

LESSON 24: Business Performance

Contracts and Covenants

CONTRACTS

Contracts and agreements have become important for conducting business in companies of all sizes and markets. We rent office and warehouse space, lease copiers, contract with vendors, and sometimes employees.

Generally, there are two types of contracts: verbal/oral and written. The rules and exceptions that apply to each can be different. While verbal contracts are often still enforceable (*except for in specific situations*), most contracts are documented in written form. In fact, written contracts are becoming increasingly detailed these days, and every effort is made to make all possibilities and eventualities crystal clear.

Essentials of Business Contracts

Contracts must meet certain basic criteria to be enforceable. A legally enforceable contract can be used in court to support an action on a disputed claim. If a contract does not have certain essential ingredients, it is not legally enforceable.

There are six basic, essential elements for a contract to be valid (*enforceable by a court*). The first three, considered here together, relate to the agreement itself, and the other three relate to the parties making the contract.

Offer, Acceptance, and Mutual Consent

Every contract must include a **specific offer** and **acceptance of that specific offer**. Both parties must consent with their **free will**. Neither party can be coerced or forced to sign the contract, and both parties must agree to the same terms. Implied in these three conditions is the intent of the parties to create a binding agreement. The intent of the parties in a written contract is

spelled out in the terms of the agreement, and both parties will usually be bound by those terms. In a verbal/oral contract, generally there must be a mutual understanding of the terms, and mutual agreement to those terms. This mutual understanding is often referred to as a "meeting of the minds."

Consideration

There must be something of value exchanged between the parties. The thing of value may be money or services, but both parties must give something (otherwise, it is a gift, not a contract).

Competence

Both parties must be of "sound mind" to comprehend the seriousness of the situation and understand what is required. This definition requires that neither party be minors, both must be sober (not under the influence of drugs or alcohol when signing the contract), and neither can be mentally deficient. If one party is not competent the contract may be voidable, and in most circumstances the non-competent party can have the contract voided.

Legal Purpose

The contract must be for a legal purpose. It cannot be for something illegal, like selling drugs or prostitution. Remember that it is not illegal to enter into a contract that doesn't have all these essential items; it just means that if an essential is missing the contract may not be enforced by a court.

DISCUSSION QUESTIONS

- 1. Do you enter into contracts with others who you do not personally know?

What risks do you run when you don't know who you contract with?

- 2. Have you defaulted on a contract, or had a contract defaulted on you? Have you ever made a verbal promise and not kept it (*even small ones like taking the kids for ice cream*)? How did the other party feel? How do you believe God felt?

3. What differences are there between long attorney-written contracts, short one-page agreements with the cable TV vendor, and a promise to your spouse to fulfill a duty around the house? What are the risks and rewards?

4. Consider and discuss when and how you feel it is best for you personally to use formal legal contracts, simple letter agreements, or just promises.

BIBLICAL CONTRACTS

As a disclaimer, this lesson is not about providing legal advice, nor is it an attempt to adequately define many specific points of contract law such as the difference between contracts, covenants, and agreements.

As Christian businesspeople, we need to hold a different attitude toward contracts, agreements, covenants, and vows than the non-believing secular public. Numbers 30:2 proclaims, *“When a man makes a vow to the Lord or takes an oath to obligate himself by a pledge, he must not break his word but must do everything he said.”*

Contracts in the Bible

The word “contract” is not used in scripture; however, there is an equivalent Hebrew word *berith*, which is most frequently translated as “covenant” (264 out of 284 occurrences), but often also interpreted as “league”, “confederacy”, and “confederate” in the Old Testament and as “treaty”, “alliance”, “league”, “agreement”, and “pledge” in the New Testament.

In general, a covenant, when used between individuals, is interpreted as a treaty, agreement, or pledge. In this usage, the covenant or contract is one made between friends; it is about the

relationship between the parties in the deal and not the details. And, since men are sinful by nature, they are not good at keeping promises with one another, which is why we have courts.

The Bible's remedy is to contract with only believers, if possible, and then follow the scriptural prescriptions to deal with disputes. If necessary, to contract with non-believers:

- Be aware of who you are dealing with,
- Rely on your relationships
- Above all, make God part of your decisions to contract with the ungodly and always follow His advice.

On the other hand, a covenant between God and man is an alliance. An alliance means you become allies, you become aligned, you become "one" to a certain extent, but it must be in spirit rather than in writing. Herein lies the second problem—since men are not good with keeping promises with one another, they will be no better at keeping promises with God.

Yoked

The starting point to understand biblical contracts is the concept of being yoked. 2 Corinthians 6:14-17 says, *"Do not be yoked together with unbelievers. For what do righteousness and wickedness have in common? Or what fellowship can light have with darkness? What harmony is there between Christ and Belial? Or what does a believer have in common with an unbeliever? What agreement is there between the temple of God and idols? For we are the temple of the living God. As God has said: "I will live with them and walk among them, and I will be their God, and they will be my people." Therefore, "Come out from them and be separate, says the Lord. Touch no unclean thing, and I will receive you."*

Being yoked is found in the agricultural practice of connecting two oxen with wooden supports so that both beasts would pull equally against their load. Conversely, connecting an ox with a donkey, for example, would require the ox to pull a disproportionate share of the load and would have difficulty maintaining a straight direction.

When believers are yoked with unbelievers, they could easily have two competing interests in an agreement—the believer following the word of God, and the unbeliever following their self-interests.

Unbelievers

This is not to say we are to have nothing to do with unbelievers. Quite the contrary, we are to spread the message of the gospel to the ends of the earth ([Mark 16:15](#)).

When you contract with an unbeliever, it brings you into bondage if the Lord is not in that covenant. The Lord must be the mediator in everything we do; not only contracting but everything. That is what living, moving, and having your being in Him is all about (Acts 17:28). And when He is not part of that decision that you make, then you've fallen away.

Why Contracts?

A question we need to consider is why enter into contracts at all. Often the reason we enter contractual relationships is fear—fear of being taken advantage of, fear of not getting paid, and fear of potential future conflicts.

“There is no fear in love. But perfect love drives out fear, because fear has to do with punishment. The one who fears is not made perfect in love.” *1 John 4:18*

The problem with fear is that it is about you. It focuses on your loss, your needs and your desire to avoid conflict. Fear is about protecting the “self.”

Love, on the other hand, focuses on the other person, so what does that mean for us as businesspeople? Since being in business is about our clients, entering into contracts out of fear starts your business relationship out on the wrong foot.

Reflect on your worries, find out what memories or events they are rooted in, and meet Jesus in that place. If you feel vulnerable or afraid, the only real protection comes from Jesus. Once you are settled in his protection and those fears are dealt with, you are free to enter agreements motivated by wisdom and love instead of fear.

Relational Contracts

David Frydinger, Oliver Hart, and Kate Vitasek authored a Harvard Business Review article called, “A New Approach to Contracts.” In the article they highlight that there are transactional or traditional style contracts that are commonly used, but often lead to win/lose situations.

Their article, however, offers that a better approach for longer term relationships, such as important suppliers, is instead to use “Relational Contracts.” These styles of contracts are designed to develop win/win solutions which is better aligned with a love-based approach versus a fear-based approach.

They contend that many transactional contracts they reviewed established conflicts that made it difficult for both parties to work toward their individual goals, due to motivations of self-interest built into the contracts.

Relational contracts on the other hand, if established properly, try to align each parties' interests into common goals and shared values. Here are steps that these authors recommend using when trying to establish a relational contract.

Step 1: Lay the foundation – Trust is critical in relational contracts. This requires that both parties become transparent about their true goals. Begin with a desire for a win/win solution that honors and respects all parties.

Step 2: Co-create a shared vision and objectives – If you were to begin a business partnership, you would want to assure that your vision and goals are in alignment. Relational contracts should be no different. Self-interest can be a stumbling block. If you truly understand what a win is for your partner, and you strive to establish mutual goals so that they attain their desired objectives, they are more likely to do the same for you.

Step 3: Adopt guiding principles – The authors realize that after the contract begins there will be times when trust has been violated. This can be a time when things go terribly wrong. If you begin with shared guiding principles, it can help you get the agreement back on track. They recommend that organizations consider six guiding principles including – reciprocity, autonomy, honesty, loyalty, equity, and integrity.

Step 4: Align expectations and interests – The authors highlighted how pricing often derails agreements. Instead of allowing pricing to derail an agreement, they recommend that both parties become completely transparent with financial information and profit goals. By both parties knowing everything, and with their commitment towards a win/win solution, it paves the way for problem solving to happen rather than opaque negotiations.

Step 5: Stay aligned – In order for relational contracts to remain win/win there needs to be written contract provisions that clearly defines the process and the people who have the authority and the motivation to resolve the issues that will arise. Assuring that someone with authority can be brought to the table when necessary will allow the partnership to flourish.

DISCUSSION QUESTIONS

1. Have you been unequally yoked to another person in an agreement that ended up being a burden to you? How was it resolved?

2. When faced with the prospects of entering into a contract with an unbeliever, what precautions or extra steps do you take? What steps should you start taking?

3. Do contracts make you fearful? If not, why not? If so, what steps can you take to overcome those fears?

4. What do you think about the steps in developing relational contracts and how these steps might help in developing a more win/win contract?

5. What do you intend to do differently in the future regarding contracts based on what you've learned today?
