

BRIBERY IN OFFICIAL AND POLITICAL MATTERS
(BRIBE RECIPIENT)
(N.J.S.A. 2C:27-2)

The defendant is charged with the crime of bribery in an official (or a political) matter. N.J.S.A. 2C:27-2, the statute referred to in the indictment, reads in pertinent part as follows:

"A person is guilty of bribery if he directly or indirectly offers, solicits, accepts or agrees to accept from another...:

(a) Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion as a public servant ... (... party official) (... voter), on any public issue or in any public election.

(or)

(b) Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial ... (... administrative) proceeding.

(or)

(c) Any benefit as consideration for a violation of an official duty of a public servant ... (... party official).

(or)

(d) Any benefit as consideration for the performance of official duties."

The law seeks to prohibit corruption in official (or political) matters, and the part of the statute I have just read to you is directed against the bribe recipient or person who solicits, accepts, or agrees to accept a benefit as a public servant (party official) (voter). Essentially, the offense consists of corruptly soliciting a price (or benefit) for official action or non-action, that is, seeking any undue reward or advantage as someone in a public (or political) office in order to influence (his/her) behavior in office and incline (him/her) to act contrary to the known rules of honesty and integrity. The crime is committed by the mere solicitation as well as by the actual payment.

In this case the indictment charges (insert applicable part of indictment) _____.

In order to convict the defendant of the criminal offense of bribery in an official (or, a

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political) matter the state must prove beyond a reasonable doubt each of the following:

1. That the defendant directly or indirectly solicited, accepted or agreed to accept a benefit from _____. Benefit means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including a pecuniary benefit or a benefit to any other person or entity in whose welfare (he/she) is interested. Pecuniary benefit is benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Anything may serve as a benefit so long as it is of sufficient value in the eyes of the person bribed. But, since the value of the benefit solicited (or accepted, or agreed to be accepted) determines the severity of the offense, the State must also prove its value beyond a reasonable doubt.

2. That the defendant did so as consideration for a decision, opinion, recommendation, vote or exercise of official discretion of _____ as a public servant (party official) (voter) on a public issue or in any public election.¹

(or)

(that the defendant did so as consideration for a _____ decision, vote, recommendation or exercise of official discretion of _____ in a judicial (an administrative) proceeding. Administrative proceeding means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals).²

(or)

(that the defendant did so as consideration for (he/she or another), as a public

¹ It is no defense to the charge of bribery that the person receiving or soliciting the bribe or whom the actor sought to influence was not qualified to act in the desired way whether because (he/she) had not yet assumed office, or lacked jurisdiction, or for any other reason. The defendant must seek the benefit because of (his/her) official position or the official character of the person whose decision, vote, etc. is sought. But it is not necessary that the act requested be one which the official has the authority to do. It is sufficient if (he/she) has the official power, ability or apparent ability to bring about or contribute to the desired end. And it makes no difference whether the official action bargained for thereafter actually takes place, whether or not immediate action or inaction is called for, or whether the bribe is refused.

² Ibid.

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servant (party official) violating an official duty. Public servant means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function, but the term does not include witnesses. Party official means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level or responsibility.)³

(or)

(that the defendant did so as consideration for (his/her or another's) performance of official duties.⁴)

3. That the defendant acted purposely.⁵ [Define purposely and relate it to the actual facts of the case.] Generally, the State must prove that (his/her) purpose was to subject (his/her or another's) official action to the influence of some benefit or advantage rather than to the influence of the public welfare, so that (he/she) would act contrary to (his/her) official public duty. The offer of that benefit as consideration for (his/her or another's) decision (opinion, recommendation, vote, etc.), then must be accompanied by such a corrupt purpose or objective.

If you find that the State has proved all of the foregoing elements of the offense beyond a reasonable doubt, you should find the defendant guilty of bribery. If you find the defendant guilty of bribery, you must then indicate whether you find the value of the benefit involved to be more than \$200, or \$200 or less. If the State has failed to prove any of the three elements of the offense beyond a reasonable doubt, you must find the defendant not guilty.

³ Ibid.

⁴ Ibid.

⁵ But see State v. Merlino, 208 N.J. Super 147 (App. Div. 1985), certif. den. 103 N.J. 460 (1986) in which the trial judge rules that the statute required only a knowing state of mind. The Appellate Division noted "neither party questions that ruling and we express no opinion as to whether it is correct." 208 N.J. Super at 149, n.2.