Part One: Payment Systems

Introduction to Part One

Figure 1.1 – Basic Payment Systems Figure 1.2 – Payment by the Third Party

Chapter 1: Checking Accounts as the Paradigm Payment System

Assignment 1: The Basic Checking Relationship and the Bank's Right to Pay Checks

- A. The Basic Relationship Figure 1.3 – Payment by Check
- B. The Bank's Right to Pay
 - When Is It Proper for the Bank to Pay?

 (a) Overdrafts
 McGuire v. Bank One, Louisiana, N.A.
 - (b) Stopping Payment
 - 2. Remedies for Improper Payment *McIntyre v. Harris*

Problem Set 1

Assignment 2: The Bank's Obligation to Pay Checks

- A. When Are Funds Available for Payment?
 - 1. Time of Evaluation
 - Availability of Funds
 Figure 2.1 Basic Funds Availability Rules
 Figure 2.2 Low-Risk Items Availability Rules
 First National Bank v. Colonial Bank
- B. Wrongful Dishonor: What Happens If the Bank Refuses to Pay? Bank Refuses to Pay? Maryott v. First National Bank

Problem Set 2

Assignment 3: Collection of Checks

- A. The Payor Bank's Obligation to the Payee Outdoor Technologies, Inc. v. Allfirst Financial, Inc.
- B. The Process of Collection
 - 1. Obtaining Payment Directly Figure 3.1 – Direct Presentment
 - 2. Obtaining Payment Through Intermediaries
 - (a) Payee/Customer to Depositary Bank
 - (b) Depositary Bank to Payor Bank
 - (i) Multilateral Agreements (Clearinghouses)

Kimberly A. Allen Trust v. FirstBank of Lakewood, N.A. Figure 3.2 – Clearinghouse Collection

- (ii) Bilateral Agreements (Direct-Send and Correspondent Clearing) Correspondent Clearing
- (iii) Collection Through Federal Reserve System Figure 3.3 – Direct-Send Collection Figure 3.4 – Federal Reserve Collection Figure 3.5 – Sample EARNS Notice Figure 3.6 – Return Obligations NBT Bank v. First National Community Bank

Problem Set 3

Assignment 4: Risk of Loss in the Checking System - The Basic Framework

- A. Nonpayment
 - Figure 4.1 Indorser Liability
- B. Forged Signatures
 - 1. Forged Drawers' Signatures and the Rule of Price v. Neal
 - (a) What if the Payor Bank Pays the Forged Check? Decibel Credit Union v. Pueblo Bank & Trust Company Figure 4.2 – Presentment and Transfer Warranties
 - (b) What if the Payor Bank Dishonors the Forged Check? The Special Case of Telephone Checks
 - 2. Forged Indorsements
 - (a) What If the Payor Bank Dishonors the Check Because of the Forged Indorsement?
 - (b) What if the Payor Bank Pays the Check Despite the Forged Indorsement?
 - (c) Conversion
- C. Alteration

Problem Set 4

Assignment 5: Risk of Loss in the Checking System - Special Rules

- A. Negligence HSBC Bank USA v. F&M Bank Northern Virginia
- B. Bank Statements Stowell v. Cloquet Co-op Credit Union
- C. Theft by Employees Cable Cast Magazine v. Premier Bank Halifax Corp. v. Wachovia Bank
- D. Imposters Meng v. Maywood Proviso State Bank

Assignment 6: Truncation and Check 21

A. Payor-Bank Truncation Figure 6.1 – MICR Line

B. Depositary-Bank Truncation and the Check 21 Act Figure 6.2 – Check Processing Under Check 21 Act Figure 6.3 – Substitute Check

Problem Set 6

Chapter 2: Electronic Payments

Assignment 7: The Credit Card System

- A. The Issuer-Cardholder Relationship
- B. Using the Credit-Card Account

C. Collection by the Payee 1. The Mechanics of Collection Figure 7.1 – Payment by Credit Card Figure 7.2 – Dividing the Credit-Card Dollar

> 2. Finality of Payment Hyland v. First USA Bank

Problem Set 7

Assignment 8: Error and Fraud in Credit-Card Transactions

A. Erroneous Charges Belmont v. Associates National Bank (Delaware)

B. Unauthorized Charges Minskoff v. American Express travel Related Services Co.

Problem Set 8

Assignment 9: Debit Cards

A. Payment with a Debit Card

- 1. Establishing the Debit-Card Relationship
- 2. Transferring Funds with a Debit Card
- 3. Collection by the Payee
 - (a) PIN-Based Debit Cards
 - (b) PIN-Less Debit Cards
- B. Error and Fraud in Debit-Card Transactions
 - 1. Erroneous Transactions
 - 2. Fraudulent Transactions

Hospicomm, Inc. v. Fleet Bank, N.A. Heritage Bank v. Lovett

Problem Set 9

Assignment 10: Electronic Checks and Automated Clearing House Payments

- A. True Electronic Checks
- B. ACH Transfers
 - 1. The Basics of ACH Transfers
 - (a) The Basic Terminology
 - (b) The Mechanics
 - Figure 10.1 ACH Entries
 - (c) Types of ACH Entries
 - (d) Finality, Error, and Fraud in ACH Transfers
 - Security First Network Bank v. C.A.P.S., Inc.
- C. Telephone-Initiated Payments

Problem Set 10

Assignment 11: The Wire-Transfer System

A. Introduction

B. How Does it Work?

- Initiating the Wire Transfer: From the Originator to the Originator's Bank Figure 11.1 – Payment by Wire Transfer *Trustmark Ins. Co. v. Bank One* Banco del la Provincia v. BayBank Boston N.A.
- 2. Executing the Transfer: From the Originator's Bank to the Beneficiary's Bank

Figure 11.2 – Multilateral Netting on CHIPS Figure 11.3 – Sample Fedwire Message

- 3. Completing the Funds Transfer: From the Beneficiary's Bank to the Beneficiary
- C. Discharge of the Originator's Underlying Obligation
- D. Finality of Payment Aleo International, Ltd. v. Citibank, N.A.

Problem Set 11

Assignment 12: Error in Wire-Transfer Transactions

A. Recovering from Parties in the System
 1. Errors by the Originator
 Corfan Banco Asuncion Paraguay v. Ocean Bank

2. Errors in the System

- (a) Sending Excessive Funds
- (b) Sending Inadequate Funds
- (c) Bank-Statement Rule

B. Recovering from the Mistaken Recipient

Problem Set 12

Assignment 13: Fraud, System Failure, & International Issues in Wire-Transfer Transactions

A. Fraud

B. System Failure

C. International Transfers
1. Choice-of-Law Rules *Grain Traders, Inc. v. Citibank, N.A.*2. Error and Fraud in SWIFT Transactions

Problem Set 13

Chapter 3: Developing Payment Systems

Mark A. Lemley & David McGowan, *Legal Implications of Network Economic Effects* Ronald J. Mann, *Making Sense of Payments Policy in the Information Age*

Assignment 14: Internet Payments

A. Credit Cards on the Internet

- 1. Processing the Transactions
- 2. Problems
 - (a) Fraud
 - (b) Privacy
 - (c) Micropayments

B. Debit Cards on the Internet

- C. ACH Transfers (WEB Entries)
- D. Foreign and Cross-Border Payments Figure 14.1 – ACH "Checks"
- E. A Note on Mobile Payments

Problem Set 14

Assignment 15: P2P EBPP

A. The Basics Ronald J. Mann, Regulating Internet Payment Intermediaries

- B. State Regulation
- C. Foreign and Cross-Border Transfers

Assignment 16: E-Money

- A. Portability: Stored-Value Cards
 - 1. The Basics
 - 2. Legal Issues
 - (a) The EFTA
 - (b) Other Issues
- B. Remote Transactions: Internet-Capable Electronic Money
 - 1. Obtaining E-Money
 - 2. Spending E-Money
 - 3. Clearing and Settling E-Money Transactions Figure 16.1 – Using Electronic Money
 - 4. Problems with E-Money Systems
 - (a) Privacy
 - (b) Duplicate Spending
 - (c) Forged E-Coins
 - 5. Legal Issues with E-Money

Problem Set 16

Chapter 4: Letters of Credit

Assignment 17: Letters of Credit - The Basics

- A. The Underlying Transaction Figure 17.1 – Irrevocable Commercial Letter of Credit
- B. Advising and Confirming Banks Figure 17.2 – Issuing the Letter of Credit
- C. The Terms of the Credit
- D. Drawing on the Credit Samuel Rappaport Family Partnership v. Meridian Bank Carter Petroleum Products, Inc. v. Brotherhood Bank & Trust Co.
- E. Reimbursement Figure 17.3 – Payment with a Letter of Credit

Problem Set 17

Assignment 18: Letters of Credit – Advanced Topics

A. Error and Fraud in Letter-of-Credit Transactions

- 1. Wrongful Honor
- 2. Wrongful Dishonor
- 3. Fraud
 - (a) Forged Drafts
 - (b) Fraudulent Submissions by the Beneficiary
- B. Assigning Letters of Credit
- C. Choice-of-Law Rules

Problem Set 18

Part Two: Credit Systems

Introduction to Part Two

- Chapter 5: The Borrower's Obligation
- Assignment 19: Promissory Notes and Interest Rates
 - A. Promissory Notes Schillance v. Channell Shopping Partnership Promissory Note
 - B. Determining the Amount of Compensation
 - 1. Fixed and Variable Interest Rates
 - 2. Interest-Rate Swaps
 - Figure 19.1 Interest-Rate Swap
 - 3. The Enforceability of Interest-Rate Agreements

Problem Set 19

Assignment 20: Usury

- A. The Basic Concept Schnee v. Plemmons
- B. Typical Usury Problems
- C. Exemptions from Usury Statutes Trapp v. Hancuh

Problem Set 20

Assignment 21: Late Payment and Prepayment

A. Late Payment Mattvidi Associates Limited Partnership v. NationsBank B. Prepayment Carlyle Apartments Joint Venture v. AIG Life Insurance Co.

Problem Set 21

Chapter 6: Credit Enhancement

Assignment 22: Credit Enhancement by Guaranty

- A. The Role of Guaranties Thomas S. Hemmendinger, *Hillman on Commercial Loan Documentation*
- B. Rights of the Creditor Against the Guarantor F.T.L., Inc. v. Crestar Bank (In re F.T.L., Inc.)

Problem Set 22

Assignment 23: Protections for Guarantors

- A. Rights of the Guarantor Against the Principal
 - 1. Performance
 - 2. Reimbursement
 - Figure 23.1 Rights of the Guarantor
 - 3. Subrogation
 - Corporate Buying Service v. Lenox Hill Radiology Associates

B. Rights of the Guarantor Against the Creditor

- 1. Suretyship Defenses
- 2. Waiver of Suretyship Defenses
 - Modern Photo Offset Supply v. The Woodfield Group

C. Bankruptcy of the Guarantor *Trimec, Inc. v. Zale Corporation*

Problem Set 23

Assignment 24: Third-Party Credit Enhancement – Standby Letters of Credit

- A. The Standby Letter-of-Credit Transaction Figure 24.1 – Standby Letters of Credit Nobel Insurance Co. v. First Nat. Bank Figure 24.2 – Form Standby Letter of Credit Wood v. State Bank
- B. Problems in Standby Letter-of-Credit Transactions 1. Bankruptcy of the Applicant In re Ocana
 - 2. The Issuer's Right of Subrogation CCF, Inc. v. First National Bank (In re Slamans)

Problem Set 24

Part Three: Systems for Enhancing Liquidity

Chapter 7: Negotiability

Assignment 25: Negotiable Instruments

- A. Negotiability and Liquidity
- B. A Typical Transaction Figure 25.1 – Sample Negotiable Draft
- C. The Negotiability Requirements Figure 25.2 – The Players in a Negotiable Draft Transaction
 - 1. The Promise or Order Requirement Figure 25.3 – The Negotiability Requirements
 - 2. The Unconditional Requirement DBA Enterprises, Inc. v. Findlay
 - 3. The Money Requirement
 - 4. The Fixed-Amount Requirement Nagel v. Cronebaugh
 - 5. The Payable-to-Bearer-or-Order Requirement
 - 6. The Demand or Definite-Time Requirement
 - 7. The No-Extraneous-Undertakings Requirement

Problem Set 25

Assignment 26: Transfer and Enforcement of Negotiable Instruments

- A. Transferring a Negotiable Instrument
 - 1. Negotiation and Status as a Holder
 - 2. Special and Blank Indorsements
 - 3. Restrictive and Anomalous Indorsements
- B. Enforcement and Collection of Instruments
 - 1. The Right to Enforce an Instrument
 - 2. Presentment and Dishonor
 - 3. Defenses to Enforcement

Turman v. Ward's Home Improvement, Inc.

- C. Liability on an Instrument
 - Figure 26.1 Liability on an Instrument
- D. The Effect of the Instrument on the Underlying Obligation McMahon Food Corp. v. Burger Dairy Co.

Figure 26.2 – Reverse of Sample TKO Check

- Assignment 27: Holders in Due Course
 - A. Holder-in-Due-Course Status
 - 1. The Requirements for Holder-in-Due-Course Status
 - 2. Rights of Holders in Due Course
 - State Street Bank & Trust Co. v. Strawser
 - 3. Payment and Discharge
 - 4. Transferees Without Holder-in-Due-Course Status
 - B. The Fading Role of Negotiability
 - 1. The Declining Use of Negotiable Instruments
 - 2. The Decreasing Relevance of Negotiability to Negotiable Instruments

Problem Set 27

Assignment 28: Documents of Title

- A. The Mechanics of Documents of Title
 - 1. Delivering Goods to a Carrier
 - 2. Recovering Goods from a Carrier
 - (a) Nonnegotiable Documents
 - Figure 28.1 Negotiable Bill of Lading
 - (b) Negotiable Documents
- B. Transactions with Documentary Drafts
 - 1. The Role of Documentary Draft Transactions
 - Figure 28.2 Documentary Collection: Parties/Document Flow
 - 2. Steps in the Transaction
 - (a) Preliminaries Sales Contract, Shipment, and Issuance of the Draft
 - (b) Processing by the Remitting Bank
 - Figure 28.3 Sight Draft for Documentary Collection
 - (c) Processing by the Presenting Bank
 - Figure 28.4 Form Collection Document
- C. Credit Transactions and Banker's Acceptances Figure 28.5 – Banker's Acceptance Transaction

Problem Set 28

Chapter 8: Securitization

Assignment 29: Securitization

- A. Securitization and Liquidity
- B. The Rise of Securitization
- C. Investment Securities and Article 8

- 1. The Subject Matter: What is Security?
- 2. The Obligation of the Issuer
- 3. The Two Holding Systems
 - (a) The Direct Holding System
 - (i) Making the Transfer Effective as Between Seller and Purchaser
 - (ii) Making the Transfer Effective Against the Issuer
 - (iii) The Effect of a Transfer on Third Parties
 - (b) The Indirect Holding System
 - (i) The Basic Framework
 - (ii) Rights Against the Intermediary
 - (iii) Rights Against Third Parties