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WHAT IS NEGOTIATION . . . REALLY?

I WANT TO START out by telling a story that will help you adopt the mind-set of an expert negotiator.

A multimillionaire had twin 10-year-old sons, one was an incurable optimist and the other an incurable pessimist. He thought to himself, "If I could get the optimist to be a little more pessimistic, and the pessimist a little more optimistic, I'd have two great boys." So on their birthday, the father arranged for each son's present to be delivered to the house. He bought the pessimist a \$5,000 10-speed Japanese racing bike. Looking at the sleek red and silver model, he thought, "What could any 10-year-old possibly find wrong with this present? He should love it." For the optimist, he had two loads of horseshit dumped in the middle of his son's play room.

On the morning of their birthday, he visited the pessimist first and asked, "How do you like your present?"

"Like it?" said the boy, "I hate it. It's the worst thing you could have gotten me. If I take the bicycle outside I'll probably get hit by a bus and end up in the hospital with two broken legs. If I'm lucky and I do make it to the playground, some kid twice my size will beat the crap out of me and steal the bike. How could you be so thoughtless to give me a present like this?"

"Well, I really blew that one," thinks the father as he walks down the hall to check on his other son. He says to himself, "The other one is a sure winner." He opens the door to the playroom and sees the optimistic son sitting in the middle of the manure pile, throwing pieces all around the room. And he's singing!

"What *are* you doing?" the father asks.

The boy replies, "With all this shit, there's got to be a pony in here somewhere!"

That statement captures the mind-set of an experienced negotiator in a nutshell. You have to understand that a good negotiator learns how to go through a lot of shit to find the pony—a completed transaction. If you want to excel in negotiation, you must spend a lot of time exploring and learning what the other side really wants—in contrast to what they say they want. You have to ask a lot of questions to discover what they can live with and what they can't live with. You have to have a world of patience to continually probe for their strengths and weaknesses.

THE RULES OF NEGOTIATION

Before we go on, answer the following two questions:

1. *Are there any rules in negotiation?* The right answer is, “No, there are no rules in negotiation.”
2. *Are lying, cheating, and deception permitted?* The right answer is “Yes, anything goes.”

This doesn't mean that you should behave unethically or illegally. If Donald Trump makes a business deal, he keeps his word, and so will I. In fact I stress repeatedly in this book the need to build trust with the other side. However, a negotiation is not the same thing as a completed business transaction. Until the contract is signed, my experience is that everyone involved in the negotiation is free to act as he or she sees fit without restrictions.

For example, if the other side asks you, “Is this deal critical to you?” you can't candidly answer, “yes” or you'll be in a very weak position. You should say, “No, I'd like to complete this deal but I have others I can do if it doesn't work out.”

I know of no sports or any competitive activity that grants such freedom to participants. For example, baseball, which is the favorite

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sport in the United States, has strict rules or guidelines. Each team can only field nine players at a time, a game consists of nine innings, an umpire determines which pitches are balls or strikes and has white lines that he uses to determine what is fair or foul. But negotiation, which is really “the game of life,” has no rules or guidelines to determine how it is played and what constitutes fair or foul conduct. It is a series of communication exercises that inevitably lead to some conclusion. Only the parties involved can determine whether they won or lost or if there was a draw.

NEGOTIATION IS PART OF LIFE

Most people feel intimidated by the idea of negotiating, but the fact is, negotiation is something we’ve been doing all our lives, even when we don’t realize it. I have been negotiating since I was born. The first time I was hungry I negotiated with my mother by screaming until she solved the problem by feeding me. I didn’t do it consciously; it happened automatically.

You are in continual negotiation with everyone you meet, be it your boss or a casual friend. Boys negotiate with girls and vice versa. Husbands and wives constantly negotiate with each other. Negotiation makes its entrance when you buy a car or a house, or discuss with friends which movie to see. Negotiation isn’t just concluding a difficult deal, it is daily participation in the game of life.

Many people think that the sole purpose in negotiating is getting the best deal you can. Donald Trump’s approach, in contrast, is to pursue a course that enables the other parties to attain personal satisfaction as a by-product of his negotiation. Creating the atmosphere of an amicable relationship is more important than getting a deal done, than winning, or getting something the other person didn’t want to give.

Trump earned his reputation as a great negotiator because of his insights into human nature. He understands how people think, how

they can be motivated to embrace his ideas. He can craft the right strategy to help people to think outside of the box, looking *beyond* their self-imposed limitations rather than taking refuge behind them.

Although we have a tendency to believe that monetary rewards are far and away the prime motivator for people, it is more often the case that people are motivated by ego, prestige, recognition, or personal satisfaction. That's why Trump very rarely uses his money card in his negotiations. He has a dynamic, persuasive personality and he uses it expertly. Trump knows that the right words spoken at the right time can turn an adversary into a partner and convert a contentious disagreement into a mutually satisfactory working arrangement. For most people, that is where real negotiating skills comes into play to forge a result that is acceptable to everyone.

DEFINING NEGOTIATION

To be a good negotiator, you have to realize that negotiation is much more subtle than two people haggling about a price. Negotiation is our first form of communication with other people. *Negotiation is the sum of all the ways in which we convey information about what we want, what we desire, and what we expect from other people*—as well as how we receive information about other people's wants, desires, and expectations. Language is undoubtedly first in our arsenal of communication tools, but good negotiation involves much more than using appropriate language. It includes all the subtle and not-so-subtle ways we actually convey our desires.

We tend to think of negotiation as limited to talking, listening, and bargaining with someone else to achieve a desired result. Don't forget that negotiation has many other nonverbal forms. If someone is late for an appointment without an apology or doesn't show up at all, that is an element of negotiation as well. Sometimes what people don't

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do or say is the most telling factor—not taking a phone call, cutting a meeting short, or scheduling a conflicting meeting—these are all negotiation tactics of one kind or another. Anything that affects what you want from someone else, or what he or she wants from you (positively or negatively) is a negotiation.

Negotiation Always Means Compromise and Creativity

A basic fact of life is that we never get everything we want. So in the course I teach at New York University I tell my students that negotiation is *a process in which people learn to accept an available compromise as a satisfactory substitute for that which they thought they really wanted.*

Everybody goes into a transaction thinking that they know exactly what they want. But they usually can't get it, so they have to learn how to compromise along the way.

For example, if I go into a car dealership, I might start out by saying, "I'm looking for a sports car with four-wheel drive and a sun roof." Then I see a new model and say, "I really love that one. That's what I want."

The dealer tells me, "That has everything you said you wanted and it's only \$36,000." I didn't intend to spend \$36,000 for a car, so I tell the salesperson that's beyond my budget. The salesperson says, "I can show you two other models in the \$25,000 range, but neither one has all the features you want. How important are those features to you?"

Eventually I have to forego some of the frills I wanted. . . . What I ended up with wasn't exactly what I originally had in mind but it was a satisfactory compromise for what I thought I *really* wanted. Every negotiation and everything you do in life has pluses or minuses—you have to weigh the pluses against the minuses—and a decision is reached when the pluses outweigh the minuses. It's that simple, although getting there often involves a lot of frustration, aggravation, and arguments.

What makes participation in a negotiation interesting is all the information you have to discover along the way, both about yourself and the other party. It's like trying to complete a jigsaw puzzle without a picture on the box to guide you and with an unknown quantity of pieces, and without shapes or colors to show where they go. Impossible? No. Difficult? Yes. Negotiation requires the use of brainpower and logic in lieu of any of the five senses. Commencing a negotiation can also be defined as starting a journey to an imaginary destination without a road map and where all the directions you're given are intentionally misleading. People will not be completely candid if they think it will jeopardize their desired result.

For example, Donald Trump rarely starts off any negotiation by telling the other side exactly what he really has in mind. As a case in point, let's analyze a specific, lengthy negotiation that took place between Donald Trump and Leonard Kandell relating to Donald's creation of Trump Tower, Trump's signature building on 5th Avenue in New York City. Kandell owned a building at East 57th Street that abutted both Tiffany & Co. and the parcel on which Trump Tower was to be built. Trump's control of the Kandell property was vital since it had valuable frontage on 57th Street and unused excess air rights that could be utilized to increase the height of Trump Tower. By carefully checking into Kandell's background, Trump learned that Kandell was a veteran developer and a hard-nosed, shrewd negotiator who favored long-term ownership of strategically located land over an outright sale. Donald really desired a long-term, flexible lease but knew that taking a direct approach would inevitably lead to protracted, difficult negotiations and a questionable result. Trump needed a wedge to get Kandell to consider granting him a long-term lease. While negotiating with Tiffany to buy its unused air rights, Trump learned that Tiffany had an option to buy the Kandell property at a price equal to its fair market value. As part of the air rights deal with Tiffany, Donald convinced Tiffany to transfer its option on the Kandell property to him.

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Armed with the option, Trump then told Kandell that he was going to exercise the option and buy Kandell's property and asked Kandell how much he wanted for it. There were substantial disagreements and heated discussions between the parties as to what the fair market value was. It became apparent that arriving at fair market value and the transfer of title would probably require extensive and costly litigation. So Kandell invited Donald to lunch at the University Club in the hope of reaching a deal. Donald was certain that Kandell was going to offer him the long-term lease, which was what Donald really wanted, and he asked me to attend since I was familiar with the intricacies involved in a lease transaction. After some verbal sparring, as Trump had predicted, Kandell raised the possibility of a long-term ground lease. Trump said he needed an outright sale because he wanted to use the excess air rights. Kandell countered by saying if the rent was high enough he could make the air rights part of the ground lease. Trump asked, "Why would you want a long-term lease rather than several million dollars in cash?" In a moment of truth, Kandell replied that he didn't like the idea of paying the taxes resulting from the sale and he preferred leaving a long-term secure, cash-producing asset to his grandchildren rather than a lot of cash. Trump respected Kandell's honesty and immediately seized the opportunity to turn a potentially hostile negotiation into one of friendship and mutual trust. Trump said, "Len, that's not what I really had in mind, but if that's what you want and it will make you happy, I'll do it." They quickly agreed on the rental and other critical terms of the lease and shook hands on it. Before Donald left he said to me in front of Kandell, "Work out the details with Len. I want you to draw a lease that protects Len in every way but gives me what I really need to make Trump Tower a success." Trump's actions and demeanor between the handshake and his departure created an environment of trust that I was able to build on and use to avoid the unnecessary bickering that usually accompanies the drafting of important legal documents. Evi-

dently, Trump's willingness to rely on me to finish the deal hit a responsive chord in Kandell. In an unusual move, he asked me, Donald's attorney, to prepare the lease. Recognizing this display of confidence, I told him I would protect his interests as if he were my client. Within two weeks the lease was prepared, negotiated, and signed. Both Trump and Kandell ultimately got what they really wanted in the deal but we all got much more.

As a direct result of the amicable conclusion of the negotiation, Trump and Kandell established a friendship that lasted until Kandell died. Kandell later asked me to be his lawyer because of the feeling of trust that had been created. A similar relationship exists between his heirs and me. The moral of this story is, "Sometimes directly asking for what you want is not the best way to achieve a desired result."

As this story shows, good negotiation is a *continual exploration of the realm of possibilities*. In many cases, your success is going to depend on your ability to think in reverse, something Trump is a master of. Thinking in reverse comes into play when you make a proposal that is so outrageous that you know it has no chance of acceptance in its raw form and then reversing your course and agreeing to modify your proposal to make it more palatable for the other side. In the process of coming up with mutually acceptable solutions, you have to consider multiple options. The more bait you throw in the water, the more likely you will catch a fish.

As another example, I might start out thinking I need a basic laptop computer. But the salesperson might say, "Here's a basic unit that's only \$599 but it's not what you need." Why not? Is he helping me make a better decision, or enticing me to spend more money or to buy the model with the greatest profit margin? The computer salesperson, like every other negotiator, is always selling something. This is where I begin my journey toward that imaginary destination. What about one with a 50 megabyte capacity with a 4× CD-ROM internal drive? I know I need a computer, but the details are fuzzy since I actually don't

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know a megabyte from a mosquito bite. I need to negotiate my way into getting reliable information, but without being seduced by the salesperson's gift of gab. Maybe only a higher priced model will serve my needs. An in-depth discussion is needed before I make a purchase. Creativity, skepticism, information gathering, and willingness to consider multiple solutions are all key elements you must master if you want to be a good negotiator.

WHAT NEGOTIATION IS *NOT*

There are three things that you need to know in understanding negotiation. First, it is not a science. Second, it is not a situation in which winning is everything. Third, it is not an event with continuity—the parties involved, their motives, and their goals are all different and are all subject to change at any moment during the course of the negotiation.

It Is Not a Science: The Key Role of Satisfaction

One aspect that absolutely everyone wants from a negotiation is a feeling of satisfaction with the final outcome. To succeed in a negotiation, you have to persuade and lead the other side into sharing a state of satisfaction—you can't force that feeling on them. However, satisfaction is a purely subjective emotional state that is directly linked to a person's personality. You very rarely achieve something in negotiation that is entirely tangible, or can be proven or even effectively measured. Science, on the other hand, is precise. You know what you have achieved, and it can be quantified in tangible form. A negotiation cannot meet that criteria. So if someone asks you, "Did you win or lose in that negotiation?" you are not going to be able to give a definitive answer. You probably won some points and lost others, but the concept of

winning or losing is just too precise and limited to explain how real life negotiations end up. There are no absolute right or wrong answers in a negotiation.

Sometimes a phase of negotiation ends up with an entirely different outcome than you expected or desired. And yet, you discovered that satisfaction and peace of mind were more important than the price you paid. The feeling of comfort may be more meaningful to you than getting the best price. Satisfaction should be your real goal, not the best price or getting everything you asked for. It is a human process with limitless nuances and complexities, and not fulfilled by merely reaching agreement on cost and performance.

It Is Not a Situation in Which Winning Is Everything

There is invariably so much more involved than the simple concept of winning or losing. That is a binary approach based on the idea that you go into a negotiation with something very specific in mind, and you come out getting that exact outcome, or losing altogether. This point of view—there must be a winner and a loser—is shortsighted and doomed to fail. In a truly successful negotiation, you have to establish *trust* and a *friendly relationship* as part of the process and a crucial element of the outcome. If you trust a plumber to stick to his estimate and fix a problem, you will be happy to use him over and over and willingly pay his specified price. If you don't feel a sense of trust, you would be smart to look elsewhere. The same holds true for a car dealer, financial planner, or real estate expert or any other party with whom you are contemplating a relationship.

It Is Not an Event with Continuity

Most negotiations consist of a series of several separate negotiations of assorted sizes and shapes. There is rarely a single discussion or meeting

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that has a clear beginning and end. So what usually occurs, over the course of any negotiation is a change of circumstances, or additional factors arise that cause people to change their positions. You can't always assume that something said yesterday will still be true today.

For example, let's assume that you have a car to sell, and that I want to buy it. I think we have a deal, so I will talk to you tomorrow. But meanwhile, the circumstances change. You get a phone call from someone with a better offer. Someone else needs the car and because we broke off the discussion for a day, the continuity was lost. The phone call you received was a new factor that colored our negotiation, so your position is different. This happens all the time in ongoing negotiations, and you can use it to your advantage as you will see in later chapters when I talk about slowing down or speeding up a negotiation.

SEVEN GOALS TO HELP YOU SUCCEED IN ANY NEGOTIATION

Although you can't be sure where you'll end up, it's still important to set goals when you begin any negotiation. I'm going to give you seven goals to help you become more effective as a negotiator:

Goal 1: I want to profit from the negotiation. However, the definition of *profit* in this context is not necessarily financial. Profiting from a negotiation often involves discovering some benefit you had not even considered at the outset. Going in with an open mind is extremely useful. You are likely to learn much more from being prepared to anticipate the possibility of an unexpected outcome, than you are if you are only narrowly focused on a single, predetermined idea.

Goal 2: I want to learn as much as I can about the people on the other side. Everyone has a story that relates to why and how he or she is

entering into a negotiation, and it is rarely what you would assume. If you are able to find the other person's story—if you ask questions—you will inevitably find out something valuable that can help you in later negotiations. Adopting an approach that meets the needs of other parties will help you build trust and build a relationship, which are key elements of any negotiation. For example, in my office I have some dollar bills in a frame on the wall. People ask me why I have them up there. It gives me a chance to tell them those were the dollars I won when people bet me that I couldn't do something. That's part of *my* story, and it tells you something about my character and how I might be expected to behave in a negotiation.

Goal 3: I want to find out where the bottom line is. What is the minimum the other side says it has to have, or there's no deal, and what is the maximum you will give, or you'll walk away? Everything between those two extremes is negotiable—I call it the *zone of uncertainty*. It is essential to discover the other side's bottom line and to establish the zone of uncertainty, if you want to negotiate effectively. While you're attempting to quantify the zone of uncertainty, you should assume the other side is trying to do the same thing.

Remember, people are not going to be truthful when it comes to telling you what their bottom line is. Many don't really know what it is, and those who claim to know are not always right. So defining the other party's bottom line is something you develop through discussion and observation, and not only by what they tell you it is.

Goal 4: I want to understand the constraints surrounding the transaction. Some people have to finish a transaction within a specific time frame, for example, year end. Maybe he doesn't have the necessary authority to conclude a deal but requires approval from someone else. These constraints are going to dictate how someone negotiates with you.

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Goal 5: I want to study the other side. To negotiate effectively, you have to obtain the essential information you need to know. You can do this through direct discussions and by talking to other parties. You need to learn as much as you can about the personalities involved, their knowledge of the subject matter, their education levels, and their negotiating abilities. Assembling all of this information (to the extent possible) will reveal the best way to deal with another person. If someone is prone to using crude language or telling off-color jokes, you will connect better with him by responding in kind. If someone is very serious, all business, humorless, he will probably feel most comfortable if you adopt a similar style. You need to find out whether the other person is reputed to be honorable or has a reputation for playing dirty. Will the other person keep his word, or will he try to weasel out of prior statements? This is crucial information you need in order to know how to effectively act, respond, and communicate with the other side.

Goal 6: I want to assess the people on my side in any negotiation. By “my side,” I mean anyone who will help me participate in this transaction. That includes anyone that you report to, the money people, lawyers, or if the negotiation is of a personal nature, your spouse, or parents, for example. Anyone who has ever thought about buying a house knows what I mean by this. Your spouse might fall for a particular feature of the house, while you think it’s overpriced. So how will you deal with this difference of opinion? You need to find a way to bridge the gap to reach an acceptable compromise. When you present your position to the other side, you need to understand the difference between posture and reality. The posture—the face you put forward in the negotiation—is not necessarily an accurate reflection of reality. For example, you and your spouse might disagree about whether to make an offer for a house. Your spouse might want to proceed, but you think the price is too high. So you might

go to the realtor and say, “The kitchen needs extensive renovation. That’s why my offer might be lower than you wanted.”

That’s an example of posturing. You shouldn’t tell the realtor, “My wife loves the house and thinks we should offer the asking price, but I think it is overpriced.” While it is true, it indicates dissention in the ranks and weakens your negotiating position.

Goal 7: I need to find out what is fair and reasonable. In every phase of every negotiation, everyone says, “I only want what is fair and reasonable.” Unfortunately, each side has a different opinion of what “fair and reasonable” is when applied to solve a particular issue. Extensive probing is necessary to find out what others deem fair and reasonable and how it differs from your opinion.

CONCLUSION

I’ve always maintained that the best negotiators in the world are two-year-olds. If they don’t get what they want right away, they lie on the floor and scream and hold their breath until they do get what they want. They won’t shut up until they win. The parent may beg, plead, and give the child anything he or she wants to get them to stop; so the child wins that negotiation—and learns that the tantrums work. Or the parent is strong enough to ignore the bad behavior and walks away leaving the infant screaming, kicking, and so on. The parent has decided to use a different negotiating tactic. From that, the child eventually learns that the tantrums don’t achieve the desired result, so the tactic will be abandoned in favor of one that does work, such as throwing his arms around a parent and saying: “I love you, Mom.” In either case, both sides learn something from the negotiation, which will help them in future negotiations. If you pay attention, you will learn something from every negotiation you’re involved in that can improve your skills as a negotiator. My hope is that this book conveys to you

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some of the things Donald Trump and I have learned from our many years of deal making and thousands of high-level business negotiations. In the next chapter, I am going to begin by telling you how to negotiate like Donald Trump. In a series of step-by-step chapters, I'll go through the phases and strategies that will help you understand the art of negotiation.

Why should you bother to study the art of negotiation? Why should you read this book? Because an experienced and sophisticated negotiator is always going to get better results in any life situation than someone who is not knowledgeable about these techniques. In many cases, this is the difference between total success and dismal failure.

Let's get started. . . .