

UNAUTHORIZED SIGNING OF A CREDIT CARD

G.L. c. 266, § 37B(e)

The defendant is charged with the unauthorized signing of a credit card with intent to defraud. To prove the defendant guilty of this offense, the Commonwealth must prove four things beyond a reasonable doubt:

***First*, that the defendant signed a credit card;**

***Second*, that the defendant was neither the cardholder nor authorized by the cardholder to sign the card;**

***Third*, that the defendant knew they were not authorized to sign the card; and**

***Fourth*, that the defendant had an intent to defraud.**

To prove the first element, the Commonwealth must prove beyond a reasonable doubt that the defendant signed a credit card. A credit card is a device that enables the cardholder to obtain money, services, or things on credit without immediate payment or by debit from a cash account.¹ A person signs a credit card when they place

¹ General Laws c. 266, § 37A provides a more expansive definition of a credit card than the one provided in this instruction: A credit card is “an instrument or device, whether known as a credit card, credit plate or other name, or the code of number used to identify that instrument or device or an account of credit or cash accessed by that instrument or device, issued with or without a fee by an issuer for the use of the

their signature, handwritten name, or other personal identifying mark upon the card itself.

To prove the second element, the Commonwealth must prove beyond a reasonable doubt that the defendant was neither the cardholder for that card nor authorized by the cardholder to sign for them. The cardholder is the (person) (entity) named on the face of the card to whom or for whose benefit the card was issued.

To prove the third element, the Commonwealth must prove beyond a reasonable doubt that the defendant knew they were not authorized to sign the card. This requires you to make a decision about the defendant's state of mind at that time. You may examine any evidence regarding the defendant's actions or words, all of the surrounding circumstances, and any reasonable inferences you draw from that evidence to help you determine whether the defendant knew they were not authorized to sign the card.

cardholder in obtaining money, goods, services or anything else of value on credit or by debit from a cash account.”

To prove the fourth element, the Commonwealth must prove beyond a reasonable doubt that the defendant engaged in this conduct with the intent to defraud. To act with an intent to defraud means to act knowingly with the aim of deceiving or cheating another. The purpose is often to bring about gain or benefit either for oneself or for another person or entity.² You may examine the evidence in the case, all of the surrounding circumstances, and any reasonable inferences you draw from that evidence, to help you determine whether the defendant intended to defraud another.

See Commonwealth v. O'Connell, 438 Mass. 658, 664 (2003) (Commonwealth need not show intent to defraud particular person, but sufficient that defendant "intended to injure or defraud someone"; proof of intent to defraud may be inferred from the circumstances); *Commonwealth v. Segee*, 218 Mass. 501, 504 (1914) ("The false making or alteration with intent to defraud is the gist of the offense.")

If the Commonwealth has proven all four elements beyond a reasonable doubt, you should return a verdict of guilty. If the Commonwealth has failed to prove one or more of these elements beyond a reasonable doubt, you must find the defendant not guilty.

² See *United States v. Phath*, 144 F.3d 146, 149 (1st Cir. 1998); *United States v. Leahy*, 445 F.3d 634, 644 (3d Cir. 2006).