LARCENY BY AN EMPLOYEE.[1] G.S. 14-74, 14-75. CLASS C AND H FELONIES.

NOTE WELL: Effective December 1, 1997, if the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of money, goods, or other chattels, or any of the articles, securities, or choses in action is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony. For offenses occurring before December 1, 1997, or if the value is less than one hundred thousand dollars ($100,000), use N.C.P.I.--Crim. 216.60.

The defendant has been accused of larceny by an employee.

Now I charge that for you to find the defendant guilty of Felonious Larceny of $100,000 or more by an employee, the State must prove six things beyond a reasonable doubt:

First, that the defendant was an employee of (*name employer*).

Second, that (*name employer*) entrusted the defendant with (*describe property*) for the purpose of (*describe purpose*).

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[1]This statute does not apply to a defendant who has not attained his sixteenth birthday.

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Third, that instead of (*describe purpose of entrustment, e.g., "delivering the property"*), the defendant appropriated the (*describe property*) to his own (another's) use.

Fourth, that the defendant intended to steal, that is deprive (*name employer*) of the (*describe property*) permanently.[2]

Fifth, that the defendant knew that he was not entitled to appropriate the property to his own (another's) use.

And Sixth, that the property was 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 an employee of (*name employer*) and that in this capacity he received (*describe property*) from (*name employer*) for (*describe purpose*) and that instead he appropriated that property to his own (another's) use, intending to deprive his employer of its use permanently, knowing that he was not entitled to do this, and that the property was worth $100,000 or more, it would be your duty to return a verdict of guilty of felonious larceny of $100,000 or more by an employee. 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 felonious larceny of $100,000 or more by an employee.[3]

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[2]In the event there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf.* S. v. Smith, 268 N.C. 167 (1966).

[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."

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If you do not find the defendant guilty of felonious larceny of $100,000 or more by an employee, you must determine whether he is guilty of felonious larceny by an employee. Felonious larceny by an employee differs from felonious larceny of $100,000 or more by an employee in that the property 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 an employee of (*name employer*) and that in this capacity he received (*describe property*) from (*name employer*) for (*describe purpose*) and that instead he appropriated that property to his own (another's) use, intending to deprive his employer of its use permanently, knowing that he was not entitled to do this, it would be your duty to return a verdict of not guilty of felonious larceny by an employee. However, if you do not so find or have reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.