1) Customer must pay ABC for the $3,000 promissory note. At issue is whether or not ABC qualifies as a holder in due course ("HDC"), and is therefore not subject to customers real defenses. The Uniform Commercial Code (U.C.C.) establishes that one qualifies as a holder in due course when they:

> 1) Take a negotiable instrument for an unconditional promise to pay to bearer or order that is payable at an ascertainable time without any further instruction. Here, all of the elements for negotiable instrument are met. The note was made to bearer (supplier) and was payable at an ascertainable date. ABC took the instrument when Supplier indorsed it to them and delivered. This element is met for holder in due course.
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> 2) Takes the instrument for value. Here, ABC took the instrument from Supplier to satisfy an anacedent debt. This is permissible by the UCC and this element has been met.
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> 3) The holder takes the instrument in good faith and without any notice of defects. Here, ABC did not know of any defects at the time the instrument was taken and they became a holder. The fact that they later found out about the defect in the original negotiation is irrelevant. Because we have established that ABC is a holder in due course it is true under the U.C.C. that ABC is not liable for any personal defenses that Customer could raise, such as a breach of contract in this case. The only defenses that would be applicable against ABC is a real defense, such as fraud. This is not applicable here an Customer will need to pay the $3,000 note to ABC. It may only have a cause of action against supplier.

2) Jane will not be able to recover the $2,000 payment from ABC under the note. At issue is whether Jane is a holder in due course. Because she does not meet the elements established above, she is not a holder in due course.

Secondly Jane cannot assert that her note is subject to the shelter note. The shelter rule, under the U.C.C. say that a done obtains the rights to the note that the donor had. The original maker of the note (supplier) is note a holder in due course. Therefore, supplier did not have holder in due course rights to give Jane when he gifted it to her. Because supplier is subject to the real defense of breach of contract, Jane is as well and she may not recover the $2,000 note from customer.

End of Answer.

1) Customer is liable to ABC for the $3,000 promissory note. At issue is whether or not ABC qualifies as a Holder in Due Course and if it does did it have notice.

A holder in due course (HDC) is protected from common law defenses that arise in contracts. To be a HDC, the following requirements have to be met: the note is negotiable, are a holder of the note, the authenticity of the note is not in question, good faith, for value, and without notice. A note is negotiable when it meets the following requirements: 1) a signed writing, 2) contains an unconditional promise, 3) to pay, 4) a fixed amount of money, 5) payable on demand, 6) contains no other undertakings, and 7) contains bearer language. Here the note was negotiable. A holder is someone who is entitled to to enforce the note. ABC is a holder. Aunthenticity is in question when the note gives a reason to know that the note is unenforceable, such as noticable forgery or a note that was torn up and taped back together. Here, there is nothing that would require the authenticity of the note to be in question. ABC obtained the note in good faith and for value, payment of a debt owed counts as value. However, if the amount of the debt was nominal when compared to the note, this could evidence lack of value and good faith; for example if the debt owed was only $200 then a note of $2000 would evidence a lack of value paid and support a conclusion of bad faith. Here, it can be assumed that that is not the case, so ABC would be a good faith purchaser for value. At issue is whether the fact that ABC found out that Customer cancelled his contract with Supplier and demanded the note back gives notice that would destroy HDC status. It does not. The HDC has to take the note without notice. This does not mean any subsequent notice would be sufficient to destroy HDC.

A HDC takes free of any common law defenses. A HDC is subject to real defenses, such as infancy, incompetency, illegality, duress, fraud in the factum. Illegality, incompetency, and duress merely render the HDC status as voidable, not void. Fraud in the factum is the person did not know and could not have known of the fraud. Fraud in the Factum does not apply because Supplier did not commit fraud; Supplier committed a breach of contract. A breach of contract is a common law defense and does not destroy HDC status. As a result, ABC is a HDC and Customer will be liable for the full value of the promissory note.

2) Customer will not be liable to Jane for the $2,000 promissory note. At issue here is whether Jane qualifies as a HDC and if not does the shelter rule apply.

Jane will not be considered an HDC. As stated above, to be and HDC you have to give value. Here Jane received the promissory note as a gift. As a result, she did not pay value and can not be a HDC. However, a person that receives a note from an HDC can be sheltered by the previous owner's HDC status. This means that subsequent transfers made by an HDC will also be protected from common law defenses. Jane can not benefit from the shelter rule. Jane received the note from Supplier. Supplier was not a HDC. As a result, Customer will not be liable to Jane for the $2000 promissory note.

1) Customer tis laible to ABC for $3,000 promissory note.

The issue is what liability does the maker of a note have to a transferee of the note who is a holder in due course.

The maker of a note is liable on the contract to a person entitle to enforce the note. The person entitled to enforce a note is the holder, or a person with the rights of a holder. The holder of a note in order form is the person identified as payee, or a subsequent transferee. A transferee of a properly negotiated negotiable instrument acquires all the rights of the transferor.

Here, Customer is the maker. The facts tell us that the promissory notes were properly executed and delivered to Supplier. Customer is therefor liable for the underlying obligation of the note, which in this case is the obligation to pay $3,000. Customer is liable to the person entitled to enforce the note, which is the holder or subsequent transferee.

The note was payable to Supplier, and supplier recieved delivery of the note so Supplier is the original holder. However, Supplier indorsed the note to ABC. To transfer a note payable to order requires the indorsement of the person to whom the note is payable. Here Supplier signed the note on the back which constituted his indorsement. Special indorsement is an indorsement which names a specific transferor to whom the note is tranfered to. However, Supplier only signed the note and did not indicate that is was payable to the order of ABC. Therefore his signature served as a blank endorsement. A blank indorsement makes the instrument into bearer paper. The holder of bearer paper is the person in possesion of the note when presented for payment.

ABC is in possesion of the note which is in bearer form and is therfore the person entitled to enforce the note. However, a holder takes the note subject to real and personal defenses. A holder in due course however, takes the note subject only to real defenses. A holder in due course is a holder of a negotiable instrument that gives value for the instrument in good faith, without knowledge of any alteration or forgery or anything on its face that would call into question the note's authenticity, or knowledge of any claim against the note.

Here ABC is a holder in due course. As discussed above, ABC is the holder of the promissory note which is a negotiable instrument. ABC gave value for the note because they took the note in satisfaction of a debt owed to it by Supplier. Also, ABC did not have any knowledge of any alterations or forgeries or defects on the face of the note or knoweldge of any defense Customer may have at the time they took it, and they took it in good faith. Therefore ABC is a holder in due course and takes the note free of any personal defense. The fact that he later found out about Customer's defense is not controlling, what matters is at the time he took the note.

Customer is therefore liable to ABC for the underlying obligation of the note to pay $3,000 unless Customer has a real defense. The only defense Customer may have is the breach of contract between Customer and Supplier for want of consideration. However this is a personal defense and will not be effective against ABC who is a holder in due course.

Therefore, Customer is liable to ABC for the $3,000 note.

2) Customer is not liable to Jane for $2,000 promissory note.

The issue is whether the maker of a note is liable to a transferr who is not a holder in due course.

For the same reason ABC is a holder, Jane is also a holder of the $2,000 promissory note. Supplier was the person identified as the payee of a properly executed promissry note and he indorsed it with a blank signature by signing his name on the back of the note. As maker, Customer would ordinarily be liable for the underlying obligation to pay the $2,000 to Jane, who is the holder and person entitled to enforce.

However, Jane is not a holder in due course. Because she recieved the note as a gift, she did not give value for the note and cannot be a holder in due course. Under the shelter rule, a transferee may be sheltered by the status of the transferor, but Supplier was not a holder in due course either.

Therefore Customer's defense of breach of contract for want of consideration by Supplier is effective against Jane and Customer is not liable to her for the $2,000.