

Dickinson
CONTRACTS I
Fall 1990

Question 1

Maude owned a house and all of the furniture and appliances in it. When she decided to move to a retirement community in Florida, she offered to sell the house to Rob, a local real estate developer, for \$50,000, and to sell all of her furniture and appliances to Zeke, a former neighbor who had just bought a house of his own, for \$10,000. On May 1st she signed contracts with each providing that she was to turn over the property on June 5th.

Unfortunately, Maude had a change of heart. On June 1st, she wrote Rob and Zeke informing them that she would not follow through with the contracts. She closed with the following: "I know that I have caused each of you disappointment but hope that each of you will understand how hard it would be for me to part with the few possessions I have that remind me of my wonderful life."

Rob and Zeke were furious. Rob had already signed a contract to sell Maude's house to a new family for \$60,000, with the closing set for July 1st. Zeke was scheduled to move into his new home on June 6th, and had not even looked for other furniture and appliances because of his contract with Maude. When he called furniture and appliance stores, he was told they could not deliver before July 15th and that the cost of furniture and appliances equivalent to Maude's would be at least \$15,000.

On June 4th, Rob and Zeke each filed an action against Maude for breach of contract. In her answer, Maude conceded the validity of both contracts. What is the appropriate remedy in each case? Explain your answer fully.

Question 2

Acme Aircraft called Barney Ball Bearings and asked for a quote on 5/8-inch stainless steel ball bearings. Barney's salesman responded that the price was 70 cents each in lots of 1,000. Two days later, Barney received a purchase order from Acme for 10,000 such ball bearings, delivery to be within 30 days from the date of the order. There were no further communications between Barney and Acme. On the 21st day after the order, Barney's truck delivered the 10,000 ball bearings to Acme's receiving department.

When Barney sent Acme a bill for \$7,000, however, Acme's purchasing director refused to pay it unless the price was greatly reduced. It seems that intense competition in the ball bearing industry developed between the time Acme sent its purchase order and the time Barney shipped the order, causing the price to fall from \$700 to \$100 per thousand. Accordingly, Acme's purchasing director offered to settle the bill for \$1,000, Barney refused and filed an action against Acme for \$7,000. During trial, Barney's attorney relied on the purchase order as establishing the appropriate price, Acme's attorney responded by pointing out that the boiler plate on the back of Acme's purchase order provided, in part, "This order shall be effective when accepted in writing, and not before." Who will win and why?

Question 3

Following extensive discussions, Henry, a self-employed painting contractor, received a letter from the owner of The Jolly Roger Bar and Grill asking him to paint the interior of her establishment. The letter stated that the price was to be \$1,250 and the job was to be done in 14 days. Henry responded with a "Work Order" accurately describing the work, the price and the completion date. The back of the form was filled with boiler plate, however, including a

provision adding \$5 per mile for "extraordinary travel costs" on jobs more than 15 miles from Henry's shop. As luck would have it, The Jolly Roger is 30 miles from the shop. Nothing further was said as to this matter by either party, however.

Henry's crew bought 27 gallons of paint in the colors specified (for \$16 per gallon), which they applied to the walls and ceilings of the Jolly Roger within the time specified. When Henry's sent a bill for \$1,325 (\$1,250 for the work, and \$75 for "extraordinary travel expenses"), Jolly's owner declined to pay the additional \$75 and sent a check for \$1,250 instead, which Henry's deposited in its checking account. Ultimately Henry's sued The Jolly Roger for the \$75, alleging breach of contract. Who will win and why?

Question 4 (15 minutes)

John approached Mary about hiring him as a gardener. She was receptive and offered John \$150 per week and a servant's room in her guest house. Since John already had an apartment of his own, he said, "Thank you, ma'am, but I'd prefer to make my own housing arrangements, if you could just see your way clear to improving the pay a little."

Mary said, "I have such a small place, I really don't think I could pay more than that. I'll think about it, however, and let you know in the morning."

Next morning, Mary decided that she could not afford to pay John any more than \$150 per week. Therefore she called Westerly's Nursery and arranged for them to do her gardening for the season. In the meantime, John changed his mind and decided to accept Mary's offer of \$150 plus housing. He therefore called his landlord and arranged to surrender his apartment.

Later when Mary called John to break her bad news, before she could say anything, John blurted, "I'll take the job on your terms, when do you want me to start?" Mary quickly informed John that she had made other arrangements. As soon as they were off the telephone, John called his landlord to see if he could keep the apartment but, unfortunately, a new tenant had just signed a lease. Now both jobless and homeless, John sues Mary alleging breach of contract. Who will win and why?

Question 5

Stevens, who lives near Dayton, owns a beautiful matched pair of Tibetan yaks. Bliss, a former circus lion tamer, has distinguished himself as one of the finest animal trainers in the world. On May 30th, the two signed a contract under which Bliss was to care for, feed and train the yaks during the month of July at his camp outside Council Bluffs, Iowa. In return, Stevens gave Bliss a \$3,000 deposit in cash and promised to pay him another \$7,000 at the end of the four weeks.

Unfortunately, when Stevens and her yaks arrived at Bliss' camp on June 30th, Bliss informed her that he did not have time to "mess" with her yaks, and thus would be unable to comply with the contract. Stevens was not only mad at Bliss for having broken his promise, but heartbroken at the prospect of having untrained yaks. So, on the way home, she stopped by the livestock auction in Des Moines (which occasionally sells exotic animals), and sold the pair for \$12,000. An action by Stevens against Bliss for breach of contract followed.

At trial, all of the above was proven or stipulated. In addition, Stevens proved that she had spent \$2,500 to rent a truck to deliver the yaks to Bliss' camp. She also introduced testimony that there is only one other yak

trainer in the United States, and he lives in California (which would have added \$1,500 to the transportation bill) and would have charged \$14,000 for the same four weeks of training.

In his defense, Bliss' lawyer showed that the yaks would have eaten \$250 worth of fruits and vegetables during their stay at his camp. He also showed that on July 1st another pair of trained yaks were sold by the Hoboken, New Jersey Zoo for \$16,000. Thus, Bliss' lawyer argued, Stevens would not have recouped the value of the training and he, in fact, saved her money. Assuming the court finds for Stevens, what remedy? Explain your answer fully.