

N.C.P.I.—Civil 814.81

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

GENERAL CIVIL VOLUME

MAY 2017

N.C. Gen. Stat. § 39-23.8(f)(1)

-----

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

The (*state number*) issue reads:

“What amount of new value did the defendant give to or for the benefit of (*name debtor*)?”

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

On this issue the burden of proof is on the defendant. This means the defendant must prove, by the greater weight of the evidence, the amount of new value<sup>1</sup> that *he* gave to or for the benefit of (*name debtor*) after the transfer was made.<sup>2</sup>

Finally, as to this (*state number*) issue on which the defendant has the burden of proof, it is your duty to write in the blank space provided on the verdict sheet that amount of new value which the defendant has proven by the greater weight of the evidence.

---

1 “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).

2 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.

