



Gemini Pro 2.5 #5

Prompt:

On July 1 Buyer sent the following telegram to Seller: "Have customers for salt and need carload immediately. Will you supply carload at \$2.40 per cwt?" Seller received the telegram the same day. On July 12 Seller sent Buyer the following telegram, which Buyer received the same day: "Accept your offer carload of salt, immediate shipment, terms cash on delivery." On July 13 Buyer sent by Air Mail its standard form "Purchase Order" to Seller. On the face of the form Buyer had written that it accepted "Seller's offer of July 12" and had written "One carload and \$2.40 per cwt." in the appropriate spaces for quantity and price. Among numerous printed provisions on the reverse of the form was the following: "Unless otherwise stated on the face hereof, payment on all purchase orders shall not be due until 30 days following delivery." There was no statement on the face of the form regarding time of payment. Later on July 13 another party offered to sell Buyer a carload of salt for \$2.30 per cwt. Buyer immediately wired Seller: "Ignore purchase order mailed earlier today; your offer of July 12 rejected." This telegram was received by Seller on the same day (July 13). Seller received Buyer's purchase order in the mail the following day (July 14). Briefly analyze each of the items of correspondence in terms of its legal effect and indicate what the result will be in Seller's action against Buyer for breach of contract.

Gemini:

A contract was formed between the Buyer and Seller. The Seller will win a lawsuit for breach of contract because the Buyer's final telegram on July 13 constituted an anticipatory repudiation of that contract.

Analysis of Communications

Here is a brief analysis of the legal effect of each communication. Since this transaction involves the sale of goods (salt), it is governed by the Uniform

Commercial Code (UCC).

- **July 1: Buyer's Initial Telegram**

This message was not an offer, but rather an **inquiry** or an invitation for an offer. The language "Will you supply..." is a question, not a definitive promise to purchase. It merely solicits a proposal from the Seller, giving the Seller the power to make the first legally binding offer.

- **July 12: Seller's Reply Telegram**

This telegram is a legally binding **offer**. It is a direct response to the Buyer's inquiry and contains specific terms: quantity ("carload"), price (implicitly \$2.40/cwt), shipment ("immediate"), and payment ("cash on delivery"). This communication created a "power of acceptance" in the Buyer.

- **July 13: Buyer's Purchase Order (Mailed)**

This purchase order was an **acceptance** of the Seller's July 12 offer. Under the **mailbox rule**, an acceptance is legally effective upon proper dispatch (i.e., when it is mailed). Therefore, a contract was formed on the morning of July 13 when the Buyer mailed this form.

- **The Different Payment Term:** The purchase order contained a new payment term ("30 days following delivery") that conflicted with the offer's "cash on delivery" term. Under the UCC's "battle of the forms" rule (UCC§2-207), this does not prevent contract formation. However, because a change in payment terms from COD to 30-day credit is a **material alteration**, the Buyer's term does not become part of the contract. The conflicting terms are "knocked out," and the UCC provides a default rule, which is payment upon delivery (UCC§2-310(a)).

- **July 13: Buyer's Rejection Telegram**

This telegram was an **anticipatory repudiation**. Because a contract had already been formed the moment the Buyer mailed the purchase order, this subsequent rejection was legally ineffective. Instead, it serves as a clear and unequivocal statement that the Buyer will not perform its obligations under the contract.

Result of Seller's Action

The **Seller will prevail** in an action against the Buyer for breach of contract.

A valid contract was formed on the morning of July 13 when the Buyer dispatched its acceptance via mail. The Buyer's later telegram on the same day was not a valid rejection of the Seller's offer but was instead a repudiation of the existing contract. This anticipatory repudiation gives the Seller the right to immediately sue for damages resulting from the Buyer's breach.