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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

January 27, 1998

James A. Preacher, Jr., Chief of Police  
Norway Police Department  
P.O. Box 127  
Norway, South Carolina 29113

Re: Informal Opinion

Dear Chief Preacher:

Attorney General Condon has forwarded your opinion to me for reply. You have asked for this Office's opinion on two questions. First, you have asked whether a ten-year old may enter into a legally binding verbal or written contract without the approval of the ten-year old's parent, guardian, trustee or executor of an estate. Secondly, you have asked if there is a particular age at which a minor's contract becomes legally binding. In this opinion, I will address the general rules of law in regards to the questions raised.

As an initial matter, in regards to a verbal or written contract, the Statute of Frauds provides that certain agreements must be in writing and signed by the party to be charged or some person thereunto by him lawfully authorized. S.C. Code Ann. § 32-3-10. An oral agreement, including an oral modification, will be barred by the Statute of Frauds if it is incapable of being performed within one year. Roberts v. Gaskins, 327 S.C. 478, 486 S.E.2d 771 (Ct. App. 1997). In addition, the Statute of Frauds applies only to contracts which are impossible to perform within one year. Id.

As to your question regarding whether there is a particular age at which a minor's contract becomes legally binding, a contract entered into by a minor is valid until disaffirmed. However, the contract entered into by a minor is voidable at the minor election, rather than void *ab initio*. Morgan v. Blackwell, 286 S.C. 457, 334 S.E.2d 817 (1985); Parker v. Lyons, 219 S.C. 40, 64 S.E.2d 123 (1951). Therefore, the contract may

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be avoided at the option of the minor prior to ratification.<sup>1</sup> This power of avoidance is one-sided. The adult party to the transaction cannot avoid the contract on the ground of the other's infancy. Id.

Upon reaching the age of majority, a minor may bind himself to the contract by ratification. Under Section 20-7-250 of the South Carolina Code of Laws, ratification must be in writing. Generally, it is within the minor's discretion to determine which contract he would like to ratify. However, a minor cannot split up the entire contract and ratify so much thereof as he considers to his advantage and avoid the balance. Arnold v. Life Ins. Co. of Ga., 226 S.C. 60, 83 S.E.2d 553 (1954). Once the infant ratifies the contract, it becomes binding and enforceable, ceases to be voidable, and cannot be subsequently repudiated or disaffirmed. 43 C.J.S. Infants § 168 (1978).

As to your question concerning the approval of a minor's parent or guardian, as a general rule, a minor may enter into a valid contract without the approval of the minor's parent or guardian. The approval by a parent or guardian of his infant child's contract does not validate it. 43 C.J.S. Infants § 166 (1978).

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General

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<sup>1</sup> In some instances, a minor may bind himself, and is liable, for certain contracts. For example, a minor may be bound by a contract for necessities. Greenville Hospital System v. Smith, 269 S.C. 653, 239 S.E.2d 657 (1977).