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Business Law & Ethics

Question answers

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# **Question 1:**

***Issue:***

Julie is a run a small traffic management business and Simon has contacted her for getting her traffic divergent services for the first week of February. Hence, in the above scenario, the issue at hand is whether the acceptance has been effectively communicated?

***Rules:***

For the contract to be legally binding, following criteria should be met:

1. There should be an offer from one party [[1]](#footnote-1)
2. The other party should accept the proposed offer
3. There needs to be intention of creating legal relations of both parties
4. There should be capacity to enter into contract
5. Consideration should be there

For the contract to be legally binding, the agreement must be made either orally, or be documented into a report, or it can also be implied[[2]](#footnote-2). In case of implied, one party must have discussed with other and promised to pay the other party for a certain service if discharged. Moreover, there should be consideration against the offered contract[[3]](#footnote-3) and both the parties must have full capacity to enter into legal agreements. The acceptance of offer must be made via fax/email/phone/SMS as it may be expressed, implied or through performance.

***Application:***

In the given case scenario, the offer has been made by Simon to Julie for her availing her traffic management services for road works to be beginning in February. Julie has agreed to the offer and has proceeded to deliberate on the agreement terms. Simon is also willing to pay the requested amount of money ($340/hr.) if the task has been completed by Julie after getting approval to her. All the communication has been well documented on the mobile and email address. However, Julie has not agreed for the job via email or SMS, still they have formed a binding contract. This is considered as an implied agreement in which both parties have agreed to comply with terms[[4]](#footnote-4).

***Conclusion:***

In the given scenario, both parties have legally entered into a binding contract by fulfilling all the elements of the legally enforceable contract.

# **Question 2:**

***Issue:***

Julie has been contacted by Peter (Local Fundraiser) for getting her services for annual charity fundraiser. Julie double-booked the dates by mistake and declined to offer her services afterwards. The question arises whether the acceptance has been effectively communicated by Julie to Peter and whether the agreement is binding?

***Rules:***

For the contract to be legally enforceable, both the parties must fulfil the following criteria:

1. A valid offer must be made by one party[[5]](#footnote-5)
2. Acceptance (expressed, implied, performance based) must be made through fax/ email/ phone/ post or by SMS[[6]](#footnote-6)
3. Both the parties must have capacity to enter into legal agreements
4. There should be intention of entering into agreement in business context, social context or charitable/volunteer context[[7]](#footnote-7)
5. Sufficient consideration should be there except for Deeds and Promissory Estopped. Appropriate amount of deliberations concerning the offer should be made that involves offering a fee in exchange for a specific service. This is known as the price of the offer as well [[8]](#footnote-8).

The contract can be discharged by agreement, performance, frustration or rescission while breach of contract occurs when obligations have not been discharged as promised. In the case of breach of contract, the affected party can claim for the damages immediately. [[9]](#footnote-9)

***Application:***

In the given scenario, Julie had gotten an offer from Peter (Berrytown Local Council Member) for getting her services in Easter Eggs Hunt in park event. She accepted the offer for providing the required services in exchange of minimal consideration of Easter Hamper of goods donated by local business. Both the parties have capacity and intentions to enter into legal contract. Hence, both the parties have entered into binding agreement against which they are fully obliged to fulfill their promise. However, due to double-booking issue, Julie has decided to breach the contract just before the day of event. In this case, Julie is at the wrong footing and the council has full authority of taking legal actions against her as the contract made was fully enforceable between the two parties due to fulfillment of all the elements of binding contract.

***Conclusion:***

The above case scenario depicts that there was a legal binding agreement between Peter and Julie and by cancelling the services just a day before the event, Julie can get into trouble. The council can take legal actions against Julie for breaching the contract.

# **Question 3:**

***Issue:***

Julie conducted her services for Tina and invoiced her $2300. Tina is unable to pay full amount and offered Julie to get her job from Tania while having to pay only $1500. The question arises whether the acceptance of the offer made by Tina to Julie has been legally communicated and whether the agreement is legally binding between both parties?

***Rules:***

According to law, an agreement is only legally binding when it involves specific consideration and mutual intentions of entering into contract.[[10]](#footnote-10) Acceptance of offer cannot occur through silence, no responses, using different modes for communication other than specified and when there is a counter offer[[11]](#footnote-11). For agreement to be legally binding, acceptance must show mutual consensus based on meeting of the minds of both parties. Other than this, terms of services, forms of payments, circumstances, performance and breach of agreement must also be highlighted.

The overall agreement process includes five elements to be fulfilled in order to be considered as legally binding i.e. offer, acceptance, consideration, intentions and capacity to enter into an agreement. In case the conditions or term of the offer has been changed by either party, the offer becomes “counter offer” at which point, each party negotiates the conditions of the offer until both minds have met to form mutual consensus[[12]](#footnote-12). Breach of contract incurs when either of the parties fail to fulfill the agreement terms of the contract.

***Application:***

In the given case, Julie successfully discharged her duties as promised for Tina. The offer made by Tina was accepted by Julie and she fulfilled her duties. However, in the case, Tina failed to fulfill her promise by not paying the agreed consideration amount. Tina has taken considerable amount of time without paying Julie for her services. However, Tina has made a counter offer to Julie for getting her more work from Tania against which Julie is reluctant but has accepted the offer.

This new agreement between both parties is not considered to be “binding” as several elements of binding agreement are missing in this case. For instance, Julie has nothing to offer in return and there are no specific terms outlined in case of breach of contract. Julie’s reluctancy shows that her intentions to enter into contract are absent and there is no consideration involved in the given case scenario. It appears as the agreement has only used for settling the payment issues between the two parties instead of engaging into a legal system for settlement.

***Conclusion:***

There is no legally binding agreement between the two parties and Julie can sue Tina for not fulfilling her promise and for not paying the agreed amount. Hence, Tina has breached the contract in the given case.

# **Question 4:**

***Issue:***

Michael reached Julie for getting her services for solving issues of low visibility on a steep mountain. Julie agreed to buy special equipment for this project against which Michael gave a go ahead. Julie ordered the equipment for $3000 but Michael refused to be involved into project. The question arises, whether Michael has legal obligations towards Julie and whether he can be estopped from denying the agreement with Julie?

***Rules:***

For the agreement to be legally binding, five elements must be fulfilled i.e. offer, acceptance, intentions, capacity and consideration. However, consideration is not needed in case of promissory estoppel[[13]](#footnote-13). Promissory estoppel enables the affected party for recovering the damages incurred by the unfulfillment of promises made by other party. Promissory estoppel is proved when the promise maker is present, legal relationship has arisen between two parties, the second party has relied on the promise, the second party has suffered material detriment due to first party being backed out and intentions of first party to make second party rely on the promise they made[[14]](#footnote-14). In order to be estopped, the latter party should act fully on the promise and the loss suffered should be measurable financially due to failure of fulfillment of promise.

***Application:***

In the given case, Michael made a promise to Julie to fill the business form and gave her green signal to purchase the special equipment suited best for the project that he offered. Julie seems to have relied on the promise and ordered the special equipment costing $3000 for commencing the agreed work. However, Michael did not fulfil his promise by not filling up the business form and later on declined to proceed with the project with Julie. This is a clear case in which one party (Julie) relied on promise of other party (Michael) and incurred material financial loss ($3000) while no attempts were made by Michael to warn Julie that he might not deliver this promise.

***Conclusion:***

Hence, Michael can be estopped from declining the agreement with Julie and he can be demanded of compensation from her. Michael failed to fulfill his promise due to which Julie suffered financial losses of $3000. She can estop Michael for not fulfilling his promise.

1. Michael Lambiris and Laura Griffin, *First Principles of Business Law* (Oxford University Press, 2017, 10th Edition) 83. [↑](#footnote-ref-1)
2. *Slick v Reinecker* (2003) 312 CLR 839. [↑](#footnote-ref-2)
3. *Chappell v Nestle* (1960) AC 87. [↑](#footnote-ref-3)
4. *Carlill v Carbolic Smoke Ball Co* (1893) 1 QB 256. [↑](#footnote-ref-4)
5. *Harvey v Facey* (1893) UKPC 1. [↑](#footnote-ref-5)
6. *Scammell & Nephew v Ouston* (1941) AC 251. [↑](#footnote-ref-6)
7. *Balfour v Balfour* (1919) 2 KB 571. [↑](#footnote-ref-7)
8. *Chappell v Nestle* (1960) AC 87. [↑](#footnote-ref-8)
9. *Hochster v De La Tour* (1853) 2 E & B 678. [↑](#footnote-ref-9)
10. *Balfour v Balfour* (1919) 2 KB 571. [↑](#footnote-ref-10)
11. *Felthouse v Bindley* (1862) EWHC CP J35. [↑](#footnote-ref-11)
12. *Hyde v Wrench* (1840) 49 ER 132. [↑](#footnote-ref-12)
13. *Central London Property Trust Ltd v High Trees Ltd* (1947) KB 130. [↑](#footnote-ref-13)
14. *Combe v Combe* (1951) 2 KB 215; *Woodhouse A.C. Israel Cocoa Ltd v Nigerian Product Marketing Co Ltd* (1972) AC 741. [↑](#footnote-ref-14)