

Law 807. Banking Law, Spring 2010

Professor Elizabeth R. Schiltz
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Office Hours: Mon & Tues 2:00 – 4:00
and by appointment

SYLLABUS

1. ASSIGNED TEXTS

Casebook: The Law of Banking and Financial Institutions, 4th Ed., Carnell, Macey & Miller
Wolters Kluwer Law & Business (2009)

Statutory Supplement: The Law of Banking & Financial Institutions, 2008 Statutory
Supplement, Wolters Kluwer Law & Business

2. CLASS WEB-SITE. I will use the Blackboard site set up for this class to distribute announcements and supplemental material. **You are responsible for all information pertaining to this class that is posted on Blackboard.**

3. GRADING

a. CLASS PARTICIPATION. Active class participation throughout the semester is vital for successful learning in this class. I expect you to be prepared to discuss the materials assigned for each and every class. If you are not prepared for any particular class, please let me know before class starts.

I reserve the right to raise your grade by one step (e.g., from a B to a B+, or from a B+ to an A-) if you are consistently prepared for and willing to participate in the classroom discussion. **I also reserve the right to lower your grade by one step** (e.g., from a B to a B-, or from an A- to a B+) if you are frequently unprepared or absent. Before lowering a grade for lack of participation, I will send you one written warning, giving you a chance to demonstrate an improvement in participation.

b. PROBLEMS. During the course of the semester, I will periodically require the class to submit a written response to a problem in the Casebook. You may collaborate with other classmates in figuring the problem out, but must write your response by yourself. Your response should be between one to four paragraphs long, probably less than one page. You can submit your response by e-mail or hand it in at the start of class. Absence from class on either the day the assignment is announced, or the day it is due, is not an excuse; I will send an e-mail notice through Blackboard each time I assign a problem. I will assign problems 6 times during the semester, but you only have to turn in 5 of them. That means you can skip one assignment. If you turn in more than 5, I will drop the lowest score.

c. CURRENT EVENTS ASSIGNMENT. Sometime during the course of the semester, you are required to find an interesting article about some banking law topic in any publication, post it on-line in Blackboard (in the forum: Communications/Discussion Board/Current Events – Class Contributions) with a brief description, and spend a few minutes describing it to the class.

d. CONGRESSIONAL HEARING PROJECT. On the last two days of class, we will hold a simulated Congressional Hearing on some aspect of the financial reform proposals currently before Congress (and perhaps enacted during the semester). You will each be assigned the identity of a particular political or industry person, and will have to research his or her position on this issue, submit written testimony, and present oral testimony to the class.

e. FINAL EXAM. The final exam will be a two hour, open-book exam.

f. COMPONENTS OF FINAL GRADE. Your grade in this class will be calculated according to your performance on the five problems (each worth 5 points), your current events assignment (worth 5 points), your oral presentation and written testimony at the Congressional Hearing (worth 20 points) and the final examination (worth 50 points), with possible adjustment for class participation, as described above.

4. **ATTENDANCE.** According to American Bar Association accreditation guidelines, class attendance is required of all students. Poor attendance could adversely affect your final grade, as described above.
5. **USE OF OUTLINES AND NOTES.** You may not possess, read, or otherwise use any notes, outlines, or other materials that specifically provide solutions to the problems in the Casebook. The use of any such materials shall constitute a violation of the Academic Misconduct Policy. **In addition, I reserve the right to lower your grade as much as I deem appropriate if, in my sole judgment, you violate the letter or spirit of this rule.**
6. **ACCOMMODATIONS.** Qualified students with documented disabilities who may need classroom accommodations should make an appointment with the Enhancement Program – Disability Services office. Appointments can be made by calling 651-962-6315. You may also make an appointment in person in O’Shaughnessy Educational Center, room 119. For further information, you can locate the Enhancement Program on the web at <http://www.stthomas.edu/enhancementprog/>.
7. **RESERVATION OF RIGHTS.** I reserve the right to change these policies. If I do change any of these policies, I will apply the new policies prospectively only, and only after verbal or written notice to the class.
8. **COURSE OBJECTIVES**

- **Learning the fundamental principles of Banking Law.**
 - **Black Letter Law.**
 - **Banking Law as Administrative Law.**
 - **Developing the skills of finding and interpreting the governing law in a heavily regulated industry.**
 - **Developing an appreciation for how history and politics shape the law.**
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READINGS

Casebook: The Law of Banking and Financial Institutions, 4th Ed., Carnell, Macey & Miller
Wolters Kluwer Law & Business (2009), ISBN: 978-0-7355-5285-2

Statutory Supplement: The Law of Banking & Financial Institutions, 2008 Statutory Supp.,
Wolters Kluwer Law & Business, ISBN: 978-0-7355-7042-9

Ch. 1 Introduction and Overview

1/11 **Introduction.** (Please read the “Historical Overview” section of the casebook, 1-34, sometime before class on Jan. 20.)

1/13 **What Is a Bank? Introduction to Regulatory Structure.** 34 -- 71

[No class 1/18, Martin Luther King, Jr. Day]

Ch. 2 Getting Started

1/20 **Entry into Banking; Dual Banking System.** 73 -- 86

1/25 **Fundamental Changes; Interaction between Federal and State Law.** 86 – 105

Ch. 3 Banking Powers

1/27 **Enumerated and Incidental Powers.** 107 -- 127

2/1 **Real Estate and Securities.** 127 -- 151

2/3 **Insurance.** 151 – 176

Ch. 7 Consumer Protection & Basic Financial Services [NB: CHANGE IN ORDER OF TOPICS FROM BOOK'S ORDER]

2/8 **Usury; Introduction to Modern Consumer Protection Laws.** 335 -- 354

2/10 **MOVIE DAY!** Viewing of *The Card Game*. Background readings on web.

2/15 **Community Reinvestment; “Predatory” Lending and the Subprime Mortgage Crisis.** 357 -- 396

2/17 **Financial Privacy; Federal vs. State Laws; Lender Liability; Tying.** 396 -- 423

Ch. 4 Geographic Expansion

2/22 **Geographic Expansion.** 177 -- 203

2/24 **Antitrust, Part 1.** 203 -- 228

3/1 **Antitrust, Part 2.** 228 -- 250

Ch. 5 Safety and Soundness

3/3 **Capital Requirements and Prompt Corrective Action.** 251 -- 296

3/8 **Prudential Lending Rules.** 296 -- 308

Ch. 6 Deposit Insurance

3/10 **Deposit Insurance.** 309 -- 333

Ch. 8 Affiliations

3/15 **Transactions with Affiliates.** 425 -- 436

3/17 **Bank Holding Company Basics.** 437 -- 465

3/22 **Financial Holding Companies; Thrift Holding Companies; Affiliations with Nonfinancial Firms.** 465 – 485

3/24 **Subsidiaries of Banks.** 485 -- 494

[3/27 – 4/5, Spring Break]

Ch. 12 Examination and Enforcement [NB: WE SKIPPED A FEW CHAPTERS]

4/7 **Enforcement, Part 1.** 627 -- 657

4/12 **Enforcement, Part 2.** 657 – 691

Ch. 13 Bank Failure

4/14 **Receivership and Resolution.** 693 – 716 & 729 – 737

4/19 **CONGRESSIONAL HEARING SIMULATION.**

4/20 **CONGRESSIONAL HEARING SIMULATION.**