John Cole

Grantham University

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Adam Paulson

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**The Open Offer**

**Jimmy, an art dealer and merchant, is running out of funds. Luckily, he owns a priceless Van Gogh painting. He writes his friend Tommy. The letter says “Tommy you remember that Van Gogh painting you were interested in buying? I will offer it to you for $500,000. I will give you one month to accept this offer.” Jimmy signs the letter. Tommy receives the letter, and he is very excited. He writes back two weeks later saying that he accepts, and Tommy encloses a check for $500,000. Unfortunately, Jimmy received a better offer for the painting, and Jimmy accepts that one.**

**Is there a breach of contract? If so, what remedies may Tommy get specific performance?**

*First let’s define what a Breach of Contract is: n. failing to perform any term of a contract, written or oral, without a legitimate legal excuse. This may include not completing a job, not paying in full or on time, failure to deliver all the goods, substituting inferior or significantly different goods, not providing a bond when required, being late without excuse, or any act which shows the party will not complete the work ("anticipatory breach.") Breach of contract is one of the most common causes of lawsuits for damages and/or court-ordered "specific performance" of the contract.*

*Now according to this definition Jimmy failed to perform the written contract without any legitimate legal excuse. The letter in which Jimmy sent to Tommy saying that he had a painting that he would sell for a certain amount and that if the painting was wanted for that amount then I will sell it to you in a month so it was signed and returned stating that the amount for the painting was good and that the painting is wanted. Also in the letter was a check for the amount of the paining further solidifying the fact that the painting was wanted 2 weeks prior to the deadline set forth by Jimmy to Tommy to reply. Yet Jimmy gets a higher offer for the painting and sells it before Tommy even had a chance to finish the transaction. Now if Jimmy was going to accept or consider any and all offers then he should have stated this in the letter that was sent to Tommy so that Tommy could have made a better judgment on if buying the painting would be something he should do. Also if within the two weeks in which Jimmy was waiting for Tommy’s reply and he received a better offer for the painting Jimmy could have let Tommy know, or better yet the individual who bought the painting Jimmy could have told him that he will see what Tommy was going to do either buy the painting or not, before he sold it.*

*The remedies that Tommy may receive would be either his money back or another painting that Jimmy may have for a reduced cost. I believe that since Jimmy broke the conditions of the contract between himself and Tommy, that Jimmy be liable for returning Tommy’s money back to him with intrest.*