

A music artist and a talent manager orally agreed that the manager would oversee the business aspects of the artist's career for five years in return for 15% of the artist's gross earnings. Both the artist and the manager had the right to terminate the agreement at any time. The manager received less than 15% of the artist's gross earnings during the first year and no commissions during the following six months. At that time, the artist called the manager to say that he was terminating their agreement.

The manager sued the artist for breach of contract, and the artist raised the statute of frauds as a defense.

Is the artist's statute of frauds defense likely to succeed?

- A. No, because both the artist and the manager had the right to terminate the agreement at any time.
- B. No, because the parties have partially performed the agreement.
- C. Yes, because neither party fully performed the agreement within the first year.
- D. Yes, because the parties' oral contract cannot be fully performed within one year.

Explanation:

One-year provision of statute of frauds

Applicability	<ul style="list-style-type: none">• Contracts whose terms make it impossible for any party to fully perform within one year<ul style="list-style-type: none">– Excludes contracts of uncertain duration (eg, lifetime contracts)
Effect of performance	<ul style="list-style-type: none">• Part performance – does <i>not</i> remove contract from statute, but restitution available for reasonable value of performance rendered• Full performance – removes contract from statute, whether or not performance is completed within a year
Effect of option to terminate within a year*	<ul style="list-style-type: none">• Majority rule – does <i>not</i> remove contract from statute, because termination is not performance• Minority rule – removes contract from statute, because duration of contract is uncertain

*Jurisdictions agree that where only the plaintiff has the option to terminate, the statute of frauds applies.

A **contract** falls within the one-year provision of the [statute of frauds](#)—and must therefore be **in writing** to be enforceable—if its terms make it **impossible** for any party to **fully perform within one year** of its making.* However, jurisdictions are split as to whether both parties' **option to terminate** the contract **within a year** removes it from the statute:

- Minority rule – the option to terminate removes the contract from the statute, because the duration of the agreement is uncertain
- **Majority rule** – the option to terminate **does not remove the contract from the statute**, because the agreement may not be fully performed before its termination

Here, the parties' oral agreement that the manager would oversee the business aspects of the artist's career for five years cannot be fully performed within one year. This is true under the majority rule even though both parties had the option to terminate the agreement at any time **(Choice A)**. Accordingly, the artist's statute of frauds defense will likely succeed.

*The writing must be signed by the party against whom enforcement is sought and state with reasonable certainty the essential terms of the deal.

(Choice B) Part performance does *not* remove a contract from the one-year provision of the statute of frauds. But it may entitle a party (eg, the manager) to restitution for the reasonable value of the performance rendered, which is usually the contract value for that performance.

(Choice C) Failing to fully perform a contract within one year does not mean that the one-year provision of the statute of frauds applies. Whether the provision applies turns on whether it is *possible* to fully perform the contract within one year.

Educational objective:

The one-year provision of the statute of frauds applies to a contract whose terms make it impossible for any party to fully perform within one year. However, the parties' option to terminate the contract within a year does not remove it from the statute under the majority rule.

References

- Restatement (Second) of Contracts § 130 (Am. Law Inst. 1981) (one-year provision of the statute of frauds).
- 72 Am. Jur. 2d Statute of Frauds § 19 (2020) (explaining that the option to terminate a contract within a year does not remove the contract from the statute of frauds).

Copyright © UWorld. All rights reserved.