Jones & Motor

ANSWER TO CONTRACTS ESSAY TWO

I. Motors v. Jones.

A. Valid contract. In order to have a valid contract, there must be mutual assent to the terms of the contract and consideration to support it. Here, there was mutual assent because both parties entered into an agreement which specified the price, parties, quantity, time for performance and subject matter of the contract. Consideration exists if there is a bargained for exchange. Here, consideration exists because the parties exchanged promises (a bilateral contract) when Motors agreed to buy and Jones promised to supply the bolts. Since this contract involves the sale of goods, the applicable provisions of the U.C.C. will govern. Thus, it is clear from the facts that Jones and Motors entered into a valid contract on January 15.

B. Price term.

1. "Effect of modification." The facts state that an oral modification of the price (increase to $.90/lb.) was requested in good faith by Jones and agreed to by Motors. Under U.C.C. §2-209 and §1-302, an agreement to modify a contract for the sale of goods needs no consideration so long as made in good faith. However, since the contract as modified is for the sale of goods exceeding $500, the modification must also satisfy the Statute of Frauds to be binding.

a. Jones' written confirmation. We are told that a written confirmation of the oral modification, signed by Jones, was sent to Motors. Under U.C.C. §2-201(2), when one merchant (Jones) sends to another merchant (Motors) a writing sufficient to bind the sender, the receiver is also bound if the receiver does not object in writing within 10 days. Motors received the confirmation and did not read it or object to it. Since Jones could have been bound (he signed the written confirmation), Motors will be bound by the modification.

b. Effect of secretary's mistake. If Motors is bound to accept the fact that the price was modified, what is the new price—$.90 as orally agreed, or $.91 as stated in the written confirmation? The secretary's typing error should allow for reformation of the price term to $.90 lb. as orally agreed. When the parties have a prior agreement (i.e., the oral modification) which is not reflected in the written instrument (i.e., the written confirmation) because of an error in expression (i.e., the secretary's typing error), the courts will modify the error to conform to the parties actual agreement.

c. Conclusion. The proper price term (as modified and reformed) for this contract will be $.90 lb.