

A collector agreed to sell his collection of authentic extras' costumes from a cult-classic 80's show to a costume store for \$10,000, payable one month after the collection was delivered to the store via a third-party carrier. Due to the time and expense that went into accumulating and repairing the costumes, the collector expected a \$2,000 profit. The costumes suffered minor water damage in transit, and the store immediately notified the collector that it was rejecting the collection and would hold the collection until the collector picked it up. The collector told the store that he would look for a new buyer and would pick up the collection in a few weeks. The collector quickly found another buyer willing to pay the original contract price. However, before the collector could retrieve the collection, the store sold and delivered the costumes to a theater company that knowingly accepted the costumes despite the water damage. The theater company paid the store \$15,000 for the collection, and the store retained the payment.

If the store's sale of the costumes was NOT an acceptance, what is the highest-value remedy available to the collector?

- A. \$2,000, the collector's lost profit.
- B. \$5,000, the difference between the market price and the contract price.
- C. \$10,000, the collector-store contract price.
- D. \$15,000, damages for conversion.

Explanation:

The UCC governs contracts for the sale of goods (eg, costumes). Under the **UCC perfect-tender rule**, goods must conform perfectly to the contract. Failure to provide such goods is a breach that, unless cured in the time remaining to perform, **allows the buyer to reject** or accept the goods in whole or in part.

Upon rejection, the buyer must retain possession of the goods for a reasonable time so that the seller can reclaim them. If the buyer **wrongfully disposes of** the rejected goods, the seller may sue the buyer for **conversion** to recover the **fair market value** of the converted property at the time of the conversion.

Here, the store rightfully rejected the collection of minorly damaged costumes because they did not perfectly conform to the agreement. However, the store wrongfully sold and delivered the collection to a theater company before the collector could pick it up. As a result, the collector can sue the store for conversion and recover the collection's fair market value of \$15,000.

(Choice A) The collector could have recovered his **lost profit** (\$2,000) had he been a lost-volume seller—ie, a seller who has an *unlimited* supply of goods and makes a profit per item. But here, the collector is merely selling his *limited* supply of authentic extras' costumes.

(Choice B) When a buyer *wrongfully* rejects tendered goods, the seller may ordinarily recover the contract price minus the market price at the time and place of tender (here, \$5,000). But here, the store *rightfully* rejected the goods because they were nonconforming.

(Choice C) When a buyer has *accepted* the goods and fails to pay for them, the seller may sue for the contract price (here, \$10,000). But since the store *rejected* and then converted the costumes, the collector is instead entitled to the fair market price (\$15,000).

Educational Objective:

If a buyer wrongfully disposes of rejected goods, the seller may sue the buyer for conversion to recover the fair market value of the converted property at the time of the conversion.

UCC = Uniform Commercial Code.

References

UCC § 2-503 (Am. Law Inst. & Unif. Law Comm'n 2020) (perfect-tender rule).

UCC § 2-708(2) (Am. Law Inst. & Unif. Law Comm'n 2020) (lost profits for volume sellers).