



The University of New Mexico

School of Law Library  
MSC11 6080  
1 University of New Mexico  
Albuquerque, NM 87131-0001  
Telephone (505) 277-0939  
FAX (505) 277-0068

This document was scanned pursuant to the express permission of its author and rights holder.

The purpose of scanning this document was to make it available to University of New Mexico law students to assist them in their preparation and study for Law School exams.

This document is the property of the University of New Mexico School of Law. Downloading and printing is restricted to UNM Law School students. Printing and file sharing outside of the UNM Law School is strictly prohibited.

**NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is no to be "used for any purpose other that private study, scholarship, or research." If the user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

**523 COMMERCIAL TRANSACTIONS I**  
Semester I, 2002-2003

UNM School of Law  
Final Examination

Professor Frederick M. Hart  
Saturday, December 7, 2002  
Friday, December 13, 2002

**Three Hours**

**INSTRUCTIONS**

1. There are 25 True-False questions and one essay questions on this examination. Fifty points are assigned to the True-False questions and fifty points to the essay.
2. If you wish to explain your answer to one or more of the True-False questions, you may do so on the reverse side of the paper. Be certain to mark the question indicating that there is an explanation on the back. Keep in mind, however, that this takes time that could otherwise be profitably used.
3. Your answer to the essay question should not exceed 1250 words. I am not concerned about a few extra words, but I will deduct credit if your answer significantly exceeds the limit.
4. This is a **MODIFIED OPEN BOOK EXAMINATION**. You may bring to the examination a copy of the Uniform Commercial Code, any materials that I have distributed in class, and any notes or outlines that you have prepared yourself or in conjunction with others in the class.  
**YOU MAY NOT USE ANY OTHER MATERIALS DURING THE EXAMINATION SUCH AS BOOKS FROM THE LIBRARY, BOOKS THAT YOU HAVE PURCHASED, COMMERCIAL OUTLINES OR OUTLINES PREPARED BY OTHERS.**
5. You have three hours in which to complete this examination.
6. Answer the short answer questions on the examination itself and return it at the end of the examination. Make sure to put your examination number on all pages of the examination. Also, return the essay question.
7. **You will receive two points for every correct answer to the true/false questions. I will deduct one point for every question you answer incorrectly. If you leave a question blank, you will neither receive nor lose credit.**
9. I will not answer any questions about the examination while you are taking it. Hence, if there are typographical or substantive errors, you must work with them. Simply point them out and write your answer in the context of the error.
10. Unless otherwise stated, all transactions occurred in New Mexico.

**True/False Questions**

1. Tom owns land in Taos County, N.M. On December 1, he dug 50 fir trees from his land putting cloth around their roots. He trucked them to Albuquerque, and sold them to his brother, Teddy. Teddy, who is a plumber by trade, put them on a lot across from a K-Mart store and sold them as "living" Christmas trees. His customers purchased them with the intent of planting them in their lawns after the holiday season. While in Teddy's possession, the trees are inventory.

TRUE

FALSE

2. David took his watch to a pawnshop owned by Sally. Sally agreed to loan him \$50.00 if David agreed to give her a security interest in the watch and David agreed. He gave the watch to Susie who tagged it and put it in her safe. Dan refused to sign a security agreement when asked to do so by Susie because it was too complicated. Assuming Sally lent him the money anyway. Sally has a perfected security interest in Dan's watch.

TRUE

FALSE

3. On January 2, Dan borrowed \$10,000 from Susie giving her a security interest to secure the debt. The security agreement described the collateral as "*all of Dan's present and hereinafter to be acquired inventory.*" On January 3, Susie filed in the Secretary of State's office a financing statement describing the collateral as "*all of the debtor's inventory and equipment.*" On February 7, Dan purchased new inventory from Supplier using the money that he received from Susie. Susie has a perfected security interest in the inventory purchased by Dan from Supplier.

TRUE

FALSE

4. Assume the same facts as in Question 3. Susie also has a security interest in Dan's equipment.

TRUE

FALSE

5. On January 4, Dan borrowed \$20,000 from Susie and gave her a security interest in all of his present and hereinafter to be acquired inventory. Dan deposited cash and checks received from the sale of inventory in his general checking account. On January 10, Dan had \$5,000 in that account, none of which came from the sale of inventory. From January 10 through January 15, the following deposits and withdrawals were made:

- January 11 - Deposit of \$3,000 from the sale of inventory
- January 12 - Withdrawal of \$7,000 to pay employees
- January 13 - Deposit of \$5,000 from the sale of inventory
- January 14 - Deposit of \$3,000 from the sale of a truck used by Dan in his business
- January 15 - Withdrawal of \$3,000 to pay rent.

After this last transaction, Susie has a perfected security interest in all of the money remaining in the account.

TRUE

FALSE

6. On January 2, Dan borrowed \$2,000 from Susie and gave her a security interest in his automobile. Dan promised to repay the loan in monthly installments of \$200 beginning on March 1st, and the agreement contained an acceleration clause in the event that Dan missed an installment. Dan failed to make the March 1 payment when it became due, and Susie repossessed the auto on March 15. If Susie has not disposed of the car, Dan has a right to cure his failure to make the March 1 payment, and to regain possession of the automobile, if he tenders to Susie \$200 plus all costs she incurred in repossessing and storing the automobile.

TRUE

FALSE

7. Dan operates a real estate business as a sole proprietor under the name "A-1 Realty Company." On January 2, Susie sold and delivered a desk and chair to the business and Dan used the desk and chair in his office. The price was to be paid in installments over the next six months, and Susie was given a security interest signed "A-1 Realty Co., by Dan." Susie filed a financing statement in the office of the Secretary of State listing "A-1 Realty Company" as the debtor. The filing would be effective to perfect Susie's security interest.

TRUE

FALSE

8. On January 2, Dan purchased a cash register from Susie for use in his appliance store, agreeing to pay for it in 30 days, and giving to Susie a security interest in the register. On January 3, while he was using it in his store, Bob, who owned a shoe store next to Dan's appliance store, asked if he could buy it because his had just broken. Since Bob was willing to pay a premium price, and Dan still had his old cash register, he sold and delivered it to Bob on that day. On January 5, Susie filed a financing statement with the Secretary of State. If Dan defaults in his obligation to pay Susie, she may repossess the cash register from Bob.

TRUE

FALSE

9. On March 1, Susy sold a diamond ring to Dan, who agreed to pay for it on April 1. Dan gave Susy a security interest in the ring to secure his obligation to pay for it. Dan used the ring for his own personal enjoyment. On March 5, Dan sold the ring to Peter's Pawn Shop. Susy filed a financing statement with the Secretary of State's office on March 12. Peter's Pawn Shop took free of Susy's security interest.

TRUE

FALSE

10. On January 2, Dan borrowed \$50,000 from Susie and gave her a security interest in all of his present and hereinafter acquired inventory of appliances. On February 1, Dan borrowed \$5,000 from Cathy, giving to Cathy a security interest in his accounts. Cathy filed a financing statement on the same day. Susie filed a financing statement on February 15. On March 1 Dan sold a commercial refrigerator to Bill for use in his meat market. The price was \$4,000. Bill paid \$500 down and agreed to pay the remainder in 6 months. In order to secure his promise to pay for the refrigerator, Bill gave to Dan a security interest in the refrigerator, which Dan filed on March 2. Dan is now in default as to both Susie and Cathy. As to the secured obligation that Bill owes to Dan, Cathy has priority.

TRUE

FALSE

11. On January 2, Dan borrowed \$10,000 from Susie for the purpose of buying a new printing press for use in his business. Susie filed on the same day in the office of the Secretary of State. On January 15, Dan purchased a new printing press from Cathy. The selling price was \$100,000. Dan gave Cathy the \$10,000 that he has borrowed from Susie as a down payment and agreed to pay the remainder in installments over the next three years. Dan gave Cathy a security interest in the machine to secure his promise to pay the installments, and Cathy filed a financing statement on February 16th. Cathy delivered the printing press to Dan on February 1. On March 1st, Dan was in default on his obligation to both Susie and Cathy. As between Susie and Cathy, Cathy has priority in the printing press.

TRUE

FALSE

12. On February 1, Mary, who manufactured computers, gave a security interest to Big Bank in all of her "inventory, presently on hand and hereinafter to be acquired" to secure a loan of \$50,000 that the bank made to her. Big Bank filed a financing statement with the Secretary of State on the same day. On March 1, Mary purchased 50 "ABC Disk Drives" from the ABC Company, promising to pay for them on July 1. Mary did not sell disk drives and she purchased them to use in computers she was about to assemble. Before shipping the goods to Mary, ABC called Big Bank and told them of the sale and that ABC was taking a security interest in the drives. A vice-president of the bank said, "We do not approve of that, but I guess we can't stop you." There was no further communication between the ABC Company and the Big Bank. The ABC Company filed a financing statement with the Secretary of State on March 2 and delivered the drives to Mary on March 5. As between ABC and Big Bank, Big Bank has priority as to the disk drives sold to Mary by ABC.

TRUE

FALSE

13. On February 1, David purchased a new stereo from Sandy, promising to pay for it on March 1st and giving her a security interest in it. David put the stereo in his restaurant on February 2 to provide music for his customers. He found, however, that most diners did not like music while they ate, so, when his neighbor George came into his restaurant on February 7<sup>th</sup>, he sold the stereo to George who put it in his den so that he could hear music while reading. Sandy filed a financing statement with the Secretary of State on February 9. If David defaults, Sandy may repossess the stereo from George.

TRUE

FALSE

14. On March 1, Susy loaned Dilbert, who operates a retail appliance store, \$100,000. Susy took back a security interest in all of his present and hereinafter to be acquired inventory. Susy filed a financing statement in the Secretary of State's office on the same day. The financing statement described the collateral as "All inventory of appliances presently owned or hereinafter purchased by Dilbert." On March 15, Dilbert sold a washing machine to Bobby, who paid for it by giving Dilbert a check. Dilbert intended to deposit the check in his account that night, but he mislaid it. On April 1, Dilbert found the check. On that date, Susy has a perfected security interest in the check.

TRUE

FALSE

15. On June 1, Susan lent Dan \$50,000 and took a security interest in all of his inventory and accounts. Susan has never filed a financing statement. On August 1, Dan called Susan and told her that his business had lost \$5,000 during July and that he was giving up the ghost. He invited her to come and take possession of the store, which she did. The store contained all of the inventory in which Susan had her security interest. It also contained all of the documentation of credit sales that Dan had made. By taking possession, Susan perfected her security interest as to the inventory and the accounts.

TRUE

FALSE

16. Seller sold and delivered a widget to Buyer for \$10,000. The purchase price was to be paid in 30 days. The agreement between Seller and Buyer was in writing, signed by the Buyer, described the widget in some detail, and provided that "title to the widget is not to pass to Buyer until Buyer pays the \$10,000 purchase price." When the goods are delivered, Buyer has title to the Widgets and Seller has only a security interest in it.

TRUE

FALSE

17. Dave who owns and operates a shoe store gave a security interest in all of his inventory to Sally to secure a loan to him of \$25,000. The security agreement contained numerous provisions, including one that said, "In the event of default, if Sally repossesses the collateral and sells it, Dave waives any right that he may have to any surplus resulting from the sale of the collateral." Dave defaulted. Sally sold the goods at a commercial reasonable sale which netted \$5,000 more than Dave owed her. Sally must remit the \$5,000 to Dave.

TRUE

FALSE

18. Dave gave a security interest in his equipment to Sally to secure a loan of \$50,000. Six months later, Dave defaulted. Assume that Sally properly repossesses the collateral and that she gives proper notice to Dave that she intends to conduct a private sale of the collateral. If Sally decides to sell the goods at an auction sale she must give Dave a new notice of the auction sale.

TRUE

FALSE

19. On March 1, Dave borrowed \$10,000 from Sally and gave to Sally a security interest in all of the machinery in his automobile repair shop. Sally filed a financing statement the same day in the proper office. On April 1, Dave borrowed \$1,000 from Suedeem and gave her a security interest in the same collateral. By June 1, Dave had defaulted on both loans and Sally repossessed the machinery. At a properly conducted public sale, the machinery was sold for \$15,000. Sally had incurred expenses of \$1,000 in connection with the repossession and sale. Sally knew about Suedeem's security interest at the time of the sale. After Sally had completed distribution of the \$15,000, Suedeem demanded in an authenticated record that Sally pay her \$4,000. Suedeem's security interest was discharged as a result of the foreclosure sale by Sally.

TRUE

FALSE

20. On June 1, 1989, Dave borrowed \$10,000 from Sally and gave Sally a security interest in all of his present and hereinafter to be acquired equipment. Sally filed a financing statement in the proper office on the same day. On June 1, 1993, Paul purchased some of the Dave's equipment. On August 1, 1994, Sally first filed a continuation statement. If Dave defaults on his obligations to Sally, Sally may repossess the equipment that Paul has purchased.

TRUE

FALSE



21. On June 1, Dave purchased a diamond ring for \$5,000 from Sally. He paid her \$1,000 down and agreed to pay the remaining \$4,000 in installments over the next twelve months. Dave granted Sally a security interest in the ring and gave possession of it to Dave. On June 2d, Dave gave the ring to his friend Paula to whom he was engaged. On August 1, Paula and Dave had a disagreement and she borrowed \$1,000 from Suedeem, giving Suedeem a security interest in the ring. Before making the loan, Suedeem, who knew that Dave had given the ring to Sally, checked the filing records under Dave's name, and, since Sally had never filed, Suedeem did not find any financing statement on file. On August 5, Suedeem discovered that Sally and Dave were no longer engaged and filed a financing statement in the proper office. If Dave defaults in his obligation to pay her for the ring, Sally may repossess the ring from Paula and has priority over Suedeem.

TRUE

FALSE

22. On January 2, Dan borrowed \$25,000 from Susie and gave her a security interest in all of the inventory in his drug store. On January 5, the sheriff levied upon the inventory pursuant to a writ of execution issued by the court on December 27 to enforce a judgment obtained by Joseph on December 15. Susie did not file a financing statement until January 7. As between Susie and Joseph, Susie has priority.

TRUE

FALSE

23. On January 2, Dan borrowed \$10,000 from Susie and gave to Susie a security interest in all of the equipment that he used in his car repair business. The security agreement contained a provision prohibiting Dan from giving a second security interest to any other creditor. On February 1, a loan of \$5,000 that Cathy had made to Dan became due, and Dan was unable to pay it. Cathy agreed to extend the time of payment for three months if Dan gave her a security interest in his equipment. Dan told her about the security interest that he had given Susie, but Cathy agreed to the extension anyway. Cathy filed a financing statement on February 2. Susie, who had neglected to file earlier, finally filed a financing statement on February 8. As between Cathy and Susie, Cathy has priority.

TRUE

FALSE

24. On January 2, Dan purchased a Model 100 Red computer from Susie for use in his business. He paid \$500 down and agreed to pay the remaining \$1,500 in installments. Dan gave Susie a security interest in the computer, and she filed a financing statement in the proper office on the same day describing the collateral as "One Red Computer, Model 100." On February 1, Dan sold the computer to Betty who also used it as equipment. He took the \$1700 he received from Betty and purchased a Blue computer from Sally. In the event that Dan is in default in his obligation to pay Susie, Susie can repossess the Red computer from Betty and the Blue computer from Dan.

TRUE

FALSE

25. Dan, who lives in Bernalillo County, operates a farming business as a sole proprietorship. He raises alfalfa on a farm that he leases in Mora County, and sheep on a ranch that he owns in Catron County. On January 2, Dan borrowed \$10,000 from Susie to take a trip to Australia. He gave her a security interest in "all the Alfalfa I will grow during this calendar year, and all of the sheep that I own." Susie will have a perfected security interest in the Alfalfa that Dan grows during the year and the sheep owned by Dan if she files a valid financing statement in the New Mexico Secretary of State office.

TRUE

FALSE

## ESSAY QUESTION

Upon his retirement from the deanship and teaching, Bob Desiderio decided to open a sporting goods store to be called "Alfred's Approved Athletic Goods," or "AAAG" for short, Desi decided to operate the business as a sole proprietorship. On January 15, He arranged for a \$100,000 line of credit from RedBank. To secure the debt to RedBank, Desi gave RedBank a security interest in "all inventory of AAAG" The agreement required Desi to deposit all payments for inventory sold by the store, and all payments of accounts, in a special bank account, and at the end of each week to turn over to RedBank 75% of the money in the account as partial payment of the line of credit. Desi had the right to draw on the line of credit at any time as long as the amount that he owed did not exceed \$100,000. RedBank filed a financing statement immediately with the Secretary of State naming the debtor as "Robert J. Desiderio," Desi real name. No mention was made on the financing statement of the trade name under which Desi was going to do business.

On January 20, Desi borrowed \$25,000 from BlueBank giving to BlueBank a security interest in "all of the accounts of AAAG." BlueBank properly filed with the Secretary of State on the same day.

On February 1, Desi borrowed \$50,000 from YellowBank to purchase equipment, giving to YellowBank a security interest in all of his present and hereinafter to be acquired equipment. YellowBank immediately properly filed with the Secretary of State.

On February 5, Desi purchased a truck for use in his business from Cheep Chevy for \$20,000. He made a down payment of \$5,000, taking the money from the amount loaned him by YellowBank . He agreed to pay the remainder of the price in installments over the next three years, and gave Cheep a security interest in the truck to secure the obligation. Cheep had its security interest noted on the truck's certificate of title on February 7, the day that Desi took delivery.

On February 15, Desi purchased \$250,000 worth of sporting goods from Wanda Wholesaler. He made a down payment of \$50,000 from his RedBank line of credit, and agreed to pay the remainder as he sold goods at his store. Desi gave Wanda a security interest in "all of the inventory of AAAG." Wanda gave written notice to RedBank of her intent to take a security interest in Desi's inventory. She properly filed a financing statement with the Secretary of State on February 17. The inventory was delivered to AAGA store on February 20.

On February 20, Desi purchased a computer from Tronics for \$75,000 for use in the store. He used \$10,000 of the money advanced by RedBank and \$10,000 of the money advanced by YellowBank as a down payment and agreed to pay the remainder in installments during the next year. Tronics took a security interest in the computer to secure the debt. The computer was delivered on February 20, and Tronics properly filed a financing statement on February 25.

Desi had an opening day sale on March 1, selling \$25,000 worth of sporting goods on that day. During the following months, Desi continued his business, selling sporting goods. Some were sold for cash, some customers gave checks for their purchases, still other customer agreed to pay at the end of the month, and some purchased on the "AAAG's Easy Pay Plan" under which they were to make regular monthly payments during the year following the purchase. Whenever Desi sold on the AAGA Easy Pay Plan, he took a security interest in the goods sold. Since Desi had never studied commercial law, he did not know about filing and he did not file any financing statements. During this time, Desi frequently purchased new inventory from Wanda on credit. Whenever he made a purchase, he gave Wanda a new security interest in the new inventory he purchased, but Wanda did not file new financing statements, nor did she give any new notice to RedBank. At times he made payments to RedBank, BlueBank Bank, YellowBank, Tronics, Cheep and Wanda.

Although Desi's business was successful, he reached a financial crisis about December 1, because one of his key employees had been stealing money from the store since it opened. When Desi was offered the job of head basketball coach at the University of New Mexico on December 1, he decided to accept, and to close and liquidate the store. Since he was in financial trouble, he considered filing a bankruptcy petition, but decided instead to turn over all of his assets to you with the instructions that you should liquidate the business and pay his creditors with the money.

At the time he employed you, his major unexempt assets and liabilities were as follows:

#### ASSETS

Inventory: \$50,000

Money in the special account that was required by RedBank: \$25,000

Money owed by non-installment purchasers: \$25,000

Money owed by AAGA Easy Payment Plan purchasers: \$25,000

Computer: \$50,000

Office & Showroom Furniture: \$10,000

Cash in hand: \$1,000

Undeposited checks: \$2,000

Truck: \$8,000

LIABILITIES

RedBank: \$75,000

BlueBank Bank: \$10,000

YellowBank Bank: \$50,000

Cheep Chevy: \$5,000

Tronics: \$30,000

Wanda Wholesaler: \$75,000

Since there will not be enough money to pay everyone, you must determine which creditors you will pay. You should do this in conformity with Article 9 of the Uniform Commercial Code.

Please discuss fully which of the creditors have secured claims in Desi's assets, and the priorities among those who have security interests in the same collateral.