

N.C.P.I.—Civil 814.80
FRAUDULENT TRANSFER—PRESENT CREDITORS—TRANSFER TO INSIDER
WHILE INSOLVENT—DEFENSE OF NEW VALUE GIVEN.
GENERAL CIVIL VOLUME
FEBRUARY 2017
N.C. Gen. Stat. § 39-23.8(f)(1)

814.80 FRAUDULENT TRANSFER—PRESENT CREDITORS—TRANSFER TO
INSIDER WHILE INSOLVENT—DEFENSE OF NEW VALUE GIVEN.

The (*state number*) issue reads:

“Did the defendant give new value to or for the benefit of (*name debtor*)
after the transfer was made?”

You will answer this issue¹ only if you have answered the (*state number*)
issue “Yes” in favor of the plaintiff.

On this issue the burden of proof is on the defendant. This means the
defendant must prove, by the greater weight of the evidence, that *he* gave
new value² to or for the benefit of (*name debtor*) after the transfer was made.³

Finally, as to this (*state number*) issue on which the defendant has the
burden of proof, if you find by the greater weight of the evidence that the
defendant gave new value to or for the benefit of (*name debtor*) after the
transfer was made, then it would be your duty to answer this issue “Yes” in
favor of the defendant.

If, on the other hand, you fail to so find, then it would be your duty to
answer this issue “No” in favor of the plaintiff.

1 This defense is limited to “insiders” who have received transfers voidable under N.C.
Gen. Stat. § 39-23.5(b). See N.C.P.I.—Civil 814.75.

2 “Value” is given for a transfer if, in exchange for the transfer, “property is transferred
or an antecedent debt is secured or satisfied, but value does not include an unperformed
promise made otherwise than in the ordinary course of the promisor’s business to furnish
support to the debtor or another person.” N.C. Gen. Stat. § 39-23.3(a). Note that to the
extent the new value was secured by a valid lien, this defense does not apply. N.C. Gen.
Stat. § 39-23.8(f)(1).

3 N.C. Gen. Stat. § 39-23.6 defines when a transfer is made for purposes of the
Uniform Voidable Transactions Act, N.C. Gen. Stat. §§ 39-23.1-23.12.

