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TO 'START THE BALL ROLLING,'
DUPONT PLEDGES SUPPORT FOR
DIVERSITY TASK FORCE

At a meeting of the International Institute for Conflict Prevention and Resolution's new diversity task force in January, Thomas L. Sager, vice president and assistant general counsel overseeing litigation at E.I. du Pont de Nemours & Co., announced a \$10,000 pledge for the task force work.

CPR convened the National Task Force on Diversity in ADR last year. The task force's mission is to adopt initiatives to increase the ethnic, gender, and social diversity of mediators, arbitrators, and those involved in alternative dispute resolution, both within CPR and on a national scale.

Dupont made the pledge to "start the ball rolling," said Sager, who is a task force co-chair. He adds that Dupont, which is based in Wilmington, Del., "hopes other corporations and law firms will join the effort."

At press time, New York-based law firm Kaye Scholer LLP had pledged \$1,000 to the efforts.

The task force event, held the day before CPR's Annual Meeting in New York, gathered about 40 people from a wide spectrum of legal professionals. Participants discussed business efforts at diversi-

fying customer participation, and examined areas that it might investigate in the course of its work, including diversity "audits" and mentoring programs, as well as the task force's overall role.

Dupont and Sager, through the company's "Dupont Legal Model," have a long history of working to increase minority participation in legal processes, including alternative dispute resolution. For information on the efforts, see www.dupontlegalmodel.com.

The Minority Corporate Counsel Association, a decade-old Washington, D.C., professional group that advocates expanded hiring, retention, and promotion of minority attorneys in corporate law departments and law firms, has recognized Sager's work in the field. In 1999, it established an annual award in his name that recognizes law firms demonstrating a sustained commitment to the association's goals.

Sager is a task force co-chair. Carla Herron, Group Counsel, Litigation at the Shell Group in Houston, and Charles R. Morgan, executive vice president and general counsel of On Site E-Discovery, a Virginia-based firm, also are task force co-chairs.

For more information on the task force, E-mail info@cpradr.org. 

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ACTIVATING THE GRID

Now, put the NSR Management Mediation Grid into action. If management escalation were to be sought without the grid, there would be no clearly defined entry and exit context that articulates the respective interests. If the parties become grid-aware, here is the expected result:

The business analyst becomes aware of the axes of reference. The starting point on the focus axis was "Transformative," while the style axis was "Directive."

As a framework for reorientation, the engineering group's directive to the business analyst would be that the goal was not to "recreate an SDLC" [SW from the engineers, to counter the misaligned SE interests from the business analyst].

The engineering group suggests that the business analyst start from the NW zone instead, to focus on specific issues, through a facilitative approach to articulation. For example: "Could you outline some of your core interests? We see that you are not happy with the current documents. Should we explore what might be causing this concern?"

The business analyst becomes aware that the S Zone fulcrum is under stress. For example, "Let's get to work on an interim version. I look forward to working with you toward a final version."

The engineers meet the business analyst at the S Zone. They might indicate something like, "We don't disagree that we could do a better job with the SDLC, but our scope of engagement is to use what we have currently. That's the process we have been following to create the documents that you need."

By default, the parties have come to a meeting point centered on the organiza-

tion's strategy, which is to re-use what already exists, and not re-engineer existing processes.

The transient and ending phases would work as follows: The business analyst moves to the SE Zone and traverses up to the NE Zone to focus on specific issues with the deliverable. For example, he might have done so by noting, "I noticed that the requirements are not traced to target product versions. My interest is to ensure that each version is complete and that no requirement is left out accidentally. What do you think can be done to address this?"

The engineering group representatives and the business analyst come closer, building a stronger S Zone, through identification of root causes for existing disconnects, and agreements on interim outcomes that will strengthen the deliverable.

The business analyst "stops by" the NE zone, and exits active conflict by articulating strategic recommendations for the organization to consider—without seeking immediate commitments.

In parallel, the business analyst realizes the need to traverse directly from the SW to the SE zones by identifying specific topical concerns that merit attention. The business analyst then works with the engineers to seek specific mitigating commitments. In doing so, the parties exit complete conflict and get into "business as usual."

A BARRIER BETWEEN INTERACTION AND OUTCOMES

Note that the end points on the X axis in this case serves as tangible nodes that cre-

ate two clusters of interaction and outcomes: commitments and decisions being sought below the axis, and options and analyses being sought above the axis.

Recognizing the points between these two sub-zones will in itself enable each party to better-formed outcomes, because the conflict resolution process outline provides a clear, consistent and objective *modus operandi* for integrative thinking.

As a general observation from the high-tech industry, such integrative thinking could enable resources from deeply specialized IT "silos" to work with each other, and with business stakeholders.

Often disconnects between cross-functional groups are attributed to a lack of a common language. But the *prima facie* cause of these problems may not be the lack of a common language, but a lack of common stepping-stones on which these domains can meet to explore each other's motivators, actions and outcomes.

The approach detailed above provides such safe stepping-stones on which functionally disparate entities in an organization can meet by adopting a domain-neutral protocol with common focal and stylistic elements.

If the conflict source between parties is systemic, and *per se* not a function of the parties' individual interests and representations, the parties and their managers must clearly recognize that the cause may lie in imprecision arising from the way organization strategies and objectives were crafted, communicated or managed—as opposed to individual actions and reactions to those actions.

—By Sainath Nagarajan, Waltraud Sedounik & Diana Robbers

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NEW LAW FIRM ADR EXCELLENCE AWARD IS ANNOUNCED

At CPR's Annual Meeting in New York in January, CPR President Kathleen

Bryan announced the introduction of a new CPR award, the "Law Firm Award for Excellence in ADR."

The award, Bryan noted last month in an E-mail to members, is designed to bring a double benefit to the ADR field. It will allow CPR to recognize a

leading law firm that has successfully adopted and exhibited ADR practices and principles, and it helps CPR continue to define what best law firm practices should be.

Bryan noted that CPR plans to con-

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vene a group of its corporate members and academics to discuss and determine the criteria for the law firm applications. Then, CPR plans to send out an invitation to the firms to submit applications, and to corporations to nominate firms.

Bryan announced that a judging period will produce an award winner, to be announced at CPR's Fall Meeting in Boston in October.

For more information about the award process, E-mail info@cpradr.org. 

NEUTRALS EFFORTS: CPR ANNOUNCES A NEW CPA PANEL

The CPR Institute in January announced the formation of a new addition to its Panels of Distinguished Neutrals: a panel of experienced certified public accountants who have experience as ADR neutrals.

The new panel is the result of a request by the CPR Banking, Accounting, and Financial Services Committee, which identified a need for CPAs with mediation and arbitration skills—but without conflicts.

"This is the only specialized national panel of CPA neutrals in existence," stated Neal Blacker, CPR's senior vice president for dispute resolution services. He notes that, in establishing the panel, CPR was assisted by a CPA subcommittee of the banking committee. The subcommittee was led by Phillip Zimmerman, a New York and New Jersey CPA-neutral.

In announcing the panel, the CPR Institute said that the benefits of selecting CPAs with mediator or arbitrator experience for business disputes with large claims at stake are substantial. It noted that CPA-neutrals:

- Can get to the heart of a dispute with complex accounting issues faster and with more creative, practical settlement proposals than neutrals without CPA credentials;

- Have in-depth knowledge of generally accepted accounting principles and auditing standards;
- Help eliminate unnecessary discovery;
- Immediately understand the financial implications of:
 - Business processes and flows;
 - Business valuations;
 - Buy-sell agreements;
 - Financial and securities disputes;
 - Forensic accounting;
 - Insurance coverage;
 - Partnerships, corporations, software, and hardware agreements;
 - Professional malpractice by accounting firms;
 - Reasonableness of legal fees, and
 - Supply chain processes.

More information can be found at the "Finding a Mediator or Arbitrator" link at CPR's home page, www.cpradr.org. 

CPR SETS AGENDA FOR THIRD ANNUAL EUROPEAN CONGRESS

The CPR Institute will hold its Third Annual European Congress on Business Conflict Management at the Westin Hotel in Paris in May.

The two-day meeting—which will provide attendees with New York state continuing legal education credit hours—will open with a breakfast at 9:00 a.m. on Thursday, May 10, and will conclude at 1:00 p.m. on Friday, May 11. The meeting is open to individuals at CPR member companies and law firms, and members of CPR's Panels of Distinguished Neutrals.

Registration information is now available at www.cpradr.org.

In addition, CPR is conducting a full-day workshop on cross-cultural negotiation on May 8, the day before the meeting.

The discount deadline is looming. March 15 is the last day that attendees will receive a 50% meeting discount for registering for both the meeting and the negotiation workshop. Information on

discounts is available at www.cpradr.org/SM07_landing.asp.

The agenda includes the following sessions:

- Managing a Multiparty Dispute in the Real World: An Interactive Roleplay.
- The Corporate Pledge: A Vital New Tool for European Business?
- Best Practices in Insurance: Managing Disputes with Policyholders and with Other Insurers.
- Is International Arbitration Beyond Repair?
- International Arbitration Rules: What Do the Various 'Providers' Provide? How Do their Rules Differ? Which Should I Select?
- Developing Business Dispute Management in Developing Business Markets.
- The Continuing Challenge of Judicial Support for Extra-Judicial Dispute Resolution.
- Global Corporations' Management of Disputes Through Early Case Assessment.

At press time, the list of meeting sponsors included Northrop Grumman Corp.; Darrois Villey Maillot Brochier; Nestle France; Eversheds, and Gide Loyrette Nouel. CPR also has acknowledged QBE European Operations, and Herbert Smith LLP, for their support of the CPR Institute European Congress invitational brochure and coursebook.

The special one-day cross-cultural negotiation workshop will be conducted by ITIM International of Stockholm. Using Geert Hofstede's 5-D Model, the workshop will give participants an understanding of the challenges of working in an international practice. The workshop will equip participants with tools to better recognize, understand, and effectively deal with intercultural experiences, and to function efficiently and effectively within another cultural environment. 

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