

FINAL EXAMINATION  
SECURED TRANSACTIONS  
PROFESSOR G. FLINT

ESSAY  
PLEASE READ CAREFULLY

**ALL ANSWERS ARE TO BE WRITTEN ON THE BLUE BOOKS PROVIDED WITH THIS EXAM. BE SURE TO NUMBER EACH RESPONSE.**

There are two questions of equal time and percent. The time for completing the examination is three 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. No question asks for a general recitation about a topic from your notes.** Information supplied relating to general material from your notes or 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, nor 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. (50%--1 ½ hours)

You are in house counsel for Otha Gasaway State Bank, an entity experienced in providing financing secured by business assets. One of the account officers has brought into your office documents relating a loan to Garrett Voshell Rental, Inc., a Texas corporation that provides cars and lawnmowers for rent to customers in Bexar County, Texas pursuant to rental agreements. The purpose of the loan is to provide operational capital to Garrett Voshell Rental, Inc. Andrew Melvin, the account officer at Otha Gasaway State Bank, wants to know what additional work he needs to do for the closing, the moment in time when the loan money will be released to Garrett Voshell Rental, Inc., to insure repayment of the loan. Andrew Melvin also wants to know how effective any security interests you might propose will be. What are your recommendations with respect to the loan to the Garrett Voshell Rental, Inc.? Be sure to support your recommendations with support, including Code sections and relevant case law. The following is a recitation of the information regarding the ten-year \$300,000 loan (the "Loan") to Garrett Voshell Rental, Inc., that the account officer has provided.

Garrett Voshell Rental, Inc., has a bank account at Arunah Hubbell National Bank. Garrett Voshell Rental, Inc., deposits all its revenue into this account and pays all its expenses from this account. Garrett Voshell Rental, Inc., leases its business premises from Francis Burpee Real Estate Company. Garrett Voshell Rental, Inc., owns all its office furniture, except the computers used in making rental contracts with its customers, which computers are rented from Joseph Irwin Computer Co. The automobiles that Garrett Voshell Rental, Inc., leases to its customers Garrett Voshell Rental, Inc., acquired with loans from Moses Smith Motor Car, Inc. Moses Smith Motor Car, Inc., appears on the title certificate for each car as the first lien holder. The lawnmowers that Garrett Voshell Rental, Inc., leases to its customers Garrett Voshell Rental, Inc., acquired through installment sales contracts from Joseph Baker Manufacturing, Inc., with title to each lawnmower passing to Garrett Voshell Rental, Inc., upon payment of the last installment on each respective lawnmower's installment sales contract. With respect to old rental vehicles, Garrett Voshell Rental, Inc., sells them to local purchasers periodically under conditional sales contracts, with title passing to each purchaser upon complete payment of the purchase price. Garrett Voshell Rental, Inc., invests its excess cash in common stock, represented by stock certificates in registered form, and promissory notes of local businesses. Garrett Voshell Rental, Inc., also has a key man life insurance policy on its president, Garrett Voshell, in the amount of \$1 million.

II. (50%--1 ½ hours)

You are an associate lawyer of the Bankruptcy Trustee for Garrett Voshell Rental, Inc. (the “Bankrupt”), who operated the business described above. (You are not, nor have you ever been, the lawyer that represented Otha Gasaway State Bank described above.) The bankruptcy filing occurred on September 1, 2007. The Bankruptcy Trustee is liquidating the Bankrupt. There are no exempt assets of the Bankrupt. The Bankruptcy Trustee has received all the claims of various creditors. The Bankruptcy Trustee is ready to determine the rights of various creditors to the Bankrupt’s estate. You are now preparing a report of the division of the Bankrupt’s estate for the Bankruptcy Trustee. How much would you allow the various creditors? Be sure to support your priorities with support, including Code sections and relevant case law. The following is a recitation of the information regarding the Bankrupt’s creditors gleaned from the claims.

Otha Gasaway State Bank has outstanding on its operational loan \$255,000, having just made a \$45,000 advance to Garrett Voshell on August 20, 2007. Otha Gasaway State Bank filed a financing statement on December 1, 2003, with the Texas Secretary of State on “all property”. The Bankruptcy Trustee has offers to buy the entire business of Garrett Voshell Rental, Inc., for \$535,000. The cars held for rent and resale have a fair market value of \$300,000. The title certificates for the cars all list first lienholder as “Moses Smith Motor Car, Inc.”, which is still owed \$150,000 on the cars. The title certificates of the cars held for resale, being one-third the value of all cars, lists second lien holder as “Otha Gasaway State Bank”. The lawnmowers, all purchased since January 1, 2004, have a fair market value of \$45,000. Joseph Baker Manufacturing, Inc., still owed \$30,000 on the lawnmower installment sales contracts filed financing statements on the lawnmowers with the Secretary of State of Texas as follows: on \$15,000 in value within 20 days of the date of the respective installment sales contract along with a notice to Otha Gasaway State Bank, received by Otha Gasaway State Bank before the respective filing, on \$10,000 in value within 10 days of the date of the respective installment sales contract, and on \$20,000 in value between 25 and 30 days of the date of the respective installment sales contract. The car rental agreements have a fair market value of \$20,000. Of these car rental agreements, half the value is in the possession of James Madison Rogers Finance Company pursuant to a sale of these car rental agreements from Garrett Voshell Rental, Inc., to James Madison Rogers Finance Company on February 1, 2007, for \$10,000 and half the value is possessed by the Bankrupt. When Garrett Voshell Rental, Inc., was approaching bankruptcy, Garrett Voshell Rental, Inc., neglected to pay the rent for its premises leased from Francis Burpee Real Estate Company. So on May 1, 2007, Francis Burpee Real Estate Company, pursuant to its lease, seized one of the cars valued at \$5,000, and is holding it for the unpaid rent. On May 25, 2007, Jean Baptiste Peltier, an individual who had loaned Garrett Voshell Rental, Inc., \$100,000 on June 3, 2006, and was still owed \$70,000 took a security interest in all of Garrett Voshell Rental, Inc.’s, automobiles and filed with the county clerk on June 3, 2007, for revised title certificates noting the lien of Jean Baptiste Peltier. The state never completed the revision. The stock certificates have a fair market

value of \$40,000. Of these stock certificates, half the value is in the possession of Franz Josef Stainer pursuant to a sale of these stock certificates from Garrett Voshell Rental, Inc., to Franz Josef Stainer on July 5, 2007, for \$20,000 and half the value is possessed by the Bankrupt. Garrett Voshell Rental, Inc., has \$25,000 in the bank account at Arunah Hubbell National Bank. On August 5, 2007, Arunah Hubbell National Bank, seeing Garrett Voshell Rental, Inc., was about to go bankrupt offset the \$40,000 owed Arunah Hubbell National Bank for loans made to Garrett Voshell Rental, Inc., in 2004 against the \$25,000 in the Garrett Voshell Rental, Inc., bank account. Garrett Voshell Rental, Inc., also was unable to pay \$50,000 in income taxes for the year ended September 30, 2006. On July 1, 2007, the Internal Revenue Service filed a tax lien against Garrett Voshell Rental, Inc., with the Texas Secretary of State for these taxes. The promissory notes have a fair market value of \$60,000. Of these promissory notes, half the value is in the possession of Francesca Kubycheck pursuant to a sale of these promissory notes from Garrett Voshell Rental, Inc., to Francesca Kubycheck on August 25, 2007, for \$30,000 and half the value is possessed by the Bankrupt. Assume all moneys raised from selling assets of Garrett Voshell Rental, Inc., either went into the bank account with Arunah Hubbell National Bank or was used to pay normal bills as they became due. The life insurance has a cash value of \$35,000, the furniture a fair market value of \$5,000, the real estate lease a fair market value of \$20,000, and the computer lease a fair market value of \$10,000.