

CONTRACTS
Professor John Orcutt
Fall Semester 2008
MIDTERM QUIZ – IN CLASS

INSTRUCTIONS:

1. This is a closed-book examination. You may not bring any materials to the examination with the exception of ESL students who are allowed to bring and use a Home Language/English dictionary.
2. This is a 1-hour examination and is worth 60 points (or 10% of your final grade). The examination consists of two essay questions:
 - Question 1 = 30 points
 - Question 2 = 30 points

It is your responsibility to apportion your time appropriately amongst the questions. If you base your time on the possible points per question, the time apportionment should be:

- Question 1 = 30 minutes
 - Question 2 = 30 minutes
3. The grading of examinations is anonymous. So, you must write your examination number on the examination and your blue book. **YOU MAY NOT WRITE YOUR NAME ON ANYTHING – YOU MAY ONLY USE YOUR EXAM NUMBER.**
 4. Please write your answers in a blue book. The only answers that will be graded are the answers written into a blue book. While you are free to use scratch paper, answers written on scratch paper, or anything else other than a blue book, will not be read and will not be counted for any credit. Please write only on the front side of the pages in the blue book. Please remember that organization, persuasiveness, neatness and legibility all count in determining your grade on the essay answers. To improve the organization of an answer, you may wish to quickly outline the answer on a separate sheet of paper prior to writing your full answer in the blue book.
 5. I have tried my best to write and proofread the exam so that there are no distracting typos or other errors – but, I may not have been totally successful. If you believe there is a typo or other error that makes it difficult to answer a particular question, please provide your best answer and explain any assumption you used to answer the question.
 6. For those of you who are taking this exam on a laptop computer, the above rules are modified to permit usage of a laptop and are supplemented by the laptop exam rules that are provided to you by the Registrar.

Good luck on the examination!

DO NOT TURN TO PAGE 2 UNTIL THE PROCTOR TELLS YOU TO BEGIN

QUESTION NO. 1 (30 points possible – 30 minutes suggested):

At the start of the semester, Professor Romo announced to his class that he wanted to provide them with some additional motivation to prepare for his midterm. He announced that he would pay \$1,000 to the student who received the highest grade on his Contracts midterm exam. Hearing that offer, a number of Professor Romo's students purchased extra study aids for the course and told Professor Romo that they would be studying extra for his exam.

Shortly thereafter, the Dean of the law school told Professor Romo that she had been receiving complaints from many of the other 1L law professors about the lack of study on the part of their students. Apparently, the students were concentrating their efforts almost solely on Contracts. The Dean also stated that she felt that Professor Romo's offer could be interpreted as a violation of school policy. Professor Romo stated that, while he still wished to perform on his agreement, he would respect the Dean's wishes. Roughly one week prior to the exam, Professor Romo sent the following e-mail to all members of his class:

I am sorry, but I have to call off the \$1,000 prize for the student who receives the highest grade on the midterm. I have been told by the Dean that the \$1,000 prize has been disruptive to your learning in other classes and that the prize may violate school policy. Again, I am sorry, but there will be no \$1,000 prize.

Jessica ended up receiving the highest grade on Professor Romo's midterm and now demands that he pay her the \$1,000 prize. Jessica claims that she entered into a binding contract with Professor Romo. When Jessica made her demand for the \$1,000 payment, Professor Romo provided the following curt reply:

"Jessica, I thought you were a better contracts student than that. You should know that my prize offer was a 'donative promise.' You should realize that I owe you nothing."

Please analyze whether Professor Romo is required to pay Jessica the \$1,000 prize.

QUESTION NO. 2 (30 points possible – 30 minutes suggested):

Harold Lee began working for White Castle, Inc. (a start-up company that develops organic pharmaceuticals) roughly three years ago. Since commencing with White Castle, Harold has quickly climbed the corporate ladder and is now the company's Treasurer. In December 2007, Harold met with with Kumar Patel (the President of White Castle) for Harold's year-end employment review. At the review, Kumar told Harold the following:

“Harold, you are one of White Castle's most valuable employees. I can't thank you enough for all that you have done for our company over the last three years. That work you did this year on the Cheetah account was fantastic. Without your work, there is no way that we would have earned that \$10 million account. I'd like to pay you a bonus to thank you for that work. You've really earned it. Because the company is a little short on cash this month, White Castle can't pay you the bonus immediately, but instead will provide you with a \$100,000 promissory note.”

At that point, Kumar handed Harold the following promissory note:

December 15, 2007: In recognition of Harold Lee's commendable work on the Cheetah account during October and November 2007, White Castle, Inc. hereby promises to pay Harold Lee \$100,000 on March 15, 2008.

The note was duly signed by Kumar in his capacity as President of White Castle.

On March 15, 2008, Harold asked Kumar when he would be receiving the \$100,000 bonus. Kumar replied as follows:

“I'm so sorry, but White Castle's financial position has gotten worse, not better. As a result, White Castle has decided not to pay the \$100,000 bonus. You can tear up the promissory note, because we won't be paying it.”

Harold responded:

“You can't do that. I just bought a new house because of that \$100,000 bonus. I would have never bought the house without the bonus.”

Harold would like to be paid the \$100,000 and has asked for your advice on whether White Castle is required to honor its promise from the promissory note. Please analyze.

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