

CONTRACTS 2010
PROFESSOR BOYD
ISSUE OUTLINE
QUESTION 1

1. UCC or Common Law.
2. Was there a contract between Best and Strong?
 - a. Best's Communication of March 1, 2009 – an offer or a request for information? An offer, UCC only requires quantity.
 - b. Strong's response – Written acknowledgement.
 - c. Under UCC, an offer may be accepted by paying and/or shipping.
3. Terms of the contract.
 - a. UCC 2-207
 - b. Both merchants.
 - c. New/Different terms. But, acceptance conditioned on Buyer accepting the additional/new terms imposed by the seller. Question – is this language sufficiently specific to indicate that Strong is unwilling to enter a contract without acceptance of these new terms? Question – is requiring a response to express disagreement permitted i.e., is silence an acceptance?
 - d. If Best did not accept these new terms, is there a contract pursuant to UCC 2-207 (c)?
4. Defects in the trusses raises issues of the UCC warranties.
5. Harris – not an intended beneficiary as its interests were not contemplated when the Best – Strong contract was made.
6. Harris buys cover – UCC 2-712. Can recover $100 \times \$50 = \$5,000$.
7. Terms of Best- Harris contract. If Best accepted the new terms, new terms of Strong are enforceable. If Best did not accept the new terms, contract by UCC 2-207 (c) and new terms are thrown out and the contract consists of the agreed term and UCC gap fillers.

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QUESTION 2

1. UCC or Common Law?
2. Oral discussion with Mr. Greedy.
 - a. Was an offer made? Was it accepted? Was it an option contract? Was consideration given to make it enforceable? Pre-existing duty to pay.
 - b. Was this an offer for a bilateral or unilateral contract? If accepted by performance, i.e. make the payment, it is an offer for a unilateral contract.
 - c. Revocable? Generally, an offer can be revoked anytime before acceptance. But, Restatement 45 creates an option contract if performance had begun. The e-mail to Mr. Greedy put Mr. Greedy on notice that performance had begun.
 - d. Borrower's not required to send the \$12,000. Parties not required to perform a futile act. Planet had already foreclosed.
3. Promissory Estoppel. Restatement 90.
 - a. Promise made by Mr. Greedy.
 - b. Mr. Greedy would anticipate reliance.
 - c. Borrowers reasonable relied.
 - d. Created an injustice that required undoing.
4. Defenses.
 - a. Statute of frauds? Sufficient interest in land to be within the statute?
 - b. If inside the statute, would applying the statute to bar enforcement prevent or perpetrate a fraud? Should Planet be stopped from asserting the defense?