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Article 4: Bank Deposits and Collections

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delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (Section 2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser or lien creditor under this Article (Section 2-403). Successful reclamation of goods excludes all other remedies with respect to them.

In the Matter of Mort Co., 208 F. Supp. 309 (E.D. Pa. 1962).

See the Annotation to Section 2-507, supra.

ARTICLE 3: COMMERCIAL PAPER

SECTION 3-419. Conversion of Instrument; Innocent Representative.

(1) An instrument is converted when

(a) a drawee to whom it is delivered for acceptance refuses to return it on demand; or

(b) any person to whom it is delivered for payment refuses on demand either to pay or to return it; or

(c) it is paid on a forged indorsement.

(2) In an action against a drawee under subsection (1) the measure of the drawee's liability is the face amount of the instrument. In any other action under subsection (1) the measure of liability is presumed to be the face amount of the instrument.

(3) Subject to the provisions of this Act concerning restrictive indorsements a representative, including a depository or collecting bank, who has in good faith and in accordance with the reasonable commercial standards applicable to the business of such representative dealt with an instrument or its proceeds on behalf of one who was not the true owner is not liable in conversion or otherwise to the true owner beyond the amount of any proceeds remaining in his hands.

Stone & Webster Eng'r Corp. v. First Nat'l Bank & Trust Co. of Greenfield, — Mass. —, 184 N.E.2d 358 (1962).

See case note, infra, for a summary and full discussion of this case.

ARTICLE 4: BANK DEPOSITS AND COLLECTIONS

SECTION 4-406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.

(4) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the state-

ment and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.

Stone & Webster Eng'r Corp. v. First Nat'l Bank & Trust Co. of Greenfield, — Mass. —, 184 N.E.2d 358 (1962).

See case note, *infra*, for a summary and full discussion of this case.

ARTICLE 8: INVESTMENT SECURITIES

SECTION 8-319. Statute of Frauds.

A contract for the sale of securities is not enforceable by way of action or defense unless

(a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or

(b) delivery of the security has been accepted or payment has been made but the contract is enforceable under this provision only to the extent of such delivery or payment; or

(c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or

(d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price.

Kessler v. Green Co., 28 Pa. D. & C.2d 186 (1962).

Defendant made an oral contract with plaintiff whereby the latter agreed to exert his best efforts to promote and obtain a public offering of defendant corporation's stock. As consideration for plaintiff's work, he was to receive an option to purchase 7,500 shares of defendant corporation's stock at the book value as of the date plaintiff secured a broker ready, willing and able to handle a public sale of the securities. Plaintiff secured such a broker, and defendant refused to consummate an underwriting agreement with him and refused to give the purchase option to defendant. Plaintiff brought suit in equity for specific performance of the oral contract. Defendant alleged that plaintiff's suit was barred by the Statute of Frauds.