

APPROPRIATION OF PARTNERSHIP FUNDS BY PARTNER TO PERSONAL USE.
G.S. 14-97. CLASS C AND H FELONIES.

NOTE WELL: For offenses occurring on or after December 1, 1997, if the value of the partnership funds appropriated is \$100,000 or more, a violation is a Class C felony. If the value of the partnership funds appropriated is less than \$100,000, a violation is a Class H felony. For offenses occurring before December 1, 1997, a violation is a Class H felony regardless of the value of the property appropriated.

The defendant has been accused of appropriation of partnership funds of \$100,000 or more by a partner to personal use.

Now I charge that for you to find the defendant guilty of appropriation of partnership funds of \$100,000 or more by a partner to personal use, the State must prove six things beyond a reasonable doubt:

First, that the defendant was engaged in a partnership business in the State of North Carolina.

Second, that the defendant took funds belonging to the partnership business.

Third, that the defendant took the funds without the knowledge and consent of his partner(s).

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Fourth, that the defendant appropriated the funds to his own personal use.

Fifth, that the defendant appropriated the funds with the fraudulent intent of depriving his partner(s) of the use thereof.

And Sixth, that the funds had a value of \$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 engaged in a partnership business in the State of North Carolina, that the defendant took funds belonging to the partnership business without the knowledge and consent of his partner(s), that the defendant appropriated the funds to his own personal use with the fraudulent intent of depriving his partner(s) of the use thereof, and that the funds had a value of \$100,000 or more, it would be your duty to return a verdict of guilty of appropriation of partnership funds of \$100,000 or more to personal use. 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 appropriation of partnership funds of \$100,000 or more to personal use.

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If you do not find the defendant guilty of appropriation of partnership funds of \$100,000 or more to personal use, you must determine whether he is guilty of appropriation of partnership funds to personal use. Appropriation of partnership funds to personal use differs from appropriation of partnership funds of \$100,000 or more to personal use in that the value of the partnership funds 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 engaged in a partnership business in the State of North Carolina, that the defendant took funds belonging to the partnership without the knowledge and consent of his partner(s), and that the defendant appropriated the funds to his own use with the fraudulent intent of depriving his partner(s) of the use thereof, it would be your duty to return a verdict of guilty of appropriation of partnership funds by a partner to personal use. 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.

