

## **Representation Plan Representing Hampton Suncare**

### **General Facts**

Hampton Suncare sells a special sun cream that is made from a rare Blanco bean. Hampton entered into a Distribution Agreement with Heng SunCare. Under the Distribution Agreement Heng was Hampton's exclusive distributor of Blanco bean cream in Inachi. After several years Heng was unable to meet its sales targets and Hampton ended the relationship according to the terms of the Distribution Agreement. The terms of the original Distribution Agreement are in dispute, as well as the parties' ongoing obligations to one another.

### **Nature of the Dispute**

The parties seem to have different ideas about some of the obligations created by the Distribution Agreement. There is also some ambiguity about the terms of the existing agreement, which stemmed from the original agreement but includes extrinsic agreements and, it seems, differing interpretations.

The challenge thus is to see if the parties can come to a shared understanding of their mutual obligations, and, if that can be done, whether each party is willing and able to abide by that agreement or would prefer instead to be bound to a decision by a third party decision-maker (either a court of law or an arbitral tribunal).

### **Issues in Dispute**

- Are the parties bound to resolve conflicts through arbitration rather than traditional court action?
- What are Heng SunCare's future required sales quotas?

- What obligations, if any, does Hampton owe to Heng in light of the Typhoon?
- To what degree are the parties expected to share insider business information with each other (e.g. information relating to investigations instigated by the company)?

### Interests of the Parties

#### Heng SunCare:

Feeling respected

Recouping investment already made in product

Ongoing relationship with Hampton

Economic viability of the company

#### Hampton SunCare:

Feeling respected

Ongoing relationship with Heng

Avoiding legal/economic liability for the dealing with other distributor in Inachi

Avoiding economic loss

### Negotiation Strategy

We have prepared using the Seven Elements approach advocated by the authors of *Getting to Yes* and their colleagues. Under this paradigm, we have identified our interests, our assumptions about our counterpart's interests, alternatives to a negotiated agreement, options we would like to explore with our counterparts, what criteria might make an agreement legitimate, and strategic thoughts about the parties' relationship, our communication with them, our levels of commitment and authority. Our strategy is to explore the other side's goals and interests, determine what options might be mutually acceptable to both of us going forward, and then solidify the details of that arrangement in a manner that will discourage future misunderstandings such as this one.

## **Representation Plan Representing Heng SunCare**

### **General Facts**

Heng SunCare was created for the express purpose of entering into a partnership agreement with Hampton SunCare as its exclusive distributor of Blanco bean cream in Inachi. After several years of a successful business joint venture, relations between the two companies have now soured. The terms of the original Distribution Agreement are in dispute, as well as the parties' ongoing obligations to one another.

### **Nature of the Dispute**

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The challenge thus is to see if the parties can come to a shared understanding of their mutual obligations, and, if that can be done, whether each party is willing and able to abide by that agreement or would prefer instead to be bound to a decision by a third party decision-maker (either a court of law or an arbitral tribunal).

### **Issues in Dispute**

- To what extent are the parties bound to resolve conflicts through arbitration rather than traditional court action?
- What are Heng SunCare's future required sales quotas, if any?

- What immediate steps should be taken in response to the unauthorized dealer in Inachi?
- To what degree are the parties expected to share insider business information with each other (e.g. information relating to investigations instigated by the company)?
- How will the companies respond to the changed conditions created by the typhoon?

### **Interests of the Parties**

#### Heng SunCare:

Feeling respected

Recouping investment already made in product

Ongoing relationship with Hampton

Economic viability of the company

#### Hampton SunCare:

Feeling respected

Ongoing relationship with Heng

Avoiding legal/economic liability for the other distributor in Inachi

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