

## Five Mistakes Entrepreneurs Make and How to Avoid Them

### Introduction

When most people, including corporations, invest capital in a business venture, their focus is almost invariably on the prospect of profitable returns, returns and returns. Hardly will you ever hear investors mention goodwill and healthy business relationships in their priority list. Yet these are the most valuable assets in any business undertaking. Loss of goodwill and unhealthy business relationships are as damning as loss of capital in a business venture. Such losses are unavoidable where an entrepreneur fails to effectively manage conflicts or resolve commercial disputes in ways that ensure enhanced goodwill and healthy relationships. Yet the mistakes many make are avoidable.

### Failure or Neglect to Foresee Conflicts and Disputes

One of the most common mistakes entrepreneurs make is failing to appreciate the fact that conflicts and disputes are a common feature of our social, cultural, economic and political life. Their failure or neglect explains why a majority of them hardly ever draw contracts with effective provision for a dispute resolution mechanism. Their contractual documents concern themselves with the rights and obligations arising in the particular business transaction. What to do in the event of breach of such rights or failure to discharge one's contractual obligations hardly ever comes to mind. That is why the onset of a conflict or dispute comes as a rude shock. Indeed, failure to anticipate disputes and make provision for amicable or other dispute resolution mechanism is the first mistake made by many.

### Failure to Identify Effective Dispute Resolution Mechanisms

When disputes arise, the first thing that comes to the mind of many is litigation. To them, law suits become the default option. More often than not, such adversarial approach to commercial disputes is ill advised by legal counsel who are either ignorant of more effective means of managing conflicts and resolving disputes or are motivated by the lucrative prospects of law suits. It is not uncommon to see lawyers who obstruct negotiation or mediated settlement with the intention of reaping more in legal fees chargeable in litigation.

Last year I was engaged as mediator in what appeared to be a straightforward claim in a commercial dispute. I was amazed to see the claimant's lawyers resisting mediation and insisting on judicial proceedings in the pretext that mediation posed the risk of a compromise on some of their client's claim. There you go! Failure to appreciate the benefits of alternative dispute resolution mechanisms is the second greatest mistake made by entrepreneurs and their litigation counsel.

### Failing to Focus on Nurturing Healthy Business Relationships

Few entrepreneurs are wise enough to appreciate the fact that it is healthy business relationships that drive their gains in business. Most are profit driven to make their quick buck and run. You identify them with the tendency to take old customers for granted. They fail to understand that it is the old customers who drive the new ones and fortify their goodwill. When a dispute arises, they are quick to let go the old

and pay more attention to the new. Yet, healthy business relationships are what keeps our business up and running. So, when disputes arise, a wise entrepreneur focusses on the relationship and not on the issues in contention. Relationship first; issues second.

## Failure to Identify and Maintain a Panel of Reputable Dispute Resolvers

Ask any entrepreneur, they will supply you with a catalogue of reputed litigation lawyers, but are unlikely to give you one or two names of reputed arbitrators or mediators. Why? That is the way things have been for decades. Courts have been viewed as the place to go for determination of commercial disputes. Few take time to evaluate the consequences of litigation on their business relationships, not to mention the inordinately high cost of litigation in time, money and emotional strain. Yet alternative dispute resolution mechanisms are within reach at proportionate costs, not to mention the expeditious manner in which these mechanisms are applied to manage conflicts and resolve commercial disputes. Last year, it took me 11 hours to resolve, with finality to the delight of the litigants, a dispute between a bank and its customer that has been pending in court for almost fifteen years. It pays to be aware of and maintain a list of go-to mediators and arbitrators of repute. Some of the institutions that come in handy in this regard are the Mediation Accreditation Committee of the Judiciary (MAC), the Chartered Institute of Arbitrators (CIArbs), the Nairobi Centre for International Arbitration (NCIA) and Strathmore Dispute Resolution Centre (SDRC), only to mention a few.

## Unwillingness to Change

Unfortunately, the legal fraternity and its clientele continue to tenaciously hold onto the old ways of claim determination by court litigation. Change towards more innovative ways of managing conflicts and resolving disputes has been slow. The reasons are obvious. It is no wonder that alternative dispute resolution (ADR) mechanisms have been dubbed “accelerated decline in revenue”. However, nothing could be further from the truth.

## Our Call for Action

Premier ADR Consultants work hand-in-hand with entrepreneurs and marriage mates with strained business or marital relations on the verge of breakup or separation to resolve their disputes by means of our transformative conflict management and dispute resolution strategies. We help parties salvage, restore and maintain healthy business and family relationships in a safe and peaceful environment with guaranteed privacy and confidentiality.

Our expeditious, cost-effective and party-controlled techniques guarantee consumer satisfaction resulting from the voluntary and jointly generated win-win outcomes. We provide the best alternative to the all-familiar costly, time-consuming, adversarial and often emotive court litigation that only works to weaken and ultimately destroy business, marital and family relations.

You can learn more by visiting our website at <http://www.adrconsultants.law> and like our Facebook page for our weekly posts and periodic newsletter.