

Examination Introduction to Commercial Law/UCC

Spring 2006

INSTRUCTIONS:

This is the examination for the Spring 2006 course Introduction to Commercial Law/UCC. This examination consists of two Parts each followed by enumerated questions [Part I, 1a,1b, 2)2 and Part II: 1); 2), 2A, 2C, 2D] that you are to address with written responses. The Rules are:

- 1) Record your response to each question in the examination books provided;
- 2) Write in ink on the right hand page only;
- 3) Number each response by part and number;
- 4) Be sure to write your examination number on each examination book you choose to submit;
- 5) You may have with you during the examination only writing instruments and for your reference a copy of the Uniform Commercial Code marked however you wish. Citation to appropriate Code sections to justify your response may be important.
- 6) You have three hours within which to complete your consideration of the examination and to record your responses.

PART I

Peter was paid by check drawn to his order by Mark for work that Peter told Mark he had done for Mark. Peter dropped the check to the floor while standing at the counter of Convenience Store when trying to extract his wallet from his pants pocket. The check fell behind the counter where clerk picked it up. Clerk picked up the check, signed Peter's name on the back after checking the spelling as it appeared on the front then deposited the check in the cash register after taking from the drawer an amount of money equivalent to the amount shown on the check.

- 1) Convenience store could not wait for banking hours to liquidate its daily receipts so it took receipts that were in the form of checks to Atlantic Check Cashing and exchanged those checks including Peter's for money at a discount after signing the back of each;
 - a) When Check Cashing tried to cash the check at Mark's bank the bank called Peter. Can Peter retrieve the check from Check Cashing without paying for it? If so why? If not why not..
 - b) If Mark's bank upon which the check was drawn pays Check Cashing the amount of the check can it charge that amount against Mark's account? If not why not if so why?
- 2) Assume that before dropping the check Peter had signed his name to the back of the check and that Clerk pocketed the check rather than putting it in Convenience Store's cash drawer. Clerk, as was his job, took the Store's receipts to Check Cashing. Following completion

of the transaction for the store, Clerk presented Peter's check for cashing. After signing the store's name below Peter's on the back, he was given the face amount of the check by Check Cashing. Check Cashing took the check in exchange.

2) Can Mark refuse to pay Check Cashing on the ground that Peter had not done the work he had told Mark he had done? If not, why not? If so, why?

Part II

Deborah printer began a small printing business with machines inherited from her mother and training at the New Hampshire Technical Institute. Initially she was able to take on work by funding the purchase of supplies from her cash flow. As her reputation for quality work grew she more and more often found that she had to decline work involving big projects because she did not have the means to purchase the large quantities of paper and ink required. Deb met with a banker to decide if there was a way of addressing her cash short fall. Banker had her complete a loan application. Banker also had Deb sign a security agreement after filling in the lines labeled description of collateral with "All Deborah Printers equipment now owned or hereafter acquired". The Banker tells Deb that his loan committee is very likely to approve her application but because a credit investigation will take some time it will be several months before the committee will act.

Several weeks later Banker called with a number of questions about her business that Deb graciously answered. Deb hears nothing about this application for more than two months.

- 1) Has the bank succeeded in obtaining an inforcible security interest in Printer's equipment? If so, when and why. If not why not?
- 2) Banker called Deb Printer in the first week of the bank's new fiscal year July 1, to tell her he had good news and she should come to his office at the bank as soon as she could make it. When Deb arrived Banker gave her a letter stating that her loan request was approved and that she now had a small business line of credit for \$95,000 with the bank. Banker told her to read the terms of the loan in the letter and that she could access the money as soon as she signed the Bank's standard form note for \$95,000. Deb signed and Banker then explained to her how she could draw on the account and the terms of repayment. The summer months are slow months for the printing business and Deb had no reason to exploit the line of credit until September when she wrote the first check on the line of credit.
 - A) Did the bank's security interest attach and if so when did this occur? If it did not, explain why it did not.
 - C) If a second lender to Deborah Printer takes a security interest in Printer's "equipment now or hereafter owned" would Bank have

Exam # _____

to have filed to protect what ever interest it had in the collateral Deborah designated for the line of credit? If not, why not? If so, why?

D. Assume that second lender had already made its loan to Deborah and had taken a security interest in her equipment before bank took the loan application and security agreement from Printer. Can bank take an interest in the same collateral that will prevail in a priority dispute against second lender?