

## **Question MEE 1 – February 2025 – Selected Answer 1**

### **1. The issue is whether Kim was an agent of Comet Fitness when she purchased the treadmill.**

The rule states that an agency relationship is created when (1) the principal manifests an assent to the agent, (2) the agent confers a benefit to the principal, (3) the agent is under the principal's control and (4) the agent manifests an assent to be bound to the principal.

The facts show that Nancy discussed Kim potentially coming to work for the gym as a personal trainer. However, there were no discussions regarding the specifics of such an agreement and it was a mere conversation in passing about an opportunity. Kim then went and purchased two treadmills for Comet Fitness after hearing Bill and Nancy discussing the need for treadmills in the gym.

When applying the rules to the facts, Nancy never manifested an assent to Kim to act as an agent on behalf of her or Comet Fitness. While Kim attempted to benefit Comet Fitness by purchasing the two treadmills, she was never an agent of Comet Fitness because Nancy never manifested the assent nor did Kim act under the control of Nancy. This result would be different if Nancy had instructed Kim something along the lines of "if you want to work for Comet Fitness, go purchase two treadmills for the facility and show up on Monday." However, there was no discussion regarding the specifics of an agency relationship being formed. Nancy was simply stating that she would have enjoyed Kim to work as a personal trainer at Comet Fitness.

The conclusion is Kim is not an agent of Comet Fitness.

### **2A. The issue is whether Kim had actual authority to purchase the treadmill for Comet Fitness, assuming she was an agent.**

The rule states actual authority exists when the agent was either explicitly directed to act or is acting reasonably pursuant to the principal's directions. Additionally, the third party must know that the agent is acting on behalf of the principal. When an agent acts without authority, the agent becomes liable for the terms of the contract.

The facts show that Nancy never expressly directed Kim to purchase the treadmills on behalf of Comet Fitness. Kim only purchased the treadmill to hopefully impress Bill and Nancy with her initiative and never informed her of her actions.

When applying the rules to the facts, Kim did not have actual authority from Nancy to purchase the treadmills because Nancy never expressly asked her to do so and Nancy was even unaware of Kim's actions. Nancy would have had to ask Kim directly to purchase the treadmills or said that in order for Kim to become a personal trainer, Comet Fitness would have needed to purchase additional treadmills. Although the third party (sporting-goods store) was aware that Kim was acting on behalf of Comet Fitness, she did not have actual authority because she never discussed this action with either Bill nor Nancy.

The conclusion is Kim did not have actual authority to purchase the treadmill for Comet Fitness.

**2B. The issue is whether Kim had apparent authority to purchase the treadmill for Comet Fitness, assuming she was an agent.**

The rule states an agent has apparent authority when the agent actions are reasonably based on the directions of the principal and necessary to complete to confer the benefit to the principal. If an agent acts pursuant to apparent authority and discloses the principal's identity, the agent will not be liable to the contract.

When applying the rules to the facts, Kim was not acting pursuant to apparent authority when purchasing the treadmills because there was no discussion regarding the purchase nor employment. Kim had no reason to believe that Bill and Nancy would manifest an assent to be bound to a contract that Kim entered without their knowledge. Further, apparent authority does not exist because neither Bill nor Nancy were aware that Kim overheard their discussions regarding the additional treadmill.

The conclusion is Kim did not have apparent authority to purchase the treadmill for Comet Fitness.

**3. The issue is whether Nancy had the authority to bind Comet Fitness to the contract to purchase the two treadmills with the video touchscreen.**

The rule states that a partner of a general partnership may make purchases or act without the consent of the other partners when the action or purchase is in the ordinary course of the partnership's business. If the action or purchase is not in the ordinary course of the partnership's business, then the consent of all partners is required to act.

When applying the rules to the facts, purchasing the treadmills was likely in the ordinary course of the partnership's business because the partnership was a gym.

Nancy likely had the authority to bind Comet Fitness to the contract to purchase the two treadmills with the video touchscreen because she was acting pursuant to the ordinary course of the partnership's business by buying equipment. Further, Nancy and Bill had a discussion the day before that they both wish Comet Fitness had one or two more treadmills so it is reasonable to believe that Nancy would go out and purchase such treadmills for their business.

Although Bill had called the store owner and said "I'll try to get over there to check them out" so the store owner had no reason to believe that Nancy would not be able to purchase the treadmills because they were both partners of the general partnership.

The conclusion is Nancy likely had the authority to bind Comet Fitness to the contract to purchase the two treadmills with the video touchscreen.

### **Question MEE 1 – February 2025 – Selected Answer 2**

#### **1. Kim was not an agent of Comet Fitness when she purchased the treadmill.**

The issue at hand is whether or not Kim had an agent/principal relationship with Bill, Nancy, or Comet Fitness at the time that she purchased the treadmill.

An agency relationship requires two parties: a principal and the agent. The principal must have the capacity to supervise the agent in tasks that the principal directs the agent to undertake on his behalf. There must be mutual assent to form the agency relationship.

Here, Kim did not form an agency relationship with Comet Fitness because there was no mutual assent to form the agency relationship, there was no supervision or authorization from Comet Fitness nor its partners, and Kim acted without authority or authorization from neither Comet Fitness nor its partners. The general partners of a general partnership have the managerial authority to hire employees in the regular course of business. Comet Fitness is a general partnership and Nancy and Bill are its general partners, so they both have authority to hire employees in an agent/principal capacity. Nancy's telling Kim that Kim should "consider coming to work for them" as a personal trainer is not an offer to enter a agent/principal relationship - it is merely a solicitation to think about entering one. An offer requires a firm presentation of terms that will be fulfilled upon acceptance with the intent. Here, telling Kim to "consider" working for Comet Fitness does not rise to forming the firm presentation of terms that could create an agency relationship upon Kim's acceptance - Kim would merely be accepting "considering" work at Comet Fitness. Moreover, even if an actual offer

was present, Kim not have been found to have accepted it when she said "she would think about it and let Nancy know." Thus, no agency relationship was formed at the time that Kim and Nancy conversed at the party.

When Kim bought the treadmill at Comet Fitness hoping to impress Bill and Nancy, she did so without having been an employee or agent of Bill, Nancy, nor Comet Fitness. While she overheard Bill and Nancy's conversation that Comet Fitness needed two more treadmills, she was not party to that communication and no mutual assent or supervision of her activities was formed, meaning no agency relationship was formed. She had not communicated any agreement to work for Comet Fitness at the time, and she did not have any other authorization from Bill or Nancy to purchase the treadmill on Comet Fitness's behalf.

Thus, because an agency relationship requires mutual assent and capacity for supervision from the principal, and such a relationship never arose between Nancy and Kim or between Bill and Kim, Kim was not an agent of Comet Fitness when she purchased the treadmill, even though she stated that she had been acting on behalf of Comet Fitness.

**2. If Kim had been an agent of Comet Fitness, she did not have actual authority to purchase the treadmill on Comet Fitness's behalf. She also would not have had apparent authority to purchase the treadmill, absent some action by Bill and Kim that the sporting-goods store relied on in believing Kim holding herself out as an agent.**

The issue at hand is whether or not the principals, Bill and Nancy, committed any actions that would have created actual authority or apparent authority for Kim's purchase of the treadmill.

Actual authority is formed when an agent reasonably relies on the principal's act to do something on their behalf. Actual authority means that the principal has, in some way, authorized directly the agent to do an act on their behalf. This could look like telling an agent orally to make a purchase, giving the agent written instructions regarding what to do, giving the agent parameters of a job, etc.

Here, even if Kim were an agent of Comet Fitness, it appears that she would have been hired as a personal trainer and would not have had actual authority to purchase a treadmill for Comet Fitness. The facts indicate nowhere that Bill or Nancy would have directed Kim to purchase a treadmill; the conversation between Bill and Nancy about purchasing treadmills was overheard by Kim and Kim was not party to the conversation. Moreover, purchasing treadmills is not a typical task of personal

trainers, who usually are expected only to be training gym customers, not handling equipment sales or acquisitions. There is no evidence that Kim was ever directed by Bill and Nancy to purchase a treadmill, or to do any tasks outside of the tasks of a personal trainer. Thus, Kim would have lacked actual authority to purchase the treadmill even if she were an agent of Comet Fitness in her capacity as an employee as a personal trainer.

Apparent authority is formed when a third party reasonably relies on a principal's act that seems to grant authority to an agent to deal with the third party. This can look like credentials that the agent bears from the principal, a regular dealing or a purchase in the regular course of business, etc. Apparent authority lingers even after the termination of an agent/principal relationship if the principal does not provide notice of the termination to third parties. The third party must rely on some act by the principal for apparent authority to exist.

Here, even if Kim were an agent of Comet Fitness, it is unlikely that she would have had apparent authority to purchase a treadmill on Comet Fitness's behalf because the facts do not indicate that Bill and Nancy ever acted or provided any documentation that would hold Kim out as an agent to a third party. Kim independently went to the sporting goods store. The only indication that she was an agent of Comet Fitness came from her own holding out that she was acting on behalf of Comet Fitness, and that the store owner ought to send the treadmill and invoice to Comet Fitness. No act by Bill or Nancy exists that would have alerted the sporting goods store to an agency relationship with Kim that a reasonable person would have relied on. Bill's call to the store that the gym could use some treadmills made no mention of Kim, and Kim presumably had never bought treadmills on Comet Fitness's behalf before, meaning that Comet Fitness cannot reasonably claim this to have been a perceived act of authorization. Furthermore, both Bill and Nancy immediately rejected the treadmill when they were alerted of its purchase upon delivery, telling the delivery person to "take that one back." Thus, there was no ratification by Bill and Nancy of Kim's purchase. Ratification is the posthumus approval of an agent's actions either via acceptance of the benefits of the act or endorsement. Here, Bill and Nancy explicitly reject the treadmill.

Therefore, because Bill and Nancy have not held themselves out as principals to Kim in any way a third party would reasonably rely upon, nor have they ratified the treadmill purchase, no apparent authority can be found for Kim, unless Kim held credentials of some kind from Bill and Nancy to corroborate her claim of being Comet Fitness's agent. Thus, the final sale provision cannot apply to Comet Fitness, and only Kim is personally liable for payment of the treadmill.

### **3. Nancy had authority to bind comet fitness to the contract to purchase the two treadmills with video touchscreens.**

General partners are agents of the partnership. They have actual authority to act in the regular dealings of business, unless otherwise stipulated in the partnership agreement. Previous patterns of actions without issue can also form the basis of authority to act on behalf of the partnership. This includes making contracts, hiring employees for business purposes, purchasing of equipment, material, etc on behalf of the partnership. In the course of ordinary dealings, partners need only approval of the majority of other partners. In extraordinary dealings, partners require the unanimous approval of other partners.

Here, Nancy's purchase of the treadmills was in the ordinary course of business for Comet Fitness and she was therefore authorized as a general partner to bind Comet Fitness to the purchase contract. Comet Fitness is a gym, and Nancy and Bill had agreed that they were in need of two more treadmills. This makes the purchase of treadmills and necessary purchase for the good of the business that any partner could undertake. Nancy had even previously purchased treadmills similar to the ones she bought this time, with touchscreens. She had previously had authority to purchase these treadmills, and nothing indicates a severance of that authority or a partnership agreement otherwise. Finally, the treadmill purchase does not appear to have been extraordinary, especially since Nancy had bought them prior. It would not have triggered the requirement for a unanimous vote or seeking of permission of all general partners as a result, as Bill seemed to have implied.

Thus, Nancy was acting in the regular course of business, in line with her authority as a partner, and had the authority to bind Comet Fitness with the purchase of the two treadmills. The final sale provision applies, and Comet Fitness is liable to fulfilling the contract.

### **Question MEE 1 – February 2025 – Selected Answer 3**

#### **I. WAS KIM AN AGENT OF COMET FITNESS?**

The issue is whether Kim was an agent when she purchased the treadmill for the gym after overhearing Nancy and Bill discuss that they needed to purchase treadmills for the gym.

An agency is where one person (agent) acts on behalf of another (principal). An agency relationship exists where there is mutual assent, an agent that acts on behalf of a principal, and the ability of the principal to control the actions of the agent.

Here, Kim did act on behalf of Comet Fitness as she went to the store to purchase the treadmills after hearing Bill and Nancy discuss the need for more at the gym. Nancy and Bill, however, did not agree to have Kim go out and make that purchase for them. There was no mutual assent since all parties involved did not agree that Kim would make that purchase for the gym. Lastly, Kim did not act at the direction of Nancy and Bill. Nancy and Bill had no control over Kim's actions pertaining to the business.

Although there was a conversation about Kim potentially joining the gym as a trainer, thereby making her an employee and possible agent, this was not confirmed. After Nancy offered Kim the job, Kim said she would have to think about it and she would let Nancy and Bill know if she wanted to accept. Kim was not an employee at the time of the purchase, because the facts say that she made the purchase in hopes that it would impress Bill and Nancy.

Absent mutual assent and control, no agency relationship was formed. Therefore, Kim was not an agent of Comet Fitness when she purchased the treadmill.

## **II. KIM'S AUTHORITY TO ACT**

### **(a) Actual Authority**

The issue is whether Kim had actual authority to act on behalf of Comet Fitness when she purchased the treadmills.

Actual authority may be express or implied. Actual authority is express when the principal gives explicit instructions to the agent on a task that needs to be completed. Implied authority exists where the agent completes an act that they believed was reasonably necessary to fulfill a task of express authority, is custom in the trade, or is based on prior dealings.

Kim was never given any instructions by Nancy or Bill to purchase a treadmill. In fact, Kim's only knowledge of Comet Fitness' need to purchase treadmills came from her eavesdropping on a conversation. Since Kim never received any explicit instructions to act, there is no express authority. There also is no implied authority because there are no facts that show trade customs or prior dealings between Comet Fitness and the sporting-goods store that Kim would be aware of.

Therefore, Kim had no actual authority to act on behalf of Comet Fitness.

### **(b) Apparent Authority**

The issue is whether Kim had apparent authority to act on behalf of Comet Fitness when she purchased the treadmills.

Apparent authority exists where the agent did not have actual authority and a third party reasonably believed that the agent did have authority based on the acts or omissions of the principal. A principal can support a reasonable belief of authority where there is none by holding someone out as their agent by providing them with a title or name badge or failing to notify third parties about the termination of an agency relationship.

The facts say that Nancy and Bill are acquainted with the owner of the sporting-goods store. Bill spoke with the owner about heading down to the store himself to check out the treadmills and possibly buy some. Kim went to the sporting goods store and stated that she was making a purchase on behalf of Comer Fitness. The facts do not support a finding that the store owner could have reasonably believed that Kim was actually acting with authority. Based on the prior relationship between Nancy, Bill, and the store owner, it could be concluded that the store owner would have known if Nancy and Bill were sending an employee down to make the purchase on their behalf.

One may argue that based on the conversation between Bill and the store owner, that the owner could have reasonably believed that Kim was sent to make the purchase instead of Bill. This would be rebutted by the fact that Bill told the store owner that he would go down to check out the treadmills.

Therefore, Kim had no apparent authority to act on behalf of Comet Fitness.

### **III. NANCY'S AUTHORITY TO ACT**

The issue is whether Nancy had the authority to purchase the treadmills for Comet Fitness without discussing it with Bill first.

In a general partnership, each partner is an agent of the partnership. Each partner has actual authority to bind the partnership in the ordinary course of business and/or in ways expressly authorized by the partnership agreement or any other agreement between the partners.

Here, Nancy is a partner of Comet Fitness which would make her an agent of Comet Fitness. As an agent, Nancy is entitled to take any actions within the ordinary course of business to bind the partnership. Nancy and Bill had several discussions about the need to purchase new treadmills for the gym. As a partner, Nancy was within her right to purchase the treadmills for the gym. While Nancy did not have express authority from Bill to purchase the treadmills, she did have implied authority as they discussed



the need to purchase more treadmills and to cure that need, she purchased more treadmills.

Nancy did not need to consult with Bill to take action within the ordinary course of partnership business. Therefore, it is irrelevant that Bill did not give her permission to make the purchase.

Thus, Nancy had authority to bind Comet Fitness to the contract to purchase the two treadmills.