

Contracts II
Professor Keith A. Rowley
William S. Boyd School of Law
University of Nevada Las Vegas
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Sample Exam Question #5

In the words of renowned contracts scholar Pete Townshend, “A promise is a promise, a handshake will seal it; no amount of discussion can ever repeal it.” Comparing and contrasting Townshend’s theorem with what you (should) have learned this year in Contracts I & II thus far, answer each of the following. Please give at least one example to illustrate your answers.

- A. While a promise may be a promise, is a promise a contract? If so, what makes it so? If not, what can transform a promise into a contract?
- B. Even if a promise is not and cannot be made into a contract, under what conditions will contract law enforce the promise?
- C. Will a handshake “seal” (i.e., make enforceable) a contract? If not, what more will be needed to make it enforceable? Answer using the following examples:
 - 1. Suppose it is a contract in which A promises to lend B \$5,000, in return for which B promises to repay A the \$5,000 plus 5% interest per year.
 - 2. Suppose, instead, it is a contract in which C promises to sell D, and D promises to buy from C, computer software for \$5,000.
- D. Assuming that the parties have formed a valid, written contract,
 - 1. Will no amount of discussion ever repeal it prior to both parties’ complete performance? If so, why? If not, why not?
 - 2. Can any amount of discussion modify the contract after the parties have signed it and before both parties have fully performed? Please explain.
 - 3. Assuming the parties formed a valid, written contract about which a dispute has arisen, can either party introduce evidence of discussions between the parties about changing the terms of the contract? Why or why not; and, if so, under what constraints, if any?