended to be presented to an [insurer] [insurance claimant] [in connection with] [in opposition to] a claim for [payment] [a benefit] pursuant to the policy.

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] [insurance claimant]*) (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] [insurance claimant]*) [in connection with] [in opposition to] a claim for [payment] [a benefit] pursuant to the 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 intent<sup>3</sup> to [injure] [defraud] [deceive] (*name insurance claimant*).

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] [coverage] existed between (*name [insured] [insurance claimant]*) 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] [insurance claimant]*) [in connection with] [in opposition to] a claim for [payment] [a benefit] pursuant to the policy, this statement contained false or misleading information concerning a fact or a matter material to the claim, that the defendant acted with the intent to [injure] [defraud] [deceive] (*name insurance claimant*), 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 deny 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 deny 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 deny benefit of an insurance policy.

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[Assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to deny benefit of an insurance policy differs from [assisting] [abetting] [soliciting] [conspiring with] another person to [make] [prepare] a false statement to deny 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] [coverage] existed between (*name [insured] [insurance claimant]*) 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] [insurance claimant]*) [in connection with] [in opposition to] a claim for [payment] [a benefit] pursuant to the policy, this statement contained false or misleading information concerning a fact or a matter material to the claim, and that the defendant acted with the intent to [injure] [defraud] [deceive] (*name insurance claimant*), 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 deny 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.

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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.