

Business Credit News

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**APRIL 2013 Chairman: Terry Ludzenski
Holt Cat**

“Negotiation the Final Chapter”

This is the final column in our series dealing with effective negotiation strategies. When evaluating the issue to be negotiated always look below the surface. The inexperienced negotiator will invariably always focus on the facts, or dollar amounts, or legal issues, or personalities. While the experienced negotiator understands that every negotiation is a combination of all these factors, and others. The experienced negotiator realizes there is more involved than just opening offers, counteroffers, and closing moves when they are sitting at the bargaining table. They see both the psychological and strategic opportunities that are hiding below the surface. They take notice where the parties stand in terms of the reciprocity norm, people feel obliged to give back to others who have given to them. They look for opportunities to use the consistency principle to commit other parties to standards and then hold them to their prior statements and positions, and they know that the timing of a proposal is always as important as its content.

So when we begin to formulate our goals, we should consider carefully what really matters to us. In collections, certainly, the money is important. But we need to identify also our underlying interests and needs clearly and those of whom we are in negotiation.

One way to achieve this is to reduce the problem into issues. Every negotiation involves one or more issues, which can be sub-divided when necessary, to make the negotiation more manageable and to allow for partial agreements which eventually will lead to a resolution of the problem. When negotiating multiple issues always look for trade-offs. We will gain consensus for our inflexibility on a few choice issues by our willingness to give ground on others. Many skilled negotiators believe that a principled negotiation is by far superior to the traditional method of positional bargaining whereby the parties take positions and then make concessions to reach agreements.

Principled negotiation was developed by the Harvard Negotiation Project and is based on a philosophy of deciding the issue on their merits rather than through the haggling process that is focused on what side says it will and won't do. It suggests that we look for mutual gains wherever possible, and that where our interests conflict, we should insist that the result be based on fair standards that are independent of the will of either side. The method of principled negotiation therefore remains focused on the issues and merits of the problem and not on the people involved in the negotiation

The experienced negotiator always brings multiple solutions to the table. They are not concerned with what is the truth or the correct answer, but rather explore options. They know that there are usually a number of workable solutions to the problem being argued. Identifying what those solutions are usually takes some work, and, even though a solution may be workable, it will not necessarily be palatable to everyone. Nevertheless, the experienced negotiator knows that, once they get an understanding of the whys and wherefores of each party's positions, more often than not, there will be several options for resolving an issue or solving the problem. Effective negotiators are those who care about being not only fair, but also assertive about their goals. Effective negotiators push the other party to find the best solutions, not just the simplest compromises.

The experienced negotiator will always take into account and evaluate people, their interests, the other party's and their options, along with the criteria. The characteristics of a principled negotiation are:

1. Separate the people from the problem;
2. Focus on interests, not positions;
3. Identify options and generate a variety of solutions before deciding what to do;
4. Insist that the results of the negotiation be based on objective standard that everyone agrees to before they begin negotiating.

The experienced negotiator always begins their preparation for negotiation by considering their own underlying needs and interests. The majority of people fight over money. But, money usually symbolizes something else. When negotiating a money matter always look beyond the money and we should find numerous solutions.

The experienced negotiator also evaluates the leverage. The first basic skill of smart negotiating is an awareness of the leverage factors at work, plus the ability to apply leverage when it's in our favor and make do when it's not.

Leverage is negotiating power, plain and simple. When we have no leverage, we are at the mercy of our opponent. The experienced negotiator understands leverage. They know how to develop it and use it to maximum advantage. They know that if they do not use it when they have it, it may not be worth as much tomorrow as it is at the present time. Leverage has a way of evaporating. The experienced negotiator understands that leverage is powerful, but when it is not used, then it will usually be lost.

The most common of the leverage factors are: necessity, desire, competition, and time. These factors usually come along with the deal; they are intrinsic to it. If someone steals our car, and we need another right away, we have less leverage than the person who can wait a month or two to see if the market price will fall. If three people want to buy our house, we have a lot more leverage than if there is only one interested buyer.

When the negotiator is willing to walk away from the table if acceptable terms can't be worked out that gives that person leverage over the other party. Because leverage is rarely static, we can usually enhance our leverage, or develop leverage where we had none, through: preparation; information; number-crunching; understanding our opponent; exploring and developing other options, timing, and patience.

The experienced negotiator knows that the importance of preparation is extensive. The experienced negotiator is patient, and exercises self-control. The most common mistake the novice negotiator makes is giving in to a sense of impatience, satisfying the need for instant gratification.

The best practice is to anticipate the other side's preferred standards and frame our proposal within them. If we cannot do this, we should prepare to argue for a special exception to their standard based upon the special facts of our case. Attacking their standards should only be considered as a last resort. Positioning our needs within the normative framework the other party uses to make decisions, will show them respect and, as a result, gain their attention and liking.

Standards and norms are powerful tools in negotiation in part because they carry an authoritative message about what the market, the experts, or society has determined to be a fair and reasonable.

In fact, if we were searching for the definition of the Novice Negotiator, we could simply say that he is one who ignores leverage. While he knows something about the problem, he is relatively unprepared. He gives little thought to his opponent. He fails to explore and develop other options. He does not consider the timing of his proposals or responding to the other party's proposals. Or, he does not exhibit the patience required to close the deal.

Experienced negotiators understand the "consistency principle, which states that we all have a strong psychological need to be consistent with our prior acts and statements. When we are looking for a tactic to manipulate our opponent, consider trying to hook him with some small commitment and then following up with a larger request. The goal of the "consistency trap" is to pre-commit the other party to a seemingly innocent standard and then confront them with the logical implications of the standard in a particular case - implications that actually turn out to run against their interests. This is a form of intellectual coercion, and we should be ready to defend against it".

For example, a good friend of ours is a very successful family law attorney. He uses the following "consistency trap" when negotiating child support for his clients. "You don't want the children to suffer because of this divorce you wanted, do you Mr. Trump?" If the spouse takes the bait, the follow up questions might be: "And, you know how it would affect them if their lifestyle was substantially reduced?" "And, you know what that lifestyle costs?" "You've always been generous with them haven't you?"

This often has a material effect on our friends negotiating strategy. In a fight over money, when they are not getting as much as they want, Novice Negotiators often react by accusing their opponent of being a skinflint or a cheapskate or by threatening him with litigation if they do not cooperate. Although counter-intuitive, it may be much more effective to remind the debtor of all of their generous past acts so that he will act consistently with a pattern of generosity. The consistency principle can also be invoked in order to persuade an opponent to act consistently with established standards and norms.

Experienced Negotiators know how to close. They consider every element of closure: when, where, documentation, pending issues. Novices either rush the end or delay it interminably, with equally bad results. Rushing the end usually means slapping a contract together with little time or thought; its ambiguities and deficiencies inevitably result in disputes. Delaying the end means if you wait too long, something will happen to prevent closure. Time kills deals.

Any Method of Negotiation can be judged by three criteria: It should produce a wise agreement, it should be efficient, and it should improve or at least not damage the relationship between the parties.

A wise agreement can be defined as one that meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly, and is durable. Arguing over positions produces unwise agreements. As more attention is paid to positions, less attention is devoted to meeting the underlying concerns of the parties.

Lawyers are great at analyzing legal issues, negotiating agreements, and closing agreements concerning legal issues. But, in situations where people will have a relationship after they sign the agreement, they would be smart to make sure that they have tended to the emotional issues, otherwise the legal agreement may suffer the consequences of any structure with a faulty foundation. Many times, especially in money disputes, agreements addressing emotional issues can be, and should be, intricate and involved.

We have attempted in this series of articles to identify the differences between the experienced and novice negotiator and also a successful and failed negotiation. One does not become a successful negotiator overnight. The importance is to not only

remember the basics but practice them in every negotiation we are involved with. Below is a re-cap of the three phases in the negotiation process. Never forget these as they will guarantee your success in whatever you negotiate.

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***** **APRIL 2013** *****

Day	Date	Group	Location	Time
Tues	2	Austin Construction	Texas Land & Cattle, 6007 N IH 35 & Hwy 290, Austin TX	11:30
Tues	9	Coastal Bend Group	Holt Cat, 1325 South Padre Island Dr, Corpus Christi TX	11:30
Wed	10	Rio Grande Group	Victoria Palms Resort, 602 N. Victoria Rd. Donna TX	11:30
Thurs	11	SW Food Credit Group	Las Palapas, 4802 Walzem Rd, San Antonio TX	11:00
Tues	16	Austin Construction	Texas Land & Cattle, 6007 N IH 35 & Hwy 290, Austin, TX	11:30
Wed	17	Victoria Credit Group	Sky Restaurant, 236 Foster Field, Victoria TX	11:30
Thurs	18	Fuel & Lube/Heavy Eq.	Teleconference Meeting 1-800-791-2345	2:30
Thurs	18	HVAC Credit Group	Texas Air Products, 11122 Gordon Rd, San Antonio TX	11:30
Thurs	18	Austin Ad Media	Santa Rita Tex Mex, 1206 W38th St. Austin TX	11:30
Fri	19	SA Ad Media	Teleconference Meeting 1-800-791-2345	10:00
Tues	23	SA Construction	Las Palapas, 4802 Walzem Rd, San Antonio TX	11:30
Wed	24	Laredo Credit Group	Laredo Country Club, Laredo TX	11:30
Fri	26	SW Electrical Group	Onion Creek Country Club, 2510 Onion Creek Pkwy, Austin TX	11:30

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