



# Negotiating to Close

Student Handout - *by Josh Cadillac*

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# Negotiating to Close

The Real Estate Pro's Guide to Understanding Today's Consumer

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Written by Josh Cadillac

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## Timeline

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Introduction	10 min.
Your Customer's motivation	10 min.
Competitive vs Cooperative	20 min.
Have a plan	20 min.
Understanding your position	15 min.
Understanding their position	15 min.
Where, When & How to negotiate	25 min.
Specific Competitive Strategies	35 min.
<b>Total</b>	<b>150 min.</b> <b>(3 hour CE)</b>

## Course Objectives:

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At the end of this course, the student will be able to:

1. List circumstances where as a real estate professional, you would need to use negotiation skills.
2. Explain the motivation(s) of today's real estate consumer.
3. Explain what a customer is looking for from their real estate professional.
4. Describe Competitive Negotiation and advantages/disadvantages.
5. Describe Cooperative Negotiation and advantages/disadvantages.
6. Explain items to keep in mind when planning for a negotiation.
7. Explain why you watch your customer's eyes when explaining something during a negotiation.
8. Explain the real estate professional's position in the negotiation.
9. Describe to a customer the various alternatives to accepting an offer.
10. Explain various types of body language and the information that is being conveyed.
11. Describe the Where, When and How to negotiate in the best interest of YOUR customer.
12. List several negotiating strategies and why each is effective.

# Introduction

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Negotiation is one of the things we often find ourselves doing in any transaction. Agents tend to prepare for negotiations in different ways. Some like to put on a bullet proof vest and figure out which piece of pipe they want to bring with them to beat the other side into submission. Other agents sit back and meditate in their tie-dye shirts listening to “Kumbaya” and the sound track from Barney on repeat (I love you. You love me... I know just when you finally got that out of your head) and just want to get along. Some agents break into a sweat, take 45 laps around their chair, and look like they just chugged 6 red bulls. Some just hope pipe guy doesn’t beat them up too badly. A few calmly and quietly prepare for whichever type of negotiator they will be dealing with. While these are extremes of negotiation styles, nearly everyone falls somewhere into one of these groups.

## **Where we negotiate**

To figure out how to improve our negotiation skills we first need to figure out where and when we negotiate so we know what to work on. What are some venues or occasion you think of when we discuss negotiation? Perhaps an offer price, or when buying a car, or getting your kids to go to bed on time, or maybe trying to persuade someone to your point of view. Some would argue that every interaction in life is a form of negotiation. Even a conversation can be said to be a negotiation. The person speaking is selling and the person listening is or is not buying. The idea that negotiation makes up a much larger portion of our interactions than we typically think it does adds a whole lot more importance to learning to do it well.

## **The most important negotiation**

When trying to earn business or convince someone to work with you there is negotiation that is not normally spoken about but nevertheless critical to your success going on behind the scenes. That is a negotiation for credibility. You are trying convince a customer or partner that you are credible and worth their time and that your ideas are worth listening to. You are answering the unspoken question: “Why should I work with you”? This negotiation is the most critical because it opens the door to all other negotiations in the transaction. You can’t sell the house if you can’t even get in the door. Learning to win this negotiation will not just get your foot in the door but, if done properly, will knock the door off of its hinges. So what do we need to do to win that negotiation? We will discuss many different ideas and tactics here but the first and most important thing to do is put yourself in your customer’s shoes to figure out what their motivation is.

## Your Customer's motivation

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In our day and age technology has given customers much more access to information than they have ever had in the past. The result is that information they used to need agents for they can get with a few clicks of a mouse from the comfort of their own home all while wearing their fuzzy bunny slippers (a wardrobe necessity for all internet research). So what motivates customers to want to use us? If they can get the information anywhere why spend the money? The customer's need for us is rooted in a very basic instinct: Fear. The customer is afraid of making a mistake. They are afraid of being out-negotiated. They are afraid of leaving money on the table. They are afraid that they will forget something on the contract. They are afraid that someone more savvy will take advantage of them. They're afraid of mortgages, interest rates, closing costs, inspection reports..... There are many other things. So if fear is their motivator what do you think the most compelling thing to a fearful person is? The answer is: Confidence.

Knowing your market, supply and demand, inspections, mortgages, negotiation, etc. The ability to have a conversation that is educational to the customer on the state of the market and interest rates, trends, and differences in market absorption in different geographical areas or property types is huge when establishing credibility. How complicated is it to learn this stuff? Not very. Just pay attention to folks in your office and watch what is going on. Interest rates are going up. What does that mean? It means a few things 1. The economy is probably doing better 2. Home mortgages are going to be more expensive. What do you think more expensive mortgages will do to demand for homes? What does making something more expensive do for the demand of any product? Maybe something a little closer to home would help. Bill and Mary have their home listed for sale and it has not sold should they a. lower the price (make the home less expensive) or b. increase the price (making it more expensive)? Which would increase demand?

The fact is, what customers are really looking for, for us to be the real estate professional in the room. This means that we have to take our business seriously and treat understanding it not as an option but a necessity. If not we are shortchanging our customer, and not providing the service they deserve. It would be like you go to the doctor and he puts up your x-ray to review looks at it and then looks at you and says what do you think we should do about this? How would that make you feel? Maybe like getting a new doctor??? What if you went to a stock broker and you asked him how he thought the market would do next year and he said "GREAT"! Then when you asked him why he thought so he says "because that's what everybody says". Would you take investment advice from this person? We are dealing with the largest financial asset most people will ever own. We have to take that charge seriously. We need to give our customers a sense of peace that they are hiring the right person (a real estate professional) that will look out for them and protect their interest come hell or high water. Doing this will win the negotiation for credibility for you time and time again.

There are many types of negotiation and tactics that can be implemented in establishing credibility. So which are the most effective types of negotiation?

First let's look at the two broad categories of negotiation that exist.

## Competitive vs. Cooperative

Competitive negotiation can be summed up this way: “There is only so much pie and I am going to fight like hell to make sure I get as much as I can....cause I really like pie. You know this type of negotiator and most people cringe just thinking about them. They get this mental image of their beaten and battered body being dragged away from the negotiating table after dealing with these competitive folks. Being an intimidating negotiator is a tool, and the cool part is it can be learned. That is not to say that it is your only negotiating tool.

In a competitive negotiation you are going to use anything and everything you can to give your side an advantage in terms. That means when you get the inspection report back on the 60 year old home and it shows \$3,500 in repairs and that the roof has 2 years left in its life you may ask for a credit for \$15,000 for the repairs and 9/10 of a new roof and “oh yeah that a/c was rattling let’s make the credit \$18,000”. Or perhaps it is the seller that counters the offer of \$295,000 with 45 days to close and 10 days for inspections with a \$5,000 down payment on his house listed for \$300,000 with \$299,500 and 30 days to close 24 hours for inspections with a 20% down payment. These are both cases of competitive negotiation.

In both of the above cases the competitive negotiator is attempting to get as many terms on the table that they can force concessions on so that they can get as much as they possibly can while giving the other side as little as possible. It is actually a good thing to think like a competitive negotiator because it puts you in a good frame of mind to recognize all of the terms there are in the transaction and to identify which ones are most important to your side. More on this later.

Being a strong competitive negotiator is a great weapon to have but will not usually leave the other side wanting to work with you again. Burning bridges sometimes needs to happen but it is best to do so sparingly. These types of negotiators can actually lose sleep after making a \$100,000 profit if they find out later that the buyer would have paid \$500 more. Typically you want to switch to a competitive negotiation stance only when the situation calls for it, usually when the other side has firmly declared through their actions that they will be negotiating in a competitive manner. It is a case of being nice until it is time to not be so nice.

The cooperative side of negotiating can be summed up this way: **“There can be plenty of pie for everyone. We just need to figure out how to make the pie bigger”**. Clearly both types of negotiators like their pie. This type of negotiation actually seeks to figure out which terms are easiest for each side to give in on and which are most important to each side. They then try to work out the deal that is best for both sides to walk away happy.

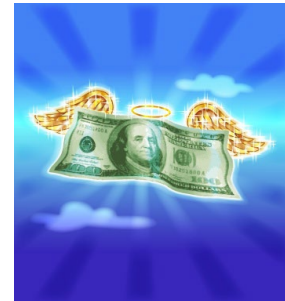


As an example, a diesel engine mechanic is the buyer of a condo listed at 80k. He has 80k in cash but needs to save some money for moving expenses and to pay a penalty for canceling his lease early. He really wants a 45 day closing as that is when his lease runs out, but this condo is where he always wanted to live and they very rarely come on the market. The buyer offers 72k for the seller’s property. The seller really wants 78k and figures a cash deal should close in 15 days but is not necessarily in a rush to move. The buyer doesn’t feel he can go higher than 75k.



Enter our hero: Super Cooperative Negotiator Agent Person (SCNAP for short. That should soon totally be the next new Realtor designation.) Low and behold they find out that the seller actually owns a moving company. The agent explains to the seller the reason for the buyer's need to move later and their limitations on price. The agent then asks the seller if he would be willing, in one of his company's down times, to move the customer for a discounted rate thus saving him from having to take off work and pay movers. The seller likes that idea but is having trouble finding any down time as he has two trucks that are not running properly. Our ever astute agent remembers that the buyer is a diesel mechanic and contacts him to see if he would be willing to take a look at the seller's trucks after hours.

The results: The seller got \$79k, the buyer got the 45 day close, and moved for free. The seller's trucks are up and running, and the buyer and seller do business together regularly now for repairs. All of this happened because one agent was willing to look outside the box for items to bring to the table, and when the table got too full went out and negotiated for a new table.



Be an innovator and look for the items where there is the greatest disparity in value for the two sides. In the above example that would be the moving time for the seller who didn't care and the 45 days for the buyer who cared a lot. By giving on this one item it allowed both sides to get something they wanted because it lowered the buyer's expenses and allowed the seller to get closer to the 78k that he really wanted. The pie can get really big if you pay attention to what each side needs.

Unlike many other negotiating courses that are out there that focus on cooperative negotiation and poke fun at the big bad competitive guys we are going to discuss some highly competitive tactics. Why, you may ask, would we teach these mean, bullying, unfriendly, Barney hating tactics? Because if you're going to look out for the best interests of YOUR CUSTOMER you must know what to expect. And frankly, they work, and this is the reason why so many agents are intimidated by people with reputations as quality competitive negotiators. That reputation often gets the competitive folks concessions without even needing to negotiate. Because people are so scared of getting beat up in the talks they will often present a sweeter deal than they otherwise would in hopes that they can skip that whole uncomfortable bargaining process.

Another reason to teach this is many other cultures and customers you deal with do not take the "can't we just hug it out" approach to deal making. They are used to negotiating competitively for every breath they've taken since birth. If you run into these negotiating cultures and you are not prepared - you will be the one limping away.

We strongly encourage you to take several courses on this subject and become great. That is a great power to have. We think you should have it and be the one to choose how you use it. Nerd Quote: Peter Parker (Spider-man) was told by his Uncle Ben "with great power comes great responsibility." So be responsible with this skill. Paying it forward is a good thing. Operating in the best interest of your customer, while not taking advantage of inexperienced agents or the generally inept is merciful, encouraged and professional.

## Have a plan

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When negotiating, you need to think before you speak. In general you should always think before you speak, but in negotiation it is critical. You are master of what you haven't said and servant of what you have. You need to have a plan. Having all of the adrenaline rushing through your veins and flying by the seat of your pants may be a rush, but will leave you less effective and less cognoscente of the possibilities than if you had adequately prepared. As Big Bad Ben Franklin said **“An ounce of prevention is worth a pound of cure.”** Stuff like this is why he is on the \$100.00 bill.

When you prepare a plan for a negotiation you should try to play out in your mind how you want the negotiation to go. Visualizing the results that you want and working backward to the steps and concessions it will take from both sides to get there can be an effective technique. Be honest with yourself when figuring out how much you can expect the other side to remunerate on a concession that you give. Figuring on giving the other side an air freshener and them responding by giving you a car means you are either

- a. A ridiculously good negotiator or
- b. Out of your mind or
- c. Just deluding yourself

Realize that the things you say in the negotiation can come back to haunt you later in the talks, so in your preparation determine those things that your side will not benefit from the other side knowing. Just like you should be, the other side is looking for dissonances and inconsistencies in what you say that can help their case. You need to think through your case carefully and make sure to shore up the weak points in such a way that you are not exposing your or your customer's weaknesses to the other side of the table. This is how you protect your customer's interest and is the type of mental preparation that is needed regardless of the type of negotiation you are going into.

Similarly the things you do not say can cause serious issues too. If you tell the other side that you have a deadline of Monday, and don't elaborate that you will have to pay a \$25 service fee to extend beyond that point you may have just blown your deal over \$25 bucks. How, you may ask? The other side realizes fairly early on that they can't meet the Monday deadline so they cease working on your project and because everyone loves to call and give bad news immediately (serious sarcasm) they never bother to call you to let you know their issue. This scenario is not farfetched. It actually happens all of the time in various ways. Make sure to be clear and succinct in what you say.

Remember that even though it is perfectly clear in your mind this may be the other side's first time hearing it and so you may have to take the time to answer questions and elaborate. Put yourself in their shoes and imagine this is the first time you are hearing about what you are discussing and then imagine that you do not have any possible things in your background that makes you suited to understand the concept you are putting forth....AHHHH all of a sudden it becomes easy to understand the type of information the other side might need.

Sounds stupid doesn't it, but the reality is that miscommunication is one of the single largest causes of breakdowns in negotiations there are. This means that the sides could have actually

reached a mutually beneficial negotiated agreement, but because of a failure to communicate effectively, a deal dies and both parties lose the advantage they might have gained from the collaboration. Remember: **It is better not to go in at all then to go in unprepared.**

Communication is a two part transaction. Someone speaks and someone else listens. It is important to realize the power and responsibility you have when speaking. You have the power to paint a picture in someone else's mind and you have the responsibility to make sure that that picture (that you can't see) mirrors the thought you are trying to communicate. When you speak to someone you need to watch their eyes to make sure they are following what you are saying.



Just because a concept is easy to you doesn't mean it does not sound like Chinese to someone else....that doesn't speak Chinese. The mental picture of taking someone by the hand on a journey where you lead the way is an appropriate analogy for what you need to shoot for when you speak. Get them where you need them to go.

Listening, too, is a skill in and of itself. Many people can speak well but can't listen well at all. Much like speaking, listening gives you power and responsibility.

You have the power as the one speaking is the person giving information to you. Much like before when we discussed "watching what you say," if the other side is speaking and you are listening they may be revealing things that you can use to your advantage as the negotiation progresses. You also have a responsibility as a listener to become adept at understanding what the person communicating is trying to say. Having the ability to be in the moment, focus, and not think about what you are going to say next are all necessary skills to be a responsible, courteous, and professional listener.

### **Your greatest weapon**

Facts will always be the best tool to use when trying to negotiate. It is important to have your facts straight before walking into the room. This is why we do comps before we go to a listing appointment. The customer may have alternative facts that support a different price point or time on market than you have, but your sold comps and their length of time on market give a more accurate view of market demand than any facts the customer might cite. Facts have power, but using them in a way that doesn't demean the customer or make you look like the bad guy is a very important part of using facts. So in a listing presentation we might discuss how an appraiser will use similar sold homes and to value the customer's home. This means that this will put a limit on how much a potential buyer can pay for the home. A cash buyer will be looking for a discount, and will not allow us to get top dollar. So really the appraiser and the banks are the ones conspiring to keep us from selling your beautiful home the \$26 bazillionteen dollars you want to sell it for.

We gave them the facts and blamed someone else for the bad news. We did this because well....it's true. That is how valuation is done. We did not lie to them or mislead them we actually educated them. We do not actively sit outside our overpriced listings with a sign telling folks to "beware overpriced home". We don't have to, the price does that by itself. We are letting

the seller know how valuation is determined and helping them reach their actual goal of selling their home for a fair price.

Facts can also be used to gain credibility and stop customers or other agents from bullying us. There are customers that like to treat us poorly like servants and think they know everything. Folks like this will never treat you well unless they respect you. You can earn this respect by the liberal use of facts to highlight for them some of the shortcomings they may have in the field where you are an expert. Obviously this requires you to know what the heck you are talking about, but when done properly this can change the entire dynamic of the relationship with a bullying customer or agent. This is done best by waiting for them to either not know something about real estate that you do know and have ample facts to back up or waiting for them to say something incorrect and clearly letting them know what the correct information is. The bully will usually try to save face and make it seem like you are incorrect at this point. That is where your load of supporting facts come in to back them down and establish your value in the relationship. This may seem very confrontational, and that is because it is. After going through that though the bully will actually respect you and treat you like the real estate professional that you are.

### **Bring options to the table**

Part of being a real estate professional is knowing how to overcome obstacles. If you have not been in the industry long this is what your broker should be there to help you with (if they are not, find another brokerage to work for). Let's say the lien search just came back and there are three open permits (why three? I'm writing this and I get to pick the number). The buyer is ready to back out and is terrified of closing the permit. Their interest rate lock expires tomorrow (because interest rate locks always seem to expire tomorrow for some reason). The seller would be willing to close the permits (as she knows she will most likely have to in order to sell the home anyway) but, has no money to make those repairs. She does have equity and stands to receive a sizeable check at closing. An option might be for you to do an escrow hold back at closing for 150% (or some negotiated amount) of the repair cost to get the deal to close. Another example might be: the seller can't move out at closing, maybe we could work out a post occupancy period and rental rate. There are a ton of problems that come up in real estate transactions, and just when you think you've seen it all something new comes up and bites you in the bottom. A true real estate professional learns from bad things that happen and finds creative solutions to help the parties reach their goal of closing the transaction.

### **Mental preparation for negotiation**

Getting your mind ready for the negotiating process is critical. Recognizing that there are things that need to be thought about and addressed prior to entering into negotiations largely will affect your effectiveness in the discussions. Figuring out what you need, what they need, who you are going to be talking to, and developing the mental discipline to stay focused are all part of the mental preparation process. Let's take a closer look at figuring out what we need out of a negotiation.

## Understanding your position

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Once again we are going back to preparation and this is because it is actually the most important part of the negotiation. You want to understand on the macro level your position. Understand how much power (or lack thereof) you have in the negotiation. At a minimum have an idea of the strength and weaknesses you will have in your position. Think about the type of negotiation this will be and reference back to any experience you have in similar types of talks to create ideas and thoughts that can help you improve on past performance. Use experience to make you better and more prepared. The ability to step way back and not get bogged down by the minutia here will help you get this overview of your position.

From the macro view you can then move down the line to the micro. Take the time to think through all of the possible terms for the transaction you can think of, and to arrange them in order of importance. This means you need to make sure you understand your customer's position clearly, and that means having an in depth conversation about their needs. Once you know the items they need to have, the items they want to have, and the things they can easily give ground on, you have a good basis to begin planning your negotiation. Have a clear understanding of what levels you can give to and what levels you cannot go below.

### **Pay Attention**

Now for a personal note: If I had a nickel for every time my father told me to “keep my mind on my business” since I was 3 years old, I would have a load of nickels. Like “the mint would have to make more” type quantities of nickels we are talking about here. He said this because in his experience, not paying attention is one of the most common mistakes people make in business. To paraphrase Donald Trump who said that “he pays attention to the things no one else is paying attention to.” This paying attention thing seems to be important and it should be a no brainer. The reality is, though, that information that can be helpful is missed all the time by people and the only possible excuse is they are not paying attention.

The ability to focus is a skill and it is honed from being used. Giving yourself a pass or laughing and saying “oh there goes my ADD again” may be funny and cute but it in no way helps you build this critical business skill. In no place is paying attention more critical than in a time where everything being said and done can have several layers of meaning like at a negotiating table. Hyper vigilance is the order of the day and if you are not training for this in advance you will find your mind wandering when you need it most. Oh look something shiny...

People spend tons of money on gym memberships to build up their bodies, tennis lessons to improve their play, and let's not even talk about the money people spend on golf to improve their ability to get angry at a little white dimpled ball that, let's be honest, was made for the exclusive purpose to frustrate you to no end. Yet people invest not only time but money to do these things because they know that if they work at them they will get results. Paying attention and skill building in general works this way.



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There is actual science behind this. Let’s throw on our lab coats and warm up our Bunsen burners to quickly check this out. As you practice doing things, the body builds up a dielectric insulator called myelin on the axon on your neurons. This sheathing actually allows the body to more easily repeat this same skill the next time it is required. The thicker the sheathing is, the less electrical loss there is when the body sends out the signal through the neuron, which means you perform the task better the thicker the myelin coating gets. More practice means more myelin and more myelin means it will be easier and easier to perform the same task each time. Things like meditating, actively being aware of your surroundings, and reading something you would normally find your mind wandering while doing and not letting it, are

all great ways to help you to build the skill of focus and allow you to pay attention when you need it most. The old saying could be extended to say that “practice makes myelin and myelin makes perfect.”

At the negotiating table you need to be paying attention to one thing...everything. Not just what is being said but how it is being said, if there is any underlying context to what is being said, the look and body language of the person speaking and also the other people on the their side not speaking. If someone cringes when the person speaking for their side says something, they are either remembering the time they pooped their pants on the bus on their 8<sup>th</sup> grade field trip or the item being discussed may be a weak spot for their side. Make a note to touch back on that point later and see what reactions you get.

One of the best examples of subtext in a negotiation has to be the scene from “The Godfather” when a quick outburst from Vito Corleone’s (The Godfather) son Santino in a negotiation with Virgil Sollozzo shows Sollozzo that, despite the Godfather not being interested in going into business with him, Santino is interested. This one brief outburst is ultimately responsible for Vito Corleone being shot and almost killed. I realize this is fiction, but it does a great job of showing how important paying attention and information management can be.

The ability to pay attention and be present in the moment will separate you from the hordes of other agents out there who can’t. Build and hone this skill and it will serve you well. No section on paying attention would be complete without a quote from that elder statesman Yogi Berra who said “you can observe a lot by watching.” “The Ole Yogster” had it right: if you pay attention you will see things you didn’t even realize were going on right under your nose. It is kind of scary to realize you were actually unconsciously unaware (unaware of the extent of what you are actually unaware of) as opposed to being consciously unaware (when you know what you don’t know). You now know the importance of paying attention; the rest is up to you. Keep your mind on your business and you will actually have a business to keep your mind on.

### **It’s a game**

Often we treat a negotiation as if the fate of the world depends upon its outcome. The problem is that these reeks of desperation, and the other side can feel that. A skilled negotiator will use that against you as well. **Your customer will benefit if you keep a cool head.** So think of it as a game. If you lose today, tomorrow will still get here. The universe will not cease to exist. You

can only do your best and remain professional. If the deal falls through, you can pick yourself (and your customer) up and work on a new deal.

### **Be aware of you**

Do you remember junior high? Ahhh, the days of awkwardness and figuring yourself out. Learning facts like that deodorant is not an optional grooming choice. Most people were not aware that they were the stinky kid till someone casual suggested that perhaps they should invest in researching antiperspirants. The point is you were not very aware of yourself when you were young. As we grow up we tend to be more aware of how what we do and how we dress affects other people. When we negotiate we want to make sure we have fully considered how we present ourselves, and make sure that our personal presentation helps facilitate the transaction with the outcome we want.

### **Care, but not too much**

Similar to thinking of the negotiation as a game is the idea of not caring too much. This is a narrow tightrope to walk because our customers usually do care quite a bit. Also the other side may decide there is no deal to be made as you have no motivation. You want to make the other side feel like you want to work toward a successful conclusion, but that you have limited flexibility with which to work with to get it done. You also want to behave as if you have alternatives to this deal if it doesn't come together under terms you can work with. Striking this balance is something that is tricky but comes with practice. Now that you know about this skill you can focus on it, and fast track your improvement in this area.

### **Understanding the alternative to accepting an offer**

If you do not reach an agreement with the people you are talking with, what is your fallback position? This is critical to a negotiation as it clarifies how far you can give before the alternative becomes the better choice. It also is important to vet this alternative to make sure its actual benefit has been properly calculated. This is especially important when you have two completely different types of deals on the table and one is being used as the fallback position. An example would be a seller that says if he can't reach a deal with the people that are trying to buy his house he will simply rent it out to someone that has approached him with an offer.

How would you breakdown this set of alternatives?

- First it is important to work out the sellers net numbers from a sale.
- Secondly you would want to find out where this tenant is coming from.

If it turns out that the sellers are planning to rent to their cousin Billy Bob and his 7 kids and 4 dogs, that might raise a red flag or two.



Things like:

- higher levels of unpaid rent among family members as opposed to arm's length transactions
- the property aging
- wear and tear on rentals
- possible evictions
- vacancy factors
- increase in taxes (no more homestead exemption)
- aggravation (Pepto-Bismol budget)
- repairs
- trash-out
- cleaning before new tenants can move in

All of these cost money and will adversely affect the net number to the seller for a rental. Figuring these costs in will not only change how this deal compares with the alternative, it also may change what your fallback position really can be. If the sellers were simply looking at the gross rent to determine what the value of this fallback position was going to be they would have to reevaluate what this deal is worth. This may eliminate this rental as a position or may increase the flexibility the sellers are willing to give you in negotiating this deal for them.

You can see how first knowing and then analyzing the alternative to reaching an agreement can be a great tool for you. Often people can get testy when you push them on what they will do if this deal does not work out. The reason for this is that they do not know what they are going to do and they feel foolish for not knowing. This doesn't mean that once they have been made to feel foolish they will go out and come up with a plan though. Most people are quite content to bury their heads in the sand and negotiate without having a plan. **The good news is, this is another opportunity to add value to the customer.** You can approach them with ideas for alternatives. You can give them the idea to rent and work the numbers so they see what they could get. Guess what? By doing that you are probably eliminating that from their possible options list. Staying in the house for another year may be an option too, work the numbers.

By you bringing them the options, you are showing them that they are more important to you than a single transaction. It also allows you to control the information they take in regarding these options. This allows you to get the real information to them of exactly what the cost and value for these various options winds up being. This shows them knowledge and expertise and builds your value in their eyes.

One twist on that may be if you are dealing with a fairly savvy customer. This does not mean you just shut up and let them dictate everything to you. Normally they are not going to have the type of real world area specific market data you will have. This means that you can and should present sub-market specific data in an intelligent and respectful way with this type of customer. Often these folks will have big egos and so many times you will have to feed them info in a way



that lets them save face, and sometimes even lets them believe it is their own idea. One way or the other, getting to the point where you have a clear plan “B” will allow you to much more intelligently negotiate plan “A”.

### **Is time on your side?**

You want to determine if there is more time pressure on your side than there is on theirs. If they need to get a deal done in a certain time period and you don't care when it closes, then that means they have pressure on them that does not apply to you. This gives you leverage. You can sell time to them for concessions. An example would be “Sure we can close next week, but we are going to need to get the purchase price up to \_\_\_\_\_ and let's just forget about those repairs you wanted.” Time pressure can be a huge help. If you are the one with time pressure on you it is incumbent upon you to find ways to hedge your position to limit the other side's ability to use this against you. An example would be “ Yes we would love to close next week, and we might be able to come up a bit on the price, but if we can't get these repairs sorted out, we have another property that have verbally accepted an offer from us.”

### **Understand their position**

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Your next need is to take all of the information you have gleaned from the other side and try to anticipate their position. This is where any intelligence you can gather from the other side will be helpful in creating a creative way to improve the pie distribution to each side.

Think of negotiations you have had that are similar to their position and what things you can glean from past experience to help your customer get the best deal. This means that if there are pitfalls you fell into you need to be extremely cognoscente of the other side making or even avoiding those mistakes. This will tell you a lot about their competence, which can affect how you try to run your negotiation.

For example, if the people you are going against are showing themselves to be very good at what they do, you might not be as apt to use a tactic like bluffing in the negotiation as the likelihood of getting called on it would be higher. Whereas if they are making mistakes left and right you can chose to “pay it forward” and help them out. Being aware of the other side's position can give you that type of power at the table.

Before the negotiation starts, figure out in your mind how you would like the negotiation to go and in what order, ideally, you would like to discuss the various terms (i.e. price, deposit, closing date, seller contributions). Put yourself on the other side of the table, look for holes in your case, plug those holes, and start again until you are as water tight as you can get it. If done properly you have a thorough understanding of what they will hear and feel when you speak. There should be no surprise if you have adequately thought this through.

Now to really get into their heads... You should prepare their case as they will be presenting it to you. Put yourself in their shoes with their position and try to figure out how you would work the deal. Think about what the things you really don't want to talk about would be. Look for the “duct tape” you would be using to plug the holes in the arguments you would have to make on their side of the table. If thought through well, once again there should be no surprises. In either

instance if there are surprises, make a note of them. We will discuss how to handle post negotiation debriefing and how to deal with these notes at the end of the chapter.

### **Who are you negotiating against?**

Where a person comes from can affect how they negotiate, it can also give you some insight as to what they will expect from a negotiation. In some countries if they are not cursing you and your progeny to be violated by a herd of rabid goats then the negotiation hasn't even gotten started. Different parts of the world have different ways of dealing with this most basic of human interactions. They also have different levels of comfort with personal space. They may get uncomfortably close and raise their voice. These can be very natural things where they come from. An example of: A person come in from a country you know to be famous for people that negotiate aggressively. You tell them the low, firm, fixed price of the property and they begin trying to negotiate. You kick them out of your office. To us in America this is very rude behavior. To them this indicates that they have gotten the best deal they are going to get and they will then be willing to agree. If they didn't go through that process they would be tossing and turning all night thinking they got ripped off.

## Group Exercise

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### Questions can get you leverage?

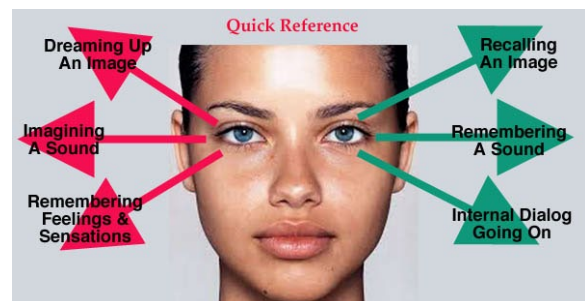
Our first exercise in this class is designed to show you the power of asking the right questions. What is the seller’s reason for selling? Why does the buyer want or need to buy? Is there a time pressure? Are their incentives the other side can achieve with certain terms? Finding out the other sides motivations and pressures will give you their interest/desperation level to make a deal. If their motivation level is low and you are far apart in price this lets you know to move on. If the motivation is high, then there should be a willingness to make concessions and get the deal done. You need to try to understand the “why” to give you and your customer the best chance at making a good deal.

### Body language of negotiation

We have covered body language in other parts of the ACE but understanding and reading body language is integral in harnessing your abilities as a negotiator. Things they would never say can be put on display for the discerning eye to pick out. This can give you insights when you are practicing the skills, from the previous section, on asking questions to see if what their mouth is saying is matching what their body is letting you know. Yes, they are saying they can’t go any higher on their price but their body language is telling you they still are very motivated.

### What information is their body giving you

Some people make a living reading the difference between what people say and what their bodies tell them. One group of people that do this are professional poker players. They make their living trying to determine if what the person is saying matches what their ticks and tells are telling them. For instance, if you see someone looking up and to their right (your left) they are accessing the portion of the brain responsible for creativity. This means they are probably “making it up” or full of bull plop in the vernacular. If their eyes move up and to their left (your right) they are accessing an image and are probably telling you something factual. These things are not set in stone and some folks know how to scam these items, but most of the time this will be a good method of confirming a gut instinct you might have.



Our bodies are more attuned to reading body language than you might think. Many of the intuitions and gut feelings we get about people are from subtle dissonances between what they say and how their body tells us they are thinking or feeling. So, when you get that feeling about someone try to put your finger on what exactly it is about them that is setting off your “spidey senses”. It is very nice to have your instincts confirmed by actual hard data.

There are more tells than just the eye’s though, of course. Peoples facial expressions and particularly what they do with their foreheads and mouths reveals much, and that is just their

face. If their arms are crossed what is that saying to us? If they are turning themselves away from us are they not showing they want out of the conversation? This huge amount of information is available to us but it requires us to pay attention. No place is the need for that more apparent than what we are about to talk about.

### **Taking the temperature of the room**

First if this is a closing lets separate the parties. We don't want emotions building with the parties looking across the table at each other. Now let's figure some stuff out: Who is in charge? Who makes the decisions? Who do I need to convince? While in our P.C. world everyone is equally treated and all opinions are listened to and respected, but in the real world situations exist where one spouses opinion (male or female. I have seen both) is completely meaningless. Any time spent speaking to the non-decision makers concerns are probably wasted and quite possibly counterproductive to actually getting a deal done.

How to use your room thermometer: When you enter the room, where is everyone sitting? When you speak who responds to you? How are they sitting? Leaning forward? Leaning back? Are the open or closed (arms crossed legs crossed)? Is there someone they are differing to that is an influencer (Uncle Charlie who was a real estate agent in Detroit for 22 years)? Or their dad who wants updates every five minutes or an article they read on Google. There are a ton of these. Is their body language telling you they are listening? Are they emotional or are they more cerebral? These are a few things to be thinking about when entering into a room to make a deal happen.

### **Dealing with the decision maker**

Once we have accessed the temperature of the room how do we then deal with the decision maker. First, we need to figure out their level of motivation, so we are back to asking them questions like: Do you still want to get this deal done if I can find a way to make it work? Do you have an alternative if this deal doesn't work? At this point you want to make sure their alternative correlates to realty. In other words what they think they can do if the deal dies is something they can actually do. For instance, they may say "well if the deal dies, I will just hold the property and sell it in a year." That is something they can potentially do. I would obviously look at market trends and see what their expenses are and let them know the cost to do that, but it is doable. If they say they are going to just keep and rent it out for \$3,000 a month you might need to show them that the market might not support that rent and also explain some of the landlord risks and expenses.

While we determine their level of motivation from their answers to our questions, we need to pay attention to determine if they are more emotional or data driven people. This will allow us to tailor our presentation of options into a format that will be most persuasive. An example would be: Think of how much better you will feel when this deal closes. As opposed to: Putting the house back on the market results in a higher number of days on market which is negatively related to future sale price (the longer its on the market the lower people will offer for it).

We also need to deal with those pesky influencers. There are two basic ways to do that. 1. Recruit them to your side or 2. Show yourself to be more competent and informed than they are. Recruiting them to your side is often done by showing you are looking out for the customer.

Most often major influencers are family members and by showing you have the best interest of their customer in mind you will often find them agreeing with you. The method of showing yourself to be more competent they are here gives you a double whammy. If they are afraid to disagree with you for fear that you know more than they do this once again leaves them confirming the things you say. Now at times the influencer is a bit of a bully themselves. They think they know more and therefore you are beneath them. The best way to handle this is as above to show yourself to be more competent. Wait for the influencer to say something that is wrong and hit them with the correct information as well as the necessary back up to show you know what you are doing. This is a bit of a prison yard technique of punching the bully in the nose, but the amazing thing is when you do that well with these types of people more often than not, they start to respect you and then they are willing to listen and work with you. The begin to see you as a peer and not an underling.

Once we have the influencer on our side if there is one now, we can start chipping away at the decision maker. We need to establish the hills the decision maker wants to die on and what things they are willing to give away. We need to lower expectations. That way if we are able to better than their lowered expectations, we are rock stars and if we can't they were already prepared for that. Lower expectations are a very low risk high reward technique to get your deal done. If the customer is frustrated or angry, we need to calm them down. Emotional people do not typically make rational decisions and a rational decision is what we need to get our deal done.

One more tactic that helps is, even if concessions from the other side come easily make it seem like you had to fight hard to get them. This again lowers expectations of what more can be asked for in further negotiations. We are trying to get the two sides close enough to come to some compromised terms that they can both find acceptable. Keeping expectations low actually makes them happier when the whole process is completed.

### **Handling bad body language**

If you are recognizing bad body language that puts you in a great place to start to combat it. The way to start to turn this around is to be aware of the changes in body language as you speak. Find the issues that make the body language start to soften. These are points that the person finds compelling to your arguments to close. Focus on those things. If you hit on a topic that makes body language worse, go back to what you said and try to minimize it. An example would be: I say to the customer "if we don't perform, they can sue us" to this the customer crosses their arms, scowls, and gives me the I don't care anymore let's let the lawyers duke it out look. I would immediately back track and say something like "but I spoke to them and they hate lawsuits they like you and the property, and they really want to get a deal done. In fact, they have done several things throughout the transaction to show good faith." The customers face softens, arms uncross, and we are back to working on closing our deal.

## Where, When & How to negotiate

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The purpose of this section is to make you aware of the negotiating landscapes you will find yourself in. We want you to recognize when someone is attempting to create an advantage for themselves as well as to do the things necessary for you to conduct your best possible negotiation. Creating an environment that is neutral or even in your favor when negotiating is something you need to take into account when deciding where, when, and how to negotiate.

**Where:** Choosing the location in which you negotiate can be a serious advantage. Positioning in a room, around a table, and even chair height can affect the dynamics and balance of power in a negotiation. Typically, a fair negotiation would have parties on opposite sides of the table in equal height chairs with little in the way of other distractions. This setup is typical for a standard competitive negotiation. (Note: One way to make your dealings more cooperative is to position yourself on the side of the people you are negotiating with as opposed to the more confrontational positioning of being directly across from them.)

Having people sit in low or uncomfortable chairs puts them in a less powerful position which can subconsciously affect their ability to bargain well. Making people sit with the sun in their eyes or turning the heat up in the negotiating areas are all tricks that can be used to throw the other side off balance and take their focus off getting the best deal. Remember the importance of paying attention? Well if you can get their attention to lapse you may create a situation you can take advantage of.

**When:** The time of day a negotiation happens also can be a factor in which side gets the advantage. As we talked about earlier having that afternoon sun in their eyes when they are trying to bargain is a good tool but doesn't help if the meeting is scheduled at night. Try to always have your meeting someplace where you will be comfortable and able to give your undivided attention to what is being discussed. Being someplace you know also can add to your sense of security and confidence.

Making sure you are in a good state of mind, will help you be in the optimal place to give the negotiation your best self. Often times looking good will help your self-esteem which can give you more confidence in what you say. A statistic for our female negotiators in the room: Statistically women's performance on tests is markedly higher when they have higher self-esteem. This translates into negotiating as well. Actually the reverse is true for guys. If men's self-esteem is high before testing they tend to do worse on tests because they tend to think "I got this" and do not prepare like they should. In an effort to help both groups get the most out of themselves: for the ladies out there you are beautiful, powerful, and gosh darn it people like you, and for the guys.....toughen up your weak sauce.



Other important factors to focus on when you negotiate are to have enough sleep, have eaten well, and do not have to go to the bathroom. For Pete's sake if you know you have an early morning negotiation do not stay up late. I know how much real estate people like their booze but

put the drink down and go to bed. This is a discipline that many of us struggle with, but you need to put your business before your fun.

Eat a good breakfast. Start the day off right. If you were going to race your car at the track you would not put some nasty gas you found in an old rusty container, probably from the Carter administration, in your gas tank. You would want fresh, new, high octane stuff, for that high performance application. News Flash: Negotiation is a high performance application for your body. Give it the fuel it needs. For instance, if it doesn't make you too jittery, caffeine can be a good tool to get your nervous system geared up for a round of talks. Much like tuning a car you need to tweak what you put in your body to get the most out of it.

This should go without saying but by all means make sure you are in a good state of homeostasis before beginning talks. Translation: Go to the bathroom before you sit down to the table. There is no way someone can be doing the pee-pee dance under the table and be giving the talks their full attention. Leaving the table during the talks can leave you in a situation where you miss something that is said or it breaks up the tempo of a meeting that was going well. Getting up and leaving the room for a "bathroom break" can be a good way to breathe some new life into talks that are not going well too. Sometimes just that little break can allow tempers to cool, people to rethink their position, or the break in the action allows them to come up with a creative solution. In summary: putting yourself in apposition where you HAVE to go to the bathroom during a negotiation is poor planning. Using the bathroom as a tool to further a deal is just good strategy. Go because it helps you not because you have to.

## Specific Competitive Strategies

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Tactics are tools we use to gain an advantage in a negotiation. Some tactics are annoying, some are rude, and some are just plain mean, but they all can be very effective when used properly. They can be used to adjust the other side's expectations, to intimidate the other side into acquiescence, or to encourage them to work with you. The thing that determines the effectiveness of a tactic is largely the skill and timing of the one using it. The way to develop skill in using tactics is to practice actually using them. The more you use them the better your sense of how and when to deploy them. Changing tactics and varying your usage of them will give you a great feel for how they can work together to get you and your customers the results you are looking for.

**The best negotiators:** Children are some of the world's best negotiators. They routinely get what they want for older, better educated, more experienced and smarter people. A great place to learn effective negotiating tactics is to look at the typical interaction with a child and their parents. You will quickly see a pattern emerge of a few tactics used masterfully time and again resulting in bewildered parents and a child enjoying the spoils of another successful negotiation. Let's now look at the child's playbook for getting their way.

**Repetition:** I saw this one in action and kidding around started to narrate it as a negotiation not realizing how badly this would go for the parents. A cousin of mine was holding her two year old and asked him what he wanted to drink. He said juice. She said we don't have any juice. She told him that they had milk and water but no juice. The little boy then re-countered with "I want juice". The mom once again said no honey there is no juice. The little boy said "but I want juice". The mom got up and looked through the whole house to see if she could find any juice. She came back and told the little boy that there were several other options but no juice. The little boy then clarified his position on these new developments by saying "I want juice". The mom said we don't have any juice. Fast forward to the end of this amazing exchange the mom got into her car went to the store and bought juice for the little boy. All because he asked and asked and asked again. Ask for things a minimum of five times, and you will be amazed how many, formerly undoable, things people are all of a sudden being done for you.

**Care less than the other side:** Why are parents often afraid to bring their children out to diner with the? It is because in an effort to get what they want children will make a scene to get their way. Why are children willing to do this, and why does it work? Because when they start screaming the parents are embarrassed and the kids aren't. That is because the parents care more than the children do about what other people think of them. In the negotiation the parent's have more to lose than the child does and therefore the child has superior leverage they can utilize to get their way. Figuring out how to minimize the value of the negotiation to you so that the other side values it more puts you in a far superior position to ask for and receive concessions from the other side. As with anything, knowing the extent of your leverage and not over using it will give you the concessions you are looking for while still getting your deals closed.

**Don't be afraid to say "NO":** With children the default setting is often "No" and they have to be coaxed to say "yes". If I say nothing they won't go to bed. The default answer when we say go to bed is some form of a negotiated no. Five more minutes, let me watch the end of the show, Billy and Tommy get to stay up till 10, etc.... You know going in there will be a fight all because



they start from a position of “No”. This makes you not want to ask. Wouldn’t it be great if the other side would not even ask for any concessions and just sign the deal? Starting with “no” makes them consider if the gained concession will be worth the fight needed to get it.

**Aim high:** Kids are not afraid to ask for the moon. I want a pony, and a castle, and to go to Disney World. The interesting thing is parents often find ways of getting these things for their kids because the kids ask for them and want them. People will often try to find ways to make you happy and this sometimes means finding creative ways to get you something you have asked for. By setting high goals or starting points it doesn’t preclude you from shifting your sights back downward, but it does give you a greater potential for a home run outcome. There is a famous saying “If you don’t ask you won’t get”. Don’t be afraid to ask for more than you think you should get. Mix that with the next tactic and you really have a winning combination.

**Be persistent:** Do they ask to go to Disney once? Yeah, maybe once every 5 minutes. This is a bit different than repetition as that tends to be used in a briefer period of time, like in a single conversation. Being persistent is a wearing down over time process. This is where you ask for the same concession on numerous occasions eventually wearing the other side down to give in to what you want. There is a famous parable in the Bible about an evil judge and a poor woman who came to him constantly to resolve her case. He says something to the effect of “I fear neither God nor man, but this woman bothers me with her constant complaining. I will see that she gets justice so she will leave me alone.” These examples are not one conversation but ways to work it into multiple conversations. Hey can I get a discount on the closing fee for this customer. You said you would think about that discount for my customer. How’s that going? Did you get a chance to talk to your boss about that discount? Hope you have a great weekend...oh yeah don’t forget about that discount for my customer. The famous Roman orator Cato the Elder used to end every single speech (regardless of the topic) with the phrase “Carthage must be destroyed”. Eventually the Romans got sick of hearing this and wiped out the Carthaginians. Persistence works.

### **Recruiting folks to your side**

There are ways to get people to help you. Using tactics that make people look at you fondly and want to help can save you a lot of aggravation and give you a helping hand when you need it. These tactics often appeal to people’s ego and thus make them more willing to go the extra mile for you. With another agent it might be something like “You have a lot more experience than me in this. How would you handle it”? If it is your title company “I know you guys work really hard and must be super busy, but if you can check on my file sometime today I’d appreciate it”. This is very different from what folks hear in the industry. This tactic can be an outright manipulation or often just an expressing a long overdue compliment. People like to be appreciated for what they do. This tactic works best when you have had a pattern of adding to the good will bank with someone without asking for anything back. Then when you do ask for something people are happy to pay you back for the genuine joy you have brought into their lives. Paying it forward really does pay dividends.

## **Make friends**

Negotiation does not always have to be war. Do not be afraid to make friends with the other side. People like to do deals with people they like. Spend some time working on building rapport and finding common ground. Wouldn't it be great to know you are going to hash out a deal with someone you know, like, and have successfully made money together with before. Start working on building those relationships. It never hurts to have more friends in your chosen field.

## **The “dumb blonde” technique**

This is a method of saying things that need to be said without accusing someone of incompetence or malice. It is acting like you don't understand what is happening but at the same time pointing out a glaring problem. An example would be you show a home and place an offer. You follow up on the offer and are told that it has been submitted. Three days go by and the offer is set to expire and the other agent stopped answering your calls. All of a sudden the seller calls you (they requested your card when you showed the house) and ask you why you hadn't submitted an offer yet. You could start ranting and raving about how unethical their agent is, or say gosh I did put an offer in and your agent confirmed receiving it. I hope he is okay. I am sure something must have happened as I can't imagine he would ever not submit an offer he received. Maybe you should reach out to him and confirm he has it. I am happy to come by and present it to you and your agent in person if you'd like. Now when the other agent calls you and starts yelling at you for talking to his client you can say *“Gee they called me out of the blue and when they told me they hadn't received our offer I was concerned something must have happened to you as I know you would immediately submit all offers to the owner. I am so happy to hear you are okay. Were you and your customer able to work out a time for me to present my offer to both of you in person”?*

Not a whole lot for the other agent to come back with. You let him know you are aware that he screwed up but you at the same time acted like you weren't aware of it. Relationship is preserved and the transaction can move forward with the minimum amount of built up animus. Remember acting less smart doesn't make you less smart. It does however get people to underestimate you sometimes, and that can be an advantage too. Crazy like a fox works.

## **Adjusting Expectations**

One of the biggest keys to negotiating a deal is the ability to adjust the other side's expectations. What this means is using questions or statements to modify the preconceived notion that the other side has of the value of what you are negotiating. An example would be going on a listing appointment and early on in the discussion giving the seller the comps in the area showing that houses like his are selling for a maximum of 225k in an average of 215 days on market for that price. You have just adjusted his expectations of a 15 day closing for 300k for his house. This is why they have high sticker prices in the windows of cars. It adjusts the price you're thinking you will have to pay upward, which leaves the seller more room to negotiate or more profit.

This is a potent tactic. Let's say the buyer of a property really wants the wall unit the seller says they are taking with them. The seller paid 5k for it a few years ago. Adjusting expectations might start with telling the other agent that you could speak to the buyers and see if they would be okay

with the seller leaving the wall unit as they will probably want a newer one. Point out a scratch or two on it, and say the buyers were thinking of buying a new one and it's amazing how the newer wall units use newer materials that resist stains and how the prices have come way down on them. Every one of these statements is designed to lower the seller's perceived value of the wall unit. Now when they think about what they can reasonably ask you to pay for the wall unit they will be expecting a much lower figure. Throw in the aggravation of taking it apart and not losing any of the screws and low and behold you just got a 5k wall unit for \$100. For an absolute clinic on adjusting expectations, Arthur Miller's "The Price" is one of the best examples you will find.

**The power of the flinch:** This is a technique designed to lower expectations by the other side. It works like this: You ask for the price of something and when the other side tells you, you flinch. By a flinch I mean you have an instantaneous reaction that shows shock. Usually following up with the question "it's how much"? (like you must have misunderstood what they said) improves the affect. This lowers expectations by making the side telling you the price think that their price is out of line, or that it is at least significantly more than what you will be willing to pay. This lowers their expectations of what the price would be of a successful deal with you.

#### **Make them repeat themselves**

**Where'd that come from?:** In conjunction with the two techniques above this technique is excellent. You ask them "How did you get that number" or "Where did that number come from" depending on what the situation calls for. This puts the other side on the defensive and makes them justify their price to you. This lets you contest individual points they make thus decreasing the value of their arguments which therefore increases the amount their offer should be. You want them having to prove to you why their price is factually justified.

An example might be: They say "well there are \$50k worth of repairs needed to get the bathroom and kitchen fixed" you can counter with "I have an estimate from a general contractor for \$25k, and this home was not priced as a brand new home. The repairs have already been discounted from the price. Let me show you the comps." This technique puts them on their heels and allows you to adjust expectations into your favor.

#### **Some lines that can get you concessions:**

Here are a couple of lines that can often get you things or make people give in without working too hard.

**I have a budget:** This power line makes people adjust their expectations of what a max deal could look like with you. Doing this makes people start thinking of what they can do with the amount of money you do have. People want to make a sale and this makes them use their creativity to try to figure out how to get that done for you. An example: I am sorry I can't go any higher. Our max budget for this is \$ \_\_\_\_\_. or Wow! That's the price huh? My budget is \$ \_\_\_\_\_. How can we make that work? One that I used when buying my car was after much haggling I had agreed to a payment amount with the salesman and his manager and then I left and said I would be back tomorrow to close the deal. I found out how much my insurance number would be. I did not go to the dealership. When they called me to confirm my appointment I told them that the insurance was higher than I expected and the payment would be

over my budget. After them saying they didn't think they could do it and me saying if they can cool I will pick it up later today, if not, no hard feelings I will need to find something else. Forty five minutes later I got a call and I got them down another \$30 a month and got the car. All thanks to a mix of caring less than they did and the immovable barrier of a budget.

**Our policy is:** You have probably run into this seemingly impenetrable barrier of policy before. You call up customer service and whatever it is you wanted them to do, no matter how reasonable, they tell you they have a policy that expressly prohibits this. Frustrating isn't it? This barrier seems impossible or at least really difficult to circumvent. The good news is you can do this to other people, and when you do you realize that often policies are nothing more than words on a paper. An example I know is a gentleman that made his own policy book, and carries it around with him. He has many policies in his book but one he used masterfully was his policy that if he is made to wait more than 10 minutes for a table in a restaurant that he has a reservation at that the restaurant will provide him and his guests drinks and appetizers at the bar until his table is ready. As silly as this sounds, time and time again his table is not ready and he asks for the manager and shows him the policy book and is escorted to the bar and provided with the drinks and appetizers. This works because people are taught to think of policies as immovable objects use that to your advantage. I'm sorry there is a strict no picking customers up from their hotel policy. I'm sorry my policy forbids me from showing more than 3 homes to a customer without a buyer brokerage agreement. Try this and see how often it can work for you.

**The art of giving to get:** This tactic is very effective on people in the US and it plays on their sense of fair play. Basically it says "I gave you this thing that you wanted. It is only fair that you give me something I want." This can be an especially useful tactic when you give away things that have little or no value to your side. Or you can overwhelm them with quantity. Give in on three or four meaningless concessions, but only if they give you a major concession. You will actually watch the other side try to sweeten the pie for you because you have given so much. When in reality you have given nothing you wanted in the first place. One major caveat is that this tactic does not work on some cultures. You could give them your liver and they will not feel the slightest bit compelled to be forthcoming with any form of remuneration.



**Nibbling:** This is when you sign the deal and then begin to negotiate. Many cultures are famous for this. They keep asking for things that were not part of the original contract. They are masters at getting it too. In commercial deals you see this all the time where at the closing table one side will refuse to close unless the other side throws something in or the agents cut their commission. This tactic plays upon the fact that there is already an investment of time and an anticipation of a deal being complete. The sense of loss one would tend to feel if the deal were to die causes many to cave in when these tactics are employed. Be aware that this is a technique and it can be used by you as well.

**The walk away:** This is typically a "last stand" or "take it or leave it" type of tactic. With this tactic you will typically leave an ultimatum on the table along the lines of: If we can't agree to this then there is no point to talking any further. Typically you would do this later in the negotiations when the other side has a lot of time and emotion invested in the outcome of the

talks. Doing this properly involves not necessarily being angry, but more so being resolute. Do not look back, and if you have the guts, leave your stuff right there on the table and just keep walking. The real downside is there is really no good way to reopen negotiations if the other side doesn't cave in to your demands. The only play that can work to salvage these talks would be....

**Good cop Bad cop:** A great example of this technique would be, taking the example above and having someone else from your side reopen talks saying that you were out of line for doing that. This is one of those techniques where you can know it is going on and it is still affective against you. With this technique you need a minimum of two people: one person is typically very difficult and the other is much more friendly and understanding. The other side gravitates to the person that is kind and understanding. When that person asks the difficult party to step outside they are able to use those good feelings to leverage concessions and information that they otherwise would never have gotten.

**Anger:** Sometimes getting good and angry will get you what you want. While throwing a temper tantrum is very childish, people cave to those very same children all the time. The reason is people feel uncomfortable around people that are angry, and to avoid that discomfort they will give the cranky individual loads of concessions to remove that discomfort from their lives. There are plenty of angry people in the world and we do not need more of them, but there are places for this.

**An example would be:** You show up 5 minutes late for your reservation for four at a restaurant and they tell you your table is not quite ready. They say it will be 10 minutes. You go to the bar and wait. Fifteen minutes later another party of four arrives and is seated immediately. You ask about it and are told that your table is almost ready for you. 20 minutes later you are not seated so you go to the receptionist and ask to speak to the manager. You are still being nice at this point. 15 minutes later the manager comes out and proceeds to tell you how busy the restaurant is and how you were late for your reservation. You calmly ask to speak to the GM for the restaurant. When the GM comes over you allow your anger to come out carefully. You let him know that you do not appreciate being treated this way, you admit to being five minutes late but at the same time make your case forcefully. You tell him you were really looking forward to liking this place as you often dine out with large parties, but if this is the way customers are treated you really can't bring friends here. Odds are: you get your table 2 minutes later and enjoy your complimentary appetizers, drinks and deserts. Anger, especially when justified, used as a tool, can be a powerful aid in negotiation.



**Making people repeat themselves:** Now that we have talked about using anger, let's talk about how to pull the wind out of the sails of an angry person. One good way to do this is the technique of making people repeat themselves. Very seldom will someone be able to work up the vehemence of an initial outburst for a repeat performance. The phrase "can you repeat that" is your friend. This automatically cools them out some and allows you to begin getting to the place where negotiating a resolution to the issue can occur.

**Not meeting in the middle:** A favorite tactic of novice negotiators is to meet in the middle. You represent the seller and you are at 295k the other side is at 290k. They suggest "let's meet in the

middle and split the difference at 292.5k.” This again is playing into our sense of fairness and our desire to be rid of an uncomfortable negotiation. When the other side offers to meet in the middle that middle price is their new offer. They have told you they will pay that. This should be the point from which you base your counter not their previous offer price of 290k. A better counter would be 293.8k. Why? Because it shows a willingness to move and it is close enough to the 292.5k that they offered to meet you at that there is a good chance you will get it.

**Make them repeat themselves:** This is especially effective when people are angry. Make them repeat themselves after a rant. They won’t be able to work up nearly the same fervor as they had when trying to ream you out the first time. This happens because people are emotionally spent after venting like that. Take advantage of that and pounce upon the other side when they are more worn out. I never said these tactics were nice, but if you are going to yell at me then these tactics become fair game. This is also a means of wearing people down. Sort of the “Columbo” method of getting folks to concede. If you want a lesson in this try watching some old episodes of that show for some pointers.

**Don’t meet in the Middle:** When asked to meet in the middle often the best answer is “no”. The reason for this is the other side has just conceded that they will move to a higher price. You have not. So let’s say you were at \$480k and they were at \$490k. They say let’s meet in the middle at \$485k. You can say no but we can meet \$482.5k (which is half way between the \$485k they just told you they would accept and the \$480k you said you would accept. Remember when they offer to meet in the middle they have just made a price concession. It is your choice if you want to push them for more.

**Time is a tool:** Negotiations are uncomfortable and the pressures of deadlines make them even more so. For this reason you should always remember that time is on your side. The most aggressive concessions almost always occur in the last 5% of available time to negotiate. That is why so many trades occur in baseball at the trade deadline. Waiting till time is short to push to get a deal completed may play hell with your nerves but it will give you the opportunity to get the best deal possible. This is even more so the case where the deadline is of the other side’s concern instead of yours. If they are up against the clock you should definitely ride the negotiations to the wire to see how much you can get. Even if it is a shared deadline remember they are feeling pressure too. If you are consciously using time as a tactic and they are not, they will be feeling the pressure more than you. Two sayings are appropriate to keep in mind: “Patience is a virtue” and “Good things come to those who wait”. These should be your mantra when using time as a tool in negotiation.



**Appealing to higher authority:** This is a tactic where you negotiate with someone you think can make a decision and you come to an agreement, BUT they have to go get it okayed by someone else before they can sign. Whether it be a listing where they need to speak to their spouse before signing or the company president who can’t sign the contract because the deal must be brought to the board, appeals to higher authority are out there everywhere. You can use this tool too though as opposed to constantly being beaten in the head with it by others. The benefit of this tool is that it gives you time separated from the adrenaline rush of the negotiation to reconsider what you have agreed to. It also allows you to come back and do a



little nibbling of your own. If the other side has emotionally taken the plunge to believe that they have a deal and then you come back saying we have a deal BUT my wife really wants the pool table for our kids. Having extra time allows you to be able to say things like “I ran it by my broker and he brought up a really good point. The 60 day listing period you were asking about is just too short of a timeline because the print advertising we are doing for your house can take up to 45 days to reach the magazines.” Having a little extra time can allow you to formulate good answers to people’s objections.

**Silence:**.....Can be used to make a point, highlight a topic, or make people feel uncomfortable. Silence in a conversation creates a vacuum and people will start talking to try to fill it. It takes tremendous discipline to not start talking when this tactic is being used on you. An example of how to use this technique would be: You go to meet with an attorney that is going to be handling some foreclosure cases for you. You start to discuss their rates and they let you know they bill at \$300 an hour. After flinching you let them know that the current attorneys you are using are billing you at \$200 an hour. Then you shut the hell up! Even as skilled negotiators they will most likely start to fill in the dead space and literally start lowering their rates or justifying why they deserve \$300 an hour. They are on the defensive. This is one example of how to use silence. Say what you need to say and then shut up and listen.....



**Calling in Special Forces:**

Sometimes you need to call in a closer. You can be the best closer in the world but the angst, resentment, and general hard feelings that build up during the process of coming to an agreement may make it tough to actually reach a final settlement. For this reason a new face can make all of the difference. They can even get concessions that the other side was refusing to give you just because they want to seem reasonable. This is similar to the “Good cop Bad cop” routine. The chief difference is that instead of being intentionally difficult throughout the negotiation you genuinely try to reach an agreement while sticking to your guns on the things you need to. If an agreement can’t be reached but the gap between the two sides can be narrowed enough, you bring in the closer to push it over the goal line.

You see this all the time in the ultimate negotiation forum: timeshares. You will usually be approached by the initial sales person (closer 1) that gives you all of the details and builds rapport. Once it is time to talk price, the salesperson broaches the subject but lets you know that the manager (closer 2) needs to come over to discuss it further. Now you don’t want to make this poor hardworking guy look bad in front of his boss. Normally the boss is very cooperative and really wants to make a deal with you. They will throw in this or that and break it up into payments etc. If you somehow manage to repel closer level 2 the third and often final closer will come into play. This person is usually more competitive and will try to brow beat, bully, or intimidate you into buying. This is just how some timeshares do it. Each company has their own formula but almost without fail it calls for the use of additional closers (Special Forces) to get the deal closed.

The time share guy sells a very tough product to a purchaser that knows they are in for a high pressure sales pitch and usually has pledged their first born child not to get duped into buying. Yet these folks use this technique because they realize the power of it. If you have a broker that is willing to be a closer, that is excellent. You then can use the dual technique of “good cop Bad cop” and “appealing to higher authority” simultaneously. This combination can be very effective. You can also just work with a partner to try and give your side a fresh face to push the deal to completion.

### **Go Debrief Yourself!!!**

Previously we had discussed taking notes during the negotiation. It is important to keep track of everything done well or poorly by either side throughout the talks. The reason for this is to learn from the process. You can learn from your mistakes and mistakes the other side makes as well. Every negotiation is not only an opportunity to practice your skills (build myelin) but also a chance to make mistakes and learn from them. Figuring out what you did well and what you could do better is key to improving your skills. This is why football teams watch films of the previous week’s game before watching films of the next team they will be playing. They want to see where they screwed up. Then they will know where to focus their efforts going forward. Also it lets them see if previous errors have been corrected or not.

The way to approach “the debrief” is not to necessarily beat yourself up, but to really pour over the things you could have done better. Be honest with yourself about your mistakes and run through how you would fix it in as much detail as possible. Try to put yourself back “at the table” in the middle of the talks and try to mimic in your mind the pressure and adrenaline rush you have going. See yourself handling the situation the way you wish you had. The goal is to make yourself feel bad enough about it that you don’t make the same mistake again but not bad enough that you quit trying.

An important part of “the debrief” is to be fair about your performance. Getting a good perspective of how you did in the negotiation is key. You need to review your performance with the added advantage of time to get the most balanced perspective of your choices and actions that you can. If you negotiate with a partner, this can be even better. You now can recruit them as a debrief buddy. They can offer you input on how you did that can be very insightful. You need to make “the debrief” a safe environment where you can honestly be told what you could do better without getting upset. If your partner wants you to, you can do the same for them. (Note: A very interesting thing to realize is that even a person you just met has a different perspective of you than any perspective you could ever have of yourself.) For this reason outside criticism can be the best way to make large strides in your negotiating ability. The ability to accept this criticism and learn from it will allow you to improve by leaps and bounds.

### **Make negotiation a part of your everyday life**

We have talked about how important negotiation is in our business, but it is just as important in life. There are opportunities everywhere to hone your abilities in this most important of life skills. Even having a conversation and making a compelling argument for what you believe to be true is a form of negotiation. Don’t be afraid to ask for discounts, upgrades, the table by the window, etc.... You will not get if you don’t ask. The folks that do ask, do get more out of life. So if it is with your kids, spouse, friends, coworkers or customers start to identify tactics when they are being used on you and don’t be afraid to use a few tactics of your own along the way.



The more you practice the better you get, and the better you get the more you can expect from life.

### **Life after Negotiation**

We have discussed a lot of techniques here that may make life after negotiation difficult. These tools can hurt feelings, piss people off, and even possibly make them hate the sight of you. The wise use of these tools will allow you to generate real value for your customers as a negotiator without making you despised far and wide. You will step on toes and it is not a popularity contest, but if Amazon is selling out of the novelty rolls of toilet paper with your face on it you may need to tone it down. Conversely, if the agent for the other side is doing back flips that they get to work with you because they know their customers will get a good deal, you may need to put some more starch in your shorts and toughen up.

J Paul Getty famously recounted something his father told him: *“You must never try to make all the money in a deal. Let the other fellow make some money too, because if you have a reputation for making all the money, you won’t have many deals.”*

It is always best to preserve as many good relationships as you can. Human beings are, for the most part, relational creatures. Being respected and having good relationships in your industry and amongst your colleagues is an excellent thing to strive for. So do not be a bridge pyromaniac. If you have to burn one do so with careful thought and eyes wide open. Always remember the bodies on the other side of the table are people too, and they need to eat as well.