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DISMISSING A CFO

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ABSTRACT

This Work Project presents a case-study to be used in Negotiation courses, both in Masters Programs and executive education workshops. The negotiation case is based on a real negotiation, between a Portuguese media company and its CFO, about the terms of his dismissal. This dismissal demonstrates that the better informed negotiator has a higher chance of achieving favorable results. It also illustrates the importance of being truthful in achieving positive outcomes. We conclude that gathering information and behaving ethically is fundamental in a negotiation context.

KEY WORDS

Negotiation; Dismissal; Positioning; Ethics.

INTRODUCTION

The following Work Project consists of a case-study to be used in negotiation courses; both in Masters Programs and in executive education workshops. This case-study is based on a real-life negotiation, which occurred between a Portuguese media company and its CFO and was focused on the terms of his dismissal. The work project is organized as follows.

First we present the real life negotiation on which the case study is based, detailing both the background and unfolding of the actual dismissal. It is important to clarify that the story of this dismissal was obtained through private information. For confidentiality reasons, the real identity of the media company and of the executive are not revealed. Additionally, some details regarding the background of the company are slightly altered.

We then transform the real negotiation into an exercise to be used in negotiation courses. The exercise consists in a game for two players, who will either play the role of the person being dismissed (the CFO) or the person in charge of the dismissal (the human resources director of the media company). Both players will receive general instructions regarding the company's background and the context of the negotiation, as well as confidential instructions detailing their own situation and expectations.

After that, we present the relevant concepts and framework to analyze the case study and apply those tools to the negotiation. We focus on the distributive dimension of the negotiation, on the credibility of threats and on some ethical issues.

Because of the frequency of dismissal negotiations, their analysis becomes of paramount importance. This Work Project takes advantage of a real negotiation example in order to illustrate general aspects that impact on dismissal negotiations in addition to demonstrating the extent to which information is crucial and ethics an unavoidable issue, in negotiations.

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THE REAL NEGOTIATION

In this first section, we detail the real negotiation that serves as a starting point for this Work Project.

Founded in Portugal, in 1997, Notic leveraged mainly on a strategy of growth through acquisitions, which quickly led it to a leading position inside the media industry. At the time the following negotiation took place, in 2008, the company was already listed on Lisbon Euronext. Notic's portfolio of businesses was composed of 4 newspapers, 7 magazines and 2 television channels.

During 2007, one of Notic's founders and main shareholders, Francisco Silva, sold all of his shares and abandoned the company. This transaction was not well accepted inside Notic and was perceived by some members of the organization as a betrayal. Although the company was publicly listed and Francisco Silva was not bound by contract to remain an owner, there was a tacit agreement amongst shareholders about not selling their shares. The company was originally founded by a group of people that knew each other well and they intended to keep most shares within the group.

Francisco Silva's doing originated a process of painstaking change in the management and operational structure of the company. Employees of the company who had been appointed by Francisco, or that were within his closest circle, were labeled as unreliable on account of the shareholder's action. The environment surrounding them became heavy and the quality of their work consequently decreased. As a result, there were innumerous layoffs in the following year. In fact, a year after Francisco Silva had sold his shares, almost all the executives which related directly with him were dismissed or had resigned.

Although Francisco's departure displeased the board, the atmosphere it created within the company allowed for a restructuring that benefited Notic. Most workers that suffered from this bad working environment had been with the company for several years and their salaries had been subject to annual rises. The situation offered the possibility of dismissing these workers, since they were no longer under the protection of an important shareholder and member of the board. After the departure of these workers Notic would be able to hire fresh graduates, who could bring in innovative ideas while requiring inferior salaries. On top of the possibility to dismiss some workers, the company benefited from the spontaneous resignation of some others. These layoffs and resignations were consistent with the strategy of cost reduction that Notic's board always defended.

Marco Morais, the CFO, had worked for the company for 11 years, since its very foundation. He always had a close relationship with Francisco Silva, who appointed him for the position. His position involved heavy responsibilities and required a great degree of trust, as CFOs are entrusted with private information of the companies in which they work. Nevertheless, soon after Francisco Silva left his shareholder position problems started to emerge.

Marco Morais was a victim of the general bad atmosphere that affected several of Notic's workers after Francisco Silva's departure. In his specific case, this consisted essentially in difficulties in the relationship with the CEO as well as with the chairman of the board of directors. Two men with whom he had never had problems before. After Francisco Silva sold his shares, the CEO and the chairman acted as they had lost their respect for Marco Morais.

As an example, they would not listen to him during the monthly meetings in which the executives discussed the company's situation with the board. Under such pressure, it was complicated for the CFO to work competently.

By the end of 2008, after more than one year of a difficult work environment, Marco Morais reached a breaking point. He could no longer endure the situation; working under such conditions was molesting his physical and mental health and therefore he decided to resign. His decision was reinforced by the possibility of starting to work on a new project, a startup. Some university colleagues of Marco Morais asked him if he would be interest in bringing his financial expertise to an online media company that they were building.

Shortly after Marco Morais' decision to leave the company, rumors started circulating about the company's intentions to fire him. These rumors were not surprising when taking into consideration the existing problems. The CFO overheard a conversation between two executive colleagues that pointed in this direction. The executives were discussing the board's intention to fire what was left of "Francisco Silva's circle" in that same month. In this context, Marco Morais decided to postpone his resignation in order to understand if the company would make a first move, proposing his dismissal. In order to keep his intention to leave a secret, the CFO never mentioned the possibility of starting to work on a new project to anyone inside Notic.

Soon after, he was contacted by Notic's human resources director, Rui Pereira. The conversation happened face to face in Notic's offices. Rui Pereira informed the CFO that the board of directors had decided that he should no longer work for Notic, as recently he had shown a misfit with the culture and values of the company.

The human resources director started the conversation relaying the company's intention of firing the CFO and a first offer for the compensation. This offer was around 100.000€, a considerably low value. It was a value inferior to one month's wage per year that Marco Morais worked for the company and it neglected all benefits, subsidies and bonus the worker earned on a regular basis. When one wants to calculate a compensation there are two factors on which to decide. The first is how many months per years that the employee worked in the company will be paid. The second aspect is what to include as monthly payment (car and phone expenses, subsidies and others may be included aside from the base salary). Rui Pereira only took into consideration Marco Morais's base salary to calculate the compensation. He felt confident making such a low offer because he suspected that, considering the bad environment around the CFO, he would probably be happy with leaving the company.

From the company's perspective, as they were not aware of the intentions of the CFO to resign, the alternative to reaching a deal was to fire the CFO. In this case, he would most likely resort to court.

This negotiation occurred before the 2009 and 2012 changes in the Portuguese labor law, which facilitated layoff procedures. Before these changes, going into court litigation procedures, in a case where the judge would most certainly determine that the layoff was unjustified, meant two options for the worker. He could either accept the company to pay him a compensation determined by the judge or to be reintegrated in the company. The compensation was often one month's wage per year the employee worked for the company. However, there were many cases in which the compensation was significantly higher. In both cases, the company would have to pay the worker the amount correspondent to the months between the layoff and the court decision.

As a media company, Notic was subject to strong exposure and any bad publicity related to the situation could have significant negative repercussions to their reputation. Competition, when it comes to the media industry, has strong possibilities of molesting the image of an opponent. Undergoing litigation with their CFO, coupled with the many layoffs during the previous year could make Notic look bad. The company would be perceived, by the public, as inconsiderate of its workers. Additionally any blow to Notic's reputation would always have a strong impact on its stock value. The company's board felt strongly pressured to resolve the issue quickly, in order to reduce the probability of the case going public.

As it can be understood, for Notic there were several problems associated with going to court. The company had no hope in defending the dismissal as justified. The board was worried about of having to pay a substantial compensation on top of the payment for the months between the dismissal and the final sentence. However, this was not what concerned them the most. The risk of having the case exposed to other media companies was perceived as the major problem. In short, going to court would result in extra costs such as court fees and the salaries of the CFO for the months leading up to the sentence, in addition to the strong probability of impacting negatively on Notic's stock value, due to reputation damages.

The negotiation lasted three weeks, during which both parties were counselled by their attorneys. The negotiation was always conducted by Marco Morais and Rui Pereira themselves - the attorneys never interfered directly nor negotiated on behalf of their clients.

The company was advised by its own full-time lawyer against letting the case go to court, because of the reasons previously detailed. In the event that the layoff end up in court, the attorney defended that it would be preferable for the company to hide the true motives behind it. Having the departure of a shareholder as a reason for a layoff would probably arouse the judge's antipathy.

As for Marco Morais, who was certain about not wanting to extend the situation for as long as going to court demands, he was advised by his attorney on how to obtain a large compensation. The first advice was to include not only his wage as his monthly earnings but also his several benefits (lunch subsidy, car and bonus) This made perfect sense, as these bonuses were in fact constant payments, labeled as bonuses in order to reduce the firm's tax payments. The second advice was to aim for getting a compensation of three months for each year he worked in the company.

Labeling constant payments as bonuses is just a small example of the schemes that Marco Morais designed, at the request of the board of directors, in order to save the company money in taxes. In fact, the CFO knew information about the company that was enough to buy him a very large compensation. However, he was set on never using it, as that would preclude him from ever working as CFO for another company. A clean record after the negotiation was always a concern that he kept present. He wanted to leave in good terms, keeping the director of human resources willing to provide a positive reference about him, if needed.

The human resources director was aware that Marco Morais had no interest in making the secret information about Notic public, as it would also be detrimental to his image. However, Rui Pereira was concerned with preventing a process of escalation of conflict, as under such circumstances people are more prone to acting irrationally.

In addition to not using the confidential information he had to threaten the company, Marco Morais decided not to lie. He never mentioned his intentions of leaving in any way but he also never clearly stated that he wanted to stay. The CFO was concerned with both ethics and the preservation of his credibility. He always stated that he did not start the situation but he never said that, in case they did not give in to his terms, he would not leave. Thus, he could negotiate the compensation without committing himself to stay if no agreement was reached.

After Rui Pereira's initial offer of 100.000 € (after taxes), Marco Morais sent the company an e-mail, proclaiming he would not make a decision in the heat of the moment that would leave him vulnerable to feelings of regret latter. In this e-mail, Marco Morais also advanced a counter-offer of 838.000€ (after taxes), explaining his calculations and upholding his years of devoted work as worthy of this compensation. Rui Pereira answered immediately by phone, expressing his indignation with the high value demanded by Marco Morais, who asked the human resources director to analyze his counter-offer more carefully, adding that this was a value legal experts had told him to be a fair compensation. Confronted with Marco Morais apparent availability to delay the situation the company felt pressured to increase their offer to a value closer to the CFO's counter-offer. After side by side concessions, the company and the CFO finally agreed on a settlement of 538.000€ (after taxes). This was a value far superior to what Marco Morais expected to obtain if the case went to court.

THE NEGOTIATION GAME

In this section we present the general and confidential instruction for a negotiation exercise based on Notic's case.

General instructions:

This is a negotiation between the CFO and the human resources director of a company named Notic.

Ever since its founding, Notic has successfully pursued a sustainable economic growth through the acquisition of profitable businesses. The company operates exclusively in Portugal and is focused on the media industry. Inside the context in which it operates Notic accomplished a leading position in a remarkably short time – eleven years.

Akin to the history of any country, is the history of a company, for it is not a straight line but rather a succession of defining moments. A year ago Notic went through one of these moments in its history. One of the main shareholders, Francisco Silva, a man that was present from the very foundation of the company, sold his shares to another shareholder. This decision was not well accepted inside Notic.

Loyalty and trust emerged as the two more discussed topics in Notic, while the workers that were close to Francisco started to be seen as unreliable. Employees that were appointed by him, or within his closest circle of friends, or that were, in some way, strongly related began to be fired or ostracized. Since then, these employees have been surrounded by a bad atmosphere within the company, gradually leading to a decrease in their commitment and quality of their work. In fact many of these employees have handed in their resignations, saving the company a lot of money that would have otherwise been spent on compensations. The situation was and still is very severe.

For the workers that are suffering from this treatment it is clear that this is not a matter of trust but rather the board letting go of people who had had increments in their salaries over the years working in the company, taking advantage of the now missing protection afforded by their relationship with Francisco Silva. As for the other workers, most of them actually feel that Francisco's close circle cannot be trusted, which has largely contributed to worsen the situation.

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Confidential Instructions for Rui Pereira:

In the following negotiation you will be playing the role of Rui Pereira, the human resources director of Notic. Your board of directors has decided to fire your financial director, Marco Morais, and as human resources director you are in charge of the negotiation. This layoff comes in a sequence of many others, which were originated by the exit of Francisco Silva, one year ago.

When the transaction was made and changes in the company started to occur you were not convinced that a whole group inside the organization could be categorized as untrustworthy just because they were close to a person that left. You were, in fact, put in charge of dealing with negotiations for layoffs with which you did not agree. However, over this last year, you were repeatedly confronted with poor work from these employees. As a human resources professional you can understand that many of these employees are working poorly because they are under the pressure of theirs colleagues' distrust. At the same time, this decrease in their work quality is helping perpetuate these beliefs. Nevertheless you are set on defending the best interests of the company and you wholly agree with letting go of people that are no longer productive. In this sense you also believe that they can no longer be trusted – to function adequately or at all.

The upcoming layoff negotiation is a matter that is fairly worrisome, both to you and your board of directors. Marco Morais is your hierarchic equal and you know he has confidential information about Notic that must not go public. The company you work for is well-known in your country for its leading position in the market. You have been strongly advised against letting this negotiation be publicly exposed, something that is particularly easy when competition comes from media companies. In addition, your board of directors is concerned that the stock prices might suffer from the exposure of the case.

In order to help you with the negotiation the board of directors had you speaking with an attorney, which gave you the following information:
"Concerning the labor law, for Portugal, it is fundamental to understand that the 25th of April left the country with a heavy heritage. Labor contracts and layoffs are particularly complicated in Portugal. Once a worker has a long time contract, which is the case of Marco Morais, it is only possible to legally fire him under two circumstances: a fair cause or the termination of the job post. If none of these reasons are present and the company wants to lay off a worker, it needs to work on a settlement with the worker. Alternatively, the company may just fire the worker and wait for him to resort to court. In this case, the judge will determine if the dismissal was unjustified. If it is deemed as such, which it would most likely be in this case, the judge will determine a fair compensation and give the employee the choice between the compensation and being reinstated in the company.

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The compensation determined by the court is often equal to one month of salary times the number of years that the employee worked in the company. However there is a considerable risk that a judge may determine that it is fair to attribute more than one month's salary worth per year that the employee worked in the company. It is not uncommon to see compensations that correspond to two, or even three, monthly payments per year of service. Additionally, the company would be forced to pay the employee his salary for the months passed between the layoff and the court decision. On average, 18 months. However, if the worker gets a new job during this time, the salary he attains is to be subtracted from this value.

Furthermore, never mention the fact that this layoff has any connection with the exit of Francisco because, in the event the case goes to court, it can aggravate the situation for us."

Your job is to get the manager to agree on a settlement that is the best deal possible, in the least time possible. Going to court is acceptable as a last resource, if the manager does not accept any reasonable compensation, in acceptable time. In case you resort to court, the costs for your company will be the compensation the court determines, plus the months between the layoff and the court decision, plus an estimate of 100.000 in company image damages.

Marco Morais's wage is 17.500, his lunch subsidy is 120, and renting costs 1.100. He also receives an annual bonus that has always been 80.000 on average.

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Page to be handed in by Rui Pereira

Your Name:

Your limit:

Your target:

Final Deal:

In the future, if asked, would you give a positive reference of Marco Morais? (Yes or No)

Brief description of the negotiation:

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Confidential Instructions for Marco Morais

In the following negotiation you will be playing the role of Marco Morais, Notic's CFO. Twelve years ago, before the founding of the company, your friend Francisco Silva invited you to dinner, to introduce you to a new project in which he was involved. This project was Notic and you were invited to take part in it that same night. At the time you even considered investing some of your own money but you decided not to take the risk. Nevertheless you always believed the company could be successful and you accepted right away to contribute with your financial knowledge. Since that day Notic has been a very important part of your life. You worked with commitment and competence in the company's financial affairs and your results speak for themselves. In the name of the success of the company you even agreed, against your better judgment, to design schemes to reduce tax payments.

As Francisco was the person who appointed you for the job, lately you have been having several problems with the CEO and the chairman of the board of directors. These conflicts seem impossible to solve and are damaging the environment in which you work in a way you can no longer bear. The bad relationship with both men is dictating the failure of any project, idea or solution that you may have. Because of this you have decided to resign and accept a job in a new small project, in the same industry – a startup. This startup is a place where you feel that your knowledge and vast experience will be useful and, therefore, somewhere you will be listened to.

This decision of yours was not thought of lightly. After all these years, having no other sensible choice but to leave the company you have helped build has had a strong impact on your emotional welfare. For this reason and for the time and effort you have dedicated to this company, you believe that it is fair for you to be compensated.

The terms on which you leave will have to be arranged and for that reason you have to meet with your human resources director. As in the last year many workers that were connected with Francisco Silva were fired or have resigned, it is safe to say that your company will not be unhappy with your decision. This situation can leave room for you to negotiate a compensation for your leaving. Although a settlement feels right to you, in case the negotiation goes wrong you would always prefer to leave with no compensation.

In fact, if you just wanted the compensation, above all else, it could be quite easy for you to get it. Disclosure of the information you possess on several financial schemes, designed by you at the request of the board, would surely be a sufficient threat. However, you realize there are things one can only do once in a lifetime. A clean record is essential for you to be accepted on your next projects.

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In order to prepare yourself for the negotiation you contacted an attorney, from which you heard the following advice:
"There are cases in which companies pay compensations to employees that want to resign. However, this can only happen if the company would benefit from this choice of yours and understands your difficulties in leaving without that help. In any case, it is unlikely that your company will agree on a compensation higher than the most common compensation that courts determine for unfair dismissals, which is one month's earnings per year you have worked for the company. However, keep in mind that there are cases in which the compensation corresponds to more than two, or even three, monthly payments per year of service."

Your wage is 17.500; your lunch subsidy is 120; and your car renting costs 1.100 to the company. You also receive an annual bonus that has always been 80.000 on average.

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Page to be handed in by Marco Morais

Your Name:

Your limit:

Your target:

Final Deal:

Do you feel inclined to be less than protective with the secret information you have on the company? (Yes or No)

Brief description of the negotiation:

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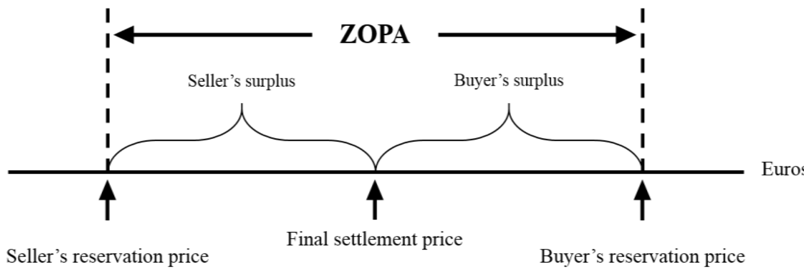
NEGOTIATION OVERVIEW (THEORETICAL APPROACH):

In this section, we present a brief review of the relevant literature in the analysis of the case study presented in this Work Project.

1. Distributive Negotiations

Single-issue negotiations are negotiations in which two parties attempt to divide the benefits arising from just one issue, most commonly money. As there is a single issue to be negotiated the quantity of available benefits is fixed, often designated as fixed pie. The purpose of both sides involved is to obtain a larger share of the fixed pie for themselves. These are win-lose negotiations, since one side's gain always happens at the expense of the opposite side.

In order to introduce and explain the structure of a single issue negotiation it is convenient to consider, as an example, a price negotiation between a seller and a buyer. In such negotiations, the purpose of the buyer is to buy the item for the lowest possible price and the purpose of the seller is to sell the item for the highest possible price. When parties start the negotiation process, they have a notion of the worst deal they are willing to accept, which determines their reservation prices. The seller's reservation price is the minimum for which he is willing to sell and the buyer's reservation price is the maximum he is willing to pay for the item. The alternatives available for both sides influence their reservation price. Each side's reservation price is largely determined by his best alternative to a negotiated agreement (BATNA). If a bargainer fails to decide on his reservation price, he begins the negotiation at a disadvantage since, as a result, he may end up striking a counterproductive bargain or refusing a favorable deal. If the buyer's reservation price is higher than the seller's, there is a zone of possible agreement (ZOPA).



Any negotiated agreement has to be discussed within a ZOPA, as any offer that falls outside of its range will undoubtedly be rejected by the other party. The existence of a ZOPA does not, by itself, mean that the parties will come to an agreement. The negotiators may fail to recognize its existence, during the course of the negotiation dance, while trying to push the final settlement price as close as they can to what they believe the other side's reservation price to be.

As we can conclude from the previous analysis, the fundamental strategic dimension of a price negotiation is distributive. This is why these negotiations are also denominated distributive or value claiming negotiations. In order to claim the most possible value a bargainer should conduct two strategic efforts. The first is to estimate the other side's reservation price and the second is to implement tactics to push the deal in its direction.

In this way, one of the most crucial steps of a successful negotiation is a careful preparation. This preparation should consist in a search for information concerning the other side's situation. This information is fundamental to anchoring the discussion around the other side's reservation price. If a bargainer is able to position the discussion around the opponent's situation (expectations, concerns and circumstances) the outcome will most likely be around the reservation price of this opponent. This also means that the outcome will be more favorable for the bargainer who manages to obscure his situation and reservation price from the discussion. In short, what matters in a distributive negotiation is whether you manage to get the discussion to be around the other side's situation or if the other side manages to anchor the discussion around yours. Information is, in this way, fundamental in determining who wins the positioning battle.

The search for information should not cease upon the end of preparation. A competent negotiator uses each stage of the process to prepare for the following. Thus, each discussion with the other side is essential in gathering additional information.

Information can easily be understood as a major source of advantage in a distributive negotiation. Time is, likewise, an important source. As described by Raiffa (2003), the bargainer who is prepared to wait longer for the situation to be resolved, to probe for information more carefully and to appear less anxious for an agreement will be more successful.

It is important to notice that the story recounted here was, in essence, about a distributive, or value claiming negotiation, more specifically the negotiation of a compensation. At the start of this negotiation, as Marco Morais was ready to resign, his BATNA was to leave without compensation. However, from the moment Rui Pereira disclosed the company's intention of firing him before learning of his intention to leave, his BATNA became instead to resort to court. Having failed to notice Marco Morais's true intentions, the BATNA, for the company, was the expected result of having the case being resolved in court. This included not only the expenses of going to court and attributed compensation but also the impact it might have on the company's image. As one side was willing to settle for no compensation at all and the other side was willing to pay a compensation up to the average total costs of allowing the case to be resolved in court, there was a wide ZOPA.

In the story of the real negotiation, as described previously, the CFO postpones his decision to resign, in order to obtain additional information on the company's intentions regarding his employment. The time waited by Marco Morais played an enormous part in his success on the negotiation, thus confirming the importance of preparation and information. Neglecting the initial search for information was the first of the human resource's director several mistakes, which led him to losing the positioning battle.

Again during the first round of negotiations, it is possible to detect a mistake on the part of the human resources director, as he immediately communicated the company's intention to Marco Morais. Presenting the conversation as a dismissal from the start resulted in Marco Morais contacting an attorney, better preparing himself for the negotiation, as well as anchoring the discussion around the company's situation. An alternative approach might have uncovered some of the CFO's intentions, while protecting the reservation price of the company. From this negotiation it is possible to extract that opening offers may reveal crucial information regarding reservation prices. Waiting for the other side to open the negotiation is a good strategy for when reservation prices are difficult to estimate. Rui Pereira's opening offer made it completely clear for the CFO that the company would hold on to the decision of laying him off, even if no agreement was reached. From that, Marco Morais was able to revise his estimate of Notic's reservation price and locate it around the average costs, for the company, of going to court.

Marco Morais, on the contrary, negotiated competently once more, extracting valuable information from the meeting. He understood - besides the reservation price of Notic - that the company was concerned with time to a larger degree than he was. Aware of the restrictions Rui Pereira was under regarding time, the CFO was able to pose a credible threat of delaying the process until a compensation that would befit him was granted. This threat could be made only through behaviors, not words, so as to prevent conflicts from emerging.

Finally, the CFO waited enough to probe for information, which put him in a better position. Besides, he implied, in his rhetoric, that the agreement itself was important for him, not the time in which it was settled. The combination of these two successful utilizations of time moved the final value towards the other side's reservation price.

2. Difficulties in distributive negotiations

Bargainers make the common mistake of considering exclusively the outcome of the negotiation, thus neglecting the process. Processes for distributive negotiation are frequently difficult, as there is a single issue on the table and both parties are making maximum pressure to push the agreement towards each other's reservation price. This results in distributive negotiations being often dense in arguments and corrosive to the relationship between sides.

As pointed out by James K. Sebenius, people care for more than just the final economic outcome of a negotiation (Sebenius, 2001, p90). There are interests, such as perceived fairness, self-image and reputation that compete with the final outcome. Neglecting such interests is a common mistake bargainers make in price negotiations. A wise negotiator identifies interests competing with the price and works with those as well as with the price.

Notic’s case was an example of a single issue deal and it was most likely the last negotiation these two parties would ever have. These two conditions are both presented in Raiffa (2003) as fertile grounds for conflicts to emerge. Money was the single issue on the table and this outcome was of greater importance for parties than their long-term relationship. Nevertheless, the negotiation between Marco Morais and Rui Pereira did not went sour.

Both sides behaved in ways consistent with preserving the other side’s openness during the negotiation. A clear example of this, in the story of our negotiation, happens when Marco Morais sends an e-mail with his counter-offer. He presented, in that e-mail, the calculations he had made to reach that value. Furthermore, he told Rui Pereira that he had looked for legal advice in order to understand what would be a fair compensation in his case. This showed the company that the employee was looking for a fair outcome.

3. Threats

A threat can only be effective if three conditions are met. The person threatening must have the ability to inflict damage, must have the incentive to carry out the threat and must be able to realistically promise not to inflict damage if the other side complies. Nevertheless, as pointed by Fisher and Ury (1991), people tend to foresee others’ attitudes based on their fears, which is a common mistake for negotiators to make. For this reason, there are situations in which threats that are not credible (because they don’t meet the second condition) may still be effective.

According to Raiffa (2003), threatening may influence the final outcome, but this is a tactic to be used with caution. If the power conceded by the possibility of threating is misapplied, to increase this power may produce worse outcomes for the side where the power lies (as well as for the other side). This occurs due to the damage to the relationship that threats tend to originate. The side that suffers from the threat becomes tougher.

By threatening to give away secret information Marco Morais had, from the beginning, the power to force the other side to give into his terms. However, this threat did not meet the three conditions previously presented, since the CFO had no incentive to making the information public. He would also be injured if such information was released to the public, as he had helped in designing the illegal schemes he could threaten to denounce. Nevertheless, Rui Pereira was concerned with the consequences of upsetting the CFO. He understood that it was not reasonable that he would make such information public in a fast and efficient manner, such as giving an interview for a competing company, but there was an alternative credible threat. The CFO could threaten to make the information public in the form of a rumor, sometime later, when it would not impact on his career.

Power can be utilized wisely, producing positive outcomes, without compromising either one's integrity or the relationship. Marco Morais used two pieces of information in his favor, in a subtle and tactful manner. He pointed out several times how important it was for his leaving to be arranged in good terms, for both sides. He further explained that in the future it would be equally important for the company to provide a positive reference about him as for him to provide good references on the company.

4. The truth

Negotiations inevitably raise the question of whether or not to be honest. During a negotiation, partners may agree in negotiating with full, open, truthful exchange; this approach is designated by Raiffa (2003) as FOTE. It is important to highlight that FOTE implies the exchange of the whole truth and therefore of all the information parties made an effort to collect. It may occur that two extremely honest counterparties meet and this style of negotiation is possible. However, in most situations this is not the case. Even if an individual wishes to negotiate in FOTE style, he or she may find it difficult to trust the other side. It is even arguable that this may not be a fair style of negotiation; if one side spends time and money in collecting information to prepare the negotiation, giving that information away for free during the process may be unfair.

Distributive negotiations make FOTE extremely hard to implement since, as incentives to deviate from this style are enormous, parties tend to distrust each other. When the negotiation is the last one parties will engage in together, these incentives are even higher.

An alternative approach to FOTE will be for both parties to prepare themselves for the negotiation and then carefully manage the information they have gathered. This preparation consists in deciding their own reservation price and their best estimation of the other side's. In this approach, parties will then make an effort to obscure any information that may allow the other side to pick up on their reservation price, while remaining transparent regarding other relevant information. For instance, in a negotiation between a buyer and a seller, the seller will give away all information regarding the conditions of the item being sold.

The decision of lying or not lying during a negotiation has consequences that far exceed the implications on the character of the negotiator. Deciding whether or not to lie in a negotiation should be, for the negotiator, not only a question of principles but also a decision on the strategy to be adopted. When choosing to lie during a negotiation, a negotiator is not only taking the obvious risk of losing his credibility but also constraining his freedom of action, as all subsequent acts and words must be consistent with the lie.

Considering the example of the present negotiation, Marco Morais made an effort of working longer, in conditions he considered unbearable, to obtain information on the company's intentions. He could not be obliged to disclose information (his intent to resign) that would turn his effort vain, even if the other side had asked the right question. Similarly, if Marco Morais had contacted the company first and presented his resignation, the company would not voluntarily pay him a compensation, due to its previous intention of laying off the CFO.

To omit reservation prices and surrounding facts; this is - facts that may give away the reservation price - is to go one step away from an extremely honest manner of negotiating (perhaps to a fairer manner). Further steps can be taken, each with its strategic implications. It is possible to strategically misrepresent the truth and even to lie. In Notic's case both bargainers can be found on the strategic misrepresentation of the truth part of the path.

Considering the present case study, for Marco Morais to lie about his intentions to leave the company would have him commit himself to this position. He would be risking to face a situation where he would have to choose between staying against his will and admitting to having lied from the beginning.

CONCLUSIONS:

The analysis of this case has demonstrated the importance of negotiating competently for business professionals. The inevitability of everyday negotiations, such as dismissals, demands for bargaining skills from all professionals and especially from human resources professionals. Ethics and information are two unavoidable issues for any negotiator.

We extracted from our negotiation that the fundamental strategic dimension to claiming value in a distributive negotiation is to anchor the negotiation around the reservation price of the opponent. Something to which possessing superior information is paramount.

The first task of a negotiator is, thus, to probe for information, an effort that must not cease upon the end of the initial preparation. A good negotiator will use each stage of the negotiation to prepare for the subsequent ones.

A competent negotiator needs to build a reputation of trustworthiness and this requires negotiating with ethics. Besides risking to tarnish his reputation, a liar may diminish his results due to the strategically detrimental consequences of lying. To negotiate with ethics is strategically sound. However, what is ethical in a specific negotiation may be different from what is ethical in other situations. To be ethical is to be fair, but to be completely honest may not be fair during a negotiation.

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