SAINT LOUIS UNIVERSITY
SCHOOL OF LAW

FINAL EXAMINATION

Professor Frost  Closed Book Exam
May 11, 1995  3 hours

CONTRACTS

READ ALL THE FOLLOWING INSTRUCTIONS CAREFULLY

Instructions

(i) Write your examination number on your bluebook(s) and on this examination. Use only your examination number, not your name.

(ii) This is an closed book examination. You MAY NOT use any materials.

(iii) Statutory, case and restatement citations may be used but are not required. The better answers will include a thorough analysis of the issues presented rather than a string of citations.

(iv) Conciseness and clarity of expression, organization and clarity of presentation, while not separately taken into account in the grade, necessarily have some impact on the grader's evaluation of your understanding of the subject matter.

(v) This examination has 4 pages. Check that you have a complete examination.

(vi) This examination consists of 7 questions. Each question has been assigned a suggested time limit that corresponds to the weight given that question in the determination of your grade. ALL ANSWERS MUST BE EXPLAINED. Your grade will be based on your analysis of the issues rather than your ability to come to a single "correct" solution.

(vii) Remember that this is an examination of your understanding of the material covered in Contracts. Answer the questions based upon the Contracts readings and class discussions and not on the basis of material discussed or read in your other classes.
1) On January 10, 1995, Buyer Corporation, a manufacturer of specialty plastic products, sent a purchase order to Seller, Inc., Buyer's regular supplier of raw plastic. The purchase order included a provision requiring that Seller deliver the plastic on February 15, 1995. On January 12, 1995, Seller received the Buyer's purchase order and sent out an acknowledgment, which was received by the Buyer on January 15, 1995. The Seller's acknowledgment provided that delivery would occur on March 1, 1995. When does the contract require Seller to deliver the goods.

2) One day this spring Harry Homeowner awoke to the sound of a lawnmower. Harry looked out his window and saw Mort, a kid who just moved into the neighborhood, mowing Harry's lawn. "Isn't that nice," Harry thought as he rolled over and went back to sleep, "the kid wants to make a good impression as a helpful neighbor." Later that day, Mort showed up at Harry's doorstep and asked for $20.00. Harry told him, "Take a hike. I always mow my own yard." The going rate for mowing a yard the size of Harry's is $15.00. Is Harry contractually obligated to pay Mort $20.00?; $15.00? 

3) On April 1, 1995 Furniture Manufacturing Corp's purchasing officer called Sawmill Inc. to place an order for lumber. Manufacturing's and Sawmill's employees agreed over the telephone that Manufacturing would purchase 5,000 board feet of lumber for a total price of $10,000. Delivery was to occur on April 15, 1995. On April 2, 1995, Manufacturing received a letter from Sawmill stating, "We hereby confirm our sale of 3,000 board feet of lumber to you." On April 15, Manufacturing refused to accept delivery of the 5,000 board feet of lumber delivered by Sawmill. Sawmill wants to know if it has an enforceable contract with Manufacturing for the sale of the lumber.

Question 4 36 minutes

Refer to the facts of problem 3 above and assume for the purpose of this problem that Sawmill's letter included the following statement: "In the event lumber becomes unavailable for any reason, Sawmill shall not be liable for failure to deliver the products promised herein." On
April 10, 1995 federal environmental policies regarding timber logging changed, resulting in a 100% increase in the price of timber. Seller did not deliver the lumber on April 15, 1995 and Manufacturing now wants to enforce the contract. Is Sawmill excused from performing the contract?

Question 5
36 minutes

In 1990, Bob Buyer received a $9,500 loan from Finance Co. for the purchase of a new car. Among the many papers that Finance Co. required Bob to sign was a financing agreement obligating Bob to repay the loan over 5 years with interest at 10%. The agreement also included a provision requiring that Bob maintain insurance on the automobile and provided that, if Bob failed to maintain the required insurance, Finance Co. could purchase insurance and charge the amount paid for the insurance to the loan balance. The financing agreement also included a promise by Bob to pay interest at 15% per year on the amount of premiums Finance Co. was required to pay for the insurance. Bob is a college educated professional but failed to read the financing agreement and did not know that the insurance provisions were included in the agreement.

Bob encountered financial difficulties soon after he purchased the car and in early 1992, he failed to renew his insurance. Bob's insurance company, Nation Insurance, notified Finance Co. of the lapse of the insurance (as is customary in these types of transactions) and Finance Co. purchased insurance through InsureCo, an insurer that regularly provides insurance to Finance Co. Because Finance Co. was not expressly obligated to do so under the agreement, Finance Co. did not attempt to notify Bob of their insurance purchase.

Bob made what he thought was his last payment on the loan in January this year. Recently, however, Finance Co. sent him a letter demanding payment of $12,000 -- the amount of insurance premiums for three years plus interest at 15%. Finance Co. paid InsureCo $3,000 each year to insure Bob's car. Bob had paid $1,000 each year to Nation Insurance before he let the policy lapse. Further investigation has revealed that Finance Co. and InsureCo. are both owned by the same parent corporation and that InsureCo. pays Finance Co. a "paperwork processing fee" of 1/3 of the total premiums charged on insurance purchased by Finance Co. Finance Co keeps the entire fee and does not reduce its charges to customers by this amount.

Bob has hired you to represent him. Write a memo analyzing the theories you will use to defend Bob against a suit by Finance Co. for the $12,000 and assess his chances for success. Your answer should also set forth the information that you need to develop in this case.
and should explain its relevance.

Question 6
36 minutes

There are a number of opinions requiring sellers of residential real estate to disclose to the buyer all "latent defects" (defects that cannot be discovered by an ordinary inspection) known by the seller. How can we square this disclosure duty with the general proposition that courts will not grant relief for unilateral mistakes.

Question 7
36 minutes

On April 1, 1995, Big Co. and Conglomerate, Inc. entered into a contract under which Big Co. has agreed to purchase from Conglomerate all of the assets of Conglomerate's Steel Processing Division for $1,000,000. The agreement provides that the sale will take place on May 10, 1995 and further provides:

Except for sales of inventory in the ordinary course of business, Conglomerate shall not sell any of its assets to anyone other than Big Co.

On April 15, 1995 Conglomerate sold some equipment that it considered to be obsolete to Salvage Co. Conglomerate wrote Big Co. to inform it of this sale and of the fact that the proceeds from the sale would be delivered to Big Co. on May 10. Big Co. received this letter on April 17, 1995 but did not respond. On April 20, 1995 and May 1, 1995, Conglomerate again sold assets to Salvage Co. and informed Big Co. of the sale and intention to deliver the proceeds on May 10. On May 10, Big Co. refused to proceed with the sale claiming that Conglomerate's violation of the agreement excused Big Co's performance. Evaluate Big Co's claim.