

**CONTRACTS**  
Professor John Orcutt  
Fall Semester 2009  
**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 three essay questions:  
Q1 = 17 points                      Q2 = 18 points                      Q3 = 25 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:*

Q1 = 17 minutes                      Q2 = 18 minutes                      Q3 = 25 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 (17 points possible – 17 minutes suggested):**

Jay and Bob are long-time friends. The recent recession hit Jay hard. He lost his job and struggled to find a new job. Luckily for Jay, Bob has been around to help. Bob gave Jay \$1,000 per month for the last ten months (or a total of \$10,000), which really helped Jay to get by. Jay recently got a job, and now wants to pay Bob back. Jay prepared the following promissory note:

“Dated October 1, 2009:

To Bob,

Effective June 1, 2010, I promise to pay you \$10,000 upon demand. Thank you for your help for the last ten months.

[Signed] Jay”

Jay and Bob would like for the promissory note to be enforceable and have asked for you to look at it. Please advise the parties on what, if anything, they should do to ensure the enforceability of the promissory note.

**QUESTION NO. 2 (18 points possible – 18 minutes suggested):**

Siegfried raises various exotic animals. One of Siegfried’s most prized animals, a white tiger named Montecore, was stolen from Siegfried. Siegfried desperately wanted to recover the animal, so he did two things:

1. Siegfried listed Montecore on a national stolen animal advisory list; and
2. Siegfried published an award announcement in a number of newspapers that stated he would pay \$50,000 to the person who returned Montecore to him.

Roy is a wholesaler of exotic animals, including tigers. An individual (who has since disappeared) tried to sell Montecore to Roy. Because this individual did not have the proper licenses and other paperwork for selling a tiger, Roy assumed that Montecore had been stolen. Roy confiscated Montecore and checked the stolen animal advisory list. Roy quickly realized that Montecore belonged to Siegfried and returned the tiger to him.

Three days after returning Montecore to Siegfried, Roy first learned of the reward for returning the tiger. Roy contacted Siegfried and demanded the \$50,000. Siegfried has refused to pay Roy the \$50,000.

Please analyze whether Roy is entitled to the \$50,000 payment.

**QUESTION NO. 3 (25 points possible – 25 minutes suggested):**

GenCo (a general contractor) was bidding on a large construction project to build a 3-story office building (the "Project"). The general contractor bids for the Project were due by 1:00 p.m. on September 1<sup>st</sup>. As part of the process for calculating its general contractor bid, GenCo solicited bids from a number of different subcontractors, including three different plumbers. The three plumbers were asked to submit a bid for the plumbing work by 1:00 p.m. on August 31<sup>st</sup>. The three plumbers submitted the following bids:

- Sub 1 = \$1.7 million
- Sub 2 = \$1.5 million
- Sub 3 = \$1.8 million

GenCo used Sub 2's bid for purposes of calculating its general contractor bid. On September 2<sup>nd</sup>, the president of GenCo (Jim) ran into the president of Sub 2 (Mary), at which time they had the following conversation:

Jim (GenCo President): I was really impressed by your bid. We used your bid to generate our general bid.

Mary (Sub 2 President): That is great to hear. We're looking forward to the Project.

On September 6<sup>th</sup>, GenCo was awarded the general contract for the Project. While GenCo used Sub 2's bid when calculating its general bid, GenCo decided not to use Sub 2 on the Project. GenCo decided to use Sub 3, a company with whom GenCo has worked on numerous occasions in the past. When Mary got the news that Sub 2 was not being used on the Project, she immediately called you to look at the matter. Mary provided you with the above information and raised the following issue:

I was a law student before starting this plumbing business. I am pretty sure that when GenCo used our bid for the general bid, GenCo formed a binding contract with Sub 2.

Please analyze whether GenCo formed a binding contract to use Sub 2 for the Project. When conducting your analysis, please address the issue raised by Mary.

**\* \* \* \* \* END OF EXAM \* \* \* \* \***