

BUDDLE FINDLAY NEGOTIATION COMPETITION 2007

NATIONAL FINAL

Common facts for all negotiators

Sarah Snaptenberger and Terry Heresford met in the Engineering School at Victory University. Both were keen tennis players and used to play tennis at the University's recreation centre between lectures. During casual chat after a tennis game one afternoon, they hit upon the idea of using their engineering skills to design a new kind of high performance tennis racquet. When made, the racquet had such a marked impact on their tennis playing that they saw an immediate market niche. After entering into discussions with several sports equipment manufacturers, the racquet concept was purchased by Power Sports Inc and went on to become a commercial success. Sarah and Terry continue to receive an equal share of the royalties each time one of their uniquely designed racquets is sold.

After completing their university degrees (with honours), Sarah and Terry decided to set up a business specialising in designing sports equipment in view of their previous success. They found that the engineering principles they had used for the design of the tennis racquet could also be applied to other types of sports equipment. So the pair rented premises on Victory Street (for \$25,000 a year), not far from the University, and agreed that they would develop new sports equipment, with each taking an equal share in the intellectual property and the profits. A friend from law school, Malcolm, suggested that they record these terms in a partnership agreement, which they did and both signed. On Malcolm's advice, they also included a term that the partnership could only be dissolved by agreement or by court order. The agreement also says that the party who successfully applies to the court for an order of dissolution must sell their share of the partnership assets to the other partner for 1/10th of the total gross income that has been received by the partnership as at the date of the order.

For the two years that the business has been operating Terry and Sarah have repeated their success with the tennis racquet, by producing a cricket bat with a bigger sweet-spot and a hockey stick that has an increased weight-to-power ratio, both using their unique engineering principles. The partnership has received \$200,000 in royalties each year for the past two years from sales of the racquet, the cricket bat and the hockey stick. Also each time they sell a concept to a manufacturer, they have received a one-off payment of between \$50,000 to \$100,000 depending on the concept's commercial viability: \$100,000 for the racquet; \$50,000 for the cricket bat and \$75,000 for the hockey stick.

So far they have met their aim of developing and selling one new product each year. During this time, Terry has fine-tuned the marketing aspect of the business, and they now work on the basis that Terry takes care of pitching their ideas to sports manufacturers and maintains those business relationships. This leaves Sarah to concentrate solely on developing product concepts. Her most recent prototype is a fibreglass golf club, which could be the most popular product yet.

Terry recently married his long-time sweetheart Rhonda. Since Terry's marriage, tension within the partnership has significantly increased. So much so that Sarah has now floated with Terry the idea that she leave the business to explore opportunities overseas. Terry has told Sarah that he wants the partnership to continue but realises that Sarah could apply to the court for an order to dissolve the partnership if no agreement is reached.

The parties are keen to see whether they can come to some sort of an agreement before things get so desperate that an application to the court has to be made. A meeting has been scheduled with their respective lawyers to attempt to negotiate an agreement.