

The Negotiator

Presented By:

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Introduction

- What do I know about negotiation?
- Today's goals:
 - Understand the “science” of negotiation – and use it to improve your “art”
 - Pick up practical tips to use when negotiating
 - Emphasis on commercial contracts

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Learning to Negotiate

- Are some people just naturally better negotiators?
- Can you really learn how to be a better negotiator?

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Prep Work: Identifying Important Terms

- What really “matters”?
 - How important is this product/service/transaction, and how much risk is associated with it?
 - What are your expectations? How would you define success?
 - Do you have “hot buttons” or special considerations that should drive the negotiations?
 - What have been your “historic” issues?
 - Most contract disputes involve **faulty performance** issues

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Prep Work: Identifying Important Terms

- What happens if it all goes wrong?
 - Remedies: what is practical?
 - Repair, replace and refund
 - Termination
 - Penalties
 - Something else?
 - Are/should remedies be limited?
 - When should you get a remedy? How bad does it have to get?

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Prep Work: Identifying Important Terms

- What are the most significant legal concerns?
 - Allocation of risk
 - Indemnification
 - Limits of Liability
 - Insurance requirements
 - Remedies

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Negotiation Reality

- Inevitably there will be points of contention
 - Competitive negotiations point of view
 - Usually less “strategy” and more “tactics”
 - Remember – this is “winner take all”
 - Cooperative negotiations point of view
 - More strategy and less tactics
 - Find value for both parties (“win-win”)
- Which one are you facing?

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Competitive Negotiations

- This type of bargaining encourages an aggressive style that is not relationship friendly.
- Clues about the direction of negotiations.
- It is very difficult to short circuit the process...the “right offer” at the “wrong time” may still be the wrong offer.
 - Example

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Cooperative Negotiations

- This approach is more “global”. Expands the “pie” to include other types of value that may not be obvious but which would aid resolution.
- The focus is on interests not on issues and positions.
- This style of negotiating is (obviously) very relationship friendly.

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Achieving a Cooperative Negotiation

- Most people would agree that a cooperative process is more desirable in most cases. How do you try to ensure a cooperative process or move a competitive process to a cooperative one?

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Achieving a Cooperative Negotiation

- How can I push back/say no...and still be “cooperative”?

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The Process of Negotiating

- Making an offer
 - Do you want to make the first offer?
 - The low-ball (insulting?) offer versus a “reasonable” offer (and everything in between)

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The Process of Negotiating

- Limits, obstacles and opportunities
 - Time
 - Using time as a negotiating strategy
 - Pitfalls: false deadlines, if challenged, can impact your credibility.
 - When to start to negotiate.

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The Process of Negotiating

- Limits, obstacles and opportunities, cont.
 - Information - The side that gathers the most information usually does best. Do your homework before you negotiate!

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The Process of Negotiating

- Limits, obstacles and opportunities, cont.
 - Power
 - Sources of power and influence
 - Setting
 - Choose the right forum
 - Context
 - Special situations, like a house that must be sold b/c the owner has a commitment to another property, a business selling overstocked items or, conversely, selling an item that is unique or hard to find.

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Negotiation Preparation

- Limits, obstacles and opportunities, cont.
 - Getting sidetracked

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Negotiation Tactics

- The “in your face” move
 - Related: the bully - aggressive and intimidating. May yell and shout, pound fists or make other physical displays of dominance. May threaten/belittle.
 - Possible uses and responses

Negotiation Tactics

- “Stealth” bully - talks over you, goes around you to another person, twists/misrepresents your position, subtly challenges your authority with seemingly harmless comments/actions. Can be expressed as being condescending.
 - Possible uses and responses

Negotiation Tactics

- The freeze out - refusal to continue negotiations/talk. This is a “walk away” designed to increase pressure. Can be “obvious” or “subtle”. Similar to use of silence.
 - Possible uses and responses

Negotiation Tactics

- Lack of authority - car dealer negotiations are a great example. The salesperson is never the decision maker.
 - Possible uses and responses

Negotiation Tactics

- “Just one more thing” ...you think negotiations are done, but the other party comes back to ask for one (or two or three!) more concessions.
 - Possible Uses and responses

Negotiation Tactics

- Silence - Typically, the party who breaks the silence indicates at least a little bit of weakness.
 - Possible uses and responses

Summarizing: Practical Negotiation Tips

- Understand (and match) negotiating styles.
 - Match a competitive negotiator if you cannot move them to a collaborative approach
 - A collaborator will often “lose” to a competitor
- Negotiating Competitively
 - Usually less “strategy” and more “tactics”
 - Remember – this is “winner take all”
- Negotiating Collaboratively
 - More strategy and less tactics

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Summarizing: Practical Negotiation Tips

- Focus on Your Strengths:
 - strength of the deal you are offering
 - your expertise
 - your knowledge/preparation
 - your ability/willingness to walk away

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Summarizing: Practical Negotiation Tips

- Remember the 80/20 Rule.
- Practice patience - patience is associated with power.
 - Sometimes you DO get a second bite at the apple
- Remember the power of silence
- Use alternative consideration to meet interests and to break (avoid) deadlocks.

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Summarizing: Practical Negotiation Tips

- Project a reasonable attitude
- Consider the value of a tradeoff according to (1) how it affects other issues and (2) what is offered in exchange.
- Don't give something for nothing - even if it is unimportant to YOU, it may be important to the other party and you should be able to get something for it in return.

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Wrap Up

Observations, comments and questions

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