

Uniform Commercial Code 2009-2010

February 2009

QUESTION 11

Adam signed a check in the amount of \$500, payable to Bill and Nan, drawn on his account at CanDo Bank. The next day, Bill purchased an antique table from Dan and gave Dan the \$500 check as payment for the table. Bill alone indorsed the check.

Dan indorsed and deposited the check into his account at Middle Bank. Middle Bank credited Dan's account and forwarded the check to CanDo Bank for collection. CanDo Bank refused to honor the check and returned it to Middle Bank. Middle Bank then debited Dan's account for \$500 and returned the check to Dan.

- 1. Did CanDo Bank properly refuse to honor the check? Explain fully.**
- 2. Did Middle Bank properly debit Dan's account for \$500? Explain fully.**
- 3. What are Dan's rights, if any, against Nan under the Texas UCC? Explain fully.**

QUESTION 12

Chic was a master cabinetmaker who operated his business as a sole proprietor. On February 1, Chic borrowed \$10,000 from Ivan for working capital. Chic signed a promissory note payable to Ivan in one year at six percent simple interest. Chic also signed a security agreement giving Ivan a security interest in collateral described as follows: "All of Chic's assets." On the same day, Ivan filed a financing statement with the Texas Secretary of State listing Chic as the debtor, Ivan as the secured party, and "All of Chic's assets" as the collateral.

On March 1, Chic purchased a band saw on credit for \$750 from Terry's Tools ("Terry"). Chic agreed to give Terry a security interest in the band saw, but Terry did not have the security agreement prepared at the time Chic purchased the band saw. Terry told Chic that he would email the security agreement to Chic, which Terry did the next day.

Chic received the email and immediately left a voicemail message for Terry that he had received the emailed security agreement and would print it out, sign it and return it to Terry. Terry then filed a financing statement with the Texas Secretary of State on March 2, listing Chic as the debtor, Terry as the secured party, and the band saw as the collateral. Chic never printed out or signed the emailed security agreement.

On June 30, Chic signed a security agreement giving his brother-in-law, Rufus, a security interest to secure a loan of \$900 that Chic had borrowed from Rufus one year earlier. The collateral was described as follows: "All of Chic's inventory, equipment, and all other assets." Rufus promptly filed a financing statement with the Texas Secretary of State listing Chic as the debtor, Rufus as the secured party, and "All of Chic's assets" as the collateral.

On August 1, Chic left for parts unknown and abandoned his business leaving only three unfinished cabinets, the band saw and 500 board feet of solid-oak lumber.

Which creditor has the superior interest in the following property:

- 1. The band saw? Explain fully.**
- 2. The three unfinished cabinets and the 500 board feet of solid-oak lumber? Explain fully.**

July 2009

QUESTION 3

On May 24, 2009, Homer borrowed \$20,000 from Eddie. In consideration, Eddie accepted a typed promissory note (“Note”), signed by Homer, promising to pay \$20,000 plus interest at the prime rate as published in a magazine called *Reliable Financial Quotes*. The typed date on the Note was May 26, 2009. The Note recited that it was payable to the order of Eddie in Dallas, Texas, one year from its date. The Note further provided that it was subject to Homer’s right, on or before the original due date of the Note, to extend the due date of the Note for an additional two years.

The Note also recited that payment was to be made from Homer’s savings account at Credit Union. When Homer signed the Note, he wrote “date: 5/30/09” next to his signature.

On June 15, 2009, Eddie, in consideration for \$15,000 paid to him by Stella, gave the Note to Stella and indorsed it as follows, “Pay only to Stella when she finishes painting my house. /s/ Eddie.”

Reliable Financial Quotes had ceased publishing six months before Homer had signed the Note.

Homer never exercised his option to extend the due date of the Note, and he has in excess of \$25,000 on deposit in his savings account at Credit Union.

- 1. When Eddie took the Note from Homer, was it a negotiable instrument? Explain fully.**
- 2. When Stella took the Note from Eddie, was it a negotiable instrument? Explain fully.**
- 3. Is Homer obligated to pay any interest under the Note, and if so, on what basis is it to be calculated? Explain fully.**
- 4. On what date is the Note presently due? Explain fully.**

QUESTION 4

Jillian was the president and sole shareholder of ABC Corp. (“ABC”), a Texas corporation. On August 1, 2008, ABC purchased all the assets of the business of Tiny Tim (“Tim”) dba “Crooked Needle.” The assets consisted of sewing machines, supplies and knitting inventory. As part of the sale, ABC also acquired the right to use the name “Crooked Needle,” which Jillian told Tim was a “catchy name” that she liked and would probably start using in a few months. In partial payment for the assets and name, Jillian, on behalf of ABC, signed a \$30,000 promissory note payable to Tim and a security agreement covering “all of the equipment, supplies and inventory of ABC Corp. now owned or hereafter acquired.”

Tim properly filed a financing statement on August 5, 2008, with the Texas Secretary of State listing his name and address as the secured party and ABC and its address as the debtor and describing the collateral as “all of the equipment, supplies and inventory of ABC Corp.”

On September 1, 2008, ABC changed its name to “The Crooked Needle Knitting Nook Co.” (“The Nook”).

On February 2, 2009, Jillian needed additional funds to run The Nook and borrowed \$15,000 from Fast Bank. Jillian, on behalf of The Nook, signed a \$15,000 promissory note payable to Fast Bank and signed a security agreement covering “all of the equipment, supplies and inventory of The Crooked Needle Knitting Nook Co. now owned or hereafter acquired.”

On March 5, 2009, Jillian, on behalf of The Nook, obtained a credit card and credit account with Video Shack. On behalf of The Nook, Jillian signed the front of a preprinted form entitled “Credit Agreement and Security Agreement” that contained language on the back of the form giving Video Shack a security interest in collateral described as “all merchandise charged to the account.” Above the signature line on the front of the form was the language “I have read the Credit Agreement and Security Agreement.” Also on March 5, 2009, The Nook used the credit card to obtain \$5,000 worth of merchandise from Video Shack. Video Shack properly filed a financing statement with the Texas Secretary of State. The merchandise is still in The Nook’s possession.

Later in March, The Nook purchased a set of solid oak display cabinets for cash from Henry’s Cabinet Shop.

The Nook has not paid any of the borrowed and charged amounts. They are now overdue.

- 1. In which of The Nook’s collateral, if any, does Tim have a superior security interest? Explain fully.**
- 2. In which of The Nook’s collateral, if any, does Video Shack have a superior security interest? Explain fully.**
- 3. In which of The Nook’s collateral, if any, does Fast Bank have a superior security interest? Explain fully.**

February 2010

QUESTION 9

Dwight, a single person, was living in a stately nineteenth century historic home in Madison County, Texas, that he inherited from his deceased parents in 2000. Its beautiful furnishings included a crystal chandelier that was installed with special architectural supports when the home was built. Dwight had the chandelier appraised at \$50,000.

On March 8, 2008, Dwight went to Better Buy and made a credit purchase of a new giant flat-panel TV, which he attached with brackets to the bedroom wall in his home. Dwight signed a security agreement giving Better Buy a security interest in the flat-panel TV.

On November 10, 2008, Dwight borrowed \$10,000 from Friendly Bank and signed a security agreement giving Friendly Bank a security interest in the chandelier to secure the repayment of the loan.

Friendly Bank filed a financing statement with the Texas Secretary of State listing its name and address as the secured party, listing Dwight and his address as the debtor, and correctly describing the chandelier as the collateral.

On January 13, 2009, Dwight obtained a home equity loan from Domestic Bank and signed a deed of trust giving Domestic Bank a mortgage on his home. Domestic Bank recorded the deed of trust in the real property records of Madison County, Texas, on January 15, 2009.

The air-conditioning compressor at Dwight's home ceased to function in June 2009. On July 5, 2009, Dwight financed the purchase of a new compressor from Heat-n-Air Company. On that date, he signed a security agreement giving Heat-n-Air a security interest in the compressor. The next day, Heat-n-Air installed the compressor by bolting it onto a concrete pad adjacent to the garage of the home. On July 12, 2009, Heat-n-Air filed the security agreement in the real property records of Madison County, Texas. The security agreement contained: the name and address of Heat-n-Air as the secured party; the name and address of Dwight as the debtor; a description and serial number of the compressor as the collateral; and the legal description of the house and lot.

- 1. Which are the contending parties for a security interest in the chandelier and which party has the superior interest? Explain fully.**
- 2. Which are the contending parties for a security interest in the flat-panel TV and which party has the superior interest? Explain fully.**
- 3. Which are the contending parties for a security interest in the compressor and which party has the superior interest? Explain fully.**

QUESTION 10

Rapid Repro, Inc., a Texas corporation, did all of its banking with Donald, a vice president of Bronco Bank. Jeff, the purchasing agent for Rapid Repro, borrowed \$10,000 from Bronco Bank on behalf of Rapid Repro to purchase a high-speed copier for the business. Donald prepared a promissory note on which he accidentally failed to include the name of Rapid Repro, Inc. as borrower. The note recited "... the undersigned borrower agrees to pay the sum of \$10,000 to the order of Bronco Bank within one year from June 1, 2004."

Jeff signed only his name on the note. In January 2005, Bronco Bank sold a group of its promissory notes, including the \$10,000 note signed by Jeff, to Aggressive Bank. Donald delivered the group of promissory notes being sold to Aggressive Bank along with a letter stating, "... Bronco Bank hereby transfers and negotiates to Aggressive Bank the promissory notes listed in this letter." The list included a description of the \$10,000 note signed by Jeff, and the group of notes transferred to Aggressive Bank included that note. The only document in the entire transmittal that contained Donald's signature, as vice president of Bronco Bank, was the letter transmitting the promissory notes. None of the notes was indorsed.

Aggressive Bank misplaced the \$10,000 promissory note signed by Jeff and didn't find it until July 1, 2008. No demands on payments were ever made on the promissory note. It is now February 2010.

- 1. Is Jeff likely to be held liable to Aggressive Bank on the note? Explain fully.**

- 2. What rights, if any, does Aggressive Bank have to collect on the promissory note? Explain fully.**

July 2010

QUESTION 1

On July 1, Noah ordered and received a stationary exercise bicycle (“exercycle”) from Bodybuilders, Inc. He made a \$49 down payment and agreed to pay the balance of \$129 within 30 days. Every time he used the exercycle, the chain would slip off the sprocket because the sprocket was too small. Noah thinks that the sprocket can be replaced by a bicycle shop. Therefore, he wants to keep the exercycle but believes he should not have to pay the full purchase price because Bodybuilders breached a warranty.

Instead of paying the entire \$129 balance, Noah, on July 29, sent Bodybuilders a \$79 check payable to Bodybuilders. On the face of the check, Noah wrote conspicuously, “Payment in full due to breach of warranty.” On July 30, the check was received by Bodybuilders’ accounts receivable clerk, whose duties were limited to receiving and recording payments for merchandise sold and making bank deposits. The clerk followed the company procedure to stamp a Bodybuilders’ indorsement on the back of the check, make an entry in the customer’s account, and deposit the check in the bank, all of which he did with respect to Noah’s check.

Several weeks later, Thor, the accounts receivable manager for Bodybuilders, noticed that Noah had an overdue balance of \$50. Thor called Noah, and Noah told him that he had paid a lesser amount in full satisfaction of the debt because Bodybuilders had breached its warranty. Thor obtained a copy of the check from the bank and discovered the “Payment in full due to breach of warranty” notation on the check. On October 10, Bodybuilders sent Noah a check for \$79 and a letter informing him that he still owed the original balance of \$129.

- 1. What argument, if any, can Noah make under the Texas Uniform Commercial Code that the check he sent satisfied his debt to Bodybuilders? Explain fully.**
- 2. What argument, if any, can Bodybuilders make under the Texas Uniform Commercial Code in response to Noah’s argument? Explain fully.**
- 3. Which party is likely to prevail? Explain fully.**

QUESTION 2

George sells electronic equipment and computers in his retail store. Last January, George financed his inventory with Ram Bank by giving Ram Bank a security interest in his current and after-acquired inventory.

Ram Bank properly filed a financing statement with the Texas Secretary of State.

On February 1, George ordered five laptop computers from Archway Computers, agreeing to pay for them in sixty days. George signed a security agreement giving Archway a security interest in the five computers. Archway filed a proper financing statement with the Texas Secretary of State prior to delivering the computers to George on February 7.

George sold one of the Archway computers to Wilson on February 10. Wilson paid for the computer with a \$2,000 check.

As of February 25, George had not yet deposited the \$2,000 check.

Who among the parties mentioned above (Ram Bank, Archway Computers, Wilson, and George), has the superior interest, as of February 25, in the following property:

- 1. The four Archway computers still in George's inventory;**
- 2. The Archway computer sold to Wilson; and**
- 3. The \$2,000 check?**

Explain your answers fully.