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Selling on the bourse

By Armen R. Vartian | 06-10-11
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I recently came across an interesting situation that probably happens regularly at coin shows, but raises some difficult legal issues.

I was asked whether a dealer who mistakenly underprices an item for a customer who can't decide and leaves the booth is bound to sell at that price when the customer returns shortly thereafter and says he or she wants the item after all.

Show etiquette

There is, of course, show etiquette, which tells us that a price is good only while the customer remains at the booth, any further visits being new transactions.

Putting that aside, however, the issues are (1) how long does an offer to sell remain valid? and (2) does it matter that the dealer mistakenly underpriced the item?

Generally speaking, whoever makes an offer controls that offer. The offeror can limit the time of acceptance, and normally can terminate the offer at any time before acceptance unless the buyer has provided consideration for the offer (such as where buyers purchase an option to buy for a period of time), or where the offeror knows the buyer is relying to his or her detriment upon the continuation of the offer.

And if an offer is rejected, or a counteroffer is made, the original offer is automatically terminated and cannot be accepted unless the offeror renews it. The seller in this case would argue that because he didn't say it should remain open for any particular length of time, and the customer was not relying on the offer, he could have terminated the offer as soon as the customer left his booth. However, the customer would not have known that the offer was terminated, and it might be relevant how much time elapsed before the customer returned.

But is leaving the booth a rejection of the offer, in which case there was nothing for the customer to accept upon his return? Possibly, although sometimes these encounters end with the customer saying he'll "think about it," which isn't a rejection and creates a "gray area."

Dealer mistake

But what about the dealer's mistake? My understanding in the situation cited at the beginning is the coins were priced below melt value because the dealer was distracted with other customers.

Courts have been pretty clear about those situations, generally finding that errant prices will not be enforced where it would be grossly unfair to do so, such as a California case where a contractor was permitted to withdraw a bid that was 28 percent less than he intended.

However, one of two facts usually exists in such cases. Sometimes the mistake was made by someone other than the seller, such as where a copy editor at a newspaper puts an incorrect price in the seller's advertisement. In other cases, the price is so low that no reasonable buyer could believe it is the true price (a missing zero in the price of a car, for example). In this case, should the dealer have to sell coins below their melt value?

Offering coins below their melt value is, if course, highly unusual, but not inconceivable, and the fact that the customer did not immediately accept the offer is indicative that even he didn't consider it an unreasonably low price at the time.

Taking into account all the facts, I would predict that a court would not require the dealer in this case to honor his original price for the coins.

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