

COMPOUNDING
(N.J.S.A. 2C:29-4)

The defendant is charged with the criminal offense of compounding a crime.

(Read appropriate Count of Indictment)

The pertinent part of the statute on which this indictment is based reads as follows:

(Select appropriate part of statute)

(ACCEPTS)

A person commits a crime if he accepts or agrees to accept any pecuniary benefit in consideration of refraining from reporting to law enforcement authorities the commission or suspected commission of any offense or information relating to an offense or from seeking prosecution of an offense.

or (CONFERS)

A person commits a crime if he confers or agrees to confer any pecuniary benefit in consideration of the other person agreeing to refrain from any such reporting or seeking prosecution.

In order to convict the defendant of the criminal offense of compounding a crime, the State must prove beyond a reasonable doubt each of the following elements:

(ACCEPTS)

1. That the defendant accepted or agreed to accept any pecuniary benefit;
2. That in so accepting or agreeing, the defendant agreed not to report to law enforcement authorities the commission or suspected commission of any offense or information relating to an offense (or) not to seek prosecution of an offense;
3. That the defendant acted purposely (2C:2-2(c)(3))

(CONFERS)

1. That the defendant conferred or agreed to confer any pecuniary benefit upon another;
2. That in so conferring or agreeing to confer, the defendant agreed that someone else would refrain from reporting to law enforcement authorities the commission or suspected commission of any offense or information relating to an offense (or) from seeking prosecution of an offense;
3. That the defendant acted purposely.

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"Pecuniary benefit" is benefit in the form of money, property, commercial interests or anything else, the primary significance of which is economic gain to defendant or to any other person or entity in whose welfare he/she is interested.

(If the defense of restitution or indemnification as set forth in 2C:29-4 is raised, insert the following:)

The statute also provides that:

It is an affirmative defense to prosecution under this section that the pecuniary benefit did not exceed an amount which the actor reasonably believed to be due as restitution or indemnification for harm caused by the offense.

(ACCEPTS)

The law provides that the defendant's acceptance or agreement to accept restitution or indemnification is a defense to the charge of compounding. The law does not seek to penalize the victim of an offense who refrains from reporting that offense because (he/she) accepted or agreed to accept restitution or indemnification from the perpetrator. However, to constitute a defense, the pecuniary benefit which he/she accepted or agreed to accept must not have exceeded an amount which the defendant reasonably believed to be due to him/her as restitution or indemnification for harm caused by the offense.

The defendant, as part of his/her denial or guilt, raises the defense that the pecuniary benefit he/she accepted or agreed to accept did not exceed an amount which he/she reasonably believed to be due to him/her as restitution or indemnification for harm caused by the offense. This defense is a complete defense to the crime charged. If you conclude that the State has proved the crime of compounding beyond a reasonable doubt and only if you so conclude, then you must consider the defense that the pecuniary benefit accepted by the defendant, or which he/she agreed to accept, did not exceed an amount which the defendant reasonably believed to be due to him/her as restitution or indemnification for harm caused by the offense. The law places upon the State the burden of disproving the truth of this defense beyond a reasonable doubt.

Therefore, if you conclude that the State has proved the crime of compounding beyond a reasonable doubt, but you have a reasonable doubt as to whether or not the defense of restitution or indemnification is true, then you must find the defendant not guilty of compounding. If you conclude that the State has proved beyond a reasonable doubt both that the defendant committed the crime of compounding and also that the defense of restitution or indemnification is untrue,

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then you must find the defendant guilty of compounding.

(CONFERS)

The law provides that the defendant's conferring or agreeing to confer restitution or indemnification is a defense to the charge of compounding. However, to constitute a defense the pecuniary benefit which he/she conferred or agreed to confer must not have exceeded an amount which the defendant reasonably believed to be due to the victim as restitution or indemnification for harm caused by the offense.

The defendant as part of his/her denial of guilt raises the defense that the pecuniary benefit he/she conferred or agreed to confer upon the victim did not exceed an amount which he/she reasonably believed to be due to the victim as restitution or indemnification for harm caused by the offense. This defense is a complete defense to the crime charged. If you conclude that the State has proved the crime of compounding beyond a reasonable doubt and only if you so conclude, then you must consider the defense that the pecuniary benefit conferred by the defendant, or which he/she agreed to confer, did not exceed an amount which the defendant reasonably believed to be due to the victim as restitution or indemnification for harm caused by the offense. The law then places upon the State the burden of disproving the truth of this defense beyond a reasonable doubt.

Therefore, if you conclude that the State has proved the crime of compounding beyond a reasonable doubt, but you have a reasonable doubt as to whether or not the defense of restitution or indemnification is true, then you must find the defendant not guilty of compounding. If you conclude that the State has proved beyond a reasonable doubt both that the defendant committed the crime of compounding and also that the defense of restitution or indemnification is untrue, then you must find the defendant guilty of compounding.

If you find that the State has proved all of the foregoing elements of the criminal offense beyond a reasonable doubt, you should find the defendant guilty of compounding in the second degree, unless the thing of value (accepted or agreed to be accepted) (conferred or agreed to be conferred) is any benefit of \$200.00 or less, in which case you should find the defendant guilty of compounding in the third degree. If the State has failed to prove any of the elements of the offense beyond a reasonable doubt, you must find the defendant not guilty.