Chapter X: Negotiable Instruments

Requirements & Types

Concept & Functions Of Negotiable Instruments

- A negotiable instrument is a signed written document that contains an unconditional promise or order to pay an exact amount, either on demand or at a specific future time, transferable by delivery or by endorsement
- A negotiable instrument can function as a substitute for cash or as an extension of credit.
- Example:
- > when a buyer writes a check to pay for goods, the check serves as a substitute for cash.
- ➤ When a buyer gives a seller a promissory note in which the buyer promises to pay the seller the purchase price within sixty days, the seller has essentially extended credit to the buyer for a sixty-day period.

Requirements Of Negotiable Instruments

Requirements	Basic Rules
Must Be in Writing UCC 3–103(6), (9)	A writing can be on anything that is readily transferable and that has a degree of permanence.
Must Be Signed by the Maker or Drawer UCC 1-201(39) UCC 3-103(a)(3), (5) UCC 3-401(b) UCC 3-402	 The signature can be anywhere on the face of the instrument. It can be in any form (such as a word, mark, or rubber stamp) that purports to be a signature and authenticates the writing. A signature may be made in a representative capacity.
Must Be a Definite Promise or Order UCC 3-103(a)(6), (9) UCC 3-104(a)	 A promise must be more than a mere acknowledgment of a debt. The words "I/We promise" or "Pay" meet this criterion.
Must Be Unconditional UCC 3–106	 Payment cannot be expressly conditional on the occurrence of an event. Payment cannot be made subject to or governed by another agreement.
Must Be an Order or Promise to Pay a Fixed Amount UCC 3-104(a) UCC 3-107 UCC 3-112(b)	An amount may be considered a fixed sum even if payable in installments, with a fixed or variable rate of interest, or at a foreign exchange rate.

Must Be Payable in Money UCC 3–104(a)

1. Any medium of exchange recognized as the currency of a government is money.

2. The maker or drawer cannot retain the option to pay the instrument in money *or* something else.

Must Be Payable on Demand or at a Definite Time UCC 3-104(a)(2)

UCC 3-108(a), (b), (c)

- Any instrument that is payable on sight, presentment, or issue or that does not state
 any time for payment is a demand instrument.
- An instrument is still payable at a definite time, even if it is payable on or before a stated date or within a fixed period after sight or if the drawer or maker has the option to extend the time for a definite period.
- 3. Acceleration clauses do not affect the negotiability of the instrument.

Must Be Payable to Order or to Bearer

1. An order instrument must identify the payee with reasonable certainty.

UCC 3–104(a)(1) UCC 3–109 UCC 3–110(a) An instrument whose terms indicate payment to no particular person is payable to bearer.

WHAT ARE THE PROBLEMS WITH THIS P.N.?

8,000\$

october22, 2018 Cairo

Three months after date I undertake to pay Mr. Lee the sum of eight thousands\$, upon presentation of shipment documents of the goods as per the agreement signed on January 4th, 2018.

To Mr. Lee

signed Mr. Bill Johns

Answer

• The present Promissory Note includes a condition concerning the payment which is "upon presentation of shipment documents of the goods as per the agreement signed on January 4th,2018" so it missed one of the features of a negotiable instrument which **should be based on an unconditional promise** or order to pay.

Types Of Negotiable Instruments

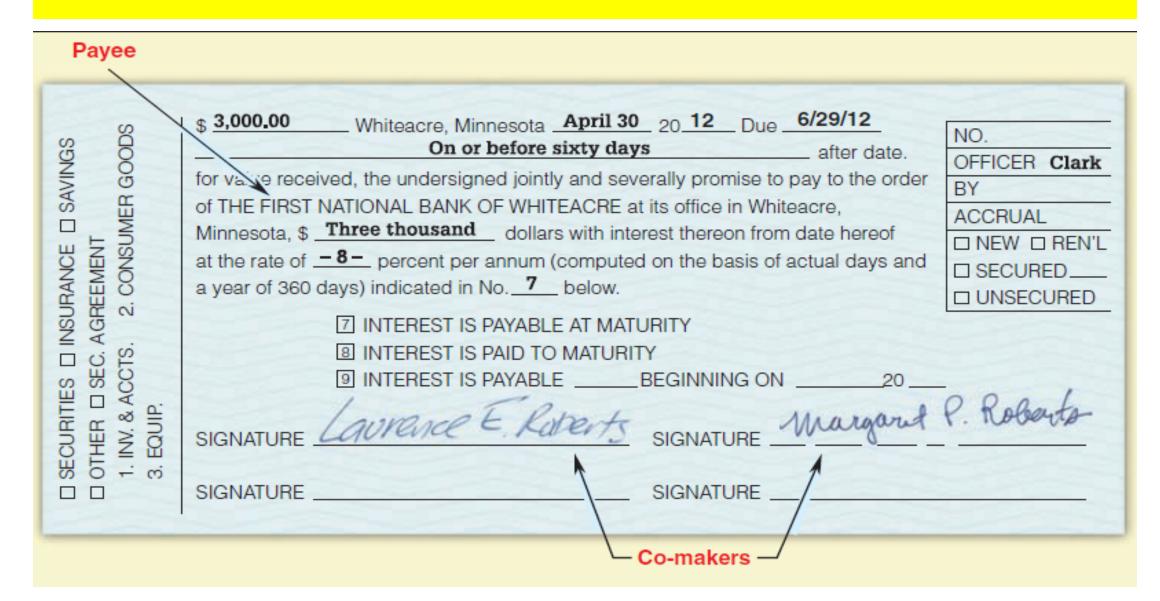
Types Of Negotiable Instruments

- 1. Drafts and Checks (Orders to Pay)
- 2. Promissory Notes (Promises to Pay)

1. Promissory Notes (Promises to Pay)

• A promissory note is an unconditional written promise made by one person (the maker of the promise) to pay another (usually a payee) a specified sum payable at a definite time or on demand.

Promissory Notes



2. Drafts or Bills of Exchange (Orders to Pay)

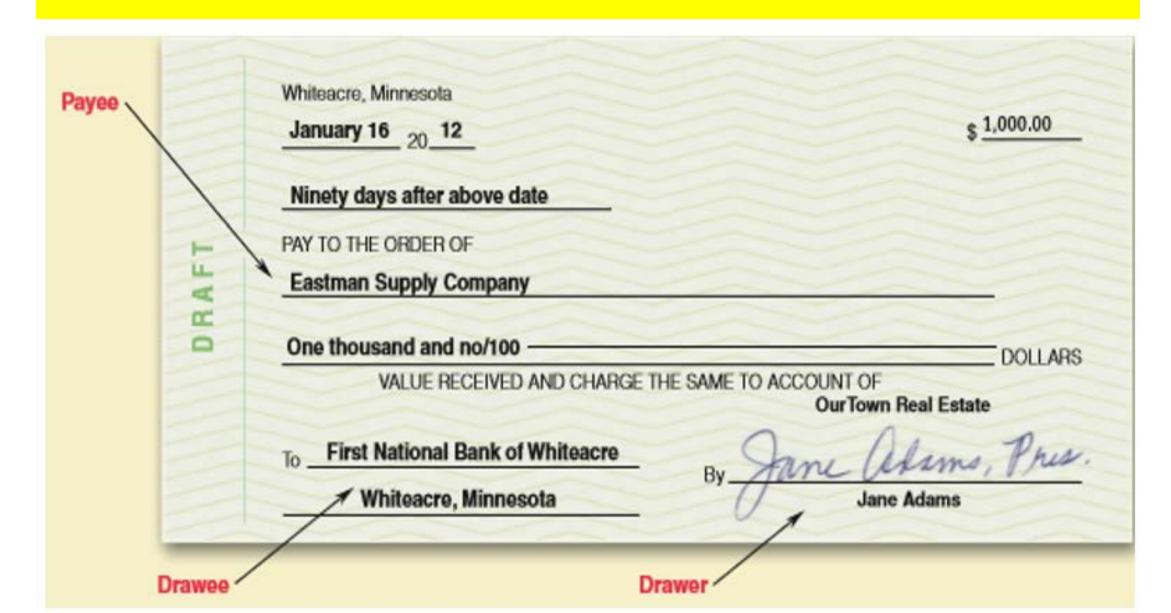
- A draft is an unconditional written order that involves three parties. The party creating the draft (the drawer) orders another party (the drawee) to pay money, usually to a third party (the payee).
- For the drawee to be obligated to honor the order, the drawee must be obligated to the drawer either by agreement or through a debtor creditor relationship.

Drafts (Orders to Pay)

• Types:

- 1. A time draft is payable at a definite future time.
- 2. A **sight draft** (or demand draft) is payable on sight—that is, when it is presented to the drawee for payment.
- 3. A draft can be both a time and a sight draft; such a draft is payable at a stated time after sight.

Draft



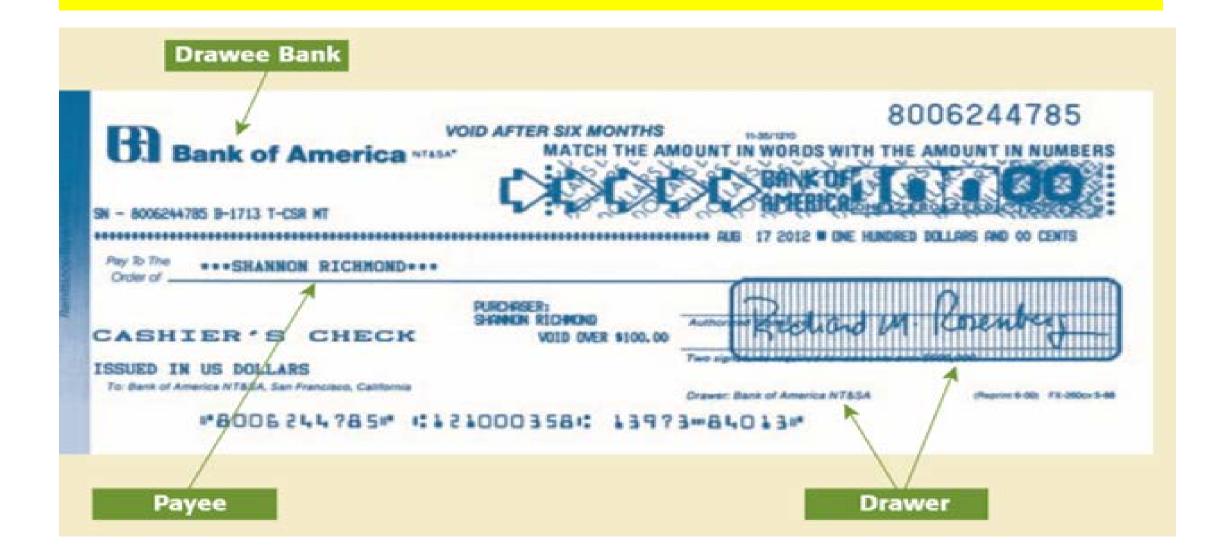
3.Checks (Orders to Pay)

- **Definition**: a check is a **draft drawn** on a specified **bank**
- TYPES:
- 1.Opened checks: paid by a bank upon presentation of the check to the payee or his order,
- **2.** Closed checks: paid by a bank upon presentation of the check to the payee only
- 3. Certified checks: indicates that a bank has verified a customer's signature and that it certifies that the appropriate amount of money is on deposit and earmarked for the payment of the check. A signature, stamp or some kind of marking shows the check is certified
- 4. cashier's checks: the bank is both the drawer and the drawee. The bank customer purchases a cashier's check from the bank—that is, pays the bank the amount of the check—and indicates to whom the check should be made payable. the bank has committed itself to paying the stated amount on demand.
- 5. Crossed checks

Checks (Orders to Pay)

- 4. Crossed checks: Check with two parallel transverse lines, with or without any words, drawn, on the top of the check where amount will be credited to any account and not directly at the counter of the bank.
- ➤ General Crossing: a check bears across its face two parallel transverse lines without specifying a bank name, so it may be credited to any bank account.
- ➤ Special Crossing: crossed by specifying bank name within the 2 parallel lines, so it should be credited to the mentioned bank account.
- >The crossing on a check cannot be cancelled

Check



INSTRUMENTS	CHARACTERISTICS	PARTIES
ORDERS TO PAY Draft Check	An order by one person to another person or to bearer [UCC 3–104(e)]. A draft drawn on a bank and payable on demand [UCC 3–104(f)]. (With certain types of checks, such as cashier's checks, the bank is both the drawer and the drawee—see Chapter 27 for details.)	Drawer—The person who signs or makes the order to pay [UCC 3–103(a)(3)]. Drawee—The person to whom the order to pay is made [UCC 3–103(a)(2)]. Payee—The person to whom payment is ordered.
PROMISES TO PAY Promissory note	A promise by one party to pay money to another party or to bearer [UCC 3–104(e)].	Maker—The person who promises to pay [UCC 3–103(a)(5)]. Payee—The person to whom the promise is made.