

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

In Re:)	
)	
LUCAS DANIEL RIEDER ALBRECHT,)	Case No. 25-01097-5-PWM
)	
Debtor.)	
<hr/>)	
)	
KEVIN L. SINK, Trustee,)	
)	
Plaintiff,)	Adv. Proc. No. 25-00135-5-PWM
v.)	
)	
LUCAS DANIEL RIEDER ALBRECHT)	
and KIRSTEN PIPER MOORE,)	
)	
Defendants.)	
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**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Kevin Sink, Chapter 7 Trustee, (“Plaintiff”), by and through counsel, respectfully submits this Memorandum of Law in support of Plaintiff’s Motion for Summary Judgment (the “Motion”) against Defendants Lucas Daniel Rieder Albrecht (“Albrecht” or “Debtor”) and Kirsten Piper Moore (“Moore”) (Moore and Albrecht are sometimes collectively referred to herein as the “Defendants”). Plaintiff moves for summary judgment on the claims pled in the Complaint [Dkt. 1] (the “Complaint”) in the above-captioned adversary proceeding (the “Adversary Proceeding”) pursuant to Rule 56 of the Federal Rules of Civil Procedure, made applicable to this matter by Rule 7056 of the Federal Rules of Bankruptcy Procedure. In support of the relief requested in the Motion, Plaintiff states as follows:

STATEMENT OF THE CASE

On March 26, 2025 (the “Petition Date”), Albrecht filed a voluntary petition under Chapter

7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina (the “Petition”). This Adversary Proceeding was commenced by Plaintiff by filing the Complaint on July 2, 2025 (“Complaint”). On August 1, 2025, Defendants responded to the Complaint by filing an Answer and Summary of Defense (the “Answer”) [Dkt. 5].

Plaintiff and Defendants have agreed to a stipulated set of facts which are set forth below and in a separate pleading filed in this Adversary Proceeding (collectively, the “Stipulated Facts”). Based on the Stipulated Facts and the previous pleadings, Plaintiff now respectfully moves for summary judgment on all claims as there is no genuine dispute as to any material fact regarding those claims and Plaintiff is entitled to judgment as a matter of law.

JURISDICTION AND AUTHORITY

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a “core proceeding” as defined under 28 U.S.C. § 157(b)(2). Further, Defendants acknowledged that the Court has jurisdiction over this matter. Answer, ¶ 1.

STATEMENT OF STIPULATED FACTS¹

1. On or around May 13, 2020, Debtor and Moore purchased certain real property as “unmarried as Joint Tenants w/Rights of Survivorship” with an address of 4704 Arbor Chase Drive, Raleigh, North Carolina 27616, and more particularly described in that certain deed recorded on May 13, 2020, in Book 17866, Pages 1114-1115, of the Wake County, North Carolina Registry (the “Subject Real Property”).

¹ As noted above, the parties have agreed to a set of stipulated facts in this Adversary Proceeding (“Stipulated Facts”). Such Stipulated Facts are set forth below and also filed with this Court in the Joint Stipulation of Facts filed by the parties on December 10, 2025.

2. On the advice of bankruptcy counsel and in preparation for the filing of the Petition, the Debtor and Moore (i) married on February 26, 2025, and (ii) on February 27, 2025, each separately and independently executed a North Carolina Non-Warranty Deed as grantors in favor of themselves as spouses (the “February Deed”).

3. From May 13, 2020, through February 26, 2025, the Debtor and Moore resided in the Subject Real Property as unmarried domestic partners.

4. Through the February Deed, the Debtor conveyed his separate one-half interest in the Subject Real Property, previously held as a joint tenant with Moore, to himself and his spouse as tenants by the entirety.

5. Before the February Deed, the Debtor’s interest in the Subject Real Property was subject to execution by his individual creditors, but after the February Deed, it became exempt from the claims of his individual creditors.

6. The value of the Debtor’s one-half interest in the Subject Real Property before the February Deed was \$210,000 (one-half of \$420,000.00).

7. Debtor received no consideration outside of the February Deed.

8. The Petition was filed twenty-seven (27) days after the February Deed, which is within two (2) years of the Petition Date.

9. The Debtor was insolvent on the date of the February Deed or became insolvent because of the February Deed.

STANDARD OF REVIEW

Under Rule 56(a) of the Federal Rules of Civil Procedure, made applicable here through Rule 7056 of the Federal Rules of Bankruptcy Procedure, summary judgment shall be granted “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled

to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “The moving party bears the burden of showing that there is no genuine issue of material fact and that it’s entitled to judgment as a matter of law.” *Joseph v. Target Stores, Inc.*, No. 20-1730, 2023 WL 2908811, *2 (4th Cir. Apr. 12, 2023) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)). “They can do this in one of two ways: (1) by offering evidence that negates an essential element of the nonmoving party’s claim, or (2) by showing that the nonmoving party lacks evidence to carry its burden of persuasion at trial.” *Target Stores, Inc.*, 2023 WL 2908811 at *2 (citing *Adickes v. Kress Co.*, 398 U.S. 144, 158 (1970); *Celotex*, 477 U.S. at 322–23).

ARGUMENT

A. Plaintiff is Entitled to Summary Judgment on his Claims for Actual Fraud under (i) Section 548(a)(1)(A) and (ii) N.C. Gen. Stat. § 39-23.4(a)(1).

The Stipulated Facts establish that the February Deed constitutes an actual fraudulent transfer under Section 548 of the Bankruptcy Code and N.C. Gen. Stat. § 39-23.4(a)(1), and Plaintiff is entitled to judgment².

Section 548(a)(1)(A) allows a trustee to avoid any transfer of the debtor’s interest in property made within two years before the date of the filing of the petition if the transfer was made “with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted.” 11 U.S.C. § 548(a)(1)(A). N.C. Gen. Stat. § 39-23.4(a)(1), the North Carolina statute analogous to the federal statute, is substantially identical, except that it has a four-year reach back period. N.C. Gen. Stat. § 39-23.1 *et seq.* A claim for an actual fraudulent transfer under either the federal or state statute requires a showing that (1) the debtor had an interest in property, (2) the debtor transferred that

² Plaintiff’s Second Claim for Relief in the Complaint asserts a claim to avoid the February Deed pursuant to 11 U.S.C. § 548(a)(1)(A). Plaintiff’s Third Claim for Relief in the Complaint asserts a claim to avoid the February Deed pursuant to N.C.G.S. § 39-23.4(a)(1).

interest, (3) the transfer occurred on or within four years before debtor filed for bankruptcy relief, and (4) the debtor made the transfer with actual intent to hinder, delay or defraud any creditor. *See* 11 U.S.C. § 548(a)(1)(A); N.C. Gen. Stat. § 39-23.4(a)(1).

(1) Debtor's Interest

Based on the Stipulated Facts, it is undisputed that Debtor had an interest in the Subject Real Property. The parties have stipulated that, prior to the February Deed, the Debtor owned a one-half interest in the Subject Real Property, with such one-half interest valued at \$210,000. Stipulated Facts, ¶¶ 2, 7.

(2) Transfer

The February Deed was a transfer of an interest of the Debtor. As stipulated, in preparation for the filing of the Petition, the Debtor and Moore both (i) married and (ii) executed the February Deed, whereby the Debtor transferred his separate one-half interest in the Subject Real Property, previously held as joint tenants with Moore, to himself and Moore as tenants by the entirety. Stipulated Facts, ¶ 3.

Defendants do not dispute that the Debtor voluntarily executed the February Deed. Instead, Defendants contend that the February Deed was a “retitling, recharacterization, or transformation of the Defendants’ ownership interest,” not a transfer. Answer, ¶¶ 3, 5. The Bankruptcy Code broadly defines a transfer as “(A) the creation of a lien; (B) the retention of title as a security interest; (C) the foreclosure of a debtor's equity of redemption; or (D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—(i) property; or (ii) an interest in property.” 11 U.S.C. § 101(54). Further, the Fourth Circuit has reiterated that “Congress sought to make ‘[t]he definition of transfer’ in the Bankruptcy Code ‘as broad as possible’” *In re Whitley*, 848 F.3d 205, 208 (4th Cir. 2017) (quoting S. Rep. No. 95–989, at

27 (1978)). The “term ‘transfer’ encompasses every means and manner by which property can pass from ownership and possession of another, and any transaction that reduces or extinguishes valuable legal rights is subject to avoidance.” *Terry v. Paschall (In re Paschall)*, 403 B.R. 366, 374 (Bankr. E.D. Va. 2009).

While the Fourth Circuit has not directly addressed whether the conversion of a one-half tenancy in common or joint tenancy interest into a tenancy by the entirety interest constitutes a “transfer” under § 101(54), other bankruptcy courts have correctly concluded that it does. *See In re Paulsen*, 623 B.R. 747 (Bankr. N.D. Ill. 2020); *see also In re Miller*, 188 B.R. 302 (Bankr. M.D. Fla. 1995). In *In re Paulsen*, the Bankruptcy Court for the Northern District of Illinois reasoned that a conveyance by spouses of property held as joint tenants to tenants by the entirety is a transfer “because prior to the conveyance by the Debtor, his fractional interests could have been subjected to satisfy the claims of the [creditors], and they could not reach [those] interests after the conveyance because they had no enforceable claim against . . . the Debtor’s wife.” 623 B.R. at 754 (citing *In re Miller*, 188 B.R. at 305). In the present case, the parties agree that the February Deed diminished the Debtor’s fractional interest in the Subject Real Property and placed that interest beyond the reach of creditors. Stipulated Facts, ¶ 6. Accordingly, it cannot be disputed that the February Deed constituted a “transfer” under § 101(54).

As this Court is fully aware, in the absence of any controlling applicable federal law, property and interests in property are creatures of state law. *See Barnhill v. Johnson*, 503 U.S. 393, 398 (1992) (citing *McKenzie v. Irving Trust Co.*, 323 U.S. 365, 369-370 (1945)); *see also Butner v. United States*, 440 U.S. 48, 54 (1979). Under North Carolina law, a tenancy by the entirety is created by “a conveyance by a grantor of real property, or any interest in real property, to the grantor and his or her spouse vests the property in them as tenants by the entirety . . .” N.C. Gen.

Stat. § 41-56(b). Notably, the section defines a “conveyance” as “a *transfer* of title to real property by deed or devise or other instrument transferring title to real property.” N.C. Gen. Stat. § 41-55(1) (emphasis added). As the statute makes clear, under North Carolina law, the creation of a tenancy by the entirety necessarily involves a transfer. Because Defendants freely acknowledge that they created such a tenancy here, the February Deed must constitute a transfer.

(3) *Date*

Based on the Stipulated Facts, it is undisputed that the Petition was filed twenty-seven (27) days after the February Deed. Stipulated Facts, ¶ 9.

(4) *Actual Intent*

The Debtor intentionally—on the advice of counsel—executed the February Deed to hinder and defraud creditors. Actual fraud requires a deliberate act undertaken with the intent to hinder and defraud creditors. *See In re Summit Place, LLC*, 298 B.R. 62, 70 (Bankr. W.D.N.C. 2002). Despite the acknowledged facts, Defendants nonetheless contend that the February Deed reflects ordinary pre-bankruptcy planning. Answer, ¶ 34.

The Fourth Circuit has noted “[m]ere conversion of property from non-exempt to exempt on the eve of bankruptcy—even though the purpose is to shield the asset from creditors—is not enough to show fraud.” *Ford v. Poston*, 773 F.2d 52, 54 (4th Cir. 1985). However, the Fourth Circuit expanded on and clarified this statement in ultimately holding that a transfer that leads to an exemption (such as the present case) is subject to a fraudulent transfer when “the transfer of property occurs within one year of the bankruptcy filing, and there is evidence to indicate a fraudulent purpose aside from the mere conversion of non-exempt property.” 773 F.2d at 55 (emphasis added).

Similar to the present case, *Ford* involved the debtor’s transfer of property to him and his

wife as tenants by the entirety. In reviewing this transfer, the Court reasoned:

We thus turn to the issue of whether there was extrinsic evidence to demonstrate that Ford transferred the property with the intent to defraud his creditors. The bankruptcy court found such evidence in the fact that Ford had transferred the property to himself and his wife one day after Poston obtained a judgment against him in state court, conveniently choosing to correct, at that point in time, what was then a six-month old mistake. Having heard Ford's testimony at trial and having considered the circumstances surrounding the transfer, the bankruptcy court determined that Ford acted not with the intent to correct the deed, but with the intent to defraud.

773 F.2d at 55. Here, the facts parallel *Ford*. From May 13, 2020, through February 26, 2025, the Debtor and Moore lived in the Subject Real Property as unmarried domestic partners. After nearly five years of doing so, on advice of bankruptcy counsel and with the stated goal of removing such Subject Real Property from the reach of the Debtor's creditors, the Debtor chose both (i) to marry on the eve of bankruptcy, and (ii) and to execute the February Deed on the eve of bankruptcy. Stipulated Facts, ¶ 3. Acting on the advice of counsel, Defendants married and executed the February Deed solely to hinder, delay, and defraud the Debtor's creditors.

Further, N.C. Gen. Stat. § 39-23.4(b) provides a non-exhaustive list of badges of fraud to consider in determining intent under subsection (a)(1). *See* N.C. Gen. Stat. § 39-23.4(b)(1) – (13). Among others, those factors include: the transfer or obligation was to an insider; the debtor retained possession or control of the property transferred after the transfer; the transfer was of substantially all the debtor's assets; and the debtor transferred the assets in the course of legitimate estate or tax planning. *Id.* Here, the Stipulated Facts (and the Debtor's schedules) raise and establish multiple statutory badges of fraud. The Debtor retained possession and control of the Subject Real Property, and the Subject Real Property was the Debtor's main asset³. It is also important to emphasize that

³ In his Schedules, the Debtor listed total assets of \$449,079.11. Official Form 106Sum, Summary of Assets and Liabilities and Certain Statistical Information [DK 1] filed on March 26, 2025. The Subject Real Property accounted for \$420,000.00 of such assets. *Id.*

the February Deed did not constitute legitimate estate or tax planning, which involves long-term financial strategies, but rather a last-minute attempted shielding of a primary asset in anticipation of bankruptcy. Stipulated Facts, ¶ 3, 9.

Accordingly, the Debtor's actions, as reflected in the Stipulated Facts, establish that the February Deed constitutes an actual fraudulent transfer under 11 U.S.C. § 548 and N.C. Gen. Stat. § 39-23.4(a)(1), and Plaintiff is entitled to judgment.

B. Plaintiff is Entitled to Summary Judgment on his Claim for Constructive Fraud under (i) Section 548(a)(1)(B) and (ii) N.C. Gen. Stat. § 39-23.4(a)(2).

The Stipulated Facts establish that the February Deed constitutes a constructively fraudulent transfer under Section 548 and N.C. Gen. Stat. § 39-23.4(a)(2), and Plaintiff is entitled to judgment⁴.

Section 548(a)(1)(B) allows a trustee to avoid any transfer of the debtor's interest in property incurred within two years before the date of the filing of the petition if the debtor "received less than a reasonably equivalent value in exchange for such transfer or obligation; and was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation." 11 U.S.C. § 548(a)(1)(B). N.C. Gen. Stat. § 39-23.4(a)(2), the North Carolina statute analogous to Section 548(a)(1)(B), is substantially identical, except that it has a four-year reach back period. N.C. Gen. Stat. § 39-23.1 *et seq.* A claim for a constructive fraudulent transfer under either the federal or state statute requires a showing that (1) the debtor had an interest in property, (2) the debtor transferred that interest, (3) the transfer occurred on or within four years before the debtor filed for bankruptcy relief, (4) that the debtor received less than reasonably equivalent value in exchange for such transfer, and (5) debtor was

⁴ Plaintiff's First Claim for Relief in the Complaint asserts a claim to avoid the February Deed pursuant to 11 U.S.C. § 548(a)(1)(B). Plaintiff's Fourth Claim for Relief in the Complaint asserts a claim to avoid the February Deed pursuant to N.C.G.S. § 39-23.4(a)(2).

insolvent on the date the transfer was made. *See* 11 U.S.C. § 548(a)(1)(B); N.C. Gen. Stat. § 39-23.4(a)(2).

(1) Debtor's Interest

Based on the Stipulated Facts, it is undisputed that Debtor had an interest in the Subject Real Property. The parties have stipulated that, prior to the February Deed, the Debtor owned a one-half interest in the Subject Real Property, with such one-half interest valued at \$210,000. Stipulated Facts, ¶¶ 2, 7.

(2) Transfer

For the same reasons discussed in detail above, the February Deed constituted a transfer.

(3) Date

Based on the Stipulated Facts, it is undisputed that the Petition was filed twenty-seven (27) days after the February Deed. Stipulated Facts, ¶ 9.

(4) Less than Reasonably Equivalent Value

Debtor received less than reasonably equivalent value when he exchanged his separate one-half tenancy in common interest for an undivided tenancy by the entirety interest in the Subject Real Property. The Debtor disputes this asserts that he received “reasonably equivalent value” for the February Deed because he still had ownership after the execution and recordation of such instrument. Answer, ¶ 5.

Although “reasonably equivalent value” is not subject to a precise formula, the Fourth Circuit has made it clear that “[t]he purpose of the Bankruptcy Code's avoidance provisions is to prevent a debtor from making transfers that diminish the bankruptcy estate to the detriment of creditors.” *Grayson Consulting, Inc. v. Wachovia Sec., Inc. (In re Derivium Capital LLC)*, 716 F.3d 355, 361 (4th Cir. 2013). The Debtor’s position ignores this guidance and focuses solely on

what assets the Debtor retained and could enjoy. Plaintiff asserts that the focus must also consider the effect of the transfer on the Debtor’s estate, or creditors. The Fourth Circuit agrees and frames the analysis much different than the Debtor would assert: “Hence, the proper focus is on the net effect of the transfers on the debtor's estate, the funds available to the unsecured creditors. As long as the unsecured creditors are no worse off because the debtor, and consequently the estate, has received an amount reasonably equivalent to what it paid, no fraudulent transfer has occurred.” *Jeffrey Bigelow Design Group, Inc.*, 956 F.2d 479, 484 (4th Cir. 1992) (emphasis added).

In the present case, prior to execution of the February Deed, the Debtor’s one-half interest in the Subject Real Property had an estimated value of \$210,000—an amount that would have been available to the bankruptcy estate and the Debtor’s unsecured creditors. After the February Deed, no such value remained available to creditors. Stipulated Facts, ¶ 6. The February Deed, made on advice of counsel, therefore depleted the bankruptcy estate to the detriment of creditors and was not for “reasonably equivalent value.”

(5) Insolvent

Based on the Stipulated Facts, it is undisputed that the Debtor was insolvent on the date of the February Deed or became insolvent because of the February Deed. Stipulated Facts, ¶ 10.

Accordingly, the Stipulated Facts establish that the February Deed constitutes a constructive fraudulent transfer under 11 U.S.C. § 548 and N.C. Gen. Stat. § 39-23.4(a)(2), and Plaintiff is entitled to judgment as a matter of law.

CONCLUSION

Based on the Stipulated Facts, the relevant facts in this Adversary Proceeding are established. On these facts, Plaintiff has demonstrated that no genuine issue of material fact exists as to the foregoing claims and that Plaintiff is entitled to judgment as a matter of law.

Wherefore, Plaintiff respectfully requests that the Court (a) enter summary judgment in Plaintiff's favor as to (i) the First Claim for Relief (Avoidance of Transfer for Constructive Fraud - 11 U.S.C. § 548(a)(1)(B)), (ii) the Second Claim for Relief (Avoidance of Transfer for Actual Fraud- 11 U.S.C. § 548(a)(1)(A)), (iii) the Third Claim for Relief (Avoidance of Transfer for Actual Fraud – N.C. Gen. Stat. § 39-23.4(a)(1)), and (iv) the Fourth Claim for Relief (Avoidance of Transfer for Constructive Fraud – N.C. Gen. Stat. § 39- 23.4(a)(2)), and (b) grant Plaintiff such other relief as the Court may rule as just and proper.

Respectfully submitted, this the 10th day of December, 2025.

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing *Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment* was served this day by CM/ECF electronic e-mail service as follows:

VIA CM/ECF EMAIL

Philip Sasser

Attorneys for Defendants

This the 10th day of December, 2025.

**WALDREP WALL BABCOCK & BAILEY
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