The Negotiator

Presented By:
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Introduction

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

• Are some people just naturally better negotiators?
• Can you really learn how to be a better negotiator?
Prep Work: Identifying Important Terms

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

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

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

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

• This type of bargaining encourages an aggressive style that is not relationship friendly.

• Clues about the direction of negotiations.

• It is very difficult to short circuit the process...the “right offer” at the “wrong time” may still be the wrong offer.
  • Example
Cooperative Negotiations

• This approach is more “global”. Expands the “pie” to include other types of value that may not be obvious but which would aid resolution.

• The focus is on interests not on issues and positions.

• This style of negotiating is (obviously) very relationship friendly.
• Most people would agree that a cooperative process is more desirable in most cases. How do you try to ensure a cooperative process or move a competitive process to a cooperative one?
Achieving a Cooperative Negotiation

• How can I push back/say no...and still be “cooperative”? 
The Process of Negotiating

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

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

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

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

• Limits, obstacles and opportunities, cont.
  • Getting sidetracked
Negotiation Tactics

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

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

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

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

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

• Silence - Typically, the party who breaks the silence indicates at least a little bit of weakness.
  • Possible uses and responses
Summarizing: Practical Negotiation Tips

- Understand (and match) negotiating styles.
  - Match a competitive negotiator if you cannot move them to a collaborative approach
  - A collaborator will often “lose” to a competitor

- Negotiating Competitively
  - Usually less “strategy” and more “tactics”
  - Remember – this is “winner take all”

- Negotiating Collaboratively
  - More strategy and less tactics
Summarizing: Practical Negotiation Tips

• Focus on Your Strengths:
  • strength of the deal you are offering
  • your expertise
  • your knowledge/preparation
  • your ability/willingness to walk away
Summarizing: Practical Negotiation Tips

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

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

Observations, comments and questions
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