3) Please type your answer to MEE 3 below

Â

Â

When finished with this question, click Â to advance to the next question.
(Essay)

======== Start of Answer #3 (790 words) ========

1. Contract with buyer

There is an enforceable contract against the buyer. The issue is whether the statute of frauds was satisfied.

This is a contract for the sale of goods, so Article 2 of the UCC applies. Formation of a contract requires an offer, acceptance, and consideration. An offer occurs when the offeror communicates that he is willing to enter a contract with the offeree on stated terms. Acceptance occurs when the offeree agrees to the offeror's terms. Consideration is a bargained-for exchange of legal value, meaning either party agrees/promises to do or give up something he is not legally obligated to do or give up and each party gives value in exchange for the value given by the other. Under Article 2, a contract for goods valued at $500 or more must be in writing to satisfy the statute of frauds (with certain exceptiosn for performance not relevant here). The writing must indicate the existence of a contract, state the quantity of goods, reasonably identify the goods, and be signed by the party to be charged. If a price is not stated, the court will imply a reasonable price term.

Here, the parties formed a contract on May 1 when the buyer called the seller and offered to buy the doll for $12,000 and the seller accepted the offer by agreeing to sell for $12,000. The parties' promises to pay and deliver the doll on May 4 constituted consideration. The contract is subject to the statute of frauds because the purchase price is more than $500, but the buyer's letter of May 2 satisfies the statute because it indicates the parties agreed to a sale, specifically identifies the doll (1 doll made in 1820), and is signed by the party to be charged (the buyer).

Therefore, the contract satisfies the statute of frauds and is enforceable against the buyer.

2. *Buyer's breach*

The buyer did breach the contract. The issue is the effect of an anticipatory repudiation.

If a party to a contract communicates to the other party before performance is due that the party will not perform, there is an anticipatory repudiation of the contract. The nonrepudiating party can treat the repudiation as a breach and sue immediately, cancel the contract, suspend performance and wait until the date of performance to see if the repudiating party performs, or urge the repudiating party to perform. A repudiating party can withdraw the repudiation if the withdrawal comes before the nonrepudiating party has relied on the repudiation or cancelled the contract.

Here, the buyer made an anticipatory repudiation by stating in his May 2 letter that he would not buy the doll when performance was due on May 4. The seller then cancelled the contract by calling the buyer on May 3 and telling him the letter was the end of the deal and she would sell the doll to someone else. She also relied on the repudiation by making a deal to sell the doll to another collector on May 4. Then the buyer tried to withdraw his repudiation on May 5, but it was too late because the seller had already cancelled the contract and relied on the repudiation. It does not matter that the seller had not actually delivered the doll to the collector yet.

Therefore, the buyer breached the contract by repudiating it before performance.

And may not retract the repudiation because the contract was canceled by the seller

3. *Amount of damages*

Nonbreaching parties to contracts are usually entitled to expectation damages, which means they are put in the same position they would have been in had the contract been pefomed as agreed. If a buyer breaches under the UCC, the seller can recover the difference between the actual resale price of the goods and the contract price if the resale of the goods was commercially reasonable and in good faith. A nonbreaching party under the UCC is also entitled to incidental damages, which include the costs of storage, shipping, etc. caused by the other party's breach. Any savings the nonbreaching party had from nonperformance of the contract is subtracted from

Rules

Oops

damages.

In this case, the seller expected to receive $12,000 if the buyer had performed but only received $11,000 from reselling the doll. In addition, she incurred $150 in shipping costs to ship the doll to the collector that she would not have had from the sale to the buyer with a delivery at the buyer's house, which qualifies as incidental damages. The resale of the doll was commercially reasonable and in good faith, so the seller should recover $1,000 in expectation damages (difference between resale price and contract price).

Therefore, the seller should recover $1,150 from the buyer due to the buyer's breach, perhaps minus her saved gas money from delivering the doll to the buyer's house.

======== End of Answer #3 ========