

School of Law  
University of Miami

**CONTRACTS – C**  
Fall 2010

**Mid-term EXAMINATION**

Professor Robert Rosen

This is an open-book exam, consisting of one question. You may bring any written material into the exam. You will be given forty-five minutes to write your answer to the question. In addition you will be given 15 minutes to read the exam and organize your answer.

You may refer to the named individuals by initials. You may assume that all transactions take place within the State of Euphoria, which has adopted the UCC without revision.

Credit will be given for organized, concise answers. Be clear and brief. Plan your answer before beginning writing. Avoid repeating yourself. You may incorporate by reference answers previously given. If you need to assume additional facts, please state what they are explicitly.

**Please write legibly, on only one side of the page, skipping lines.**

Good luck!

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22 year-old Noam was told by his mother, “Go visit your grandmother, Helen. She has something for you.”

Hoping that Helen was going to help him get the car for which he’d been asking, Noam spent \$75 on an arrangement of flowers for her. During the middle of their pleasant visit, eyeing the flowers, his grandmother asked Noam, “Those are certainly not an understatement. How much did you spend on them?”

As a gentleman, Noam replied, “Nothing is too good for my grandmother.”

To which Helen replied, “Don’t you know that you could have expressed the deepest love with a \$7 bouquet of flowers?”

To this question, Noam had no reply.

After a significant pause, his grandmother, Helen said, “We might as well get down to it. Take out what is in that drawer over there.”

Not believing his eyes, hoping that his dreams were about to be realized, he found in the drawer a toy Porsche.

Looking into his grandmother’s eyes, he heard her say, “You don’t have enough money to get both a good education and a Porsche. Get a good education and later in life one of your toys can be a real Porsche. Take this toy until then and if you buy a car for \$10,000, I’ll give you \$10,000.”

“If I don’t buy a Porsche, you’ll give me \$10,000 to buy a car?” Noam asked.

“Yes.” his grandmother replied.

Noam simply, but with great feeling, said, “Thank you.”

Soon after that, the visit ended and Noam went car shopping. He began looking at the \$10,000 price point, but he could not find anything there. Eventually, he found his car. It was a Toyota Supra and cost only \$25,000. He told the used-car salesperson, Sal, “I’ll buy it. Give me the papers. I’ve got to get my parents to co-sign. If you will hold the car for me for one day, I’ll see you tomorrow. I’ll go right home and I’m sure my parents will co-sign for me.” Sal said, “Let’s shake on it.” They shook hands. In addition to the papers, Sal gave Noam a neon license plate holder, which usually sells for \$29.95, and reads “Hot Sal’s” in flashing purple light.

On arriving home, Noam found a fax. On the letterhead of Sal's Used Cars Company, was the message, "This is to confirm that you have purchased for \$25,000, a Toyota Supra (#ABCD). You have promised to bring sufficient financing by close of business 8/31, the next day. If this is incorrect, please advise me immediately. I have another purchaser, who may not make as good a deal as you did, but I feel obligated to you."

Sal did indeed have another customer, Carl. Sal knew that it was 10 minutes to Noam's home from the car lot. It was now 3 hours after Noam left. It was an hour after he had sent Noam the fax. Carl, who had whittled Sal down to \$28,000, has just written on the negotiating form that he would pay \$26,000. Because of his obligation to Noam, instead of going down from his last offer, Sal told the other customer, "Carl, let's leave things here. Sleep on it and come back tomorrow."

Carl replied, "Why not?" and left the lot.

At Noam's house that night, Noam told his parents about the visit and the Toyota he had found. His mother's first reaction was, "I don't think your grandmother is going to give you \$10,000."

"But, she promised," Noam replied.

"She's not going to help finance a sports car. She wanted you to have a basic, utilitarian car. She wanted you to show her that you could give up your spendthrift ways," said his mother.

"I did what she asked. I didn't buy a Porsche. She knew you would help and you could come up with the difference easily? Didn't you always expect to spend at least \$15,000 for me to get a car? Haven't we had repeated discussions of what type of

Porsche I could afford with you contributing \$15,000 towards its purchase? Didn't I get the closest substitute I could to a \$10,000 car? Don't you all want me to be happy?"

His mother sharply retorted, "You can't count your eggs until they're hatched. You know, your grandmother might have wanted to give us a present too. Maybe she only offered you \$10,000 so that we'd have to give you only a little bit, if anything, for your car."

Noam had no reply. Instead, he told his parents about his dealings with Sal. His parents didn't know what to say. They said. "First thing tomorrow morning, go see our family counsel, Lawyer Larry."

When Larry arrived at his office at 10 a.m. the next morning, he found Noam waiting. Larry finally ushered Noam into his office at 10:50. At 11:20, on his law firm's stationery, Larry faxes Sal: "My client wishes to terminate whatever deal you think you had with him to buy Toyota Supra (#ABCD) for \$25,000."

At 11:22, Sal calls Carl. Carl answers and Sal says. "Hi. This is Sal. I've decided to accept your offer of \$26,000. When can you come down and sign the papers?"

Carl is stunned.

"Is tomorrow, O.K.?" Sal asks.

Carl can only get out a few "ahmms," and Sal quickly says, "Great, see you then," and hangs-up.

Five minutes later, Carl calls up Sal. Carl says, "I thought you would get that my not coming back to your lot meant that I no longer wanted the Toyota. After I left your shop last night, I bought another car. You took me aback with your call."

Sal says, “No way. We agreed that I would have all morning to think about your offer. And it is still morning. I’ve got the page where you wrote \$26,000. You’ve got to back out of that other deal.”

Carl says, “No way” and hangs up.

Angrily, Sal calls up Lawyer Larry and tells him these facts and says that if Sal can’t hold Carl to the deal then he was intending to hold Noam to his deal. He said, “If I lose one sale because of your client, I’m not going to lose a second sale because of him.”

You are a young lawyer working for Larry. He tells you to accept these as the facts that would be proven in court. He asks you to write a memo, analyzing them, considering possible damages, enabling him to advise Noam.

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(end of exam)