

Secured Transactions and Suretyship

1. Assume you are the creditor in each of the following situations. Identify the kind of security agreement that is involved in each transaction and explain how you would perfect that agreement.
 - a. You are the creditor (Everby Bank), and you lend Brisco Gaines \$5,000 for a sound system.
 - b. First Bank loans Doris \$10,000 to purchase inventory for her store.
 - c. First Bank loans Brad \$5,000 to purchase a computer for use in his store office.
 - d. Kevin needs cash for gambling debts. He brings in his CD player to secure a \$500 loan.
2. First Bank loaned \$100,000 to Central Office Supply Store to purchase computers for its inventory. Central signed a financing agreement, which First Bank duly filed in the appropriate public office. Lynn came into Central's store and purchased a computer that was subject to the security interest held by First Bank. Assuming that Lynn is a buyer in the ordinary course of business, whose interest in the computer has priority?
3. Mr. Chickilini is a surety for Wayne on a debt owed to Melvin. If Wayne fails to pay, what is Mr. Chickilini's defense to avoid payment of the debt?
4. Karl loaned Linda \$100,000. Madeline agreed to act as surety for \$100,000. Nora agreed to act as surety for \$75,000 and Orville agreed to act as surety for \$25,000. Linda later defaulted on the loan, and Karl is now demanding payment from Nora and Orville. What amount do Nora and Orville have to pay? If Nora and Orville pay, does Madeline have any obligation? Explain.
5. Thomas borrowed \$100,000 from First Bank, which asked that he both put up collateral and provide a surety. Consequently Thomas provided the bank with a security interest in his antique car collection and asked Victor to act as a surety. Victor agreed to do so and signed a surety agreement with the bank. Thomas made several payments on the loan and then asked First Bank for permission to sell three of his cars. First Bank agreed, but it never notified Victor of the sale of the collateral. Thomas then defaults on the loan. First Bank now wants Victor to pay the remainder of the loan. Must Victor pay? Explain.
6. Elmer agreed to act as the conditional guarantor of collection on a debt of \$50,000 that Fred owed to Gloria. Fred paid Elmer a premium to serve as surety. If Fred defaults on the debt, what are Gloria's rights against Elmer?
7. Diane, who is seventeen years old, purchased an auto from Elvira on credit. Florence agreed to act as surety and signed a written surety agreement. At the time of purchase, Diane specifically asked Elvira about the condition of the car's motor and was told that it had just been replaced with a new one and was in fine condition. This was blatantly untrue, because Elvira knew it was in terrible shape and would only last a short time. The auto has now stopped running and Diane refuses to make any more payments. Elvira is now proceeding against Diane and Florence. What defenses, if any, are available to (a) Diane and (b) Florence?