

EMBEZZLEMENT OF PROPERTY BY VIRTUE OF OFFICE OR EMPLOYMENT. G.S. 14-90, 58-2-162.
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. 218.15.

The defendant has been charged with embezzlement, 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 three things beyond a reasonable doubt:

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

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

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

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 the defendant received it, it would be your duty to return a

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 G.S. 58-2-162.

2. See N.C.P.I.—Crim. 120.10.

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FELONY. (*Continued.*)

verdict of guilty. 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.