UNIVERSITY OF KENTUCKY
COLLEGE OF LAW

FINAL EXAMINATION

Professor Frost
April 24, 2008

PAYMENT SYSTEMS

READ ALL THE FOLLOWING INSTRUCTIONS CAREFULLY

Instructions

(i) Write your examination number on this examination and on your blue books. Use only your examination number, not your name.

(ii) This is an open book examination. You may use any materials you wish. Although this examination is open book, statutory and case citations are not required and you are urged not to spend much time reviewing such materials. The better answers will include a thorough analysis of the issues presented rather than a string of citations.

(iii) Conciseness and clarity of expression, organization and clarity of presentation, while not separately taken into account in the grade, necessarily have some impact on the grader's evaluation of your understanding of the subject matter.

(iv) This examination has 5 pages. Check that you have a complete examination.

(v) This examination consists of 8 questions. Each question has a suggested time limit that corresponds to the number of points the question is worth. All answers must be explained. Your grade will be based on your analysis of the issues rather than your ability to come to a single "correct" solution.
HONOR CODE STATEMENT

All academic endeavors of the students of the University of Kentucky College of Law are governed by the Honor Code. The Honor Code prohibits lying, cheating, stealing, and interference with academic pursuits. Additionally, the Honor Code places on all law students an affirmative duty to report a breach of the Code. A failure to report is itself a violation of the Honor Code.

In turning in this exam, I hereby pledge on my honor as a student that I have neither given nor received any unauthorized aid on this exam.
Question 1
35 Minutes

You represent Manufacturing Corporation. About 3 months ago, the accounts receivable department of Manufacturing reported that a number of Manufacturing’s accounts receivable were delinquent. This situation continued for about 2 months without anyone investigating. About one month ago, Manufacturing started contacting delinquent obligors seeking payment of the accounts. The obligors reported that they had been making their payments and presented cancelled checks written to Manufacturing showing that their bills had been paid.

After further investigation, Manufacturing discovered that Fred Felon, a mail room employee at Manufacturing had been removing the checks from the mail, forging Manufacturing’s indorsement and depositing the checks in an account he had opened in Manufacturing’s name at Second National Bank, a bank located in a city about 100 miles from Manufacturing’s headquarters. Fred appears to have blown all of the money at one of the local gambling establishments before disappearing without a trace. All told, Fred made off with about 20 checks totaling around $100,000.

Manufacturing has asked that you give them some advice about how they can recover this money. Please advise Manufacturing of its rights against the drawers of the checks, their banks and Second National Bank. What is the best way to go about recovering the money?

Question 2
15 Minutes

Would your answer to Question 1 be the same if Fred Felon was an accounts receivable clerk with Manufacturing?

Question 3
30 minutes

Barbara Buyer, recently had the winning bid ($10,000) in an online auction of a set of rare antique books. Barbara is a librarian who occasionally buys and sells old books. She completed the transaction with the seller, who is located in Chicago, through e-mail sent from her home in Lexington, Kentucky using her Visa Card issued by a Lexington Bank. Unfortunately when Barbara received the books, she discovered that the books were not, in fact rare antiques but instead were worthless reproductions worth just a few dollars. Barbara has attempted to contact the seller but has not been successful. The auction company has a dispute resolution procedure, but Barbara has no faith in that system and has not used it. Yesterday, Barbara received a statement from the card issuer which included the $10,000 charge. She has made no payments.

Advise Barbara regarding her rights with respect to this transaction.
Question 4
10 minutes

Would your answer to question 3 change if Barbara’s Visa Card was a debit card?

Question 5
30 minutes

Paula Payee is a longtime customer of First Bank, a Lexington bank that is your client. At 9:00 a.m. on Monday, March 31, 2008, Paula deposited a $4,500 check payable to her into her First Bank account. The check was drawn by XYZ Supply, Inc., a company located in California, on Great Western Bank, a bank located in Arizona. On Tuesday of the next week, April 8, 2008, First Bank dishonored a $1,500 check written on Paula’s account. On that date, the records of the bank reflected a balance of $5,500 but also showed that the bank had placed a “hold” on the funds represented by the XYZ Supply check. Because the hold had not been released, Paula’s available account balance was insufficient to cover the check.

According to Barbara Banker, the President of First Bank, Paula is outraged that the bank bounced the $1,500 check. Paula complained that she wrote the check to pay for some items that she planned to sell in a gift shop that she owns. Because the check bounced, the supplier refused to ship the items and now Paula is afraid that she won’t be able to replace that inventory in time to meet her summer demand.

Advise Barbara of the rights Paula may have against First Bank.

Question 6
10 minutes

Would your answer to question 5 change if, in addition to the XYZ Supply check (the check that Paula deposited), Paula also deposited another check for $1,000 (which was also subject to the “hold”)?

Question 7
20 minutes

After investigating the circumstances surrounding question 5, Barbara has discovered that the XYZ Supply check was mislaid in a clerk’s office at First Bank. First Bank, therefore, still has the check in its possession and it has not been presented to Great Western Bank. Barbara called Great Western to let them know about the problem and in the course of the conversation, she learned that XYZ Supply’s account has been overdrawn since Wednesday, April 2, 2008. She is not sure what to do with the check now and wants your advice regarding the rights and obligations of Paula, First Bank, Great Western, and XYZ.
Barbara has another problem she has asked you to consider. First Bank has issued a letter of credit on the application of Acme Computer Company to Chip Supply Company in the amount of $5 million. The letter of credit was issued to pay for complex computer components that Acme was going to purchase from Chip Supply. This morning, Barbara received a call from Bob Smith, the chief operating officer of Acme Computer Company. He said that he has heard that Chip Supply Company is planning to file a petition in Bankruptcy Court and is expected to be going out of business. He is worried that the computer components might be defective and that Chip Supply will not be able to honor its warranty obligations. Bob told Barbara that he had called Chip Supply and tried to cancel the order but that Chip Supply told him that they would hold him to the contract by shipping the chips today and presenting a draft to First Bank. Bob has demanded that Barbara refuse to pay the draft and warned her that Acme would not be willing to reimburse First Bank for any payments under the letter of credit.

Barbara expects to receive a presentation sometime today and wants to know how she should deal with it. Advise her.