How Affirmative Recovery Programs Enhance Business Relationships

A Corporate Affirmative Asset Recoveries (CAAR) program requires that a company confront its trading partners to seek compensation for their substandard performance. One might expect that the resulting friction from seeking repayment would threaten the business relationship.

However, there is strong reason to believe that the opposite is often true. In many cases, holding your customers, suppliers, contractors, service providers, franchisees and all other trading partners accountable is likely to enhance your business relationship in the future.

Underperformance – even if not awful, perhaps intermittently deficient but sometimes “just OK” – is a source of uncertainty. It requires a company to plan around the possibility that a business process might not quite be up to standard because of the other party’s actions. Over time, the cost of managing these difficulties can be substantial. Grabbing your trading partners’ attention by pursuing a recovery is likely to cause them to deliver your company priority attention.

Suppliers with multiple customers must sometimes allocate first quality performance between customers, whether in timeliness, accuracy or the substance of the goods or services provided. It is important you are among the First customers -- the ones who are certain to be fairly allocated the highest quality of goods and services.

Seeking redress for faulty performance invites a serious discussion. The methods used in that discussion can set the course of the future business relationship. For example, a process like mediation that identifies all parties’ interests is a communication and education opportunity. By learning more about the inner workings and vulnerabilities of each others’ businesses, you may be able to prevent future losses, thus preventing future claims.

A real-life example involved a very large industrial plant which utilized significant amounts of electrical power. Any interruption of external supply would cause the whole plant to shut down. Because of safety hazards like overpressures or the potential for fire or explosion upon the loss of electricity, the plant’s automatic shutdown interlocks made restarting the plant a complicated and lengthy process. Large financial losses were inevitable in such an event – and were considered by plant management to be the responsibility of the power company.

After an unplanned blackout led to settlement negotiations, mutual learning occurred. The plant learned that the utility company was at times vulnerable because it was repairing or improving one of two feeds to the plant, creating a “single-contingency” hazard. The utility learned that the plant was especially sensitive to significant losses from a blackout.

Two unconventional pieces of value were exchanged as part of a settlement. Each company defined expected operating states as “Green, Yellow and Red,” and pledged to alert the other when the operating level changed. Additionally, the industrial plant agreed that, instead of receiving substantial settlement funds, it would permit the utility to invest that money in its own infrastructure serving the plant, to increase reliability of future supply. The design for those improvements was a joint project, cooperatively developed and approved by both. The signaling system helped the companies avoid volatile situations going forward. The electrical transmission infrastructure improvements directly benefited both parties.

Many business difficulties can benefit from the frank reckoning that is necessary in dispute resolution. The promise of a CAAR program to prevent problems in the future is only limited by the creativity of those involved. When two companies work together to resolve a problem through alternative dispute resolution in particular, they may improve the satisfaction of all in the future.

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