The "One Contract" Rule – What It Is and How to Use It

By
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ISSUE: What is the "One Contract" Rule and why does it matter if it is cited in contract transaction disputes involving multiple documents/contracts?

ANSWER: Under the *Restatement (Second) of Contracts*, § 202(2) and Iowa law[2], multiple documents (separate contracts/documents) executed at the same time; as part of the same transaction; by the same parties are construed together placing the documents under the "One Contract" rule. Thus, in circumstance where there are multiple contracts/documents pertaining to the same transaction, the most likely result will be that the separate contracts/documents will be construed together to resolve any ambiguous or conflicting terms.

Introduction – The Rule

Restatement (Second) of Contracts - The "One Contract" Rule

The "one contract" rule is found in the *Restatement (Second) of Contracts*, § 202(2) (American Law Institute, 1981), under "Rules in Aid of Interpretation". It states, **"A writing is interpreted as a whole, and all writings that are part of the same transaction are interpreted together"**. Thus, in matters where conflicting or ambiguous terms are present in multiple contracts or there are consistent terms which show a pattern of intent or conduct, the "One Contract" Rule comes into play.

Policy Supporting the "One Contract" Rule

As a general matter, commercial, and many consumer contracts, consist of multiple documents.[3] In some circumstances, the multiple documents/contracts may contain conflicting or ambiguous provisions or have terms which are consistent and demonstrate a pattern of conduct or intent of the parties. This rule of interpretation can be used when either conflicting terms have

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[2] This rule from the *Restatement* is observed in all other states as a matter of contract interpretation.

[3] Comments in this presentation are focused on commercial equipment leasing transactions although the "one contract" rule can apply to any situation where multiple contracts/documents/parties are involved.

to be reconciled and/or consistent terms have to be deciphered as to intent or pattern of conduct. For purposes of discussion, a commercial equipment lease[4] and separate equipment supplier promotional contract will be used an as an example.

First, let's review the commercial equipment lease. A master commercial equipment lease contract may only consist of one or two pages, but often times there are ancillary but essential documents to the transaction that are required by the funding source to allow for enhanced enforceability and negotiability of the lease[5]. Standard examples in the leasing industry of essential ancillary documents, in addition to a master lease document, are as follows; personal guaranties of the lessees; schedule/description of equipment; franchise fee acknowledgment and/or working capital acknowledgement (if relevant to the particular transaction); purchase option, if not stated on the face of the master lease; estoppel certificate; continuing cross-collateralization agreement; insurance binder; corporate authorization resolution and acknowledgment and acceptance of delivery of equipment.[6] Some lessors put these provisions in the master lease. Others have the above provisions placed in separate documents to be signed by the lessee(s) at the time the master lease is executed. In doing so lessors believe the chance of a lessee making a successful claim they did not read or understand the documents and their provisions is reduced because they have been required to individually review and sign the required documents. The above mentioned documents represent only some of the ancillary, but essential forms, in leasing transactions. In a standard leasing situation (without a separate equipment supplier promotional program) these documents pose no real threat to the enforceability of the master lease. In fact, such ancillary documents enhance enforceability and negotiability of the lease itself.

A practical reality of commercial equipment leasing is that lessors deal with independent equipment suppliers.[7] Many equipment suppliers use promotional agreements[8] to encourage or enhance sales. These agreements often promise an offsetting payment to the monthly lease rental

[4] References in this paper to a "commercial lease" and/or "equipment lease" can also include a "secured transaction".
[5] By written provision, virtually all commercial equipment leases are assignable, without notice to the lessee, at the discretion of the lessor.
[6] This list is not exclusive nor is it intended to be.
[7] Sometimes leasing companies are a subsidiary of an equipment manufacturer and have a more direct relationship with the equipment supplier. Mostly, lessors are simply funding sources for independent equipment suppliers.
[8] These agreements may be called "marketing agreement"; "revenue sharing agreement"; "program agreement" or by many other names. The net effect is the same; the equipment supplier is promising the lessee a full or partial setoff of the unconditional monthly lease rental obligation.

obligation as an inducement to sale of equipment. Sometimes these programs are well known, understood and agreed to by the lessor; other times they are not. The equipment supplier's sales staff is the vehicle by which the promotional agreement, the lease and any ancillary documents are presented to the potential lessee; in some instances, the lessor uses the supplier's contract forms, which contain the supplier' logo. Such a situation often creates the impression on the part of the lessees that there is an agency relationship between the equipment supplier and lessor. Should the advertising payments promised to the lessee by the equipment supplier stop, the lessees assume that the obligations to pay the lease rent also end. Depending on the documentation and surrounding circumstances, the "one contract" rule can be problematic for the lessor when the equipment supplier reneges on payments promised to the lessee which offset lease rental payments. This is especially true if the lessor is unaware of the use of the promotional agreements or approves, actually or tacitly, of the use of the promotional agreements without ironclad conditions agreed to by all parties that the promotional agreements are not part of the master lease. Equipment suppliers' promotional agreements are rarely a good idea in an equipment lease or secured transaction because they introduce uncertainty into a lease transaction that should otherwise be an unconditional obligation.[9] Over the course of the last decade, there have been two large lease portfolios entered into by Iowa based leasing companies which involved equipment supplier payment programs designed to offset most or all of the lease payments. Both were the subject of considerable litigation in Polk County. These cases involved the Royal Links Beverage Caddy Express Carts and the Credit Card Center ATM lease portfolios. The "one contract" rule could have been argued in both cases but no one clearly raised the issue.[10] This paper will use the Royal Links portfolio and a particular lease from that portfolio as an example of how the "one contract" rule might have been applied.

Attempting to apply or avoid the "one contract" rule presents factual and legal challenges for both parties to the contracts. The "one contract" rule can only be used in multiple contract/document situations. This paper will cite to the law in Iowa and other states relative to the "one contract" rule; review the "one contract" rule as an exception to the "parol evidence

[9] Some lessors prohibit promotional agreements in the General Vendor Agreement between the equipment supplier and the lessor but then assume they need do nothing to enforce that contractual term. Others know of the incentive programs and assume the "noncancelable" nature of the lease known as the "hell and high water" clause immunizes them from any danger. Both assumptions are idiotic.

[10] In those portfolio situations, the lessors were aware of the written incentive programs offered by the equipment suppliers before financing was provided by the leasing companies.

rule" and discuss how this rule could affect mistake and agency/fraud defenses as well as present ideas on how, even if lessors are bound by the "one contract" rule, the "hell and high water" and "integration" clauses in the leases may still make the leases fully enforceable under the "one contract" rule.

The "One Contract" Rule – Analysis Paradigm

A. General Rule

Iowa law states, "[I]nstruments relating to the same transaction which are contemporaneously executed should be construed together." Taylor Enterprise, Inc. v. Clarinda Production Credit Ass'n, 447 N.W.2d 113, 115 (Iowa 1989) (this tracks with the definition previously cited from the *Restatement*) A more precise description appears in Florida case law. "When two or more documents are executed by the same parties, at or near the same time, in the course of the same transaction, and concern the same subject matter, these documents will be read and construed together." Hopfenspirger v. West, 949 So.2d 1050, 1053 (5th Dist. Fla. 2006)(citations omitted)[11] Further, it is a generally accepted rule of contract law that, where a writing expressly refers to and sufficiently describes another document, that other document, or so much of it as is referred to, is to be interpreted as part of the writing. Courtesy Auto Group, Inc. v. Garcia, 778 So.2d 1000, 1002 (5th Dist. Fla. 2000) The key point is that documents, "essential" to the overall transaction, fall under the "one contract" rule. See, Personal Security & Safety Systems, Inc. v. Motorola, Inc., 297 F. 3rd 388(5th Cir. 2002)

This legal standard must be broken down into its component parts to fully understand its application and ramifications in situations where multiple contracts/documents are present.

The Breakdown

1. "Number of Documents/Multiple Writings"

In order to invoke the "one contract" rule there must first be "two or more documents" which are "essential" to the overall transaction. As a general rule, this simply means that all "essential" documents involved in single transaction are construed together to resolve any disputes over meaning. The "essential" documents can also be analyzed to determine if consistencies in terminology affect the intent or conduct of the parties. Repeating the footnote at the bottom of this page, this *does not* mean that terms from one contract are imported wholesale

[11] It is important to note that "construed together" does not mean that written provisions from one contract will be imported wholesale into another contract.

into the other contract(s). The court will look at any conflicting or ambiguous terms in the contracts to see if such terms can be reconciled. It will also look at consistent terms to discern any intent or pattern of conduct which affects the parties intended relationship.

2. "Documents Executed at or Near the Same Time

The "two or more" "essential" documents to the overall transaction must have been "executed at or near the same time, in the course of the same transaction and concern the same subject matter." Modern transactions which require signatures from parties' located great distances from one another may not be "executed at the same time".[12] Generally, to meet this requirement, it should be sufficient for the time of execution to be near the original date of execution. This could be thirty days or more depending on the location of the parties. The greater amount of time that passes may be an indicator that contracts are truly "separate" and should be construed as such. Circumstances will dictate if this factor of the "one contract" rule plays a significant role in the analysis.

3. "In The Course of the Same Transaction"

The key to this element is the ability to recognize exactly what kind of transaction has occurred. In a situation, like a finance lease or secured transaction, there are more than two parties, each contributes a certain benefit to the transaction, and there are certainly more than two contracts/documents which are essential to the transaction. For example, in an equipment lease, the equipment is supplied by a vendor or manufacturer and financing is obtained from a separate source, usually a party called a lessor. Each party to the lease/secured transaction has a similar goal. The equipment supplier wants to sell equipment; the financing source wants to obtain interest on money loaned and the purchaser (known as a lessee) wants to get and use equipment in their respective business. Thus, under this scenario, although different contracts/documents may be between different parties, they are all part of the "same transaction".

4. "And Concerning The Same Subject Matter"

Again using the equipment lease example, in this circumstance, the "subject matter" is the sale and financing of the equipment. The supplier wants to sell the equipment (the subject matter); the lessor wants to finance and receive interest payments off of the money loaned for the sale of the equipment (the subject matter) and the lessee wants to obtain and use the equipment

[12] In Iowa, the original of all contracts upon which debt collection actions are brought must be presented to and surrendered to the court before a judgment will be entered. *Iowa R. Civ. P.* 1.961 (2013)

(the subject matter). Thus, even if separate contracts/documents exist related to various aspects of the transaction, it all relates to the same subject matter.

5. "Same Parties"

Here it gets to be a little trickier. In transactions that have one party on each side and, with two or more documents related to the same transaction, it is relatively simple to invoke the rule should a dispute arise as to conflicting and/or consistent contract terms. However, some transactions have three or more parties. A non-lease example of this could be a real estate deal in which the seller of land contracts with a buyer who, in turn, contracts separately with a builder but for which the transfer of title is contingent on some action by the builder related to the completion of the building. The contract with the builder contains an arbitration clause. The real estate contract has a provision for attorney fees to the successful party in litigation. A dispute arises between the buyer and the builder which implicates the final transfer of title. The buyer and builder go into arbitration and the buyer prevails. He seeks to invoke the fee shifting provisions of the real estate contract since the completion of the building affects final transfer of title. In this circumstance the "one contract" rule could come into play even though there are multiple parties and contracts/documents that play different roles in the transaction.[13]

Other times, the multiple, essential documents involve different parties who are part of the same transaction but, because of their relationship to the overall transaction, can be considered "same parties" for purposes of this analysis of this rule. In the case of an equipment finance lease or secured transaction, the law recognizes that a three way transaction has taken place between the parties. In a transaction with multiple documents it is important to establish the relationship of all parties to the transaction to insure a proper analysis of this element. Nevertheless, do not be dissuaded from use of this rule just because, at first blush, it appears the parties are "different".

6. "Essential" Documents and "Express References"

Are 'essential" documents always contracts or can they be some other type of document? How "express" do "express references" have to be? A guide to answering these questions is found in a ruling by the Tennessee Supreme Court. In McCall v. Towne Square, Inc., 503 S.W. 2d 180, 182-83 (Tenn. 1973), the Court held:

> "Other writings, or matters contained therein, which are referred to in a written

[13] Scenarios regarding the use of this rule are virtually limitless.

contract may be regarded as incorporated by reference as a part of the contract. Where a written contract refers to another instrument and makes the terms and conditions of such other instrument a part of it the two will be construed together as the agreement of the parties." Id.

Certainly, an "essential" document can be a formal contract. However, an "essential" document can be something other than a contract; such as a purchase order; or an invoice or exhibit to one of the contracts in the transaction. An "express reference" can be something as seemingly innocuous as a description of or type of equipment, a serial number of equipment or item; or a detailed description of goods involved in the transaction for which a serial number is not available. The circumstances of each case will vary. The most important factor regarding this element is, can a court determine from the language of the contracts/documents and the references contained therein that the parties intended the terms used to be "essential" and thus the instruments should be construed together? All of the above factors are for the court to determine as a matter of law.

A. Case Study – The Royal Links Beverage Caddy Express Cart Program

An Example of How to Perform a "One Contract" Rule Analysis Using the Outlook Farm Golf Example

Background of the Royal Links Program

In late 2002, C and J Leasing and C & J Vantage Leasing (collectively referred to as C and J) began the process of funding 409 equipment leases involving 544 non-motorized beverage caddy express carts sold by Royal Links USA, an Ohio corporation (hereinafter Royal Links), who was the equipment supplier. The lessees (equipment purchasers) were various golf courses and pro shops located across the United States. The key feature of each transaction was that golf courses would be provided non-motorized golf cart(s) which held food and beverage items intended for sale to golfers on the various courses. By agreement between Royal Links and the golf courses, advertising would be displayed on the golf carts for which the course would be paid a monthly fee which equaled the monthly payment on the lease. (See, Exhibit 1-Royal Links USA Program Agreement) C and J, along with fourteen other leasing companies, agreed to finance the purchase price of the beverage caddy carts for which it was to receive monthly rental

payments under a noncancelable finance lease.[14] C and J knew of the Royal Links advertising program but claimed it was not aware of the specific details of the program. C and J believed the payments by Royal Links to the golf courses were based on amount of product sales from the golf carts. Nevertheless, C and J provided Royal Links with its lease factor rate which allowed the Royal Links salespersons to calculate the exact amount of the lease rental payments. Royal Links then exactly matched the advertising payments to the monthly lease rental payments and made this part of the sales presentation. In this fashion Royal Links matched up the advertising payments to the specific leases. C and J denied that it approved such a practice; regardless, the monthly advertising payment exactly equaled the monthly lease payment. [15]

Under its agreement with Royal Links, C and J purchased golf carts for use by the courses in the Royal Links program and paid Royal Links $12,500 for each cart. (See, Exhibit 2-Royal Links Invoice to C and J Leasing for golf carts) In return, C and J Leasing entered into an equipment lease agreement with the golf courses under which the courses would make a monthly lease payment which equaled the amount the courses were to receive under the Royal Links Advertising Program.[16] (See, Exhibit 3-Royal Links USA Equipment Lease Agreement identifying C and J Leasing Corp. as the lessor) The lease contained a "hell and high water" clause making the lease obligations unconditional and noncancelable. By late 2004, Royal Links began to default on its monthly advertising payments to the golf courses. In turn, the golf courses, claiming that the golf carts were worthless without the advertising payments, stopped paying on the leases. Since there was a direct setoff of the advertising and lease payments the golf courses claimed the default on the advertising payments released them from the obligations of the leases. C and J disagreed, citing the "hell and high water" language of the leases, and sued to enforce the leases.[17] Royal Links took bankruptcy in 2005.

Attached to this outline are representative "essential" documents which set forth the

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[14] For the Royal Links portfolio, C and J used its own lease form early on the financing process and later switched to use of the Royal Links form lease. In Outlook Farm Golf the Royal Links form lease was used by C and J.

[15] An area never explored in these cases by the lessees was if C and J's view that the Royal Links program payments were based on product sales then why was it necessary for Royal Links to have C and J's lease factor rate and why did the program payments always match the lease rental payments to the penny?

[16] This agreement was actually a secured transaction because it provided for a $1.00 buyout at the end of the term of the agreement. However, for purposes of this paper the agreement will be referred to as a "lease".

[17] C and J Leasing brought suit on approximately 200 Royal Links leases in Polk County. With the exception of very few cases, C and J Leasing was either able to settle or collect judgments on all sued cases. C and J had invested a total of approximately $6.79 million dollars toward purchase of the beverage caddy express carts. The default on the portfolio represented approximately half of the amount invested by C and J with Royal Links.

various agreements between Royal Links and the golf courses and C and J and the golf courses.[18] A review and analysis of these contracts and documents should serve as an example of how to breakdown "one contract" rule cases.

B. A Comparative Analysis of the Documents in the Royal Links Transaction

There are three (3) "essential" documents in the Royal Links transactions.[19] The Program Agreement (Exhibit 1) specifically refers to and incorporates the Purchase Order/Invoice (Exhibit 2) by "Reservation Number" into the Program Agreement. The Equipment Lease (Exhibit 3) sets forth the terms of the repayment obligations of the lessees to the lessor. This documentation procedure was generally followed in each and every case. Thus, the Purchase Order/Invoice and the Program Agreement are two separate documents that refer to one another as part of the same transaction. To further illustrate matters using our specific examples, the Program Agreement states the "Monthly Sponsorship Revenue Sharing" amount for the particular lease, in this case is $628.00. (Exhibit 1)[20] A review of the lease shows the monthly lease payment amount as $628.00. (Exhibit 3) Additionally, the lease lists the "Lease Rate Factor" which allowed Royal Links salespersons to be able to exactly calculate the monthly lease payment and thus match it exactly to the "Monthly Sponsorship Revenue Sharing". (See Exhibit 1 and 3) This information was obtained from C and J by Royal Links. Normally, this information is not shared by leasing companies with equipment suppliers.

While it is true the Equipment Lease Agreement does not make any reference to the "Monthly Sponsorship Revenue Sharing" or the Concession Cart Unit numbers, the Invoice/Purchase Order between Royal Links and C and J (Exhibit 2) specifically identifies Concession Carts Unit # 2080/2081 which corresponds to the cart numbers on the Program Agreement (Exhibit 1) The Lease clearly provided for financing two beverage caddy express carts. Additionally, Paragraph 5 of the Program Agreement mentions that Royal Links had the option to "exercise its purchase option under any lease." (Exhibit 1, paragraph 5, Purchase Option) Another interesting feature is that the Program Agreement contained a "purchase option" for the carts. (Exhibit 1, para. 5) Meanwhile, the Lease transferred title of the carts on delivery

[18] For ease of analysis, not all documents involved in the transactions are included in the exhibits. However, the ones that appear in the exhibits will clearly demonstrate the points presented in this paper.

[19] A fourth document, "Delivery and Acceptance Certificate" is included with the exhibits for purposes of rounding out the timeline.

[20] Documents from the Outlook Farm Golf Course lease file are presented as exhibits. These documents were fully discussed in C & J Vantage Leasing Co. v. Outlook Farm Golf Course, 784 N.W. 2d 753 (Iowa 2010) thus no confidential information is being released.

and claimed a security interest which could be released at the end of the Lease term. (Exhibit 3, para. 6 and 12) Thus, Royal Links knew some, if not all the carts sold, would be subject to lease agreements.

Both the Program Agreement and the Equipment Lease Agreement contained a "Miscellaneous" paragraph which contains language indicating that each contract was the "entire agreement between the parties". This provision in the Program Agreement indicated that this paragraph "superseded any prior agreements, or representations, written or oral." (Exhibit 1-para 7) The Lease simply stated, "This Lease is the entire agreement between us and cannot be modified except by another document signed by us." (Exhibit 3-para. 14)

All the documents, in this particular transaction, are on Royal Links forms. The Program Agreement is clearly between Royal Links and the golf course. It provided that in the event of a dispute jurisdiction and venue would be in Ohio. C and J had no involvement or obligation under the Program Agreement for payment of the advertising revenues. While C and J is the named lessor on the Equipment Lease Agreement, the document itself is clearly a Royal Links produced form. It provided that jurisdiction and venue of any disputes would be in Iowa. Royal Links had no obligations to the golf course under the lease for financing. The Purchase Order was between C and J and Royal Links and documented the purchase, by C and J, of the specifically numbered carts identified on the Program Agreement. C and J knew that these uniquely numbered carts were for this particular lease and program agreement transaction based on the printed information on the Invoice/Purchase Order. (See, Exhibit 3)

Finally, Royal Links signed the Program Agreement on March 16, 2004. It then presented both the Program Agreement and Lease to the golf course which executed the documents on March 29, 2004. On April 17, 2004 the golf course accepted delivery of the carts from Royal Links and confirmed the same to C and J. (See, Exhibit 4-Delivery and Acceptance Certificate) The Lease was accepted by C and J on April 19, 2004. C and J made payment to Royal Links for the carts on April 21, 2004.

Clearly, what is described above meets all the elements of the "one contract" rule; there are multiple writings, executed at or near the same time, in the course of the same transaction, concerning the same subject matter, involving the same parties, containing essential documents and express references in each of the documents. There seemed to be conflicting terms in the Program and Lease Agreements requiring the application of the "One Contract" rule. There is

also the fact that the Program Agreement and Lease contain the Royal Links logo. Yet, no one in this case or any other Royal Links case ever raised the "one contract" rule as a defense to the leases or as a way to interpret conflicting and/or consistent provisions in the transactions.

C. An Analysis in Favor of the Application of the One Contract Rule

As we have seen above, an argument that the Royal Links' program could have been analyzed under the "one contract" rule certainly has factual and legal merit. There are multiple reasons for this.

In essence, the "one contract" rule is a possible exception to the parol evidence rule. Simply stated, the "parol evidence rule" is a rule declaring that parol evidence (evidence outside the express terms of a written contract) is inadmissible to vary the terms of a valid written instrument. *See,* Iowa Fuel & Minerals, Inc. v. Iowa State Bd. of Regents, 471 N.W.2d 859,862 (Iowa 1991) However, "parol evidence" may be introduced to explain ambiguities or uncertainties in a written contract. See, Id. Any ambiguity is created by incorporation of seemingly contradictory clauses in the contract means the ambiguity must be resolved against the drafter of the contract. *Restatement (Second) of Contracts*, § 206 (American Law Institute, 1981) Another pertinent exception to the "parol evidence" rule is that extrinsic evidence is admissible to prove a "condition precedent" to the written contract for the purpose of showing that by failing to obtain the "condition precedent" no binding contract exists. Finally, the "one contract" rule can be used to show a pattern of intended conduct/behavior between/among multiple contracts by highlighting consistent provisions in those agreements. While not technically "parol evidence", it is a means of taking consistent information in the written contracts and construing it against the drafters.

Along these lines it should suffice to say that if the Outlook Farm multiple documents were fully scrutinized there are arguably ambiguities and contradictory clauses in both the Program Agreement and Lease which, if irreconcilable, would have called for a resort to parol evidence. By not reviewing the entire transaction, an opportunity to analyze the enforceability of the "hell and high water" clause was lost. The key issue the lessees' believed, with some written justification, was the cart was essentially free or, as the court in Outlook Farm Golf describes, a "net-zero" transaction. See, Outlook Farm Golf, 784 N. W. 2d 753, 753 (Iowa 2011) Simply put; there was no obligation to pay the Lease without the Program Agreement payments. The "hell and high water" clause aside, if the Program Agreement was breached then the Lease should

have also been voided.

This alone gives rise to the defense of "mistake". The lessees could have argued they were led to believe the carts were "free" and the program agreement and lease supported that belief. The sales pitch included such statements. When the program advertising payments stopped, clearly a mistake must have happened that defeated a "meeting of the minds". If the court had determined that a mistake had been made and no meeting of the minds had taken place then the parties would have been returned to their pre-contract positions. This could have entailed the return of the equipment by the lessee to the lessor and a refund of all payments plus cancellation of any remaining payments. That would have been a complete win for the complaining lessees. An additional possible mistake involved the conflicting jurisdiction and venue provisions. Was this intentional or an oversight? Which court had jurisdiction? Was this also a "mistake" that could have voided the contracts or, at least, pushed the jurisdiction to the lessees' home states? These questions were not effectively raised in this or any other Royal Links case.

Another issue that the "one contract" rule allows to be developed is whether an agency relationship existed between the equipment supplier and lessor. Many of the lease forms C and J used contained the Royal Links logo. So did the Program Agreement. The monthly lease and the program agreement reimbursement payments were exactly equal. If these two contracts were not supposed to be construed as one transaction why was that a term of each agreement? Royal Links had C and J's lease rate factor information which it used to exactly calculate and match the program payment to lease rental amount. In the Lake MacBride case, the Iowa Supreme Court found that fact highly suspicious. See, Lake MacBride, 795 N.W. 2d 65 (Iowa 2011)[21] Because the Program Agreement and the Lease contained the Royal Links logo, was that an indication of agency? These documents were presented to the potential lessees by Royal Links salespersons. While the Lease disclaimed agency, the Program Agreement was silent on the matter.[22] However, if there was no intended agency why did C and J allow the Royal Links logo to appear on the main transactional documents when it could and had used its own documents in past transactions? As previously discussed, C and J was aware of the Royal Links advertising payment program although it maintained it did not know the details. C and J never represented to

[21] In fact, the Court described that occurrence as "miraculous".

[22] "A failure to deny an agency relationship is not sufficient to support a claim for agency". Koens v. Royal Caribbean Cruises, Ltd., 774 F. Supp. 2d 1215 at 1222 (S.D. Fl. 2011)

any golf course that Royal Links was its agent. But there were certainly facts that could have supported an apparent agency. If ambiguities and contradictions in the contract documents are to be construed against the drafter, See, *Restatement (Second) of Contracts*, § 206, American Law Institute, 1981); see also, Pappas v. Bever, 219 N.W.2d 720 (Iowa 1974), certainly consistencies in the documents could be used by the lessees to argue an agency relationship existed.

There are many more facts that could be argued on the agency issue, The "one contract" rule opens the door to proving that theory and potentially offered a more direct route to establishing agency between C and J and Royal Links based on the documents and overall transaction than the hapless hearsay statements of the golf course owners claiming an agency relationship. Even if an "actual" agency was not supported by the documents and surrounding facts, an "apparent" agency certainly might have been. Instead, in this case and all others, counsel for the golf courses universally presented hearsay and speculative affidavits and testimony from golf course owners attempting to establish "actual" agency. The golf course owners admitted they never talked to anyone at C and J who indicated Royal Links personnel were the leasing company's agent before or at the time they entered into the Royal Links program and Lease. The "one contract" rule would have allowed for an "apparent" agency argument which would have been easier to prove based on the overall transaction than the speculative affidavits of the golf course owners claiming, after the fact, they assumed Royal Links and C and J were agents of one another. See, Outlook Farm Golf at 759-760 and Lake MacBride, 795 N.W. 2d at 79

From there the golf courses may have had an easier time advancing the "Ponzi scheme" argument and imputing any Royal Links illegal conduct to C and J as a means to avoid the lease.[23] This could also have led to the nullification of the contract. At the very least, a fact question would have been created as to agency thus guaranteeing a trial.

An Analysis Against the Application of the One Contract Rule

C and J Leasing consistently maintained in all the litigation involving the Royal Links Program that the lease was a separate contract from the Royal Links Program Agreement. It argued that the lease was governed by the Uniform Commercial Code provisions for the enforcement of "hell and high water" and "integration" clause provisions *in the lease* where the Program Agreement was not. It was C and J's position that the lease contract was fully integrated

[23] Ultimately, the owners of Royal Links were indicted and pled guilty to federal fraud charges.

and as such could not be subjected to parol evidence nor could it be compared to other separate contracts. C and J further maintained that Royal Links was not its agent, that C and J never held Royal Links out as an agent and that the Lease contained an agency disclaimer and as such no wrongful acts, if any, of Royal Links could be imputed to C and J. Many of the C and J leases were on its own forms. It was not until later in the program that C and J used Royal Links form leases. Regardless of the form of the lease, the lessees knew C and J was the lessor and made payments directly to C and J, not Royal Links. Further, since the lease was basically a security agreement for financing and, since C and J had no obligations to make advertising payments, and since the Royal Links Program Agreement was not a security agreement for the financing to the golf courses, the two contracts were separate and should not be construed together. In any event, the Lease would control over the Program Agreement. Ultimately, the Iowa Supreme Court agreed holding that although the "lease" was really a secured transaction and the "hell and high water" clause expressly written in the "lease" was fully enforceable. See, Outlook Farm Golf Course, 784 N.W. 2d 753 (Iowa 2010) and Lake MacBride Golf Course, 795 N. W. 2d 65 (Iowa 2011)[24] As noted above, based on the documents representative in the Outlook Farm case, while nothing would void the "hell and high water" clause, the "apparent" agency issue was very much in play. However, the "one contract" rule was never raised as to the agency issue.

Despite the obvious merits of application of the "one contract" rule to the Royal Links Program, C and J's position had a factual and legal basis. Under the three way structure of a secured transaction, C and J had no interest in what the specifics of the promotional programs of Royal Links were to encourage the sale of its equipment. C and J offered no warranties as to use or performance of the equipment. C and J was aware of the Royal Links program and willingly participated in funding it but C and J was just one of fifteen possible funding sources for the Royal Links' equipment. Its role was solely "finance". At the time the golf courses submitted the credit application they were unaware which leasing company would be funding the transaction. C and J did not participate in sales pitches to the golf courses; it did not train or direct Royal Links salespersons; it did not encourage or discourage potential lessees from engaging in the Royal Links program and the Lease made clear, because C and J was advancing the entire purchase price of the equipment up front, that the obligation to pay the debt back with interest

[24] Both cases were reversed to allow a trial on the agency issue. However, all substantive law supporting the enforceability of the leases was upheld. Both cases settled prior to trial on remand.

was unconditional.[25] C and J engaged in no fraud, in fact, allegations that it had ran so counter to common sense and logic that no court ever found C and J committed any wrongdoing for its part in this transaction.[26]

A review of the Royal Links Program Agreement shows it made no unconditional promises to make payments nor did it allow for the Lease to be cancelled if Royal Links defaulted on its obligations. The Program Agreement only makes a passing reference to a "lease" as it related to allowing Royal Links to buy out any existing security interest should it desire to repurchase the beverage carts from the golf course. Thus, it could be argued it was not an "essential" term. Additionally, the Program Agreement had its own integration clause thus showing intent by Royal Links that it was separate from any other contracts. (Exhibit 1, para. 7)

Under these facts a court could find the Program Agreement and the Lease did not conflict with one another and, even if they did, each was a stand-alone contract and there was no need to reconcile the contracts provisions together.

CONCLUSION

The 'one contract" rule is neither a silver bullet that gets a person or an entity out of a multiple document/contract transaction nor a death sentence for parties that finance multiple document/contract transactions. It is merely a means to analyze what type of transaction the parties have entered into. This rule allows a court to determine if ambiguities exist to resolve the conflicts or if consistencies exist to make a determination of the relationship of the parties. The "one contract" rule may be an exception to the "parol evidence" rule. Each multiple contract/document transaction will have its own unique facts and circumstances. There is no "one size fits all" to application of the "one contract" rule. However, the "one contract" rule should be an analysis model which all lawyers who handle contract cases consider when evaluating multiple document/contract transactions.

[25] This was no different than any secured transaction under the Uniform Commercial Code.

[26] The argument advanced by virtually every lawyer who represented the golf courses that C and J advanced all the money at the beginning of the lease transaction with a deliberate intent to defraud the lessees by receiving payments with interest over a five year span was ridiculous on its face and never accepted by any court.