

Michigan Law Review

Volume 52 | Issue 1

1953

Sales - Uniform Trust Receipts Act - Strict Requirement of Accuracy in Designating Trustee in Filing Under the Act

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Recommended Citation

John W. Hupp S.Ed., *Sales - Uniform Trust Receipts Act - Strict Requirement of Accuracy in Designating Trustee in Filing Under the Act*, 52 MICH. L. REV. 161 (1953).

Available at: <https://repository.law.umich.edu/mlr/vol52/iss1/18>

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SALES—UNIFORM TRUST RECEIPTS ACT—STRICT REQUIREMENT OF ACCURACY IN DESIGNATING TRUSTEE IN FILING UNDER THE ACT—Plaintiff and E. R. Millen Co., Inc., entered into a financing arrangement whereby plaintiff agreed to finance the wholesale purchase of various types of electrical appliances by E. R. Millen Co., Inc. Plaintiff promptly recorded a statement of trust receipt financing setting forth that the plaintiff “is or expects to be engaged in financing under trust receipt transactions the acquisitions by the trustee, E. R. Millen Company.” The statement then designated the trustee’s business address. This trust receipts arrangement was in operation for about a year when E. R. Millen Co., Inc., made a general assignment of all of its property to the defendant for the benefit of its creditors. Plaintiff brought suit to obtain a declaratory decree as to its security interest in the electrical equipment turned over to defendant. The trial court ruled that the statement filed by the plaintiff did not comply with the recording provisions of the Uniform Trust Receipts

Act because the trustee's name was given as "E. R. Millen Company," instead of "E. R. Millen Co., Inc." Consequently, the plaintiff's security interest was void as against the defendant.¹ On appeal, *held*, affirmed. As a uniform law, the Trust Receipts Act should be strictly construed if the decisions in the several states are to be uniform, and exact compliance with the recording provisions is accordingly required in order to impart constructive notice to third parties.² *General Motors Acceptance Corp. v. Haley*, (Mass. 1952) 109 N. E. (2d) 143.

The principal case is believed to be the first that has dealt with the question of the degree of accuracy needed in designating the trustee's name in order to comply with the recording requirements of the Uniform Trust Receipts Act. However, a somewhat analogous problem has frequently been presented by cases involving the adequacy of the description of personal property in the recordations of conditional sale contracts and chattel mortgages.³ In general, the decisions in these cases reflect a less stringent attitude with respect to the need for accuracy and completeness than is represented by the decision in the principal case. While many cases can be found where a description has been held defective because it is either inaccurate⁴ or incomplete,⁵ there are also numerous cases which have upheld descriptions that are inaccurate in some respect⁶ or are to a considerable extent incomplete.⁷ For the most part

¹The critical statutory provisions read as follows: "If the entruster within the period of thirty days specified in subsection 1 of section eight files as in this chapter provided, such filing shall be effective to preserve his security interest in documents or goods against all persons, save as otherwise provided by sections eight to eleven, inclusive, fourteen and fifteen." Mass. Laws Ann. (1952 Supp.) c. 255A, §7. "Any entruster undertaking or contemplating trust receipt transactions with reference to documents of goods . . . may file with the state secretary a statement, signed by the entruster and the trustee, containing: (a) A designation of the entruster and the trustee, and of the chief place of business of each. . . ." Mass. Laws Ann. (1952 Supp.) c. 255A, §13.

²With the adoption of the Uniform Trust Receipts Act by Michigan in 1952, Mich. Comp. Laws (Mason, 1952 Supp.) §§555.401 to 555.419, the act is now in force in twenty-eight states. The other states that have adopted the act are Alabama, Arizona, California, Connecticut, Delaware, Idaho, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Washington, and Wyoming.

³Cases collected in 65 A.L.R. 714 (1930). A related problem is also presented where the applicable statute requires the inclusion of all conditions or terms of the conditional sale contract in the recording instrument. Some of the cases indicate that the statute will be strictly construed and applied with respect to questions of accuracy and completeness. See *Standard Acceptance Corp. v. Connor*, 127 Conn. 199, 15 A. (2d) 314 (1940); *Rhode Island Hospital National Bank v. Larson*, 137 Conn. 541, 79 A. (2d) 182 (1951); *Brunswick-Balke-Collender Co. v. Thomas*, (2d Cir. 1945) 151 F. (2d) 892.

⁴*Shearer v. Housch*, 32 Ga. App. 663, 124 S.E. 356 (1924); *Trapani v. Universal Credit Co.*, 151 Kan. 715, 100 P. (2d) 735 (1940).

⁵*A. Y. McDonald Mfg. Co. v. Read*, 210 Minn. 232, 297 N.W. 739 (1941); *International Harvester Co. v. Champlin Refining Co.*, 153 Kan. 414, 110 P. (2d) 779 (1941); *Empire State Chair Co. v. Beldock*, (2d Cir. 1944) 140 F. (2d) 587.

⁶*G. A. Crancer Co. v. Cooper*, 98 Neb. 153, 152 N.W. 304 (1914); *MacCallum-Donahoe Finance Co. v. Warren*, 122 Wash. 176, 210 P. 368 (1922); *Huber v. Cloud*, 102 N.J. 181, 130 A. 562 (1925); *C.I.T. Corp. v. DeGraff Lumber Co.*, 194 Minn. 169, 259 N.W. 807 (1935).

⁷*Gould v. Huff*, 130 Me. 226, 154 A. 574 (1931); *In re Central Park Dairyland*,

these cases are reconcilable and taken together support the frequently stated proposition that a description is satisfactory if it will enable a third person to identify the property from an inspection of the public records and such reasonable inquiry as the recording instrument itself suggests.⁸ It has been said that the reason for this rule rests in the frequently inherent difficulty of adequately describing personal property.⁹ If this explanation is correct, it is not surprising that a more stringent rule should prevail in the trust receipts situation. There could hardly be any unusual difficulty in accurately and adequately designating the name of the trustee. However, the fact that the reason for the lenient rule in the chattel mortgage and conditional sale cases is not applicable to the trust receipts case does not necessitate the adoption of a rule that one hundred percent accuracy should be required in the latter situation. Undoubtedly the decision in the principal case was prompted in part by the difficulty of formulating a clear and meaningful standard for separating inaccuracies which would actually be insignificant from those that might reasonably mislead third parties. By the position taken in the principal case, the Massachusetts court has established a rule which achieves a high degree of certainty in application. Uniformity of decision in the several states is, of course, aided by a fixed and certain rule. However, the question remains whether the court in the principal case did not pay too high a price in terms of a common sense result for the certainty which the decision achieves.¹⁰ In any event, the decision sounds a sharp warning with respect to the care that should be taken in filing under the Trust Receipts Act.¹¹

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37 N.Y.S. (2d) 270 (1942); *Genger v. Albers*, 90 Cal. App. (2d) 52, 202 P. (2d) 569 (1949).

⁸ *G. A. Crancer Co. v. Cooper*, note 6 *supra*; *Gould v. Huff*, note 7 *supra*; *A. Y. McDonald Mfg. Co. v. Read*, note 5 *supra*; *International Harvester Co. v. Champlin Refining Co.*, note 5 *supra*.

⁹ 65 A.L.R. 714 at 718 (1930); *In re Brownsville Brewing Co.*, (3d Cir. 1941) 117 F. (2d) 463 at 466.

¹⁰ The following comment has been made in answer to the contention that the Uniform Conditional Sales Act should be subjected to a highly technical construction: "While, of course, as appellee contends, the statute must be strictly construed, it must also be construed with common sense." *York Ice Machinery Corp. v. Kearney*, 344 Pa. 659 at 662, 25 A. (2d) 179 (1942).

¹¹ For a general discussion of the problem of recording under the Trust Receipts Act, see *Carter*, "The Trust Receipt and the Problem of Recordation or Notice Filing," 1951 WASH. UNIV. L.Q. 30 (1951).