Learn Markets

Doug is the president and CEO of a startup business, Learn Markets, in Beijing. It combines instruction about finance and English in order to teach financial concepts and the advanced language skills needed to express and discuss them in English. Over the last four years, Doug’s friend, Roger, has provided almost daily business advice to Doug concerning the development of Learn Markets, and he has also created at about a fourth of the content on Learn Markets. Doug assures Roger that “When Learn Markets hits it big, you will get your share.” Roger replies, “Money is always nice. But we’re friends. That is why I want to help out. But don’t worry. I’ll take the money when it comes.” They have had more or less this conversation several times. Finally, Doug says, “I would feel more comfortable if we had a written agreement defining our business relationship in regard to Learn Markets. We should specify the amount of money you will get for all your work. As you say, friends in business together only have a chance of staying friends if they define the business relationship in writing.” Roger agrees and agrees to write up a draft of the agreement. He sends an unsigned draft to Doug, who returns it with changes to make the relationship more financially favorable to Roger. Doug signed the revised draft. In the revised draft, Doug promises to pay Roger 25% of the purchase price of Learn Markets should it ever be sold.

When he receives the draft from Doug, Roger sends and email that says, “Nice of you to promise the money. But I am not helping you for the money. I am not doing any of this for that reason. I just want us to think well of each other. So that is what I am going to promise you. “Roger strikes all the language that says he promises to offer business advice to Learn Markets and to provide it with content, and he adds, “I promise to provide advice out of appreciation for our friendship and for no other reason.” Roger returns the revised draft. Doug initials Roger’s changes, signs the agreement, and returns it to Roger with one additional change that says, “In consideration for the obligations undertaken by Roger, I agree to pay him $1.00.” Roger initials the change, signs the agreement, and returns it to Doug. Roger continues to provide advice and content.

Is there consideration for Roger’s promise to provide advice and content?

Which of the following promises do you think are enforceable?

**(1)** Smith calls his wife at her work and invites her to lunch. She says she is really in the mood just to grab a quick lunch at the cafeteria in her building. Smith overcomes her reluctance by promising to buy her, immediately after lunch, the expensive bracelet that she has been wanting. Between the phone call and lunch, Smith opens his visa bill and, stunned by the balance due decides not to buy the bracelet. He does not, however, inform his wife of this decision until after lunch.

**(2)** Smith calls his wife Linda at her work. He says, "I really need your expert advice on a project. You know that emerald bracelet you have been wanting, give me your advice over lunch and I will buy it for you. I promise." Linda says, "OK, give me the bracelet and I won't bill you." (She normally charges $200/hour, and she has typically billed Smith for business advice given at lunch in the past.) Linda shows up at lunch; advises Smith, but Smith refuses to buy the bracelet.

**(3)** Smith calls his ex-wife at her work to discuss how they plan to pay their daughter’s private school tuition. Smith says, “Look, if you promise to pay the Spring tuition, I promise to pay the Fall”, and they agree on this. Smith fails to keep his promise.