

Creative Resolution for Independent Contractor

Published in Santa Monica Business Journal in February 1996

By Lee Jay Berman

Once upon a time an independent consultant had a falling out with a company for whom he was working. He was hired, in part, to use his industry connections to form alliances with larger software and entertainment firms and help this growing software company make inroads into distribution and licensing deals. To secure his position in writing, he had a contract signed by the president of the software company, which agreed to pay him a percentage of all revenue derived from these relationships.

He made the big deal, introducing them to a giant entertainment conglomerate which signed a lucrative contract to license and publish one of the firm's computer games with options on others. The deal took six months and dozens of drafts to consummate. When it was completed and signed, the consultant figured he had finally secured the nest egg he had always wanted.

Not so fast. The president denied that the consultant had contributed to the deal to the extent required in his contract. While they fought, threatened and eventually sued each other, the software company filed bankruptcy. It seems the president was a creative genius, a financial spender and a control freak. After the board ousted him, the lawsuit came to the attention of the new president.

Being a wise executive officer, the new president realized that a bankrupt company did not have the resources, in money or time, to engage in a lengthy court battle with this consultant. He convinced the consultant to sit down with them and a mediator, an impartial third party who has been trained with the skills to help them resolve their dispute.

The mediation was scheduled at a mutually agreeable time two weeks down the road. Through mediation, they realized that this dispute called for some creative problem solving due to the bankrupt status of the company. After exploring such far-reaching solutions as a deeply discounted inventory transfer, stock swaps creating an ownership position, and other such options, the new president, a board member and the consultant found themselves working together and brainstorming cooperatively to solve their dispute.

The consultant later said that all he wanted was the company to pay attention to him and his claim. The president said that the mediation was the first time that he had heard the consultant's entire story. Through mediation, solutions are quick and affordable, and anything is possible.

Lee Jay Berman is the President of THE MEDIATION ALLIANCE, INC., a full-service mediation firm dedicated to utilizing the talents of field-specific, professionally certified mediators. Mr. Berman and his firm also teach mediation skills and consult to businesses teaching conflict resolution skills in the workplace. Contact Mr. Berman at (800) 395-6495.