

Contract creation



Running head: CONTRACT CREATION Contract Creation December 7, 2009
Christine Stevenson University of Phoenix Business Law LAW/531 Miriam Gold Contract Creation University of Phoenix??™s Contract Creation and Management Simulation (2009) demonstrate a conflict between Span System, a software-developing business and Citizen-Schwartz AG (C-S), a German bank. Span and C-S??™s conflict is over the companies differences on the quality and dates received of deliverables. In the past few months C-S??™s deliveries have been late and the qualities have been inadequate with substantial bugs in the testing phase. C-S cannot afford to have delays, C-S is concerned that Span is not complying with the one-year contract that is worth \$6 million.

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Performance of Contract According to the University of Phoenix??™s Contract Creation and Management Simulation (2009) the contract stated, “neither party may cancel this agreement, in whole or in part, subsequent to more than 50 percent of the consideration having been tendered by the other.???” Because more than 50% of the deliverables was delivered, C-S violated the contract by asking for the unfinished code and rescinding of the contract. Span does not want to lose the \$6 million contract or any future contracts, such as the e-CRM contract, Span wants to negotiate new terms for the existing contract to resolve the quality and deadline issue. Internal Escalation Procedure for Disputes According to the University of Phoenix??™s Contract Creation and Management Simulation (2009) in the internal escalation procedure in the current contract states ??? prior to filing any

formal proceedings the party believing itself aggrieved shall call for progressive management involvement in written notice too the other party???. C-S violated the internal escalation procedure of the contract when C-S requested the unfinished code before notifying Span??™s managers that there was problem with the deliverables. Willing to forget about the violation, Span is asking that C-S works out their differences and take back their request. Change Management. Realizing that part of the problem with Span??™s approval and review times was due to the change in project management, Span is suggesting a change to the Change Management office.

Because the current contract covers only a one-year time frame, it did not take into consideration that C-S??™ growth in user and system requirements. As C-S was making request changes to the software Spans Change Management office should have sent the request to management for their disapproval. Terms for “ out of the ordinary” additions and changes needed is to be negotiated before C-S requests.

In the beginning, almost to a fault, Span placed more priority on meeting milestones and less in quality control. Resolution Approach In an effort to reduce conflict and come to amicable terms, Span will suggest a proactive approach to resolution. Span is looking at future business opportunities with e-CRM. C-S needs to be convinced that Span will fulfill its end of the contract. Negotiation Possibilities Span needs to help C-S achieve its business goals. Fighting over the contract will not help either Spam or C-S. Spam and C-S need to negotiate productively to achieve a mutual resolution.

Positional Bargaining Strategy Positional bargaining is a negotiation strategy in which a party will argue his or her desired of a position to the other party involve in the transaction. Magnuson (2005) states that a party's offer is sometimes asked softly or as a demand, chance of a negotiated settlement through positional bargaining is minimal (Reed, 2001). **Interest-Based Strategy** A better approach to negotiating among disputing parties is described as principled interest-based negotiations (Reed, 2001). Interest-Based strategy is the appropriate strategy to financial negotiations because the strategy reflects in cooperative solving problem environment that deal with problems and solutions for building trust relationships (Grant, 1994). If Span and C-S plan to resolve their issues, they will use interest-based negotiating. **Contract Enforcement** During the interest-based negotiating, Span will express its intent to revitalize the current contract.

To secure future contracts, this project needs to be put back on track so both companies can achieve mutual profitability. **Achieve Goals** Span must recognize its role in the negotiations process with a short and long-term goal. The short-term goal is to achieve an amicable conclusion to the current contract. The long-term goal is securing future contracts. **Control Customer Expectation** To achieve the long-term goal, is to keep under control customer expectation. Span could focus on the short-term goal and successfully negotiate the current contract by giving in on all concessions. If it does that over time there will be a drop in the perceived service quality and C-S high expectations will result in a widening service gap.

Span needs to enforce some of the contract. If it does not stand firm on a few of the critical issues, C-S expectations and perceptions of service quality

will be drastically inaccurate. The next contract will be very difficult to enforce. C-S will be able to demand whatever it wants and Span will concede. Current Contract Span needs carefully to select items it needs to negotiate fiercely and which ones it needs to concede.

There must be balance; Span has to successfully renegotiate the current contract without the perception of being weak. Recommended Strategies Change Control Panel To preserve a healthy relationship, Span proposes to appoint a change control panel to review change requests and flag any changes in project scope (UOP Simulation). This enables Span to better control drastic project-affecting changes. C-S is highly content with this and recognizes Spans desire to settle this dispute amicably. Project Manager at Span The next role Span proposes is to invite a project manager from C-S to serve in a quality control capacity. This will incur additional funds to billet the individual, but the payoff should be less delays and increased communication between the companies. Increase Team of Programmers The final negotiating point Span proposes is to increase the size of the programming team.

Again, this will incur an increase of resources. Increasing the size of the programming team will conduct an impact on deliveries immediately. Span will ensure that all future software programming needs are met if possible. C-S satisfied with Spans dealings and recognizes its aspirations to settle this dispute harmoniously. Conclusion Clarity of purpose in contract writing is paramount. Contracts usually are found to have interpretation issues.

U. S. courts in the last two years have handed down more than 30 notable verdicts in contract-related disputes-based entirely on the “ reasonableness” of contracts.

Contract law is in a stage of evolution and verdicts usually hang on how courts interpret contracts (UOP Simulation). If more companies took the time to create clear and concise contracts, less of them would end up in litigation.

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