

CREDIT CARD CRIMES:
INTENT OF CARDHOLDER TO DEFRAUD
(FALSE REPRESENTATION AS CARDHOLDER)

N.J.S.A. 2C:21-6d(2)

The defendant is charged with Credit Card Theft. Specifically,

(Read Count _____ of Indictment)

The applicable section of the statute reads as follows:

A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person . . . obtains money, goods, services or anything else of value by representing without the consent of the cardholder, that he/she is the holder of a specified card or by representing that he/she is the holder of a card and such card has not in fact been issued, is guilty of a crime.

In order to find the defendant guilty, the State must prove the following elements beyond a reasonable doubt:

1. That the defendant obtained money, goods, services, or anything else of value by representing, without the consent of the cardholder that he/she is the holder of a specified card and such card has not in fact been issued;
2. That the defendant acted knowingly;
3. That the defendant had the intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person.

The first element that the State must prove beyond a reasonable doubt is that the defendant obtained money, goods, services, or anything else of value by representing, without the consent of the cardholder that he/she is the holder of a specified card or by representing that he/she is the holder of the specified card and that such card has not in fact been issued.

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“Consent” is the voluntary agreement of the cardholder to the use of the card.

“Cardholder” means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

“Credit card” means any tangible or intangible instrument or device issued with or without a fee by an issuer, a person or organization providing money, goods, services or anything else of value, or any other person, that can be used alone or in connection with another means of account access, in obtaining money, goods, services or anything else of value on credit, including credit cards, credit plates, account numbers, or any other means of account access.

The second element that the State must prove beyond a reasonable doubt is the defendant acted knowingly.

A person acts “knowingly” with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. A person acts knowingly with respect to the nature of his/her conduct if he/she is aware that his/her conduct is of that nature. “Knowing,” “with knowledge” or equivalent terms have the same meaning.

Knowledge is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant acted knowingly.

The third element that the State must prove beyond a reasonable doubt is that the defendant had the intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person.

A person acts “with intent” when he/she acts with purpose. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious objective to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or believes

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or hopes that they exist. One can be deemed to be acting purposely if he/she acts with design, with a purpose, with a particular objective, if the individual means to do what he/she does.

Purpose is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words, or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant acted purposely.

“To defraud” means to deprive a person of property or any interest, estate, or right by deceit or artifice, to cheat.

If you find that the State has proven all of the above elements beyond a reasonable doubt, then you must find the defendant guilty of the crime charged.

If, however, you find that the State has failed to prove any of the elements of the crime beyond a reasonable doubt, you must then find the defendant not guilty.