

Bryson Lee vs. Callaway Golf Company: “Sinking the Putt”
Special Judge’s Instructions for the FINAL ROUND

Background Information:

The final round negotiation is determining the specifics of a possible endorsement contract between Callaway Golf Company (“Callaway”) and minor-aged golfer Bryson Lee (“Lee”). The purpose of this negotiation is for Callaway to negotiate an endorsement deal with Lee that leads him to start his professional golfing career.

- Bryson Lee

Lee is a high school senior who is determining whether he wants to start his professional golf career now, or put that on hold and attend college, and the options he has to endorse products.

- Callaway Golf Company

Callaway (or the “Company”) is an American global sporting goods company that markets and sells its products in more than 70 countries worldwide. Its product lines include golf equipment, golf accessories, and golf-lifestyle related products. It also sponsors athletes.

There will be many issues negotiated, which include: (1) Contract length and value (and Lee attending SMU College vs. going pro with Callaway/PGA); (2) the number of endorsement deals and exclusivity of the same; (3) a morality clause and an opt-out provision in the contract; and (4) the number of personal appearances and press interviews.

1. Contract Length and Value (Going Pro vs. College): Callaway is looking to get a contract that is for 4-6 years because it wants to make sure that Lee is going to perform well on the PGA tour before committing long-term. By going pro, Lee is looking to get a contract that is up to 10 years. Lee also may want to attend college.
2. Callaway Exclusivity and other Endorsement deals: Callaway is going to want to make sure that Lee uses only Callaway clubs, accessories, equipment, gear, etc. The Company is aware that Lee has a special putter that he likes to use, which he has named “Lucky Lady” and it is a competitors product (TaylorMade Golf Company). While Callaway does not have a problem with Lee using the putter for some time before switching to the Callaway putter, it is concerned with the name he uses for his putter. Lee wants to continue using the putter, but does not have any issues with reconsidering the name of the club. Lee would also like to be able to sign with other companies as their endorser.
3. Morality Clause and Opt-out provision: Callaway believes that Lee will perform well on the PGA tour, but it is concerned with his style of play. Lee’s style of playing golf is a concern because Callaway is worried about his behavior on and off the golf course. It is important for Callaway to ensure that the morality clause included in the contract is one that is common in the industry because Callaway wants to be able to release Lee from his

contract should any of his behavior on and off the golf course be harmful to the reputation of the company. Lee, on other hand, is going to want a morality clause that allows him to stay with Callaway unless he is convicted of a felony. This is an important issue to Callaway. There is a separate opt-out provision for performance issue for discussion.

4. Personal Appearances and Press interviews: Lee is looking to do as few appearances as possible as he does not like to be in the public eye because of his rumored partying. This means that Lee’s counsel should be pushing to make sure that he does the least amount of appearances as possible and is not the only professional golfer at any one appearance. Lee has no issue with doing social media postings on behalf of Callaway. This is good publicity for the company and helps bring in a younger crowd.

Here is a visual to see where the two sides can agree:

Issues	<u>Lee</u>	<u>Callaway</u>	<u>Zone of Possible Agreement (ZOPA)</u>
<i>Endorsement Deals & Exclusivity</i>	Lee is interested in having many endorsement deals as possible. He has been approached by many different companies including Red Bull, Power Bar, Body Armor, and more. He is specifically looking at Callaway and Red Bull as his main partners. Lee wants to use his putter for a period of time; okay to change the name.	Callaway is aware that Lee has met with TaylorMade, but they are not aware of the specifics of that deal. They have also heard that he has met with other companies but they are not aware of who they are. Would like exclusivity, but are flexible depending on the terms of the deal. Okay with allowing putter use for a period of time, but must change the name.	Lee would like to endorse Callaway and Red Bull. Callaway, on the other hand, is not likely to take a back seat to Red Bull. So, the best deal here would include Callaway as Lee's main endorsement deal but to allow Lee to also sign a deal with Red Bull that is not too demanding. Various product combination options.
<i>Morality Clause</i>	Lee wants to include a provision within the morality clause of the contract that states Callaway cannot release Lee from his contract unless he has been convicted of a felony.	Callaway is going to be a little caught off guard by Lee’s request for such an uncommon provision in a morality clause. Callaway is already concerned about Lee’s “outside the box” style of play. Want authority to release.	The agreement made should favor Callaway in this part of the negotiation. Callaway is unwilling to include a provision that allows an athlete to engage in any type of behavior as long as it does not result in a felony conviction.

<i>Appearances</i>	No more than 8 appearances per year for a contract of 5+ years. If the contract is for less than 5 years, then 5 appearances per year.	7-10 appearances a year.	If the agreement is less than 5 years, the counsel for Lee should not accept more than 5 appearances. If the contract length is for more than 5 years, the ZOPA is 6-8 appearances per year.
<i>Press</i>	Lee does not want to do interviews with the press for at least 6 months. Cannot be the main athlete in attendance at any given event.	As much as possible, but willing to add safeguards and gradual increase. Willing to bring in highly recognized endorsed athletes to press events with Lee.	Callaway unwilling to allow Lee to not do interviews with the press, but is willing to make sure that the interviews are never one on one interview for the first 6 months, but after 6 months want him to do personal interviews with the press.
<i>Opt-Out Provision</i>	Lee does not want to allow Callaway to include an opt-out provision in the contract if at all possible. However, Lee is willing to include an opt-out provision if the contract is for more than 5 years and Callaway is not able to opt-out within the first 3 years.	Callaway wants an opt-out provision that allows the company to opt-out of the contract at any point that they feel that Lee has not performed as well as he is reasonably expected to on the PGA tour if the contract is for more than 4 years.	If the contract is for less than 4 years, then no opt-out provision is necessary. If the contract is for more than 4 years, the ZOPA is a 5-8 year contract that allows Callaway to opt-out after 3 years.
<i>Contract Length & Value (Going Pro vs. College)</i>	Lee wants a contract that is 6-10 years. If the contract is for 7 years or more Lee is willing to accept as low as \$1.25 annually plus bonuses for tournament placement. If the contract is for 5 years or less, then Lee is not willing to take less than \$1.50 million a year plus bonuses for tournament placement. Lee has thought about going to college	Callaway's ideal contract is for 4-6 years, but is willing to go up to 8 years if necessary. Callaway has told their general counsel that they are willing to spend up to \$12.5 million to get the contract done. If the general counsel wants to go beyond \$12.5 million, then they must get approval from CEO and the board before making any agreements with Lee.	The ideal contract here would be for 6-8 years. If the contract is for 6 years, the annual salary must be at least \$1.50 million plus bonuses for tournament placement. If the contract is for more than 7 years, the annual salary must be at least \$1.25 million plus bonuses for tournament placement.