

Question Two

Worth 5 Points

In 2005, Korey Wilson signed a contract to play hockey for the Boston Bruins, a franchise of the National Hockey League. The contract with franchise owner, Harry Synden, covered a 3 year term starting with the 2005 season. In late December of 2005, the Bruins borrowed a large sum from the Sullivan National Bank, giving the bank a security interest in "All Boston Bruins player contracts now existing or hereafter acquired." Is Wilson now the subject of an Article 9 security interest?

Fully support your answer.

Question Three

Worth 3 Points - 1 Point each Part.

- A. A borrows \$100,000 from B and secures its repayment obligation evidenced by a promissory note by granting to B a mortgage on A's land. Does Article 9 govern this transaction? Why or why not?
- B. What if B sells the promissory note to X? Support your answer.
- C. What if B gives a security interest in the note to secure B's own obligation to X? Support your answer.

Question Four

Worth 5 Points

On June 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On July 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts and properly files. On August 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Professor Sullivan
UCC - Article 9
Final Exam - Fall 2005

Question One

Worth 5 Points

Bill Smith borrowed \$100,000 from Sullivan National Bank granting the bank a security interest in his company's ("Bill's Photos") inventory, accounts and equipment. The Bank properly filed a financing statement. Two years later Bill changed his name to "Snappy Photos." Bill then borrowed \$40,000 from Bourque Finance granting Bourque Finance giving security interest in inventory and equipment.

Which lender has priority in the inventory, accounts and equipment?
Fully support your answer.

Question Two

Worth 2 Points

In 2005, Korey Wilson signed a contract to play hockey for the Boston Bruins, a franchise of the National Hockey League. The contract with franchise owner, Harry Synden, covered a 3 year term starting with the 2005 season. In late December of 2005, the Bruins borrowed a large sum from the Sullivan National Bank, giving the bank a security interest in "All Boston Bruins player contracts now existing or hereafter acquired." Is Wilson now the subject of an Article 9 security interest?

Fully support your answer.

Question Three

Worth 3 Points - 1 Point Each Part.

- A. A borrows \$100,000 from B and secures its repayment obligation evidenced by a promissory note by granting to B a mortgage on A's land. Does Article 9 govern this transaction? Why or why not?
- B. What if B sells the promissory note to X? Support your answer.
- C. What if B gives a security interest in the note to secure B's own obligation to X? Support your answer.

Question Four

Worth 5 Points

On June 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On July 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts and properly files. On August 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Five

Worth 5 Points

X, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Lender. X sells the equipment to Y, who is in the business of buying and selling used equipment. Buyer buys the equipment from Y. Does buyer take free of the security interest? Why?

Question Six

Worth 5 Points

Sullivan Credit Association held a perfected security interest in the inventory of Harriet's Hats. Harriet went to Las Vegas to a hat show and entered into a contract to buy a new line of hats. The seller, Mattie Mills Inc., took a security interest in the hats it sold Harriet. The hats were delivered on January 15th and Matty filed January 24th. Who has priority in the hats on January 25th? Fully support your answer.

Professor Sullivan
UCC - Article 9
Final Exam - Summer 2005

Question One

Worth 5 Points

In 2005, Corey Wilson signed a contract to play hockey for the Boston Bruins, a franchise of the National Hockey League. The contract with franchise owner, Harry Synden, covered a 3 year term starting with the 2005 season. In late December of 2005, the Bruins borrowed a large sum from the Sullivan National Bank, giving the bank a security interest in "All Boston Bruins player contracts now existing or hereafter acquired." Is Wilson now the subject of an Article 9 security interest? Fully support your answer.

Question Two

Worth 5 Points

Sullivan Company makes pianos. At the end of the Christmas production cycle it has a large number of such pianos stored in its warehouse. If Sullivan company borrows 2 million dollars from Busy Bank to further finance its operations and puts the pianos up as collateral, how would this collateral be classified? Fully support your answer.

Question Three

Worth 5 Points

On October 1, Seller sold a piece of equipment to Debtor on credit. Seller retains an enforceable security interest in equipment to secure the purchase price. Seller delivered equipment to Debtor on October 5th. On October 10th, Manny became a lien creditor. Manny's lien encumbers the equipment as of October 10th. Who has priority on the 10th? Fully support.

Question Four

Worth 9 Points - 3 Points each Part.

- A. A borrows \$100,000 from B and secures its repayment obligation evidenced by a promissory note by granting to B a mortgage on A's land. Does Article 9 govern this transaction? Why or why not?
- B. What if B sells the promissory note to X? Support your answer.
- C. What if B gives a security interest in the note to secure B's own obligation to X? Support

your answer.

Question Five

Worth 5 Points

On March 1, A makes advances to debtor under a security agreement covering “all debtor’s machinery, both existing and after-acquired.” A promptly files a financing statement. On May 1, B takes a security interest in all debtor’s machinery, existing and after-acquired to secure an outstanding loan. The following day, B files a financing statement. On June 1, debtor acquires rights in a new machine. Who acquires a security interest in the machine? Who has priority? Fully support.

Question Six

Worth 6 Points

On June 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor’s existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On July 1, Debtor authenticates a security agreement granting B a security interest in all Debtor’s existing and future accounts and properly files. On August 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Seven

Worth 5 Points

Debtor creates a security interest in its existing and after acquired inventory in favor of SP-1, who files a financing statement covering inventory. SP-2 subsequently takes a purchase money security interest in certain inventory and properly files. This inventory is then sold, producing accounts. Who has priority as to the accounts? Fully support.

Question Eight

Worth 10 Points

A owns an item of equipment subject to a perfected security interest in favor of SP-1. A sells the equipment to B, not in the ordinary course of business. If B then creates a security interest in the equipment in favor of SP-2, who has priority? Fully support?

Professor Sullivan
Examination Instructions
Article 9 - Fall 2004

Spread out as much as possible by leaving space between yourself and anyone seated nearby.

Nothing may be on your desk or the floor near your desk except a pen(s). Put all bags, books, coats, purses and anything else you have with you against the wall.

You may not begin until instructed to do so.

You have 1 hour and 30 minutes to complete the exam.

You may leave the room if absolutely essential but only one at a time and must sign out when you do so.

Print or write so I can read it. If I cannot read it, you receive no credit.

Social Security Numbers only.

Pass in all bluebooks used as well as the exam.

Good luck.

PRINT NAME: _____

SIGN NAME: _____

Professor Sullivan
UCC - Article 9
Summer 2004

Question One
Worth 5 Points

On October 1, Seller sold a piece of equipment to Debtor on credit. Seller retains an enforceable security interest in equipment to secure the purchase price. Seller delivered equipment to Debtor on October 5th. On October 10th, Manny became a lien creditor. Manny's lien encumbers the equipment as of October 10th. Who has priority? Fully support.

Question Two
Worth 9 Points - 3 Points each Part.

- A. A borrows \$100,000 from B and secures its repayment obligation evidenced by a promissory note by granting to B a mortgage on A's land. Does Article 9 govern this transaction? Why or why not?
- B. What if B sells the promissory note to X? Support your answer.
- C. What if B gives a security interest in the note to secure B's own obligation to X? Support your answer.

Question Three
Worth 5 Points

On March 1, A makes advances to debtor under a security agreement covering "all debtor's machinery, both existing and after-acquired." A promptly files a financing statement. On May 1, B takes a security interest in all debtor's machinery, existing and after-acquired to secure an outstanding loan. The following day, B files a financing statement. On June 1, debtor acquires rights in a new machine. Who acquires a security interest in the machine?
Who has priority? Fully support.

Question Four
Worth 11 Points

On June 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On July 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts and properly files. On August 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Five

Worth 10 Points - 5 Each Part

- A. Debtor creates a security interest in its existing and after acquired inventory in favor of SP-1, who files a financing statement covering inventory. SP-2 subsequently takes a purchase money security interest in certain inventory. This inventory is then sold, producing accounts. Who has priority as to the accounts? Fully support.
- B. Assume SP-3 had filed (in Part A) against accounts before either SP-1 or SP-2 filed against inventory. Who has priority? Fully support.

Question Six

Worth 10 Points - 5 Each Part

- A. A owns an item of equipment subject to a perfected security interest in favor of SP-1. A sells the equipment to B, not in the ordinary course of business. If B then creates a security interest in the equipment in favor of SP-2, who has priority? Fully support?
- B. What if SP-2 took a purchase money security interest? Why?

Professor Sullivan
UCC - Article 9
Final Exam - Fall 2004

Question One

Worth 2.5 Points

On October 1, Seller sold a piece of equipment to Debtor on credit. Seller retains an enforceable security interest in equipment to secure the purchase price. Seller delivered equipment to Debtor on October 5th. On October 10th, Manny became a lien creditor. Manny's lien encumbers the equipment as of October 10th. Seller files financing statement on Oct.12th. Who has priority? Fully support.

Question Two

Worth 5 Points - 1 Point each Part.

Discuss whether Article 9 applies to the following:

- A. Sale of Chattel paper.
- B. Commercial real estate mortgages.
- C. Consignments of hats to a seller of used clothing.
- D. Furniture leases taken by Finance Co. from the lessor Sullivan Inc., a company that sells and leases furniture throughout Massachusetts.
- E. Agricultural liens.

Question Three

Worth 2.5 Points

On March 1, A makes advances to debtor under a security agreement covering "all debtor's machinery, both existing and after-acquired." A promptly files a financing statement. On May 1, B takes a security interest in all debtor's machinery, existing and after-acquired to secure an outstanding loan. The following day, B files a financing statement. On June 1, debtor acquires rights in a new machine. Who acquires a security interest in the machine? Who has priority? Fully support.

Question Four

Worth 5 Points

On June 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On July 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts and properly files. On August 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Five

Worth 2.5 Points

Debtor creates a security interest in its existing and after acquired inventory in favor of SP-1, who files a financing statement covering inventory. SP-2 subsequently takes a purchase money security interest in certain inventory and properly files a financing statement and gives proper notification. Therefore, SP-2 achieves priority in this inventory . This inventory is then sold, producing accounts. Who has priority as to the accounts? Fully support.

Question Six

Worth 2.5 Points

A owns an item of equipment subject to a perfected security interest in favor of SP-1. A sells the equipment to B, not in the ordinary course of business. If B then creates a security interest in the equipment in favor of SP-2, who has priority? Fully support?

Question Seven

Worth 5 Points

Friendly Franks has a perfected security interest in all photocopiers held for resale by Bourque Enterprises. Bourque signed a valid Security Agreement covering the copiers. Friendly Franks then filed a financing statement in the proper place. The collateral was described in the financing statement as "all photocopiers held for resale and all proceeds thereof."

Bourque wished to buy photocopiers from Cop Inc.

Friendly Franks refuses to extend credit for this purchase. However, Bourque convinces Cop Inc. to sell it copiers on a conditional sales basis. Cop Inc. filed a financing statement covering this transaction prior to delivery and called Friendly Franks and left a voice mail detailing the arrangement.

After Cop Inc. delivers the photocopiers, Friendly Franks notifies Bourque that the Cop Inc. transaction violates the terms of the agreement between Bourque Enterprises and Friendly Franks

(assume this is correct). The notice also states Friendly Franks in accelerating the debt. Friendly Franks then repossessed all the photocopiers.

In a priority dispute between Friendly Franks and Cop Inc. concerning the repossessed photocopiers, who will prevail? Fully support.

UCC
Article 9
Final Examination - Fall 2003
Day Class

Question One
(5 Points)

Andy Corp., manufacturer, sells its products to Sears and other retailers under a standard agreement calling for the buyer to pay within 45 days of receipt for any goods delivered. Once a shipment is sent out pursuant to such an arrangement, Andy records the amount due as an account receivable.

- A. Andy Corp., needs some funds to buy materials so it obtains a loan from Andover Bank by agreeing to give the bank a security interest in "all of its accounts receivable now held or hereafter acquired." Does the bank have a valid Article 9 interest? Why?
- B. What if Andy had (in Part A) instead sold its account receivable to Sullivan Factors Inc., for the sum of \$1 million. Would this transaction be governed by Article 9? Fully explain.

Question Two
(5 Points)

Candy borrowed \$100,000.00 from Busy Bank on March 1, 2003. The loan was secured by a valid security interest in Candy's equipment and accounts. The security agreement, dated March 1, 2003, included an after-acquired property clause and prohibition on Candy's acquiring future debt in excess of \$10,000 without prior bank consent. Busy Bank filed properly on March 6, 2003.

On June 10, 2003, Candy bought a \$420,000 piece of equipment on credit from the seller without first seeking bank consent. The Seller retained an enforceable security interest in the system to secure the purchase price. The seller delivered and installed the system on June 18, 2003. Seller filed a proper financing statement in the appropriate office on June 30, 2003.

In a priority dispute over the equipment who prevails and why?

Question Three
(5 Points)

On May 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On June 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts. On July 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Four

(5 Points)

Harriet Gale purchased a yacht with money borrowed from Sullivan National Bank which took a security interest therein and promptly filed a financing statement. Harriet quickly grew tired of sailing and sold the boat to Marblehead Yards, a marina that sold used boats, informing them of the boat's security interest. Marblehead Yards sold the boat to Mr. Smith an innocent buyer for the appraised market value. Mr. Smith believed Marblehead Yards had clear title. In a priority dispute over the boat, who prevails? Why?

Question Five

(5 Points)

Diane Dancer ran an apparel store. When Diane needed money she approached Andover Bank and asked to borrow \$40,000.00 using her inventory as collateral. Uncertain whether she would receive the loan, Diane also approached Lawrence Bank for the money. Each bank approved Diane's request. Andover Bank filed its financing statement, on October 25, but did not loan her any money until November 15. Lawrence Bank filed on November 1st and loaned her the money that same afternoon. Which bank has the superior right to the inventory? Fully support.

UCC
Article 9
Final Examination - Fall 2003
Night Class

Question One

(5 Points)

Debbie inherits a harp from her grandmother. She takes it to the shop of Sam, an expert in instrument repair and restoration and enters a contract to have the harp restored for \$800.00. Sam promises to have the work done in 6 weeks. Six weeks later, Debbie goes to Sam's shop and asks to be given the harp. Sam responds he is only willing to turn it over upon payment because under state statute he is entitled to "a lien" on the instrument to assure payment of any amounts due as a result of the work done on it. Assuming there is such a state statute, is the interest Sam claims an Article 9 security interest? Fully support your answer.

Question Two

(5 Points)

Candy borrowed \$100,000.00 from Busy Bank on March 1, 2003. The loan was secured by a valid security interest in Candy's equipment and accounts. The security agreement, dated March 1, 2003, included an after-acquired property clause and prohibition on Candy's acquiring future debt in excess of \$10,000 without prior bank consent. Busy Bank filed properly on March 6, 2003.

On June 10, 2003, Candy bought a \$420,000 piece of equipment on credit from the seller without first seeking bank consent. The Seller retained an enforceable security interest in the system to secure the purchase price. The seller delivered and installed the system on June 18, 2003. Seller filed a proper financing statement in the appropriate office on June 30, 2003.

In a priority dispute over the equipment who prevails and why?

Question Three

(5 Points)

On May 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On June 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts. On July 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Four

(5 Points)

Harriet Gale purchased a yacht with money borrowed from Sullivan National Bank which took a security interest therein and promptly filed a financing statement. Harriet quickly grew tired of sailing and sold the boat to Marblehead Yards, a marina that sold used boats, informing them of the boat's security interest. Marblehead Yards sold the boat to Mr. Smith an innocent buyer for the appraised market value. Mr. Smith believed Marblehead Yards had clear title. In a priority dispute over the boat, who prevails? Why?

Question Five

(5 Points)

Diane Dancer ran an apparel store. When Diane needed money she approached Andover Bank and asked to borrow \$40,000.00 using her inventory as collateral. Uncertain whether she would receive the loan, Diane also approached Lawrence Bank for the money. Each bank approved Diane's request. Andover Bank filed its financing statement, on October 25, but did not loan her any money until November 15. Lawrence Bank filed on November 1st and loaned her the money that same afternoon. Which bank has the superior right to the inventory? Fully support.

EACH OF THE FOLLOWING QUESTIONS ARE WORTH 10 POINTS.

Question One

In late June, Dinty Moore (“DM”) applied to Bank One for a loan against equipment. Without committing to make the loan, on July 1 Bank One filed a financing statement showing DM’s equipment as collateral. Also in late June, DM applied for a similar loan from Bank Two. On July 5, Bank Two approved the loan and filed a financing statement against DM showing the equipment as collateral. Bank Two and DM signed a security agreement on July 5 and Bank Two advanced the funds to DM that day. On July 7, Coyne Inc., a supplier and judgment creditor of DM, became a lien creditor by levying on the equipment. On July 10, Bank One received the report of their U.C.C. search and approved the loan to DM. Bank One and DM signed a security agreement, and Bank One advanced funds against the equipment. Who has priority in the equipment and in what order? Fully explain.

Question Two

- A. A owns an item of equipment subject to an unperfected security interest in favor of SP-A. A sells the equipment to B, who gives value and takes delivery of the equipment without knowledge of the security interest. Who has priority? Fully support.
- B. Same facts as in A except that B knows of SP-A’s security interest? What result? Why?

Question Three

Seven months ago, Ginger Sol borrowed \$27,500.00 from Interstate National Bank (“INB”) to purchase a computer for her pottery business. The security agreement she signed at that time provided that the collateral would consist of the computer and any “substitutions, replacements, or accessions.” The security agreement contained no future advance clause, because none was contemplated. INB filed a financing statement indicating the collateral was “equipment”.

INB just approved a \$150,000.00 line of credit for Ginger, to be secured by the equipment in her pottery business.

Must INB prepare a new security agreement and/or file a new financing statement? Fully

support your answer.

Question Four

On May 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On June 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts. On July 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Five

- A. Debtor creates a security interest in its existing and after acquired inventory in favor of SP-1, who files a financing statement covering inventory. SP-2 subsequently takes a purchase money security interest in certain inventory. This inventory is then sold, producing accounts. Who has priority as to the accounts? Fully support.

- B. Assume SP-3 had filed (in Part A) against accounts before either SP-1 or SP-2 filed against inventory. Who has priority?

Secured Transactions
Professor Sullivan
Final Examination - Article 9
Fall 2001 - Day Class

Question One

Harry Mechanic ran a garage and needed money. He went to two lenders, First Loan Company and Second Loan Company offering his equipment to secure the loan. Each lender had Harry sign a security agreement and financing statement. First Loan filed on September 1st and subsequently lent him the money on September 15th. Second Loan filed on September 2nd and advanced the loan the same day.

Query: In a priority dispute over Harry's equipment, which Loan Company has the superior interest? Fully explain.

Question Two

Polly bought a ring from Rings, Inc. on July 10th, 2001. Polly agreed to give Rings, Inc. a security interest in the ring. Polly left with the ring and Rings, Inc. doesn't file.

On August 10th, 2001, Polly asked Easy Bank to lend her \$4,500.00. Easy Bank had Polly sign a security agreement giving the bank a security interest in the ring. The Bank told Polly they would send her a check if her credit was satisfactory. Polly agreed to repay the loan October 1, 2001. Easy Bank filed August 20, 2001

On August 15, 2001 Polly went to the Finance Company seeking a loan of \$500.00. The Finance Company agreed and had Polly sign a security agreement giving the Finance Company a security interest in the ring. Polly agreed to repay September 1, 2001. The Finance Company had Polly leave the ring until it filed a financing statement which it did on August 17, 2001. On August 18, the Finance Company gave Polly back the ring.

On August 17, Polly received the Bank's check.

In a priority dispute, who would prevail and in what order? Fully support your answer.

Question Three

Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Bank. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Buyer buys the equipment from Dealer. Query: Does buyer take free of Bank's security interest? Fully support your answer.

Question Four

On February 1, Andy makes advances to Debbie under a security agreement covering "all Debbie's machinery both existing and after-acquired". Andy promptly files a financing statement. On April 1, Betty takes a security interests in all Debbie's machinery, existing and after acquired to secure an outstanding loan. The following day, Betty filed a financing statement. On May 1, Debbie acquires a new machine. Query:

(A) Who has a priority? Fully explain.

Secured Transactions
Professor Sullivan
Final Examination - Article 9
Fall 2001 - Evening Class

Question One

On March 1, A makes an advance secured by machinery in the debtor's possession and filed a financing statement. On April 1, B makes an advance secured by the same machinery and files a financing statement. On May 1, A makes a further advance, under the original security agreement, against the same machine:

- A. Who has priority as to the May 1st advance? Fully explain your answer.

Question Two

Milly Hatter ran a hat store and needed some funds. Accordingly, Milly went to two financial institutions, Easy Financier and Hard Financier. Each lender asked Milly to use her equipment to secure the loan. Easy Financier had Milly sign a security agreement and financing statement on May 1st and subsequently lent her the money May 5th. Hard Financier filed on May 3rd and advanced the loan the same day.

Query: In a priority dispute over Milly's equipment which financier has the superior interest? Fully explain.

Question Three

Sam bought a television from Cable Inc. on June 1, 2001. Sam agreed to give Cable Inc., a security interest in the television. Sam left with the television and Cable Inc. doesn't file.

On July 10, 2001, Sam asked Easy Finance to lend him \$3,300.00. Easy Finance had Sam sign a security agreement giving the finance company a security interest in the television. The finance company told Sam they would send him a check if his credit was satisfactory. Sam agreed to repay the loan October 1, 2001. Easy Finance filed July 20, 2001.

On July 15, 2001 Sam went to the Bank seeking a loan of \$5,000.00. The Bank agreed and had Sam sign a security agreement giving the Bank a security interest in the television. Sam agreed to repay September 1, 2001. The Bank had Sam leave the television until it filed a financing statement which it did on July 17, 2001. On August 18, the Bank gave Sam back the television.

On August 17, Sam received the Finance company's check.

In a priority dispute, who would prevail and in what order? Fully support your answer.

Question Four

Mr. And Mrs. Hill purchased a snowblower with money borrowed from Andover Bank which took a security interest therein and promptly filed a financing statement in the proper location. The Hills sold the snowblower to Snowblower Haven, Inc., a used snowblower dealership telling Snowblower Haven, Inc., of the bank's interest and of the necessity of making monthly payments to the Bank. Snowblower Haven resold the snowblower to the Bourques, innocent people, who paid full value for the snowblower believing Snowblowers had clear title. When Andover Bank did not receive its usual monthly payment, it investigated, found the snowblower, and repossessed it. Has the Bourque's property been converted? Fully explain.

Secured Transactions
Professor Sullivan
Final Examination
Fall 2001

Question One

Harry Mechanic ran a garage and needed money. He went to two lenders, First Loan Company and Second Loan Company offering his equipment to secure the loan. Each lender had Harry sign a security agreement and financing statement. First Loan filed on September 1st and subsequently lent her the money on September 15th. Second Loan filed on September 2nd and advanced the loan the same day.

Query: In a priority dispute over Harry's equipment, which Loan Company has the superior interest? Fully explain.

Question Two

Polly bought a ring from Rings, Inc. on July 10th, 2001. Polly agreed to give Rings, Inc. a security interest in the ring. Polly left with the ring and Rings, Inc. doesn't file.

On August 10th, 2001, Polly asked Easy Bank to lend her \$4,500.00. Easy Bank had Polly sign a security agreement giving the bank a security interest in the ring. The Bank told Polly they would send her a check if her credit was satisfactory. Polly agreed to repay the loan October 1, 2001. Easy Bank filed August 20th.

On August 15, 2001 Polly went to the Finance Company seeking a loan of \$500.00. The Finance Company agreed and had Polly sign a security agreement giving the Finance Company a security interest in the ring. Polly agreed to repay September 1, 2001. The Finance Company had Polly leave the ring until it filed a financing statement which it did on August 17, 2001. On August 18, the Finance Company gave Polly back the ring.

On August 17, Polly received the Bank's check.

In a priority dispute, who would prevail and in what order?

Question Three

Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Bank. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Buyer buys the equipment from Dealer. Query: Does buyer take free of Bank's security interest? Fully support your answer.

Question Four

On February 1, Andy makes advances to Debbie under a security agreement covering "all Debbie's machinery both existing and after-acquired". Andy promptly files a financing statement. On April 1, Betty takes a security interests in all Debbie's machinery, existing and after acquired to secure an outstanding loan. The following day, Betty filed a financing statement. On May 1, Debbie acquires a new machine. Query:

(A) Who has a priority? Fully explain.

Question Five

On March 1, A makes an advance secured by machinery in the debtor's possession and filed a financing statement. On April 1, B makes an advance secured by the same machinery and files a financing statement. On May 1, A makes a further advance, under the original security agreement, against the same machine:

A. Who has priority as to the May 1st advance?

Professor Sullivan
Secured Transactions
Final Examination
Spring 2000

Question #1
Worth 10 points

Gale Glamorous owned a hat shop that was doing extraordinarily well so she decided to expand. Accordingly, Gale borrowed 1.6 million dollars from Sullivan National Bank ("SNB"). SNB took a security interest (according to the filed financing statement) in "all inventory, accounts receivable, equipment, instruments, general intangibles, and personal property." The bank also made her pledge her extensive jewelry possession making her bring it to the bank and put it into the bank's vault. Forty days later, Gale was the recipient of the Small Business Association's 1999 Business Person of the Year. Gale asked the bank if she could have her garnet ring back to wear it to the dinner banquet, and the bank let her do so. Before she could return it to the bank, another creditor seized it by legal process. You are the lawyer for the bank.

- A. What is your argument?
- B. Who will prevail? Fully support your answer.

Question #2
Worth 10 points

Happy Hardware ran a hardware store and needed money. She went to two banks, First Bank and Second Bank offering her equipment to secure a loan. Each bank had Happy sign a security agreement and financing statement. First Bank filed on April 4th and subsequently lent her the money on May 15th. Second Bank filed on May 1st and advanced the loan the same day.

Query: In a priority dispute over Happy's equipment, which bank has the superior interest? Fully explain your answer.

Question #3

Worth 20 points

On November 16, 1996, L.C. executed a retail installment contract to O, Inc., to cover the purchase of an XT equipment identified as XT-123. This contract was for a total amount of \$110,149.44. Absent was any provision for future advances. On November 17, 1996, a financing statement covering equipment XT-123 was filed.

On December 19, 1996 Bay finance made a cash advance to L.C. taking a security interest in XT-123. On December 24, 1996, Bay Finance filed its financing statement.

On September 17, 1997, L.C. purchases a new piece of equipment XT-898 from O. Inc. The retail installment contract included both pieces of equipment - - #XT-123 and XT-898. The contract provided that the first contract was cancelled. The balance owing under the first contract was included in the purchase price stated in the second contract.

On September 27, 1997, O filed a new financing statement covering both pieces of equipment.

When L.C. defaulted on its loan, Bay Finance had taken possession of XT-123.

On February 16, 1998, O notified Bay Finance of its claim to a senior security interest on equipment XT-123.

On March 1, 1998, Bay Finance sold the equipment XT-123.

O brings an action for conversion of equipment XT-123, claiming a senior and prior security interest?

Please write the opinion of the trial court.

Question #4

Worth 30 Points

The controlling historical facts and sequence of events are not in dispute. They are:

On November 20, 1998, to secure an obligation owed to FCA, Bankrupt executed a chattel mortgage security agreement covering all chattels and equipment of Bankrupt listed on an attached schedule. A financing statement was properly filed in Worcester County, Massachusetts on November 21, 1998, covering all equipment "presently existing or to be hereafter created or acquired" as well as the proceeds of the collateral therein described.

On January 30, 2000, Bankrupt and HMC entered into a purchase and security agreement for the new binder involved in this dispute. It called for a cash purchase price of \$84,265 plus an installation charge of \$2,160 for an aggregate sales price of \$86,425. It further provided for a down payment in cash at the time of the order of \$6,442.50, cash before delivery in the amount of \$6,442.50, a trade-in allowance of \$22,000, leaving a balance of \$51,540. The trade-in provided for in the contract was Bankrupt's Sheridan binder (the old binder).

Fifteen cases of component parts for the new binder were shipped from Europe and arrived in New York on May 18, 2000 under a negotiable bill of lading to the order of Rohner, Gherig & Company, shipping agents for HMC.

By HMC's invoice to Bankrupt dated May 22, 2000 and following Bankrupt's second payment of \$6,440, the component parts of the new binder were identified to the contract by particular description and serial numbers. HMC also called for cash payment of \$51,562.50 on completion of installation.

On instructions from HMC, the shipper Rohner, Gherig & Company directed Hemingway Transport Inc. to pick up the fifteen cases of binder component parts from dockside in New York to deliver them to Bankrupt in Massachusetts. These cases as well as two other cases transported from HMC's plant by Hemingway, all containing component parts for the binder, arrived at Bankrupt's plant on several dates from May 26, 2000 through June 2, 2000.

The purchase and security agreement between HMC and Bankrupt dated January 30, 2000 contained among its provisions the following:

“The installation charges mentioned herein include the furnishing by the Seller of a competent man to supervise the erection and put said property in first class running order and the instruction of a qualified operator of Purchaser in the operation and maintenance of the equipment.”

Pursuant to the provision, several representatives of HMC were at the Massachusetts plant of Bankrupt supervising installation of the new binder on virtually all working days from May 27, 2000 through June 19, 2000. It is clear from the records in evidence that the installation and testing phase of the work was completed not earlier than June 13, 2000 and possibly as late as June 19, 2000. HMC's representatives were engaged in training employees of the Bankrupt to operate the new binder at least during the period June 8, 2000 through June 13, 2000.

On June 15, 2000, HMC filed a financing statement in Worcester County covering the new binder.

On June 18, 2000 the Bankrupt signed a certificate stating that delivery and installation had been satisfactorily completed.

This dispute arises out of the bankruptcy of the bankrupt. HMC filed an application in the bankruptcy proceeding to reclaim the binder and accessory units. FCA intervened in the proceedings and claimed a superior interest in the binder under its own security agreement with Bankrupt. The trustee in bankruptcy has disclaimed any interest.

Query: Who has priority? Fully support.

Question #5

Worth 10 points

Tammy Winner was a professional tennis player to whom Sullivan National Bank (SNB) loaned \$2,000 so she could buy tennis equipment. On May 3, Tammy purchased the equipment, and on May 11, SNB filed its financing statement in the proper place. However, in the interim, on May 7, Tammy sold the equipment to Used Tennis Equip. Inc., which bought with no knowledge of the bank's purchase money interest. Who has the superior claim to the equipment? Fully support your answer.

Question #6

Worth 20 points

Mable purchased a bicycle with money borrowed from First Bank ("FB") which took a security interest therein and promptly filed a financing statement in the proper location. Mable thereafter sold the bike to Bikes Inc., telling them of the bank's interest and the need to make monthly payments to the bank. Bikes Inc. resold the bike to Bill Buyer, who purchased the bike paying full value and believing Bikes had good title. When FB did not receive its monthly payment, it found the bike and repossessed it. Who prevails? Fully support your answer.

Professor Sullivan
UCC - Article 9
Summer 2002

Question One

Worth 9 Points - 3 Points Each Part.

- A. A borrows \$100,000 from B and secures its repayment obligation evidenced by a promissory note by granting to B a mortgage on A's land. Does Article 9 govern this transaction? Why or why not?
- B. What if B sells the promissory note to X?
- C. What if B gives a security interest in the note to secure B's own obligation to X?

Question Two

Worth 10 Points - 5 Points Each Part

- A. On March 1, A makes advances to debtor under a security agreement covering "all debtor's machinery, both existing and after-acquired." A promptly files a financing statement. On May 1, B takes a security interest in all debtor's machinery, existing and after-acquired to secure an outstanding loan. The following day, B files a financing statement. On June 1, debtor acquires rights in a new machine. Who acquires a security interest in the machine?
- B. Who has priority? Why?

Question Three

Worth 11 Points

On May 1, Debtor authenticates a security agreement granting to A, a security interest in all debtor's existing and after-acquired inventory. The same day, A files a financing statement covering inventory. On June 1, Debtor authenticates a security agreement granting B a security interest in all Debtor's existing and future accounts. On July 1, Debtor sells inventory to a customer on 30 day unsecured basis. When Debtor acquires the account, who has priority? Fully support.

Question Four

Worth 10 Points - 5 Each Part

- A. Debtor creates a security interest in its existing and after acquired inventory in favor of SP-1, who files a financing statement covering inventory. SP-2 subsequently takes a purchase money security interest in certain inventory. This inventory is then sold, producing accounts. Who has priority as to the accounts? Fully support.
- B. Assume SP-3 had filed (in Part A) against accounts before either SP-1 or SP-2 filed against inventory. Who has priority?

Question Five

Worth 10 Points - 5 Each Part

- A. A owns an item of equipment subject to a perfected security interest in favor of SP-1. A sells the equipment to B, not in the ordinary course of business. If B then creates a security interest in the equipment in favor of SP-2, who has priority? Fully support?
- B. What if SP-2 took a purchase money security interest? Why?

- A. A owns an item of equipment subject to an unperfected security interest in favor of SP-A. A sells the equipment to B, who gives value and takes delivery of the equipment without knowledge of the security interest. Who has priority? Fully support.
- B. Same facts as in 6A except that B knows of SP-A's security interest? What result? Why?

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QUESTION ONE - worth 25 points

Hasco, known in the trade as a “converter”, finishes textile into dyed and pattern fabrics. The goods in question had been manufactured by Diane Enterprises, and sold on a “bill and hold” basis to The Fabric Center, also a converter now insolvent. The Fabric Center resold the goods, while still in Diane Enterprises’ warehouse, also on a bill and hold basis to Hasco.

Diane Enterprises refused to deliver the good to Hasco on Hasco’s instruction because although these goods had been paid for, there was an open account balance due Diane Enterprises from the Fabric Center. Diane Enterprises under its sales agreements with The Fabric Center claimed a perfected security interest in the goods.

Background Information: Hasco and The Fabric Center were customers of Diane Enterprises for many years. Goods would be purchased in scale on a “bill and hold” basis, that is, the goods would be paid for and delivered as the buyers instructed. When the goods were needed they were delivered directly where they were to be converted at the buyer’s plants or the plants of others if appropriate. Pending instructions, the sold and paid for goods were stored in the warehouse of the manufacturer, both because the buyers lacked warehousing space and retransportation of the goods to be processed would be minimized.

The Fabric Center like many converters purchased unfinished textile goods from Diane Enterprises on credit as well as short term payment. Under the sales notes or agreements, all the goods on hand in the seller’s warehouse stood as security for the balance owed on the account. Hasco was familiar with this practice.

Diane’s sales executives advised Hasco that it had discontinued production of a certain blended fabric. Upon Hasco’s inquiry, the Diane Enterprises sales executives recommended to Hasco that it try purchasing the blended fabric from The Fabric Center, which Diane Enterprises knew had an excess supply. Ultimately, Hasco purchased from The Fabric Center through a broker 267,000 yards at 26 cents per yard. Hasco paid The Fabric Center in full.

During October and November of 1998, approximately 57,000 yards of the blended fabric was released by Diane Enterprises on The Fabric Center’s instruction and delivered to a Hasco affiliate. There remained some 203,376 yards at Diane Enterprise’s warehouse.

In early January of 1999, Hasco ordered the remaining fabric delivered to meet its own contractual obligation to deliver the blended fabric in finished state at 60 cents per yard. Diane Enterprises refused.

By this time, The Fabric Center was in financial trouble and its account debit balance with Diane Enterprises was at an unprecedented high. In mid-January of 1999, a meeting of its creditors was called and its insolvency confirmed.

Hasco brought an action for the tortious conversion of unfinished textile fabrics against Diane Enterprises. What result? Fully support your answer.

QUESTION TWO - worth 25 points

Plaintiff is Lawrence Pace, the President of Pace Sheet Metals. In February of 1997, Pace had a discussion with Ray Dunes, President of Dunes Metal Works, Inc., concerning a Wysong injection molding system owned by Pace and an RAS injection molding system owned by Dunes. According to Pace, Dunes wanted to purchase plaintiff's injection system but could not then afford it. It was agreed that Pace would deliver the Wysong injection system to Dunes and if Dunes paid the purchase price of \$113,500 within six months, Pace would transfer title to him. It was also agreed that if Dunes sold its RAS system within the six-month period, Pace was to be paid at that time. Dunes took possession of the Wysong System on or about February 25, 1997 and the terms of the above oral agreement were set forth in a letter dated March 4, 1997.

In January of 1998, Dunes sold its RAS system and Pace sought payment for the Wysong system. In June of 1998, Pace and Dunes re-negotiated the price of the Wysong system downward to \$100,000 when Dunes indicated that only \$80,000 had been received for its RAS system. Dunes agreed to make monthly payments of \$3,500.00. On June 29, 1998, a bill of sale, promissory note, financing statement and security agreement were signed by plaintiff and Dunes, and on July 12, 1998 the financing statement was filed. Dunes made three of the monthly payments then defaulted.

In the interim, defendant Bay State Bank (hereinafter, "Bank") entered into a loan transaction and security agreement with Dunes on June 19, 1998. The Wysong system was listed as one of the items of collateral for the loan, and the security agreement contained an after-acquired property clause. Pursuant to this agreement the bank loaned Dunes \$50,000 on the date of the agreement and an additional \$40,000 on December 15, 1998, in accordance with the provisions for future advances. This security agreement was filed June 23, 1998. Dunes defaulted in the payment of the loan and the system was sold by the bank to offset the debt under the terms of the agreement. When Pace attempted to satisfy Dunes obligation to him by obtaining possession of the system, he found the collateral was no longer available Pace has sued the bank for wrongful commission of the system. The bank now moves for summary judgement, claiming that there are no genuine issues of fact and that it clearly had priority under the provisions of Article 9 of the Uniform Commercial Code. What result? Fully support your answer.

QUESTION THREE - worth 40 points (each part is worth 10 points)

On June 1, 1998, Debtor, a construction company, obtained a \$100,000 loan from Easy Bank and executed an agreement covering “all construction equipment now owned or hereafter acquired” by the debtor. Debtor owned construction equipment such as bulldozer, crane and trucks. Easy Bank immediately filed a financing statement covering “construction equipment”.

- A. On July 1, 1998, debtor brought a cattilipar bulldozer from the manufacturer and paid the manufacturer \$100,000, the sales price. On July 2, 1998, the debtor obtained a \$90,000 loan from Andover Bank and executed to Andover Bank a security agreement covering the bulldozer. Andover Bank promptly filed a financing statement covering the bulldozer (assume bulldozers aren’t subject to certificate of title act). Debtor defaults on both loans. Who has priority? Fully explain.
- B. Assume that Debtor on July 1 had told Andover Bank of the need for a loan to buy the new bulldozer from the manufacturer. Andover then made a loan to debtor in the form of a \$90,000, check payable jointly to the debtor and manufacturer. Debtor then endorsed the check to manufacturer and paid manufacturer the remaining \$10,000 of the price. On July 2, manufacturer delivered the bulldozer to the debtor. Andover filed on July 8. Who has priority? What, if anything, could the losing party have done to avoid the result?
- C. What policy considerations underlie the legal rules that decide part (A) and (B).
- D. Would the results in parts (A) and (B) change if the security agreement, in favor of Easy Bank contained the following provision:

Debtor shall not create or suffer to exist any security interest in any collateral that is, at any time, covered by this agreement (including any purchase money security interest) and any such prohibited security interest that debtor may attempt to create shall be null and void.

QUESTION FOUR - worth 10 points

Benjamin Tooley owned a small clothing store. Benjamin borrowed money from Sullivan National Bank which took a security interest (according to the filed financing statement) in “all inventory accounts receivable, equipment, instruments, general intangibles and personal property.” The bank also made him pledge his ring to the bank, making him bring it from home and put it into the vault. A year later he asked to have it back to wear to the Small Business Persons Award Banquet. Before he went to the function another creditor seized it by judicial process. Is the bank’s security interest perfected? Fully explain.