

**Exam Question No. 1**  
**60 minutes**

Abbey thinks it is time to repaint her house in the same color. At Abbey's request, Victor, the president of Paintco, submits a signed written proposal to Abbey with the following terms:

- Power wash exterior, spray paint exterior, hand paint trim.
- Match existing color with Matoff brand paint.
- Total Price: \$25,000; to be paid \$10,000 at time of acceptance of proposal, \$10,000 on completion of spray painting, \$5,000 on completion of job.
- Work to begin on April 1 and to be completed by April 15.
- This is the entire agreement between the parties and shall supersede any representations or agreements previously made by the parties. Such agreements or representations are merged into this agreement.

Upon receipt of the proposal, Abbey telephoned Victor and told him that she was satisfied with the terms, but wanted to make sure that the paint to be used was environmentally safe. Victor told Abbey not to worry since Paintco was an environmentally conscious company and that, therefore, the paint they were using was environmentally safe. With that assurance of this condition, Abbey accepted the proposal, and returned a signed copy of the proposal to Paintco with a check for \$10,000.

Paintco began work on April 1. By April 10, Paintco had completed all of this work except the trim.

Before Abbey paid the second \$10,000 to Paintco, Abbey became aware of a report in Consumer Reports, stating that based on their chemical analysis, Matoff had added certain chemicals to their paint that are known to be harmful to the environment. Abbey confronts Victor with this information, tells him that she does not intend to pay him anything further unless he agrees to remove the "dirty" paint, as she calls it, and to repaint her house with "clean" paint. Victor tells Abbey that he wasn't aware of any additives in the Matoff paint, and expects to be paid for the work done and is prepared to finish the job.

Abbey determines that the cost of removing the existing paint and repainting the house would be \$30,000. Victor can prove that the use of the Matoff paint has no effect on the market value of Abbey's house, based on opinions he has obtained from two experienced real estate sales people.

If Paintco files suit against Abbey, and Abbey counter-sues Paintco, who would prevail? Why? What damages are likely to be awarded to the prevailing party? Discuss fully.

**Exam Question No. 2**  
**60 minutes**

Andy, who was opening his third Laundromat, decided to purchase the washers and dryers from Clean Technologies (CT) because they were the only machines on the market that had a credit card payment option in addition to the traditional coin payment option.

On January 10<sup>th</sup> Andy faxed a purchase order to CT for the purchase and installation of 50 washers and 50 dryers. The cost of each machine was \$2,500. The installation cost for all the machines was \$50,000. Andy wanted CT to do the installation because he thought they would be the most familiar with installing a credit card option machine since they were the only manufacturer of this type of machine. Andy specified that the installation had to be completed by April 10<sup>th</sup>. The next day CT faxed a confirmation of the order. The confirmation was a mirror image of the purchase order with one additional provision providing CT with a \$250 bonus for every day the installation was completed prior to April 10<sup>th</sup>. The same day Andy signed and faxed back CT's order confirmation with the bonus clause crossed out. CT did not respond.

On March 10<sup>th</sup> the 100 machines were delivered in a large steel container to the Laundromat. The next morning CT called to tell Andy that a crew from High Watt Electronics (HW) would be out the next day to start the installation. Andy was very concerned that somebody other than CT was going to do the installation. CT explained that HW did all CT's installations on the west coast. CT went on to explain that HW has extensive experience with credit card applications as they specialize in ATM installations.

The next day the HW crew arrived and unloaded the container. HW informed Andy that 10 of the washers were a model that did not have a credit card option. Andy called CT immediately. CT said that there must have been a mistake and said they would rush the delivery of 10 replacement washers with credit card option. Andy had HW put the 10 washers without credit card option back in the container and put a large steel lock on the door. On April 5<sup>th</sup> the 10 replacement machines arrived and HW was able to complete the installation on April 9<sup>th</sup>. HW returned the 10 washers without the credit card option to CT.

1. Was a valid contract formed between Andy and CT, and if so, what were its terms?
2. Was CT's delegation of the installation to HW valid and if Andy had challenged the delegation would he have been successful?
3. Was Andy's rejection of the 10 machines proper and did CT complete its contractual obligations to Andy?

Discuss fully.