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Sales A Systems Approach

Third Edition

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To my father-in-law, George Stevens, for his
support and encouragement

Preface

“One of the hardest dilemmas for the author of a casebook in a code course arises when the code is in a period of transition.” So began the preface to the second edition of this casebook. As I sit here writing the preface for the third edition, I wish that I could say that all of the uncertainty surrounding the revisions of Article 1 and amendments to Articles 2 and 2A of the Uniform Commercial Code have been definitively settled. Unfortunately, however, they have not been. The good news is that revised Article 1 seems to have some momentum, and has been adopted as of this writing in 15 states and has been introduced in the legislatures of seven other states. The new choice-of-law provision of revised Article 1 has not been part of the package in those states moving forward with Article 1, and some of those states have also left out the new good-faith definition.

I will paraphrase what I said about the uncertain transitional period in the preface to the prior edition of this casebook: So what is a casebook author to do? To ignore revised Article 1 and amended Articles 2 and 2A would seem ill advised, given that revised Article 1 has over a dozen state adoptions and that amended Articles 2 and 2A are (despite their lack of adoptions) the “official” versions of those Articles. On the other hand, to delete pre-amended Articles 1, 2, and 2A from the casebook would probably also be foolhardy, since it is still not certain how many, if any, states will adopt revised Article 1 and amended Articles 2 and 2A.

The silver lining here (at least for casebook authors) is that the differences between the amended and pre-amended Articles 1, 2, and 2A are not nearly as significant as some earlier revision attempts were. Thus, in this third edition (just like in the second edition), the base of the book remains pre-amended Articles 1, 2, and 2A. When there is a different statutory citation to the same principle in the amended statute, the parallel cite to the amended statute is noted parenthetically. When there is a substantive difference in the amended statute, that is noted with a textual explanation. My hope (and that of other Sales casebook authors, no doubt) is that by the time of the next edition, things will have sorted themselves out such that a citation to just one version or the other of Articles 1, 2, and 2A will suffice. But I will not hold my breath on that prediction anymore!

As with the first and second editions, this book follows the format of Lynn LoPucki and Elizabeth Warren's *Secured Credit* book in three significant ways that distinguish it from previous works in the area. First, the materials are organized into 28 class-sized assignments. The approach in this book is even more flexible, however, in that the book is suitable for either a two-hour or a three-hour sales course. For those teaching a three-hour sales course, 12 of the 28 assignments have enough problems in the problem set to occupy two classes, rather than just one. For those teaching a two-hour sales course, the Teacher's Manual provides a syllabus that indicates which problems the teacher should skip in the "double-class" problem sets so that the two-hour teacher can simply teach all 28 assignments in just one class each.

Second, the materials are designed for class sessions devoted exclusively to problem-solving rather than to lecture or analysis of cases. Accordingly, the assignments contain relatively few cases. To ensure that the cases present issues of significance in current commerce, the majority of the cases come from the mid-1990s or later.

The third significant feature of the materials is the systems perspective shared with the *Secured Credit* book and the *Law of Debtors and Creditors* casebook by Elizabeth Warren and Jay Westbrook (and now *Payment Systems and Other Financial Transactions* by Ronald Mann). That perspective emphasizes the institutions and mechanisms that market participants use to conduct their transactions. That perspective is furthered in the sales material in at least three ways: (1) I conducted over three dozen extensive interviews with players in the sales system and incorporated the findings of those interviews throughout the material; (2) The material includes a number of provisions from actual sales documents and forms, which should help to give students a feel for how the system works in practice; (3) Newspaper excerpts are included in some of the assignments to give illustrations of how the sales system affects real people in the real world.

In addition, this book's coverage of sales systems encompasses not just the domestic sale of goods, but also leases, international sales, and real estate sales. These latter three systems are similar in many respects to the domestic sale of goods system, but there are some important differences that are explored in several of the assignments.

This book's goal at all points is to provide students with two things: the ability to see the grand structure of the existing systems that are covered in this book, and the ability to pick up and use new systems that develop in the years to come.

Daniel L. Keating

November 2005
St. Louis, Missouri

Acknowledgments

Just as with the first two editions of this casebook, I owe a debt of gratitude to a number of people who made helpful comments on the book. First, a special thanks to Michael Greenfield, David Snyder, Stephen Ware, and Stephen Sepinuck for their many, many useful comments on the second edition of the book. I also received very valuable advice and guidance regarding the second edition from the following individuals: Ken Kettering, Keith Rowley, Rod Shkolnick, and Michael Borden.

I do not want to forget all of the help I received previously from professors who used the casebook in its first edition. As to that edition, I received a dozen or more helpful suggestions from each of the following users, and I still wish to express my gratitude to them: Michael Greenfield, Alexander Meiklejohn, Stephen Sepinuck (who also generously agreed to share his "Active Learning Exercises" for use in my Teacher's Manual), and Paul Shupack (with whom for one semester I had at least weekly e-mail communication about his use of the book).

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Sales

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