813.31 TRADE REGULATION - VIOLATION - UNAUTHORIZED DISCLOSURE OF TAX INFORMATION. N.C. Gen. Stat. § 75-28.[1]

The (*state number*) issue reads:[2]

"Did the defendant make an unauthorized disclosure of tax information?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, two things[2]:

First, that the defendant [was engaged or employed to prepare] [prepared or undertook to prepare] a tax [form] [report] [return] for [(*name taxpayer*)] [(*name other person for whom report was prepared*)].

Second, that the defendant [disclosed, divulged or made known in any manner] [used for any purpose or in any manner] other than in the preparation of the [form] [report] [return], the [name or address] [amount of income] [amount of income tax or other taxes] [(*describe other information shown on or included in form, report, or return*)] of [(*name taxpayer*)] [(*name other person for whom report was prepared*)] without [*his*] [(*name other person for whom report was prepared*)] express consent.

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that defendant made an unauthorized disclosure of tax information, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

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 defendant.

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1. N.C. Gen. Stat. § 75-28; *Dixon, Odom & Co. v. Sledge*, 59 N.C. App. 280, 296 S.E.2d 512 (1982).

2. Disclosure pursuant to a proper judicial order or some other provision of law is not a violation of this statute. N.C. Gen. Stat. § 75-28. Whether the disclosure was pursuant to such an order or provision of law will normally be decided by the judge as a matter of law. Also, the statute provides that:

> "Nothing in this section shall be construed to prohibit the examination of any person, books, papers, records or other data in accordance with the authority provided in N.C. Gen. Stat. § 105-258."