COMPLETED

ST. MARY'S UNIVERSITY
SCHOOL OF LAW

Fall 2002
Exam No. __________

FINAL EXAMINATION
SALES/SECURED TRANSACTIONS
PROFESSOR G. FLINT

ESSAY
PLEASE READ CAREFULLY

ALL ANSWERS ARE TO BE WRITTEN ON THE BLUE BOOKS PROVIDED WITH THIS EXAM

There are three questions (time and percent indicated). The Time for completing the examination is four hours.

1. This examination is "open book". You may use your casebook, statutory supplement, and class notes. Use of calculators and cleansed laptops is permitted.

2. Be sure to answer the specific question that is asked. Information supplied relating to some unasked question will not increase your score and consumes you time needed to answer the asked questions.

3. If additional facts are necessary to resolve an issue, specify what additional facts you believe to be necessary and why they are significant. You may not make an assumption that changes or contradicts the stated facts.

4. Quality, not quantity, is desired. Think through and briefly outline your answer before you begin to write.

5. Write legibly. Be sure to formulate your answers in complete sentences and paragraphs with proper grammar. Failure to do so will result in an appropriately lower score.

6. Do not seek an interpretation of language in the question from anyone. If you sense ambiguity or typographical error, correct the shortcoming by shaping the question in a reasonable way and by recording your editorial correction in your answer.

Under the Honor Code, when you turn in this examination, you affirm that you have neither given, received, not obtained aid in connection with this examination, nor have you known of any one so doing. If you cannot make this affirmation, you shall note such fact on your examination and must immediately advise the Dean of the reason therefore.

I. (37.5 %--1 ½ hours)

You are an in-house counsel for The Arunah Hubbell State Bank. One of the loan officers has brought into your office documents relating a loan to Joseph Ferguson Dealership, Inc., located in Bexar County. Alice Whitcomb Burpee, the loan officer, wants to know what additional legal work under secured transaction law she needs to do before the closing when the loan money will be released to Joseph Ferguson Dealership, Inc. Joseph Ferguson Dealership, Inc., sells cars and needs operational moneys. The loan is in The amount of $1,500,000. The Arunah Hubbell State Bank is taking a security interest in all the assets of Joseph Ferguson Dealership, Inc. Alice Whitcomb Burpee also wants to know how effective The Arunah Hubbell State Bank's security interests will be. What are your recommendations and advice with respect to the loan to Joseph Ferguson Dealership, Inc.? Be sure to support your recommendations with rules of law, including Code sections and relevant case law. The following is a recitation of the information regarding the loan (the "Loan") to Joseph Ferguson Dealership, Inc., that Alice Whitcomb Burpee has provided.

The assets of Joseph Ferguson Dealership, Inc., consist of employment contracts for salespersons, various bank accounts at Arunah Hubbell State Bank, various showroom and office furniture and computers, long-term lease contracts for a side business of renting cars, stock certificates for a subsidiary corporation that does car repair service, deeds for the land on which Joseph Ferguson Dealership, Inc., operates the showroom, the leasing business, and the repair business, heavy machinery for the repair business, some of which is built into the building, an inventory of parts for the repair business, and of course cars for both the leasing business and the showroom. Joseph Ferguson Dealership, Inc., sells the long-term leases to Davis Flint Financing Co. so each contract has a stamp denoting that ownership. Joseph Ferguson Dealership, Inc., purchased the built-in heavy machinery from Joseph Baker Manufacturing Co. on credit. Joseph Ferguson Dealership, Inc., also has a loan from Ruth Marie Smith Financing Co. secured by the parts inventory. A search of the relevant governmental offices indicates a UCC-1 filing in the name of Joseph Baker Manufacturing Co. on "machinery" and in the name of Ruth Marie Financing Co. on "all assets", all filed in Austin.

II. (37.5%--1 ½ hours)

You are bankruptcy trustee for Joseph Ferguson Dealership, Inc. (the "Bankrupt"), whose business was described in the first problem. You are liquidating the Bankrupt. You have received all the claims of various creditors. You are ready to determine the rights of various creditors to the Bankrupt's estate. You are now preparing your report. What priorities would you give the various creditors? Be sure to support your priorities with dollar amounts to specific creditors, code sections and relevant case law. The following is a recitation of the information regarding the Bankrupt's creditors gleaned from the claims and petition.

The bankruptcy petition was filed June 1, 2002. The petition listed the assets and their value on that date as bank accounts at Arunah Hubbell State Bank $50,000, furnture and computers $10,000, long-term car leases $40,000, subsidiary stock $10,000, real estate deeds $200,000, heavy machinery $10,000, heavy machinery built-ins $30,000, parts $5,000, cars for lease $100,000, cars for lease $50,000. There is a buyer for this business willing to pay $400,000.

The outstanding loan amounts are $50,000 to Davis Flint Financing Co., $300,000 to Ruth Marie Smith Financing Co., $100,000 to Joseph Baker Manufacturing Co., and $200,000 to Arunah Hubbell State Bank. In accordance with your advice Arunah Hubbell filed a UCC-1 on February 25, 2002, after the closing described above. Ruth Marie Smith Financing Co. on March 28, 2002, took a security interest in the heavy equipment. The Bankrupt has not been making payments on any of these loans, except the $50,000 monthly payment to Arunah Hubbell State Bank required on the 10th of each month.

The Bankrupt has also left a number of unpaid bills, such as $10,000 to the Samuel Davis Utility Company, its 2000 tax payments of $80,000, and its 2001 tax payments of $60,000. The government filed their tax lien in Bexar County on the 2000 tax payment on January 30, 2002.

III. (25 %--1 hour)

Isador Peltier Manufacturing, Inc., needed copper to make solar panels. So Isador Peltier telephoned Antoine Rivard Copper Co. and requested 2 tons of Grade B thin plates. Antoine Rivard Copper Co. immediately send 3 tons of Grade D thin plates with an invoice on the back side of which was language disclaiming all warranties and providing binding arbitration of any dispute. Isador Pelteir Manufacturing, Inc., started to use the plates in its manufacturing process. Two months later, Jean Camus, the chief engineer of Isador Peltier Manufacturing, Inc., concluded that Grade D plates could not maintain the temperatures needed. So Isador Peltier sent a letter to Antoine Rivard Copper Co., rejecting the shipment and requesting instructions on how to send them to Antoine Rivard Copper Co. Antoine Rivard called Isador Peltier and demanded payment for the plates of $2 per pound. Angered, Isador Peltier sold the damaged plates for $1.50 per pound. Bills in connection with the sale amounted to $300. The current price of copper is $2.20 per pound. Isador Peltier Manufacturing, Inc. has arranged with Ezekiel Solomon Copper Co. to supply the plates at $2.25 per pound. Isador Peltier ran up bills of $200 in making these alternative arrangements.

Isador Peltier has entered your associate's office Suem and Stickem, P.C. Isador Peltier is perturbed that he has yet to satisfy his sale of 100 solar panels to the Julia Lacousierre Company in Montreal and might lose his expected $1000 profit on the sale. Isador Peltier wants to know what his rights and liabilities are in this situation as well as what his next step should be. Provide your response and its support.