

## **PROBLEMS: Introduction to the Security Interest**

1. Under Article 9 of the UCC, 'secured party' is a term that primarily refers to:

(A) a person granted a limited interest in property by a debtor to secure payment of a debt or performance of an obligation.

(B) a person who acquires an ownership interest in accounts sold by a debtor.

(C) Both answer (A) and answer (B) are correct, though the term 'secured party' is even broader.

(D) the holder of any lien that secures repayment of a debt or performance of an obligation, whether voluntarily created by a debtor by contract or arising outside of contract, either involuntarily, such as a judgement lien, or as a matter of statute, such as a mechanic's or materialman's lien.

2. Assume that Debtor owns personal property worth \$500 in a foreclosure sale. Creditor A loaned Debtor \$200 on an unsecured basis on July 1, 2012. Creditor B loaned Debtor \$500 on an unsecured basis on August 1, 2012. Creditor C loaned Debtor \$300 on an unsecured basis on September 1, 2012. If Debtor files for bankruptcy on September 15, 2012 and its property is thereafter sold to satisfy its debts to the three creditors, how much does each creditor receive?

(A) Creditor A receives \$200, Creditor B receives \$300 and Creditor C receives \$0.

(B) Creditor A receives \$100, Creditor B receives \$250 and Creditor C receives \$150.

(C) Creditor A receives \$143, Creditor B receives \$357 and Creditor C receives \$0.

(D) Each Creditor receives approximately \$167 each.

3. Assume that Debtor owns personal property worth \$500 in a foreclosure sale. Creditor A loaned Debtor \$200 on an unsecured basis on July 1, 2012. Creditor B loaned Debtor \$100 on an unsecured basis on August 1, 2012. Creditor C loaned Debtor \$300 secured by all of Debtor's personal property on September 1, 2012 and properly filed a financing statement on that date. If Debtor files for bankruptcy on September 15, 2012 and its property is thereafter sold to satisfy its debts to the three creditors, how much does each creditor receive?

(A) Creditor C receives \$300, Creditor A receives \$123 and Creditor B receives \$67.

(B) Creditor C receives \$300, Creditor A receives \$200 and Creditor B receives \$0.

(C) Creditor C receives \$200 (because last in time), Creditor A receives \$200 and Creditor B receives \$100.

(D) Creditor C receives \$300 (so long as it was not aware of the prior advances by Creditor A and Creditor B), Creditor A receives \$123 and Creditor B receives \$67. If Creditor C was aware of the prior advances, Creditor A and Creditor B would be paid in full.

4. Assume that Debtor owns personal property worth \$500 in a foreclosure sale. Creditor A loaned Debtor \$200 on an unsecured basis on July 1, 2012. Creditor B loaned Debtor \$300 secured by all of Debtor's personal property on September 1, 2012 and properly filed a financing statement on that date. On October 30, 2012, Creditor C performed services valued at \$300 on Debtor's personal property needed to preserve the collateral and mails an invoice to Debtor seeking payment for these services. If Debtor files for bankruptcy on November 15, 2012 and its property is thereafter sold to satisfy its debts to the three creditors, how much does each creditor receive?

(A) Creditor A receives \$0, Creditor B receives \$300 and Creditor C receives \$200.

(B) Creditor A receives \$80, Creditor B receives \$300 and Creditor C receives \$120.

(C) Creditor A receives \$0, Creditor B receives \$200 and Creditor C receives \$300.

(D) Creditor A receives \$120, Creditor B receives \$200 and Creditor C receives \$180.

5. Assume that Debtor owns personal property worth \$500 in a foreclosure sale. Creditor A loaned Debtor \$300 secured by all of Debtor's personal property on September 1, 2012 and properly filed a financing statement on that date covering all of Debtor's personal property. Creditor B loaned Debtor \$200 secured by all of Debtor's personal property on October 1, 2012 and properly filed a financing statement on that date covering the same collateral. Creditor A loaned Debtor an additional \$100 on a secured basis on October 15, 2012. If Debtor files for bankruptcy on November 15, 2012 and its property is thereafter sold to satisfy its debts to these two secured creditors, how much does each creditor receive?

- (A) Creditor A receives \$300 and Creditor B receives \$200.
- (B) Creditor A receives \$400 and Creditor B receives \$100.
- (C) Creditor A receives \$400 and Creditor B receives \$100 if the original security agreement for Creditor A contains a future advance clause, otherwise Creditor A receives \$300 and Creditor B receives \$200.
- (D) Creditor A receives \$334 and Creditor B receives \$166.

6. Junk Toys Inc. (JT) a Florida corporation headquartered in Orlando, Florida, has ordered 100,000 rubber chicken heads from Mrs. Squeaky Toy, Ltd. (MST) in Hong Kong. MST tells JT that payment for the rubber chicken heads shall be made in three installments of \$5,000 each, payable one, two and three months after delivery of the goods to JT in the Port of Miami. MST structures the transaction as a conditional sale contract. That is to say, MST retains title to the rubber chicken heads until receipt of the last \$5,000 payment from JT. Following receipt of payment in full, title to the rubber chicken heads passes from MST to JT. These terms are specified in a written contract signed by JT and MST. Article 9 of the UCC:

- (A) does not apply to this transaction because JT must have title to the rubber chicken heads before it can grant a security interest in this inventory back to MST. Until JT has title to the rubber chicken heads, it can not create a security interest in favor of MST per Sec. 9-203.
- (B) can not be utilized by a foreign creditor such as MST.
- (C) does not apply to this transaction because Article 2, governing the sale of goods, applies to a sale of inventory such as this.
- (D) may apply to the transaction, regardless of form, if the transaction was intended to to create a security interest.

7. Junk Toys Inc. (JT) borrows \$10,000 from Local Bank (LB). LB tells JT that the loan must be supported by collateral consisting of all its inventory of rubber chicken heads. In a telephone call, JT agrees to provide LB with this collateral and, promptly after the call, JT sends LB a letter stating that 'LB may go ahead and file financing statements to protect itself.' Upon receipt of this letter, LB properly files financing statements naming itself as secured party and JT as debtor. The collateral is described as 'all inventory now owned or hereafter acquired by the debtor.' LB advances \$5000 to JT so that JT can make its first payment to MST in Hong Kong. What is the status of this transaction under Article 9?

(A) LB's \$5000 advance is unsecured because no security agreement was ever signed by JT granting LB an interest in collateral. The letter from JT to LB does not contain any language of 'grant'--it does not purport to create or provide for a security interest so it should not be seen as a surrogate for a formal security agreement.

(B) The financing statement can not serve as a security agreement, particularly under revised Article 9, because it is not signed by the debtor. Thus, LB does not hold a secured claim as no security agreement was ever signed.

(C) Both answers A and B are correct.

(D) Although no document entitled 'security agreement' was signed by JT, the letter sent by JT to LB should suffice to create or provide for a security interest. Thus, LB's advance to JT is a secured loan.

8. Debtor signs a security agreement that states: 'Debtor hereby grants to Secured Party a security interest in all of its personal property to secure repayment of the \$1000 note of Debtor delivered to Secured Party on July 1, 2012.' Secured Party advances \$1000 to Debtor. Financing statements in appropriate form are filed by Secured Party in the appropriate filing offices. Two years later, Debtor files for bankruptcy. Secured Party claims a perfected security interest in Debtor's office equipment, including a photocopier, a telecopier, a cash register and four desks with matching chairs.

(A) Secured Party holds a perfected security interest in the identified collateral. The revised UCC permits the use of a generic description such as 'all personal property' to be used in a granting clause to a security agreement.

(B) Secured Party has a perfected security interest in the desks and chairs but not in the other office equipment. The photocopier, telecopier and cash register should have been identified in the granting clause by manufacturer's serial number.

(C) The security interest is not perfected because, under revised Article 9, the debtor must authorize the secured party to file financing statements and no such authorization is recited in the fact pattern presented.

(D) The security interest of Secured Party is not perfected because use of a very general phrase such as all personal property of the Debtor is not a sufficient description of collateral to use in a granting clause.

9. Debtor signs a security agreement that states: 'Debtor hereby grants to Secured Party a security interest in all of its inventory and accounts to secure repayment of the \$1000 note of Debtor delivered to Secured Party on July 1, 2012.' Secured Party advances \$1000 to Debtor. Financing statements are filed promptly by Secured Party in the appropriate filing offices that describe the collateral as 'all personal property of the Debtor.' Two years later, Debtor files for bankruptcy. Secured Party claims a perfected security interest in Debtor's inventory and accounts.

- (A) The security interest is perfected.
- (B) The security interest was not properly created. The description of collateral using general terms is too vague to create a security interest under the UCC.
- (C) The security interest was properly created but not perfected by the filing of the financing statement. The description of collateral contained in the financing statement is too vague and general under the UCC.
- (D) The security interest was properly created but not perfected because the description of collateral in the granting clause does not match the description of collateral contained in the financing statement.

10. Debtor signs a security agreement that states: 'Debtor hereby grants to Secured Party a security interest in its equipment, inventory and accounts to secure repayment of the \$1000 note of Debtor delivered to Secured Party on July 1, 2012.' Secured Party advances \$1000 to Debtor. Financing statements are filed promptly by Secured Party in the appropriate filing offices that describe the collateral as 'equipment, inventory and accounts of the Debtor.' Two years later, Debtor files for bankruptcy. Secured Party claims a perfected security interest in Debtor's then existing equipment, inventory and accounts. Since July 1, 2012 Debtor has retained some equipment, disposed of other equipment and acquired a substantial amount of new equipment. All the inventory and receivables in existence on July 1, 2012 have been sold and collected. All the inventory and receivables in existence at the time of filing of bankruptcy were acquired after July 1, 2012.

(A) Secured Party does not hold a perfected security interest in any of the after-acquired collateral because the financing statement description of collateral does not mention after acquired collateral.

(B) Secured Party does not hold a perfected security interest in any of the after-acquired collateral because the description of collateral in the granting clause of the security agreement does not mention after acquired collateral.

(C) Secured Party does not have a security interest in the after-acquired collateral because the granting clause did not describe the collateral as 'all' equipment, inventory and accounts of the Debtor. Use of the the word 'all' in the security agreement would have given the interest in after-acquired property but it need not have been used in the financing statement.

(D) The Secured Party has a security interest in after-acquired inventory and accounts but not in after-acquired equipment of the Debtor.