A. SYLLABUS AND POLICIES

Why study Secured Transactions?

DEBT is a familiar concept for most of us. We finance our education with student loans, have numerous credit cards, and buy cars, televisions, computers, and just about anything—“on credit.” In the process of acquiring debt, we may agree that our creditors may take our property (“collateral”) if we do not pay the debts. When the collateral is personal property, we often become party to secured transactions governed by Article 9 of the Uniform Commercial Code (“UCC”) as adopted by the states.

Understandably, creditors seek assurance of repayment. Sometimes a debtor’s “credit worthiness” will justify lending funds based on only the debtor’s promise to pay, resulting in unsecured debt. Many creditors, however, demand that a debtor either obtain a surety (“co-signor” or “guarantor”, or under UCC Article 3 an “accommodation party”) or secure repayment by nominating some of the debtor’s property to serve as collateral for the loan. If the debtor fails to pay the amount owed, the creditor may seize and sell the collateral and apply the proceeds of the sale to pay the debt.

There are many devices for securing credit, including mortgages, liens (statutory and non-statutory), leases, etc. This course in Secured Transactions will focus on consensual liens on personal property or fixtures, called “security interests” and governed by UCC Article 9. The course also will touch on other liens, such as judicial and statutory liens. Bankruptcy issues will also be considered where they intersect with secured transactions problems involving insolvent debtors. Indeed, UCC Article 9 issues often arise when one is unable to pay bills, or insolvent. On the other hand, one who pays all of his or her bills on time may be a party to many secured transactions, but never have reason to consider the provisions of UCC Article 9.
UCC Article 9 issues generally focus on a creditor’s chief concern: “How do I get paid?” When a debtor defaults on a loan, all of the debtor’s creditors seek repayment from the debtor’s limited assets. Conflicts arise when more than one creditor has an interest or right to collect from the same property. Some creditors may have an Article 9 Security Interest while others have non-Article 9 liens or other interests in the property. The law of Secured Transactions seeks to sort out the priority of these interests.

Colorado has adopted revised Article 9. Moreover, the National Conference of Commissioners on Uniform State Laws (NCCUSL) announced that all 50 states and the District of Columbia adopted revised Article 9 prior to the July 1, 2001 effective date – making the revision one of the most (if not the most) successful uniform law revisions of all time. Revised Article 9 therefore became effective in nearly all states by July 1, 2001, and in the remaining states, on January 1, 2002.

Accordingly, this course will focus on the **uniform version of the revised UCC Article 9**, which is now the standard secured transactions law most refer to generally as “Article 9”. Thus, assume that references to “UCC Article 9” are to the post-1998 revision unless noted otherwise. In addition, note that there have been revisions to the revision, and each state may pass the law with state-specific idiosyncrasies! Therefore, Colorado’s version of Article 9 may differ in limited respects from the uniform version in the supplement. However, state differences are limited and a national law practice (and the bar exam) calls for attorneys to know the **uniform** version of Article 9. We will therefore work with the uniform version in this class. The uniform version is also what is reprinted in the Selected Commercial Statutes for Secured Transactions Courses 2009 Edition assigned for this course.

**Required Materials:**

(1) Whaley, Problems and Materials on Secured Transactions (7th ed. 2006); (2) Selected Commercial Statutes for Secured Transactions Courses 2009 Edition (West Group). I also may provide other handouts and materials in class or through TWEN from time-to-time.

**TWEN and Additional Resources:**

I have created a Secured Transactions course page on TWEN. All students in this course must register on TWEN in order to access the page. The TWEN course page may post announcements and assignments, and provide additional materials and resources.

There are treatises and study aids available on UCC Article 9. Be aware, however, that there are old resources out there that pre-date revised Article 9 – and
therefore may confuse your learning. Accordingly, be careful to use only post-1999 resources.

Please also note that I have created a Secured Transactions course reserve in the library, which contains the following:

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
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**Office Hours:**

Office hours for this class will be held on Tuesdays from 10:30 to noon or by appointment. Of course, please feel free to talk to me after class or stop by my office anytime. I am in my office most days. In addition, I am happy to schedule coffee/meetings/lunch with study groups.
Class Attendance, Preparation and Participation:

Present & Prepared; Assigned Problems: Class attendance, preparation and participation are essential. Your contribution to this class will enhance everyone's course experience. In an effort to reinforce this, I have decided to follow what has come to be known as the “Present and Prepared Sign-In Policy” and to assign Problems in the book for you to present in class. This means there will be a copy of the seating chart circulated around the room at the start of class, and you must sign in at that time. You may not sign in after that time.

To be present & prepared (p&p), you must have read the entire assignment, made a good faith effort to think about the issues, and be willing and able to discuss the material. This includes material assigned for that day as well as related material from previous assignments. Note that you must be p&p for the Problems you are assigned, and if you have to miss class on a day we will be covering your assigned Problem, it is your responsibility to “swap” Problems with another student to be sure the Problem is covered for that day.

If you are p&p according to this policy for 22 or more of our scheduled classes (80%), your grade will automatically rise by two points. If you do not feel adequately prepared but want to attend class, I encourage you to come to class and not circle your name. However, there is a serious penalty for being caught bluffing. If you sign up as p&p and I call on you and you are not prepared or you are not prepared for a Problem you have been assigned, you will not be eligible for any class participation points. (In other words, the penalty for bluffing is that you will get zero class participation points, while others in the class can earn up to 5 participation points). Hopefully, this will not be necessary.

Discretionary Additional Participation Points: Because participation is very important to your learning, I also wish to acknowledge students’ extra efforts and contributions to the class through additional points. Therefore, I reserve the right to add from 1-3 additional points to each student’s final grade based on the student’s overall participation and contribution to the class.

In Summary: This all means that it is conceivable that one could earn a total of 5 participation points. These are full points that can really help bring up your grade. Furthermore, this class must conform to the law school’s median and mean. It is therefore very beneficial to participate, and you may be at a disadvantage if you earn no participation points.

Exam:

Your grade for this course will be based primarily on a three-hour and fifteen minutes final essay exam. You may bring with you to the exam the casebook and supplement, any additional materials I distribute or provide on
TWEN, and any notes or outlines that you have prepared (alone or with a study group). This means you only may bring in an outline you helped prepare. You may not bring other books, treatises, nutshells, commercially prepared outlines, outlines from a friend, etc.

Assignments:

Schedule: I have added 5 min. to the first 15 classes and listed 27 assignments to account for one missed day TBD. Also note that we will have no class on Thursday, March 25, due to Spring Break.

Proviso: Each assignment is expected to cover roughly one class period. Some assignments, however, may take more or less time depending on complexity of the material. Accordingly, the reading assignments are subject to change and you should not read too far ahead of class.

Problems: Throughout the semester, please carefully consider and prepare answers to all of the Problems, even if you are not responsible for presenting the Problem in class. We may often work the cases into discussion of the Problems and follow-up hypotheticals. **Also note that you are all on-call for Problems 1-15! I hope to have the class roster finalized and be able to post assignments after that time.

Statutory Cites: Please be sure to read and study the provisions and comments in the UCC and other statutes referred to in the casebook assignments. These provisions and comments are reprinted in the statutory supplement, which you must always bring to class. Indeed, when you see a citation to the UCC, put down the casebook and read the UCC provision and comments cited! Note that although the comments to Article 9 are not “law,” they are persuasive and particularly helpful in explaining the statutory provisions.

ASSIGNMENT 1: INTRODUCTION TO SECURED TRANSACTIONS – pp. 1 – 14

ASSIGNMENT 2: SCOPE OF ARTICLE 9 – pp. 15 – 32 (through part IV)

ASSIGNMENT 3: EXCLUSIONS FROM ARTICLE 9 – pp. 32 – 41

ASSIGNMENT 4: CLASSIFYING COLLATERAL I & BINGO – pp. 41 – the top of 46 (not including Prob. 15) **It is especially essential to read and study §9-102!

ASSIGNMENT 5: CLASSIFYING COLLATERAL II & TECHNICAL VALIDITY OF THE
FORMS I– pp. 46 (start w/Prob. 15) – 53 (through the top of page/before Part C)

ASSIGNMENT 6:
TECHNICAL VALIDITY OF THE FORMS II – pp. 53 (starting with Part C & Prob. 22) – 65

ASSIGNMENT 7:
FORMS – FILING EXERCISE (Supp. 780-800, 804-810 & handouts)

ASSIGNMENT 8:
ATTACHMENT OF THE SECURITY INTEREST – pp. 66 – 79

ASSIGNMENT 9:
PLEDGE & AUTOMATIC PERFECTION I – pp. 79 - 101

ASSIGNMENT 10:
AUTOMATIC PERFECTION II, PERFECTION BY FILING & PERFECTION BY CONTROL – pp. 101 - 110

ASSIGNMENT 11:
MULTI-STATE TRANSACTIONS – pp. 111 - 122

ASSIGNMENT 12:
PRIORITY BASICS – pp. 123 – 133 (through Prob. 60)

ASSIGNMENT 13:
PURCHASE MONEY SECURITY INTERESTS – pp. 133 - 150

ASSIGNMENT 14:
CONTROL AND PRIORITY & BUYERS I – pp. 150-165

ASSIGNMENT 15:
BUYERS II – pp. 165 – 181 (starting with Prob. 73)

ASSIGNMENT 16:
LEASES, UCC ART. 2 CLAIMANTS & STATUTORY LIEN HOLDERS – pp. 182- 194

ASSIGNMENT 17:
FIXTURES & ACCESSIONS AND COMMINGLING – pp. 195-210 (through Prob. 96)

ASSIGNMENT 18:
FEDERAL PRIORITIES FOR DEBTS AND TAXES – pp. 210 - 232

ASSIGNMENT 19:
ASSIGNMENT 20:
BANKRUPTCY II (MORE ISSUES) – pp. 240 - 250

ASSIGNMENT 21:
MEANING OF PROCEEDS – pp. 251 – 255

ASSIGNMENT 22:
PRIORITIES IN PROCEEDS – pp. 256 – 268

ASSIGNMENT 23:
PRE-DEFAULT DUTIES OF THE SECURED PARTY & DEFAULT I – pp. 269 – 276 (through Prob. 115)

ASSIGNMENT 24:
DEFAULT II & REPOSESSION AND RESALE I – pp. 276 - 289 (through Prob. 117)

ASSIGNMENT 25:
REPOSESSION AND RESALE – pp. 290 – 296, 313 – 315
** SKIP PP 297-312 R&J OF TENN. INC. & SKIP 315-326 COXALL

ASSIGNMENT 26:
REDEMPTION AND STRICT FORECLOSURE – pp. 327 - 332

ASSIGNMENT 27:
REVIEW OR CATCH-UP