15.617, Spring 2004
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Lecture 19: 4/26/04

Guest Speaker: Matthew Furlong, Partner, Bingham McCutchen

80% Acct. Receivable
60% Inventory
55% Real Estate
45% Intel Prop
40% Equipment

Borrowing base sum: limits the amount a borrower can borrow at a given time.

Who is a creditor?
Anyone who is owed a money judgment
Lender: lends to the borrower
Can be voluntary or involuntary
Law doesn't make a distinction between someone who is injured and who has a claim, and someone who borrows.

Unsecured: unless creditor gets specific creditors claim they have no claim to assets.

Secured: given designated property creditors interest in an asset
Ex. Mortgage

- If value of a home goes down they owe you money.
- Ramification remedies available to two different types.
- Sec: repossession of asset: i.e. auto lender
- How do unsecured creditors get paid?
    1.) Once a creditor has a claim they have to go to court to prove it
    2.) Find out what assets the debtor has, and finds its worth
    3.) Another court order. So sheriff can seize assets.

Secured advantage:
1.) Priority
2.) In any bankruptcy or liquidation secured person gets priority over unsecured
3.) Lots of lenders charge on unsecured terms and get higher interest b/c there is no default. I.e. credit card.

Speaker talked about:
- Voluntary credit relationships
- Secured credit relationships

- a bond offering:

    - typically 5-10 month range
    - publicly held
    - favorable covenants
    - tight reign of borrowers
    - flexible pricing

2 basic kinds of bank loans:

a.) term loan: 1 lump sum of money and paid over time.
b.) revolver: designed to help companies with capital (like a credit card)

Nature of secured status

1.) attendant: granting of a security interest
2.) borrower grants lender a secured interest

- Attendant recognizes there is a voluntary act to give something to a creditor
    - Creditors and debtors should be aware
- 2nd perfection: step by which you put the world on notice of your "exalted status"
    - let people know you exist
    - How?
        - Uniform Commercial Code: uniform across all 50 states. Applies to personal type property. Filing of a 1 page document in Secretary of State's office. Applies to intangibles as well as tangibles.
            - Reduces transaction costs
- Different types of loans:
- Cash flow loans: made based on premise that they are going to be paid by on going cash flow of the business (i.e. student loan).
- Asset based loans: credit decides to extend credit is based on the value of assets owned by the business (or generated).
- Borrowing base: a way to capture value

Assets are assets that generate future cash flow.

SPE= special purpose entity.

Warehouse

- These are limitations where outside directors administer entities.
- Typically know one knows when a person writes off a loan that it will get bundled with other payments.
- Frequently invests demand credit enhancement
- For example: over-collateralization. Value of assets in SEC—value from securities.

- Asset-backed commercial paper: the duration of the instrument. Shortest term type of instrument (70-90 days). You match underlying assets you want to match it in such a way that you don’t have to constantly re-finance.
- Bankruptcy of seller.