



PROGRAM MATERIALS
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The Art of Effective Negotiating: A 2021 Update

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The Art of Effective Negotiation

July 14, 2021

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“In business you don’t get what you deserve but what you negotiate.”

- Chester L. Karrass, The Negotiating Game

Take a moment to consider...

- How important is negotiation to my professional success?
- Have there been times when skilled negotiations have made a significant difference in my practice?
- Have there been times, if I negotiated better, I would have gotten better results?

For almost all lawyers...

- Their ability to effectively negotiate can make a tremendous difference in the success of their practices.
- Even for those lawyers that are very good negotiators, it is always possible to incrementally improve.

Who do lawyers negotiate with?

- Their clients
- The lawyers and clients on the other side of the table
- Governmental agencies
- Their partners, associates, and staff
- Just about everyone
 - Family
 - Friends
 - People they hire

Learning Objectives

- Understand the strategic nature of effective negotiations.
- Recognize that expert negotiators know the issues cold and have “people smarts”.
- Become keenly aware of the difference between “backstage” and “front stage” when it comes to understanding the people involved.
- Understand the Everyone Wins Process.
- Learn the incredibly valuable art of focusing on the other person’s self-interest.

When Everyone Wins!

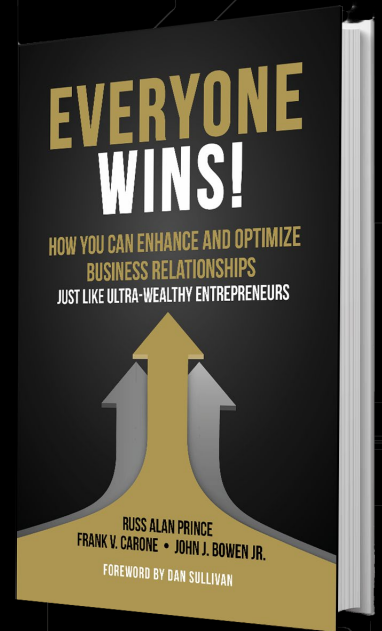
You win!

You win now and in the future!

You will win in ways you were not even thinking about!

You win in your business life as well as your personal life especially during rough times!

You win bigger than you probably imagined you could!



The Key to Effective Negotiations

- A solid understanding of the issues involved
- “People smarts”
 - A deep understanding of what others want and what they need
 - Top flight bargaining skills

*“All the worlds a stage, and all the men
and women merely players.”*

- Shakespeare, As You Like It, Act II, Scene VII

Looking Backstage

- Great negotiators look backstage.
- The front stage is where people see your behaviors and proclamations. When you are front stage, you are playing a role.
- Backstage is where the truth lies. It is where your real needs and wants as well as your concerns and insecurities come out.
- Backstage is where the deepest or “most real” information about a person typically resides.

In Negotiations

- The front stage more likely is a debate over terms, often based on rationale arguments.
- Backstage is the reality because it is all about hidden and not-so-hidden agendas, emotional issues, and ego.

Your Front Stage

- Front stage
 - What impression do you want other people to have of you?
 - What characteristics and qualities would you like other people to attribute to you?
- For example, do you want people to think you are:
 - Smart
 - Clever
 - Fair

Your Backstage

- What facts about your life would you prefer very few people know?
- When it comes to bargaining, backstage is where all the anxieties and insecurities surrounding the negotiations live.
- Backstage is where all the adverse consequences go through your mind when you are trying to close a negotiation.

Expert Negotiators

- Understand their own backstage
- Focus on the backstage of the people they are negotiating with
 - What is backstage gives them powerful bargaining insights
 - They know what really matters

Backstage is the Key

Everyone has a Backstage



Backstage is More Important
than Front Stage



Concentrate on What is
Backstage

How do you look backstage?

- Knowing the history of the people you are negotiating with.
- Asking astute and detailed questions.
- Actively looking for pieces of valuable information over time.

Active Listening

- People tend to like to talk about themselves
- Listening to
 - A person's non-verbal messages such as posture and tone of voice
 - What they say and how they say it
- Include being empathetic

From Backstage to Self-Interests

- People act in accord with their self-interests.
 - It is not about what you think they should or should not do.
- By looking backstage, you can determine the self-interests of the people you are negotiating with.

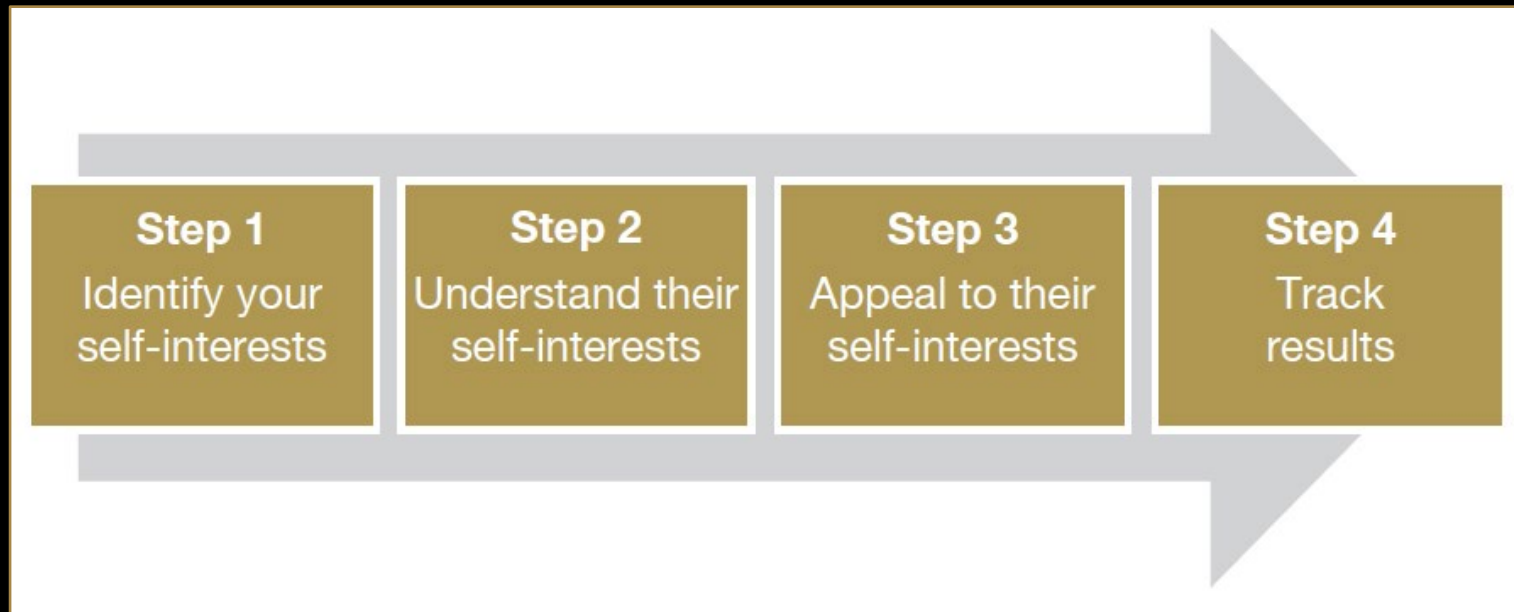
Give to Get

- Every person has his or her own goals and agenda and is looking out for his or her welfare – especially when negotiating.
- The idea behind self-interests is to identify some commonality in what you most want and what the other person most wants in a negotiation. Then, by acting to further the other person's self-interests and meet his or her goals, you will be able to satisfy your own self-interests and meet your own goals.

Critical Considerations

- Every person at the negotiating table has his or her own goals and agendas.
- Much of this is visible only by looking backstage.
- Great negotiators are exceptionally good at aligning the self-interests of everyone involved in a negotiation.

The Everyone Wins Process



Step 1: Identify your client's self-interests

- A clear understanding of your client's self-interests
- A relatively easy way to determine your client's self-interests with respect to any negotiation is to answer questions like these:
 - Why is your client participating in the negotiation?
 - What outcome would be satisfactory?
 - What results would make your client feel you have been extremely successful?
 - What terms are absolutely non-negotiable?
 - What are the minimally acceptable results?
 - What happens if you do not reach a deal?
 - How important is the relationship with the other party over the long term?

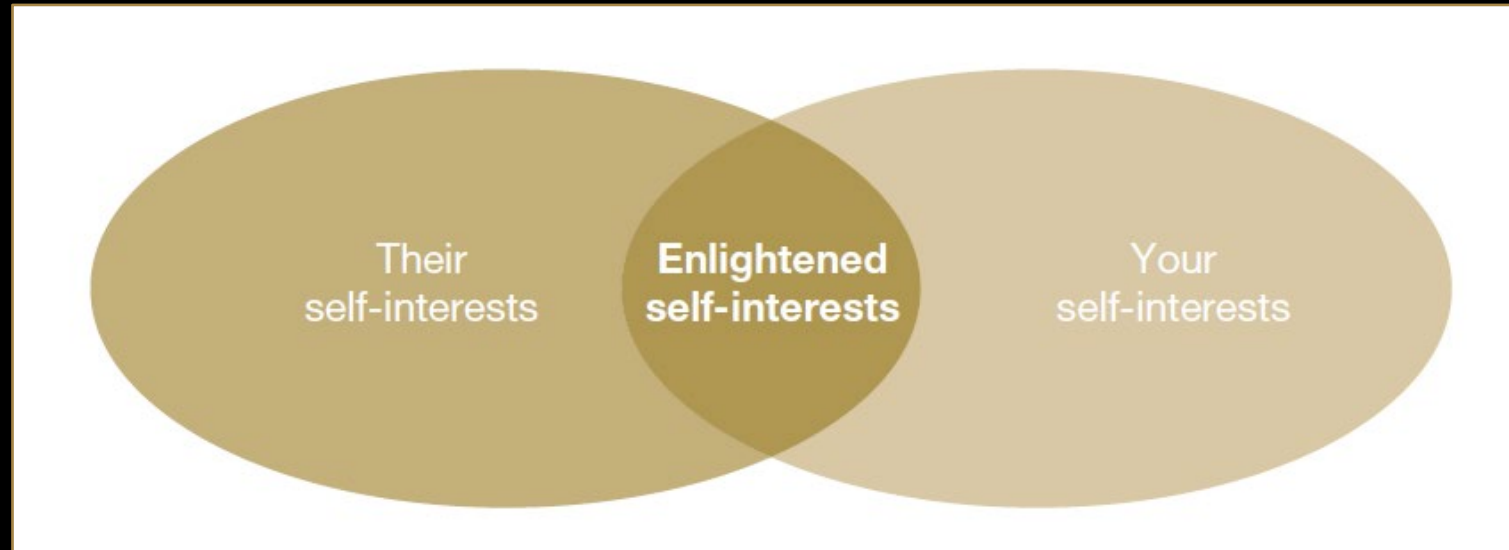
Step 2: Understand their self-interests

- Great negotiators put in the time and effort to unearth what is strongly meaningful to the other parties they are negotiating with.
- They rarely take anything at face value, and they look hard to see behind the curtain into people's backstage area.

Step 3: Appeal to their self-interests

- The more overlap that exists between your client's self-interest and the other party, the easier it is to move forward to pursue mutual success.
- There will be areas of commonality that may need to be extended.

Overlap Among the Self-Interests in Business Relationships



Decide how to appeal to their self-interests

- Because you know their backstage, you have good insights into their self-interests.
- Show them how by agreeing with you they can achieve their self-interests.
- You are aiming to match up aspects of your agenda with their self-interests.
- Much more art than science.
- Applying to their self-interests is not about trying to persuade that an opportunity exists. It is about pointing out opportunities for success that actually exist in a situation, for both of you, by focusing mainly on how the other side can benefit.

Show how acting as you want them to, achieves their goals

- Expert negotiators are very good at framing their discussions to focus on the other side.
- You will want to connect your positions and recommendations to their self-interests.
- Help others get what they really seek (i.e., their self-interests) and you will find them taking actions you want them to take that will put YOU and your client in the winner's circle.

Simply put

- For every person in every negotiation, ask yourself:

“What is his or her self-interest in these negotiations?”

“Am I appealing to his or her self-interests?”

- If not, ask yourself:

“How can I align my self-interest with his or her self-interests?”

***The more it is all about them,
the better your results!***