

UNIVERSITY OF TENNESSEE
COLLEGE OF LAW

CONTRACTS II

Professor Cook

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CODE OF ACADEMIC CONDUCT

The Code of Academic conduct forbids any student enrolled in the College of law from committing an act of academic dishonesty and admonishes that all work should be done in full compliance with both the spirit and letter of the code. Further, students enrolled in the College of Law who know of acts of academic dishonest committed by another student enrolled in the College of Law are expected to report such acts to the Dean.

Instructions

This is a closed book exam. Three hours are allowed. The time limit will be strictly enforced in fairness to all those taking the examination. Please return this examination.

Part III of this examination is subject to the provisions of the Uniform Commercial Code. There may be non-UCC issues as well. The potentially pertinent provisions of the Code appear in an appendix to this examination.

I.

(Approximate time: 60 minutes, 30 minutes per part)

A

Barry (“The Bullet”) Clemente has a clause in his contract with the Blue Sox baseball franchise entitling him to a \$5 million bonus should he win 30 games during the season. Upon winning his 29th game, the club owner, Miser McGraw, directed the manager to remove Barry from the lineup for the remainder of the season. McGraw told the media that the action was prompted by an ongoing investigation by the Commissioner of Baseball of the use of performance enhancing drugs by players, in which Barry was implicated. Barry adamantly denied the charge, has never failed a random drug test, nor been sanctioned for violating any league rules. He continued to receive his regular compensation of \$20 million for the year. With over a month remaining in the season, it would appear inevitable that Barry would get his 30th win, and quite likely a few more. Does Barry have a valid cause for breach? Consider all issues. Assuming he does, to what remedy would he be entitled? Explain.

B

Stafford and Hatley signed the following agreement on Sept. 1, 2006:

Stafford agrees to rent to Hatley until Sept. 1, 2007, 50 acres at \$50 per acre for the purpose of growing wheat, with the following condition: Stafford Farm shall have the right to buy out Hatley at a figure of his cost per acre, but not to exceed \$70 per acre. This buy out is for the purpose of developing Mobile Home Park.

In June of 2007, Stafford received an unsolicited offer from a petroleum company to purchase five acres of the tract for the construction of a service station and truck stop. Stafford notified Hatley that it was exercising its buy out right, entered the property and destroyed the immature wheat crop. Stafford paid Hatley \$70 per acre.

Hatley sues for breach of contract, contending that the parties had an oral understanding that the buy out proviso would apply only for the first 60 days of the agreement. He contended further that at the time of the buy-out, in addition to the \$50 per acre rent, he had expended \$50 per acre in seed and fertilizer and, moreover, that the mature wheat crop would have sold for \$400 per acre. Discuss all issues.

II.

(Approximate time: 60 minutes, both parts, parts not of equal value)

A.

Don Imanass, New York radio talk show host, was fired after making derogatory and racist comments about the Rutgers women's basketball team. The comments were constitutionally protected, and the radio station had received no sanction, admonition or warning from the FCC. Imanass was fired solely because of public outrage and the station's interest in protecting its own image. The station tendered to Imanass a check for \$75,000, which was the balance of his salary for the contract period. Imanass cashed the check but sued the station for \$500,000 for "lost publicity" during the six months the contract entitled him to be on the air, which would have led to compensated speaking engagements, product endorsements, etc. Does he have a case? Discuss all issues.

B.

Agnes (A) agreed to sell her yacht to Beth (B), in exchange for which B agreed to pay a total of \$15,000 as follows: \$5,000 to Christie (C) to discharge A's gambling debt; \$5,000 to Debra (D) as a gift; \$5,000 to Elaine (E) to discharge a pre-existing debt for a plasma TV.

(1) C, D and E have each demanded payment from B, but B has refused to pay each. To C, she says that gambling debts are legally unenforceable; to D she

says that gifts are unenforceable; to E she says the sale was fraudulent, because the TV delivered to A was not a plasma TV. Should any of the three recover against B? Explain.

(2) (For purposes of this question, do not assume the facts included in (1) above.) A and B rescinded their agreement described in the first paragraph above, and B paid A \$15,000 for the yacht. Prior to the rescission, C brought an action against B, D purchased a nonrefundable air fare to Europe for \$3,500, E had told A that she would accept payment of the debt by B. Should any of the three recover against B? Explain.

(3) (Assume for purposes of this question that B successfully fends off all claims by C, D and E). C, D and E each sues A for \$5,000. Again, D has a nonrefundable air fare for \$3,500, but because air fares have continued to go up, she can find a buyer willing to pay more than that for it. Should any of the three recover against A? Explain.

(4) Fiona (F) pays D \$4,000, for which D assigns F her rights under her contract with the air carrier for the flight to Europe. When the carrier discovers that F is not the party named on the ticket, it refuses to allow her to board the plane, citing small print on the reverse of the ticket: "Any privilege granted to the purchaser of this ticket cannot be assigned without the consent of the carrier." Can F recover against the air carrier? Against D? Against B? Explain.

III.

(This Part is subject to the Uniform Commercial Code; potentially pertinent sections are included with the examination.)

(Approximate time: 60 minutes, both parts)

A.

Hillary (H) entered into an agreement with Bayrock Motors (B) for the purchase of a used luxury sedan previously owned by Elvis for \$30,000. The vehicle was identified in the contract, which specified that the odometer reading was 24,326 miles. The day after the agreement was signed, H read in the local newspaper that B had been accused by an unspecified number of buyers of rolling back odometer readings, thereby misrepresenting prior use. The story indicated that a state regulatory agency planned to investigate the charges. H thereupon e-mailed the sales manager of B demanding proof that the odometer of the vehicle in question had not been tampered with. The latter responded that Bayrock never altered odometer readings, and that it would be fully exonerated by the investigation. Not considering this an adequate response to her concerns, H refused to go through with the purchase. The vehicle was promptly sold to a collector, who was attracted solely by the identity of the previous owner, for the same price. B sues H for breach. What result and why?

B.

Presidential candidate Changeo agreed to purchase 10,000 American flag

lapel pins from Flagwavers, Inc. for \$1 apiece. Time being of the essence in political campaigns, the contract required that the pins were to be delivered no later than May 1. After placing the order, Changeo was told by a political flunkie campaign worker, Georgie Stefobnoxious, that the pins could be purchased from PatriotPins for \$.50 each. On May 1, a shipment arrived by common carrier from Flagwavers, and Georgie stayed up all night examining the contents of one of ten boxes, each containing 1,000 pins. While most complied with the contract terms, Georgie found: 3 Iranian flags, 6 Kucinich for President pins, and 1 reading "I like Ike." When Georgie informed Changeo of his findings on the morning of May 2, Changeo immediately notified P that the goods were being rejected. Flagwavers responded that the shipment included an extra 200 pins, which would more than offset any irregularities. Changeover neither returned the pins nor paid for them, and Flagwavers sues for the contract price. What result and why?