



Negotiating

Exactly What You
Need to Know

Some deals are
better than others.

Thomas Jefferson sent James
Monroe and Robert Livingston
to Paris to buy New Orleans
and ended up with the entire
“Louisiana Purchase” for less
than \$.04 per acre.



Jefferson applied some excellent
negotiating techniques. He knew
Napoleon needed cash to finance his
conquests and that France wanted the
US as an ally to counter England.

Exceptional Negotiating Skills Can Yield Exceptional Results.

The material contained in this brochure is designed to give you the foundation on which to
build those exceptional negotiating skills. Let me know if you find any land for \$.04/acre!

THE M&A LAW FIRM

Providing merger and acquisition services to middle market (\$5M to \$250M) privately held companies

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PART I: PATIENCE!!

When are most concessions given in a transaction? If you said “at the end” you are right. How many people have the patience to push through all of the details, emotions, wrong turns, unforeseen events and preposterous statements and positions presented by the other side to get to those concessions? No one wants to wait for what they want, but if you exercise the self-discipline to patiently drive towards your goal you will be victorious. Put this negotiating axiom in your permanent book of life: PATIENCE! PATIENCE! PATIENCE! Now you have taken the first step to becoming a world-class negotiator.



PART II: ATTITUDE

Everyone wants security, respect and a sense of dignity. Imagine what your demeanor and attitude would be like if you were talking with a celebrity or any person you really admire. Your respect for that person would both enhance their security and their dignity. An unfriendly or condescending approach will get a defensive response based on anger or fear. The other side will hang on even tighter to whatever you would like to get. Take the “high road.” Put on a smile and negotiate with a pleasant demeanor. Show the other side that you respect them and their views (even when it seems like neither should get your respect). You can respect both a person and their views without agreeing with them. Your attitude will change their attitude. The truth is, we would all like to be treated like celebrities!!

PART III: EMPATHY

Empathy can be defined as the key that can turn husbands from heels to heroes in the eyes of their wives. It is also the key that unlocks the treasures in negotiating. Empathy is the ability to listen to and to fully understand the words spoken by the other side. The actual words spoken may not clearly reflect what is meant nor convey the motives and concerns that caused the statement to be made. For example, I had an owner of a company who said, just before the closing, that he didn’t want to sell. After some discussion and exploration of his feelings it was clear that his statement was made because he was concerned about his employees. This concern was immediately addressed and there was a successful closing. A good way to test the meaning of a statement is to repeat the statement back in your own words in the form of a question. On the flip side, you can make sure that what you say is heard and understood by asking the other side to repeat what they think you said. Listen, listen and then listen some more to really discover how to best address the needs and concerns of the other side.

PART IV: PERSPECTIVE

Is the glass “half empty” or “half full” or is the business “flat” or “poised for growth.” A good negotiator creates a positive perspective. You might not pay \$479 for a specialty coffee machine, but you would gladly pay \$.67 per day instead of \$4 per day to get your favorite blended coffee drink. The coffee machine went from costing a lot of money to saving you \$3.33 per day, or \$1,215.45 per year. The cost/benefit analysis is even more effective when buttressed with examples and/or word pictures. Can you see yourself sitting in the shade by the pool sipping a blended frappachino from your very own coffee machine for \$.67. Both of these approaches are designed to tune into and address the underlying basic human needs that drive the negotiation process. Those needs consist of a desire for success, security, belonging, pleasure, control, and value. At the end of the day it really is about “perspective.” That previously undesirable machine is now a necessity because you will save hundreds of dollars and it will provide not only a sense of pleasure, but may even give you an additional sense of success and security.



PART V: PREPARATION

The best negotiators have confidence, can inject a bit of humor into the discussions and are not easily offended. Why? Because they know where they are going and are armed with the information, experience and skills to get there. In other words, they are PREPARED. Forget flash, glamour and glitz and start digging, investigating and analyzing. It usually takes less than two minutes in a negotiating session for the parties to recognize who has the upper hand because they are clearly more knowledgeable and better prepared. Your authority and success at the negotiating table will be directly tied to the degree of work you put in before you get to the table. Negotiating without being properly prepared is like going sky diving without a parachute; it is great for a minute or two and then things become very uncomfortable.

PART VI: ASSERTIVENESS

Assertiveness is that stage just short of aggressiveness. Being assertive simply means taking your position to the other side in a confident and forthright manner. Listen intently to what the other side has to say, ask questions, be polite, but then clearly state why you don’t agree and confidently present your perspective and position. Being “aggressive” may be appropriate, however, if the other side will not listen and insists on pursuing unworkable

positions. Don't hesitate to set your anchor before they drag you over the cliff. It is hard for many negotiators to shift from the empathy mode (see Part III) or the never say no "selling approach" to the assertive mode. The ability to exhibit the appropriate degree and level of assertiveness is like learning to walk on a high wire. It takes a great deal of fortitude, preparation (see Part V), skill and balance. Mastering this negotiating skill will help get you safely across the wire to your desired destination.

PART VII: INCREASING THE SIZE OF THE PIE

If you can double the size of the pie both sides can get one hundred percent of what they are negotiating for. For example; (i) Buyer pays less for the technology by allowing the seller to retain a royalty free license to use the technology in an unrelated business; or (ii) Seller maximizes value by keeping an equity interest in a start-up division that has little value at the time of sale. Looking for additional value is a key to successful negotiations. Value may lie in certain rights that can be separated from core assets or opportunities. Those rights may add value that the other party was not aware of. Adding value or increasing the size of the pie is not as hard as it may seem if your eyes and mind are open to the idea that there is hidden value in every transaction.



PART VIII: EMOTIONS

Hurt, frustration, anger, confusion, delight, silence, chattering, squirming, focus, breathing, patience, perseverance, hatred, bonding, attraction, repulsion, etc., etc., etc. Bottom line, as stated by one of the world's premier hostage negotiators, stuff your emotions when you are negotiating. The best way to take your emotions out of the equation is to have a third party conduct the negotiations. It takes a great deal of discipline to keep emotions in check. There are situations where emotional displays are appropriate, but the best negotiators carefully control any display of emotions. You may not only be required to stuff your emotions, but to display an emotion that is the exact opposite of how you really feel. It can be a challenge.

PART IX: COMPETITION

Sellers need to know how to create competition and Buyers need to know how to deal with competition. Competition creates value. If there is one child in the room and one toy, the toy may go unnoticed. Now bring in another child and the toy becomes an extremely valuable item. Whether it is a product or a business, using effective marketing efforts to create competition will create greater value. Finding other prospective buyers also helps those who are selling a business get a better understanding of the business's true market value. Buyers can deal with competition by doing three key things. First, establish your limit on what you should and can pay. This keeps your emotional spending in line with your bank account as well as making you sound more convincing when you tell the seller you will walk if the price is not acceptable (sellers don't like to lose bidders). Second, identify items other than price that will put you ahead of the competition. For example, the ability to pay cash now instead of making payments, not requiring certain guarantees or warranties or being able to better satisfy the emotional issues tied to whatever the seller is selling. Third, and probably most important, create your own competition by making it clear to the seller that you also have other alternatives. Put a time limit on your offer. Do your homework and know your options.

PART X: RED HERRING

Many techniques can be used to affect the outcome of the negotiations such as "good guy/bad guy," "shock or wince," "phantom decision maker" or "properly setting the anchor." The "red herring," however, is one of those techniques that can leave you losing and you won't know what hit you. Initially the red herring was the stinky fish used to throw the dogs off track. Be on guard because in negotiating you may have a difficult time smelling the red herring used by your opponent. In its simplest sense, this technique involves getting you to focus on a tangential or non-core issue that gets blown totally out of proportion. Your opponent hammers on this issue and holds their ground until the 11th hour. At that point they begrudgingly make a concession (about something they really did not care that much about in the first place), but in return they get a major concession from you on a critical aspect of the deal. You mistakenly believe you made a good trade off because of the importance placed on the issue by the other side and the great emotional angst displayed by them in the process. Don't allow your opponent to major in a minor and lead you down the "red herring" path. Is the "red herring" an ethical negotiating technique that you should use to your benefit? Before you answer that question, ask yourself if this is any different than asking for a higher price than you know you really want or offering a lower price than you will really pay?



CONCLUSION



Negotiating is a “process” and not an “event.” People need to be given the appropriate amount of time to work through emotional and factual issues. It does not have to be a marathon, but generally it should never be a sprint. Preparation, patience and perseverance will carry the day. If



someone gets angry they are generally just looking for a “hug”. In this case that hug is respect and kindness. This is always a winning formula.

The best negotiators can fully participate while at the same time processing the negotiations as though they are an observer sitting in the corner of the room. This characteristic, which some people have naturally and others develop over time, is known as having a “third eye.”



May All Your Negotiating Experiences Be Successful

(Whether you have two or three eyes!!!)

THIS BROCHURE WAS PREPARED BY
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With over 25 years of experience, Mr. Neu has advised over 300 privately held businesses in various merger and acquisition transactions. Mr. Neu was a CPA with Price Waterhouse, later attended Loyola Law School, graduating with honors, and worked with a law firm for four years before establishing the M&A Law Firm in 1982.

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