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**PROGRAM MATERIALS**  
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## **High-Level Negotiations: When Losing is Not An Option - Part 2**

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# HIGH-LEVEL NEGOTIATIONS

WHAT YOU DON'T KNOW WILL COST YOU DEARLY,  
AND WILL KEEP ON COSTING YOU

Stefano Riznyk



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“When you’re not practicing, remember that someone  
somewhere is,  
and when you meet that person,  
they will win”

*Ed Macauley*

**A QUOTE TO LIVE BY IF YOU INTEND  
TO BE A WORLD-CLASS NEGOTIATOR**

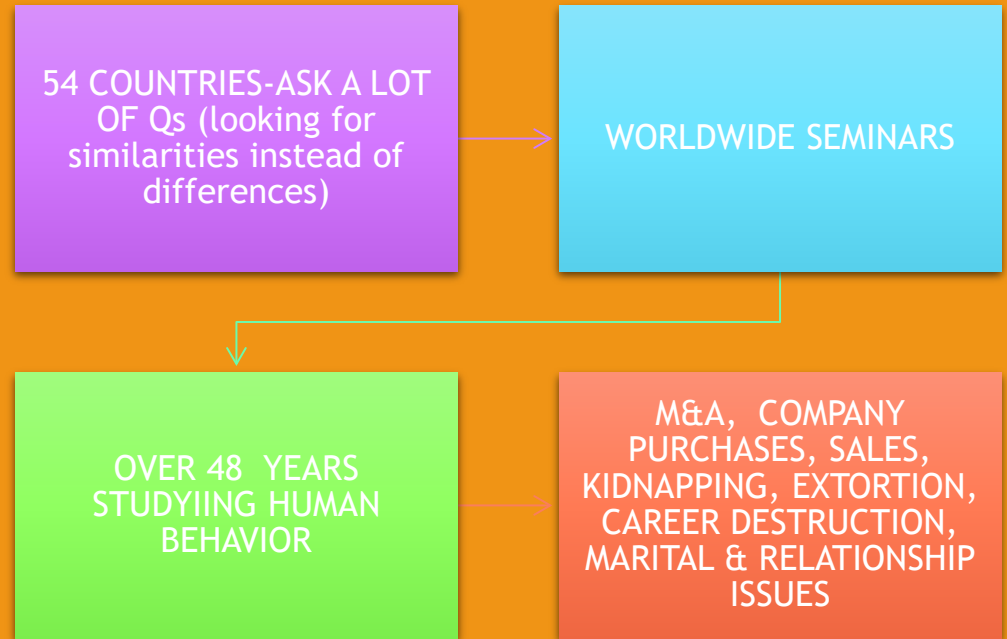
# INTRODUCTION

54 COUNTRIES-ASK A LOT OF Qs (looking for similarities instead of differences)

WORLDWIDE SEMINARS

OVER 48 YEARS STUDYING HUMAN BEHAVIOR

M&A, COMPANY PURCHASES, SALES, KIDNAPPING, EXTORTION, CAREER DESTRUCTION, MARITAL & RELATIONSHIP ISSUES



This is not a course about how to get a free hotel night, a discount for a missed flight from a clerk, or about getting the best price at a store. This is a practical, skills-based approach to real-world negotiations where the stakes are high and the dynamics are complex; a lot is at stake.

There will be no complicated acronyms, no rote memorization. My goal is to take my experiences and translate them into multiple useful guidelines for you to incorporate into the many great things you already do. If you only learn one concept today, it could change your personal or professional life and its outcome.

This is not a PhD dissertation. I am not going to quote you a plethora of studies. I will only draw from my own experiences because they work for me. As you know, studies come and go and have their inherent biases, politics, and financial biases; I have a degree in life sciences, and I have witnessed more than my fair share of conflicting results in similar studies. If this system works, don't fix it.

# THIS IS NOT BARGAINING 101

# What are we doing at this stage?

We are going to start by dealing with the 'macro' aspects of negotiating.

I am going to show you various aspects of your 'rival', we will call the person, so that you can truly understand the person. Too many courses on negotiating seem to think we are all alike and all respond accordingly...really?

I am going to show you the various aspects of a human being. This human being you are negotiating with. Regrettably, no book or can summarize this all...it requires non-stop learning.

You may be surprised to learn that these principles apply to you as well.

When you truly understand the other person, your next job will be to empathize with, or RELATE TO his or her position.

When treatise you understand and relate, you will then be able to have the other person relate to your position, but only after you relate to theirs!

# THE POWER OF ONE WORD

- In a negotiation, one sentence, one word can make the difference between success and failure: Case in Point
- We were hiring someone in our offices for social media work. She waited 10 days after reading our contract and before she started work. She wanted us, a day before starting, to change various terms in our employment contract. I made those changes. She came back to us with more changes. I made those changes.
- I explained each and every one of the changes. She stated she wanted to go home and think about them even though they were 'her' changes.
- She hesitated, and I asked her if she was happy with the changes I made, as per her request and if she would then sign it so we could move on. This was the second set of changes as per her request. As she had requested many changes, I was patient with them but still granted them in her favor.
- Her reply to me was she wanted even more changes, and I asked her if I made those, would she sign it and continue work. Her answer was 'maybe'. I had waited two weeks for her to begin. We had interviewed and I explained the terms of engagement. At this point the discussion ended. My response was that I am nobody's 'maybe'. Bear in mind when we hired her we told everyone else the position was filled, and spent a considerable amount of time and resources in advertising and interviewing. I was no longer interested in hiring her. One word changed my whole perspective.....maybe was that word. I felt that we had come to an agreement 3 weeks ago and now we are at 'maybe'. Be careful of every word, every sentence. There is no room for 'winging it' with negotiations of any kind ☺

# What makes a Successful Negotiator (The Basics)

- A successful high-stakes, high-level negotiator:
  - Does not think they have to win at everything, at every turn.
  - Does not use “tricks” of negotiation readily available in books and online texts; these “tools” are highly transparent and not applicable to all negotiation situations.
  - Is an expert at reframing.
  - Is humble, sincere, trustworthy, and relatable.
  - Gains the trust of his/her rival.
  - Doesn’t just\* represent the client.
  - Is constantly reassessing his/her behaviors, abilities, and biases.
  - Communicates effectively and honestly with clients, co-negotiators, and opponents through all mediums.
  - Takes time to be thorough and prepared; he/she “does their homework.”
  - Can empathize and express empathy.
  - Has moral and ethical values.
  - Lives, breathes, and *is* the resolution...and always remembers the non-negotiable.



# THE IMPORTANCE OF EXPERIENCE

- This presentation is based on my decades of experience in resolving kidnapping, extortion, and blackmail cases, working on M&As, company buy-outs, company sales, as well as a plethora of partnership and domestic disputes. This is a reality-based, practical approach to getting the job done.
- The only way you can gain experience in high-level negotiations is by conducting them, and they don't come across your desk every day. With time and exposure to such complex cases, you will get to the point where you, too, will win negotiations. Eventually, you will make it look so easy that your client will wonder why they had to pay you.
- Keep in mind....the longer your negotiations last, the less likely you are to prevail. A true negotiation lasts one hour tops, with few exceptions (ie conditions for lawyers' contracts etc), M&As, and complex multi-party cases.

When I lived in Los Angeles, I had a house that had an electric gate. It stopped working so my assistant called a repairman. This lovely man in his fifties came and worked on the gate for five minutes. He presented me a bill for \$220 and told me my gate had been fixed. Being a lawyer, I told him that he charges more than most lawyers do. He said to me these words that I will never forget:

- "My friend, it took me 22 years to learn to fix your gate in five minutes."

I gave him \$300 and thanked him for the work he had conducted.

# The Basics: 3 types of people

- 1. LEADERS  
Natural leaders,  
entrepreneurs  
They tend to understand  
and may have empathy.
- 2. FOLLOWERS  
This is not a derogatory  
term. It is often the  
result of circumstance,  
but followers are  
necessary; by definition  
without them, there can  
be no leaders.
- 3. EMPLOYEES OF LARGE  
ORGANIZATIIONS,  
INSTITUTIONS,  
CHURCHES, AND  
GOVERNMENTS (NACs)



# What defines you are your priorities in life

- Who is this person, your rival?
- What are their leading interests?
- How do they define themselves?
- What terms and expressions do they use (ie trial lawyer and war games)?
- How do they see themselves?



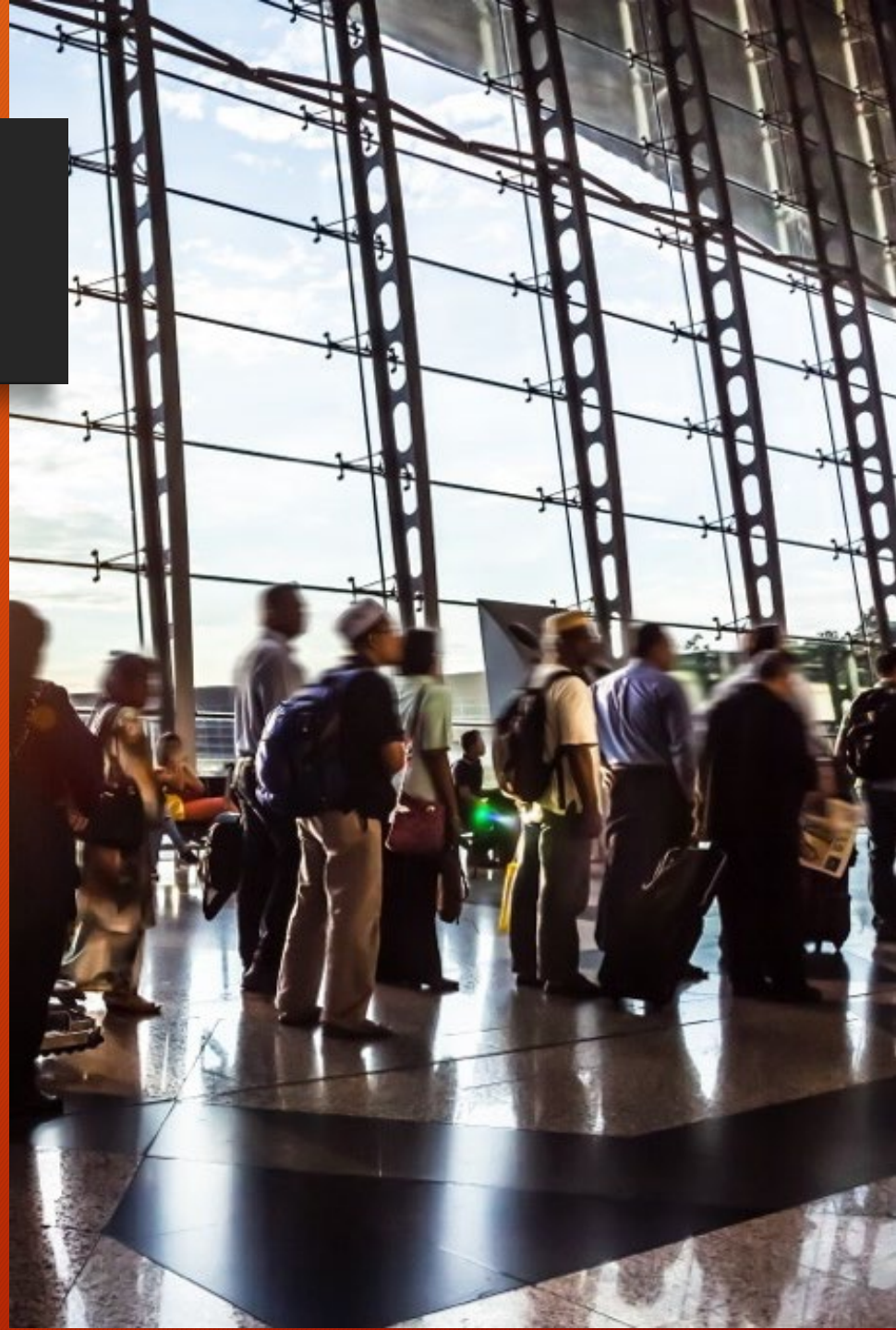
# On the role of technology

- Face-to-face communication is key to negotiating successfully.
- Negotiation using technological means in my opinion, is useless. It is not communication, it is an exchange of information.
- If you are truly in a high-stakes case, get on a plane and go wherever on the planet you need to be. 99% of my negotiations would not have prevailed if they were not in person; I have flown all over for my clients and it has made all the difference in the world. If your client can't afford to have you fly, then don't take the case; they'll be burning their money. I am a strong believer that there is either the right way of doing things, or everything else. When it counts, one must do everything the correct way.



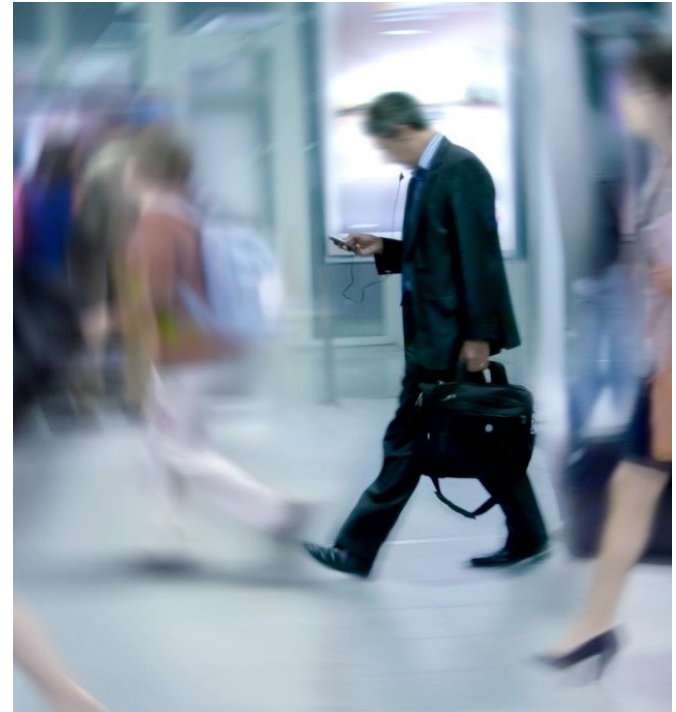
# On the role of technology

- To put this in other words, one of my clients once said, “I can’t afford to hire a cheap negotiator.” I think that says it all.
  - There will be rare occasions where your rival will at first not meet you in person. Such was the case when I dealt with the international kidnapper of a federal agent’s son. For many reasons, it was impossible to have a face-to-face meeting. In all cases where a lawyer was not involved on the other side, the rival met with me. If you have a lot of resistance, tell them that you will fly “across the pond” for a simple 20-minute meeting by the clock; you will have increased your chances of success by at least 500%.



# THE CHALLENGE: THE MAGIC

- At some point, negotiation becomes magic; it takes slight of hand and nuance. For this reason, breaking it down is complex.
- Negotiation is an artform that takes continuous practice. For this very reason, it is difficult to teach; it's like training someone how to draw...there is no formula to follow. Rather, it is a combination of multiple skills, a wide knowledge base and finesse that will deliver the results. Your experiences will shape your 'sculpture' as a negotiator; we are all different and that is a great thing! Sometimes it takes two people to brainstorm a result.



# THE CHALLENGE & THE TOOLBOX

- As you add to your toolbox of highly specialized skills, you will find that you will get to the point where the tools you have fit the problems you are facing. Sometimes one set of tools is necessary, sometimes another set of tools is necessary, and sometimes it is a combination. There is no real formula per se, but the nice thing about this art is when you've added enough tools and do your job, it's simply magic. Things happen and you can't explain them. They just work for you.
- You don't have to remember or understand 'every' concept in this or other negotiation courses, you just need to add 'something' to your toolbox..people will add what works for them and that is very powerful.





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# THE DIFFERENCE BETWEEN NEGOTIATION, MEDIATION, ARBITRATION, AND BARGAINING (1)

Mediation is the baby brother of negotiation. In many instances, a skilled mediator can create miracles. It can be a good alternative, especially when there is no relief for either party through litigation. Mediation, however, does not delve into the human condition quite as much as negotiation does. It is most useful and effective in the context of community and family conflict resolution. When mediation is mandated by the court, it becomes less productive as it lacks voluntariness.

Arbitration, on the other hand, is a full contact sport and a very close relative of litigation. In many cases, the parties in arbitration are often compelled to participate in this form of ADR because of a clause in a contract. It is reasonable to think of arbitration as an alternative form of litigation.

## Bargaining

Simply stated, you offer \$100,000, the other party proposes \$50,000. You settle at \$75,000. Any 14-year old child can bargain numbers. You can see this in action on the streets of third-world countries with child vendors.

## THE DIFFERENCE BETWEEN NEGOTIATION, MEDIATION, ARBITRATION, AND BARGAINING (2)

- Once you have finished this program today, you will understand just how much is involved in negotiations. In negotiation (even more so than mediation) you are deeply involved in an intense situation, so much so that you are living, breathing, and dreaming about it until resolution...
  - Negotiation is fluid; the temperature changes every few seconds. There is usually at least one non-negotiable; one goal or objective that must happen in the end.
    - For example, a child is kidnapped and you must negotiate with the kidnapper. The non-negotiable: getting that child to return home safely.
  - You may not always prevail; the stakes are high, and they may never have been higher.
  - Ideally, a negotiation ends when each party gets what they want, **even if they don't know immediately what it is they really want.**
  - Negotiation is win-win conflict resolution. Ideally, a negotiation ends when each party gets what they want, even if they don't know immediately that they want what you are offering.
  - Negotiation deals with the human condition; no other form of conflict resolution does that!



**A Great negotiator  
tells you to go to hell  
in such a way  
that you look forward to  
the trip**

2 concepts: How you are told  
and paradigm for hell





# WHO IS YOUR RIVAL?

- If you know these aspects of your rival, they will help you immeasurably:
  - What is their relationship with their family (both their immediate and their parents/siblings)?
  - How do they dress? Do they look like they just stepped out of a thrift store? Do they pay attention to their shoes? (especially males). Do they wear a unique belt or tie or are they generic and monochromatic?
  - What is the condition of the inside of their car and/or office?

• THESE THREE ALONE ARE VERY TELLING



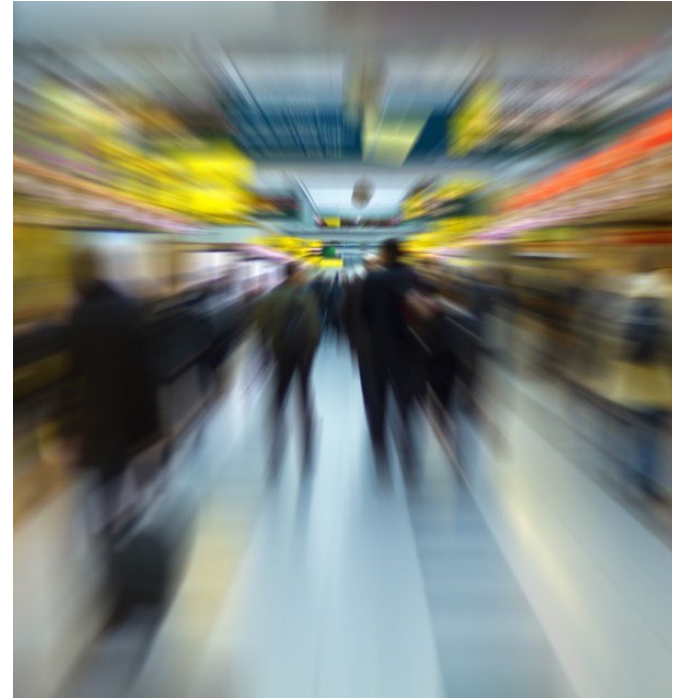
## RESEARCH YOUR RIVAL: [ONE OF THE BIGGEST MISTAKES BY NEGOTIATORS IS NOT DOING SO]

- Who is the person you are negotiating with?
  - Research him or her on the Internet. Don't take anything at face value. Ascertain their motivations for posts on social media, and the significance of it. You are trying to understand the person's profile.
  - For example - is the person an animal lover? Are they a vocal supporter of the military? Does she/he hunt or fish? Do they share a lot of family photos? Do they like to brag about their awards or their material possessions?
  - **The goal is to meet them at their level.** A gentle, reasonable person will react differently than an "LA lawyer-type" to a colder, matter-of-fact approach; the latter will not respect you if you take a gentle/passive tone while the former may be turned off by a lack of warmth. KEY: Know your rival!



## RESEARCH YOUR RIVAL: Before meeting the opposition

- 2. Who is the person you are negotiating with?
- Read the  $n^{\text{th}}$  page of Google that references your rival. Know everything there is to know as it can help you plan your approach and negotiating style. You never know what you can find on the tenth page of your search. Now search Yahoo...just in case. When you're done, start with the individual sites such as LinkedIn, TikTok and all the rest. Who do they follow?



# ...RESEARCH continued

- Conduct a search on Westlaw/Lexis and discover everything you can. Was this person involved in any bankruptcies or litigation? Go to the ROA and print out as much as you can that may be of value. Find out who they were in litigation with and why. Now research their opponent.
- Use investigative websites as tools to discover everything you can about this person and his/her family. Are they the only child? Has the person been embroiled in probate litigation with family members? Cross-check.
- If possible, ask someone or discover something about his/her relationship with their parents. Additionally, their relationship with their siblings is very important. This will reveal a lot about the person. This is more the case where the person is not in touch with any of their family members yet it's all their fault. Yes, they could be unstable, but what if they aren't?



# ...RESEARCH continued

- If possible, see the person's car. What condition is it in? The interior, the exterior, the tires, what do you see looking inside the car? What make/model/year/color (inside and out) is the car? How many cars does the person have? Why? I cannot overemphasize enough, however, that every person is an individual. Everything you analyze must be tailored to who the person is (but if that fails, generalizations often work).



# ...RESEARCH continued (cars)

- A person who purchases a late-model car (that they don't necessarily want but feel they need) is different from a person who buys an older used car.
- You may find a person who is financially stretched but feels that they have to get the "right" car to convey financial stability and status. When dealing with this kind of person, one must negotiate a settlement that leaves them in a position which makes them feel bolstered, and their reputation is not negatively affected. Conversely, a person who drives a very inexpensive car (under \$5,000) may feel that no matter what they do, they never seem to get rewarded; this type of a person would consider it a windfall if there was a financial benefit to the final outcome. A settlement with a financial gain is more likely to be considered a "win" by this kind of individual.



# ...RESEARCH continued (cars)

- Again, remember to consider the exceptions. Take, for example, my friend: he drives a 15- year -old North American car. He didn't dress in designer clothes and doesn't make the impression you would expect of a CEO. However, this man who unfortunately passed away, owned a company outright and had 1,600 employees on four continents. He was by no means "cheap." Rather, he was an innovator who valued recycling. His philosophy was, if the car works well, why replace it? Don't judge a book by its cover, as any lawyer who has conducted voir dire can attest to; broad generalizations are necessary at times, but don't lean on them too heavily.



# ...RESEARCH continued

- Where does the person live? Discover the financials of the real estate. It can lead to more information that may lead you to a more effective negotiation approach. Why does he/she live there? Whom does he/she live with? Does it all fit or is there something you don't know? How big is the house? Is it overkill? Does he/she rent? Don't let this throw you off if they also own elsewhere.
- Do you know the types of clubs/organizations he/she belongs to? Are they trying to impress or do they like competitive sports? Country club v tennis club?



# ...RESEARCH continued

- Does the person own pets? How many, what kind? Generally, cat owners are not the same as dog owners. Cat owners tend to be more introverted and (personally) sensitive. They are less outgoing than dog owners. If they are dog lovers, is the breed small, medium, or large? What is the animal trained to do, or is it untrained? Is the dog kept outside or inside? Where does the dog sleep? If it's a cat, the animal is like the person...introverted and not completely engaged...unlike a relationship with a dog. Of course, beware of the person who enjoys feeding live mice to their pet snake. Looking for signs of empathy. Ask for a dog picture. Does it wear a collar or a harness?



## ...RESEARCH continued

- On social media...are they on Facebook or Instagram? What are their hobbies, sports, interests? Are they on LinkedIn? What are the groups they like on Facebook? Who do they follow? Who follows them? Why? How do they dress in that pictures they are in? What are their friends like? What types of posts do they forward? What are their causes? Who are their friends?





# MANIPULATION

- BEFORE WE BEGIN NEGOTIATING.....
- Let's Protect Ourselves From Some Obvious But Popular Dysfunctional and Manipulative Controls Your Rival Will Use To Influence or Position You When You Are Attempting to Negotiate



# MANIPULATION: They will want you to like what they like

- This is one that is popular amongst High School and College students, but adults have their own version of it.
- People will treat you as more 'in' (not necessarily think of you that way though) if you agree with their point of view or partake in their behavior- getting drunk, using drugs, dressing a certain way, or, in a negotiation, agreeing with some simple statements, living in a certain neighborhood, but siding with them.
- This is very powerful manipulation as people do not want to be ostracized from their social groups, their community.
- Adults use it with religion, political views, the cars they drive (gas/electric, SUV/sports, domestic/imported), the neighborhood they live in, their hobbies (hunting, fishing), their sports (hockey, baseball, football, swimming, polo), the foods they eat (sushi, meat, fish, vegan,). There are endless ways in which you are manipulated, and you may not know it. This can be witnessed with juries, for example.
- LEARN TO SAY NO. LEARN TO SHOW THAT YOU DO NOT CARE WHAT THEY DO; YOUR LIFE IS ABOUT WHAT 'YOU' WANT, not what THEY think you should do.
- Very important with cultural differences, familial differences and religious indoctrination (belonging to a group).

# MANIPULATION: Don't Buy Into Their Conversation

- Have you ever noticed that some people set up their own world and then expect you to follow it and that would make you a good person?
- Beware of these false constructs. They are meant to change who you are before you are even provided the chance to express yourself.
- Think of a prison guard telling you that she/he has respect for prisoners who eat all their food and go straight to their cell.....think of a parent doing this with a child...now ascertain what that person is doing with you in an effort to control you and your behavior.
- This is especially a problem for persons who are pleasers, or submissive types, as they will have an issue challenging the manipulator. If that is your personality type be careful with which negotiations you take on.



# MANIPULATION: CONSIDER IT BOTH A COMPLIMENT AND A PAIN WHEN THEY ATTACK THE SPEAKER

- If you are making good points, and they respond by attacking you or the quality of your comments, you may be making more progress than you think.
- There are many people out there who will attack anyone and everyone before they ever take ownership for the fact that they had a responsibility with respect to the problem/challenge at hand.
- Narcissism may play a role in it. There are various levels, from minor to Narcissistic Personality Disorder (NPD).
- Many people with NPD do not even know it as these are the types of people who would never go to get tested for it (think about it for a moment).
- Discussions are far more complex when the other person is attacking the speaker, and you sometimes will find that arguing logically and intellectually with them is both useless and fruitless and may even lead to an increase in their combative behavior.



## MANIPULATION: The fallacy of “nothing personal, it’s ONLY business”

- Baloney....it’s not only business..you are destroying ‘X’

- Bear this in mind:

Of all the animals, man is the only one that is cruel; he is the only one that inflicts pain for the pleasure of doing it.

*Mark Twain*

- How do you catch a sniper?  
You use another sniper.  
*Unknown*



BEWARE: we are missing a key ingredient:  
humanity  
(& ITS QUALITIES SUCH AS EMPATHY)

- There's an old saying that if you're not at the table you are on the menu.
- Post-COVID I have witnessed an exponentially different approach from people than before that fateful event.
- Be careful to quickly identify who is very cold-blooded...in order to connect with them, do not mistakenly think you will change them over with 'love'; that is for television; it is not the language they understand.



# MANIPULATION: Be careful of those who put you into a cage

- She/He is too controlling: A great way to make you more compliant
- He/She is too dominant: A direct confrontation from someone who wants that position.
- She/He is too judgmental: A truly judgmental person will get upset by this comment but again, they are subtly trying to get you to ease up and incrementally buy into their position.
- They do not realize they do this; it is who they are to the core.



# MANIPULATION: Great Job, Great JOB

- This is the great American work comment. Rarely true, often complimenting people who simply do what they are paid to do...it can often be used to manipulate you. (Big w large organization types).
- If you are the person receiving this then the person telling you this is in control of you and either considers themselves your superior or wants you to do so, even in a subtle way. If you are in a negotiation, they may want you to agree to certain items you do not agree with because they have a hidden agenda: Stick to the menu.
- Do not buy into this; tell them that is what you are paid to do; you typed a letter, helped a patient, etc, it was not a great job it was only a job. It is used a lot by low-level employees who work in large groups to justify why it takes so many people to conduct a one or two-person task.



Learn how not to answer the question asked: They will use this against you!

1. You can use the asking of it to attack
2. You can answer part of it and ignore part of it
3. You can blame the other for asking it
4. You can respond with a Q of your own
5. You can Q the asking of the Q making it mean something
6. Rarely, you can answer the Q

Have you ever thought about this:  
The Truth is a Q of Perspective!



# MECHANISMS: Beware of their predispositive attitude

- Are they bullies?
- Are they judgmental? If so, about what?
- Are they intellectual?
- Are they biased? If so, to what? Intellectuals? Are they better than anyone with less education? Less 'pilates' ability? Less ability in a certain sport?
- Are they racist?
- Are they controlling?
- WHO ARE THEY???? You 'need' to know this
- The negotiation style of your rival will vary differently depending on where they fall with respect to the above-mentioned character traits?



# MECHANISMS: I sense that you're

- Tense and anxious...am I reading you right?
- Taking this personally, this is not about you
- Making more of a small matter than it warrants
- Making assumptions that have no basis in fact
- Judging me rather than listening to what I have to say
- Hearing me but not listening to me



# MECHANISMS: I didn't realize this was going to BE...

- Confrontational
- Emotional
- Stressful
- Personal
- Condescending
- There are many such defenses that can be used against you to derail the dynamics immediately.



**BEWARE:** The curse of the diamond ring...when nothing is enough, and **THEY** keep raising the bar

- Some people will take whatever you do for them and find a way to minimize it so that you cannot receive credit for it. Realize that for many such people nothing is enough so you can never satisfy them. These types of people are relatively easy to spot; the surprise for you is that they do not realize they are acting this way.
- These are the types of people who will provide you no credit for everything you did in the past and you are every day on a brand-new page and what can you do for them hear and now is their conversation.



**BEWARE:** We've Gotten to the point where everybody's got a right and nobody's got a responsibility.  
*Newton Minow*

- These are going to be some of the hardest people to work with. If you practice labor law you will receive many calls from people who lost their job and can point to a host of issues with the employer, when at the same time they are the perfect worker. You will usually find that these same people who can burden someone else with all of their duties in order to satisfy the person's 'rights', have no responsibility or accountability.
- These are the same people who expect their employers to change the way they run the company in order to satisfy the needs of these people, as if it were 'their' company, which oftentimes they need to be reminded of. You will never change these people, but you really need to craft a work-around as they are one of the more difficult challenges.



**BEWARE:** It is easy enough to be pleasant when life flows by like a song. But the one worthwhile is the one who will smile when everything goes dead wrong. *Ella wheeler wilcox (poet)*

- Be aware of who you consider your ally when you are at war.
- I have witnessed so many personal and business relationships entered into because one person dealt with another under what could called ideal circumstances...things went well. Later in the relationship, when things were not so good, one party was stating that the other was a different person when challenges arose and that they could no longer be together. Have you heard of this in interpersonal relationships?
- It is critical, not just important, to know how a person behaves in a stressful situation; not stressful for you, one that they would consider stressful.



BEWARE: The liar's punishment is, not in the least that he is not believed, but that he cannot believe anyone else.

- The liar's punishment is, not in the least that he is not believed, but that he cannot believe anyone else.  
*George Bernard Shaw*
- Consider your opponent's **paradigm**: what is 'their' world? Someone who is a wedding planner will have a different view of the world from that of a police officer or a divorce lawyer.
- It's your job to ask as many open-ended questions as possible to know your rival.



There won't be another time...this is happening now!

- To the degree you can remember a lot of what is discussed in these slides, you can bring them to your next negotiation and improve on the result. Miss anything, and you lose that aspect. There are many more but these should keep you occupied as they are the majors.
- To the degree you are unprepared, the second or third prize is yours for the taking.
- You can never be prepared enough for a negotiation, no matter who you are, as you need to be a negotiator, psychologist, lawyer and much much more.



## But most importantly... Who are 'you' being?

- Are you aware of who you are being to them?
- Do you think of the effect of who you are being?
- Do you realize the power of who you are being can change the atmosphere in the room? This is THE biggest challenge you have as a negotiator!



## WHY DO SOME PEOPLE THINK YOU'RE GREAT WHILE OTHERS SPEAK BAD OF YOU?

- People often forget to check their baggage at the door; they bring it into everything they do and therefore everything they are.
- A person can make another person happy just by being who they are (the Katrina principle).
- Some people bring out the worst in you simply by who they are (extension cord).



# Context and Culture

- An interesting point to make here is about the bell curve, which I look at as an extension of the Pareto Principle. It can be a helpful tool to illustrate different characteristics of different cultures. 10% of the people will be at either extreme, and 80% will be in the middle.



# Context and Culture CONTINUED

- It's all about context, culture, but most importantly, and I can't emphasize this enough, first look at the human being—the individual. Every person has their own personality traits. This has to be 80% of your homework because not only does every individual have a different background, different combination of experiences, but where they are emotionally, mentally, spiritually, and financially at that *moment in time* that you are negotiating with them WILL affect the outcome of your results.
- It is your job and duty to know as much as you can about that person and that moment in time before you open your mouth and say even the first word.



When approaching delicate, complicated negotiation situations, an experienced negotiator will ascertain what the bigger picture is about, and then break it down into smaller, more manageable pieces and the relative importance of each one (much like a scientist). There is no room for generality.

Think Vilfredo Pareto, the Italian economist who, in 1896, from the University of Lausanne (80/20 rule, “Pareto principle”)

**OWN THE PROBLEM**

## BATNA Doesn't Cut it

- Negotiation is multidimensional (horizontal plane) and multi-layered (vertical plane)
- A successful negotiator must be ready, willing and able to juggle five possible outcomes, derivatives of each, and, on a split seconds' notice, be able to craft a new alternative that neither of the parties considered in the past.
- BATNA-Best Alternative to a Negotiated Agreement (You need several, at different layers, and fluid).





# The Negotiation Begins

For those of you who are gamblers, think of it like a craps table: I always tell novices that what's about to happen in the next 15 minutes has to do with the energy of the group at the table, the shooter, and the dice; all three characteristics at that microsecond in time. That same craps table, 15 minutes later, or with a different shooter, can become something else entirely. For those of you who do not gamble, take the opportunity sometime at your next convention in Vegas and watch a craps table.

The most important thing I tell my scientific friends is that the laws of numbers do not apply. You can watch someone roll a 12, call it again, roll it again, and roll it a third time in a row because they want it. There is only *one* way to roll a 12, and that is with two 6s. It pays 30:1. When there is a new shooter, it is called "coming out." Ideally, the shooter will roll a 7 or 11 (yo). Yo pays 16:1. Why do you see so many yos when a new shooter comes out? It's mathematically unexplainable. The whole table is wanting a yo and it shows up. It just happens. Or does it?

# Emotions In Negotiation

- My point is not about gambling, my point is about how many factors come in to play for that “one moment in time.” This is why I urge you to be as unemotional, yet pleasant and friendly as possible regardless of the roller coaster of negotiating you will undertake because the moment your emotions, enter into the situation, pull out a piece of paper and write to yourself: “this is the beginning of the end and I have lost. “
- You must neutralize all negative emotions without coming across as somebody cold as ice, cold blooded or unemotional. You must come across as your rival’s teammate, even if you hate that person. This is the only way you will prevail in a high-level negotiation.



# Emotions In Negotiation

- Remember that your client isn't always right.

Your client may have misrepresented certain elements, and at the same time may have omitted material facts. You need to enter the situation with the highest level of neutrality even a judge can muster. Your client also sees the world through a lens that is representative of how they were raised, their culture, their parents, their religion, their belief systems, their life experiences, and the influence of the significant others in their lives. What you see as true they may see as a lie.



# Emotions In Negotiation

- You must be only one thing: with every breath you take and every heartbeat, you must be the creation of a solution that resolves a situation so that everybody feels vindicated and happy with the outcome.
- In half of my negotiations, both sides have been able to go to dinner after to celebrate the victory, even divorcing couples. In most everything, there is always a way to win. The challenge is ascertaining what combination of give and take on BOTH sides is required. You are going to be the only person standing in the way of success or failure of the deal.
- Because of the emotional impact of high-stakes negotiations, the parties can never do this themselves.
- 



# Emotions In Negotiation

- The burden on your shoulders is immense, and often you will be celebrating the victory alone. But I can't describe to you what a wonderful feeling it is and worth every drop of the Chateau Lafite Rothschild1967 you'll be celebrating with.



# THE POWER OF ACKNOWLEDGEMENT



Re changing sleep habits v what she needs each night. How do you approach a challenge?  
Time to go to bed.



This is a metaphor for you to realize that when you are negotiating you do not need to change the person forever, you just need to get through today and tomorrow.

- When you have to accept certain behaviors (ie insomnia) that do not work in a personal or business relationship it may be over. You can stop trying to change the person's behavior, but just get through today.



# How you present the dish affects how it tastes!

- Courses in acting would make a magnificent difference and play a powerful role in your work.
- Is there a smile on your face when you deliver the message?
- Watch your voice tone.
- Think of different friends telling you to go screw yourself in different ways and how you would react...from laughter to pain. Control the delivery of your message.
- If you cannot keep your judgmental side at bay and control your emotions, don't negotiate this particular event, as the results are usually, if not always, irreversible.





# COGNITIVE DISSONANCE

Generally speaking, people will decide on something and then justify why they did it. This is why murderers justify their behavior.

Beliefs, thoughts, or values are challenged, and the person needs to relieve the stress.

Our internal world must match our external world.

Their behavior and thought patterns must match. They have to change one of them if there is inconsistency. They usually keep the behavior, especially the case if it became habit.

Left with the thought, they change it (i.e. stealing from employer).

They may add new layers of thoughts...("I only take office supplies.")

Most dangerous is where they ignore the cognitive structure....("I am calm.") They may even try to persuade you of the ridiculous belief (yelling at you while insisting "I am calm!")

# EVERYTHING COUNTS



# WHO IS THIS HUMAN? LAYERS

- Your world is not their world.
- We believe what we want to believe and what we choose to believe.
- How did their parents treat them?
- How were they treated in school?
- How do they dress? (watch, outfit, shoes)
- What is their posture?
- How do they walk?
- How do they speak?  
(slow/methodical/impulsive)
- What is their eye contact like?
- Are they married, do they have kids? (always a plus)?
- Do they have pets? How do they treat them?



# ...LAYERS continued

- What are their cultural influences?
- What is their command of the English language? (assuming you use English)
- How warm are they?
- How submissive/intrusive are they?
- Where do they keep their hands?
- How fast do they talk/think? (i.e. process raw data)
- How educated are they?
- How street smart are they?
- How much of an ego do they have?



# KNOW THE HUMAN (The Bad news)

Most people are narcissistic and selfish

Most people lack empathy

Of those who are empathetic, most lack true empathy; watch parents who punish kids

Many people are entertained by others' failure

Those that are nice with no hidden agendas are very rare

Some who are nice expect something in return...

People lie...even to themselves and unintentionally

People see things through their eyes only

People assume everyone thinks like they do

Certain cultures allow certain behaviors you may not be accustomed to

Emotions rule-the tail that wags the dog, and these are based on your rival's life before you two met

# THE VOICE IS ONE OF THE WINDOWS TO THE SOUL

- This is where you pay attention to body language, changes in conversational speed, voice pitch (v critical for subconscious reactions). The voice, like the eyes, can be a window to the soul.
- Watch for inflection (change in tone or other aspects of speech). Pay attention to sentences that start in one volume and go higher, but more to those that start higher and go lower as they can be very persuasive. Listen to the importance they offer every word. Are they pausing? When? Why?



# WATCH FOR EASY GIVEAWAYS

- If you notice the person normally moves around when the conversation is in harmony, and your rival all of a sudden is still, there is a problem. It is indicative of the fight and flight response when they are ready to do combat. You may have reached the point of no return, but if not, then change the tone of the conversation asap, apologize for a miscommunication, etc. tell a joke, anything to bring you back.



# ANALYZE YOURSELF- WHAT ARE YOUR IMPLICIT BIASES?

<https://implicit.harvard.edu/implicit/aboutus.html>

- Founded in 1998 by three scientists:  
Drs Tony Greenwald, Mahzarin Banaji, and Brian Nosek



# Spotting a liar

Be careful here as we all have our tendencies

- When you first meet the person and conduct small talk, get to know how he or she normally talks, moves, places their hands, moves the eyes, moves the head
  1. People tend to contract when they lie, subconsciously seeking to become unnoticeable.
  2. Ask a baseline question early on that has a no answer. Do you own a dog? A cat? If they say yes to both add another pet...do they look away when they say no? Do they take their time? How do they say no? Memorize this as you will need it later. We all have subconscious 'tells', ask any poker player.
  3. Watch for skin color change as this cannot be controlled.
  4. Observe behavior indicative of a higher heartrate or respiration rate. If respiration becomes heavy, the shoulders may unconsciously rise. Breathing will affect the voice, and it may sounds shallower.



# LIARS continued...

- Watch the nostrils, you may notice changes. Do not be obvious and maintain eye contact, if possible at all times, as you do not want to break the human connection. The more human you are the harder to hurt you.
- Listen to every word they say. They may enter into different speech patterns, words used, temporal positioning of the words (i.e. may be in a different time and place), speed of words, and tone.
- Ask a question completely out of left field...and make it an important one. It has to be something the person could not have rehearsed the answer to...and observe what occurs. This will provide a second baseline to answer one or a critical response.



# LIARS continued...

- Watch for a person who takes on a different persona when they respond.
- Watch for touching of the face and other unexpected but subtle movements. Is their nose running all of a sudden?
- Pay close attention to the milliseconds' difference in responses.
- Watch for very rapid responses. They may be accompanied by a lack of detail. This is especially critical if earlier on everything was accompanied by a story.
- Trying continuing the conversation. The more you talk about it the better the chances the person messes up on some facts and they become inconsistent. Never let them know that 'you' know, ever! Ask things out of order. If they lied they memorized in a certain direction and you can really take them to the mat this way.

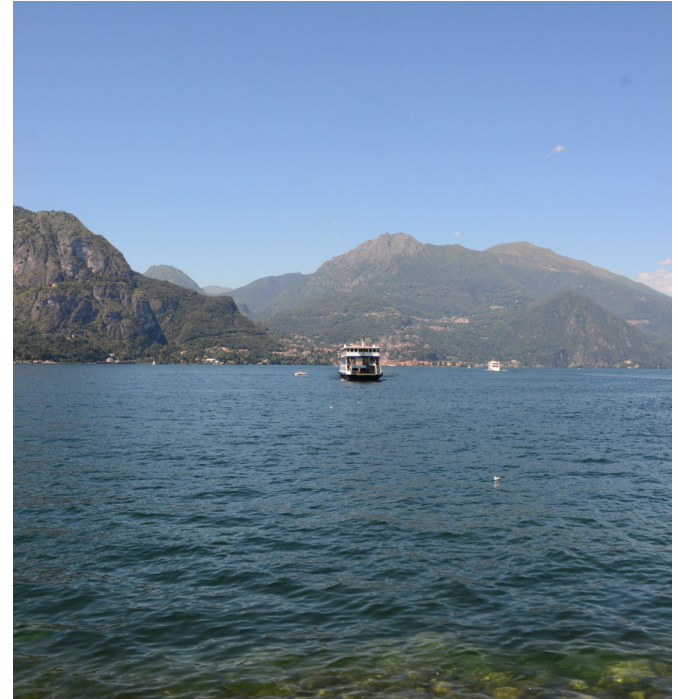


## ...AND EVEN MORE LIARS

13. Repetition. If they are repeating something they may be buying time to make up a story or if they are repeating something too much, they are more likely trying to convince 'themselves' of something than trying to convince 'you', they are usually lying. On the other hand, if you were charged with RICO today, you would repeat your innocence, would you not/ but how and how many repetitions?
14. Watch for hand and foot movements. They should not move. However, if someone covers a vital body part that is a good sign they are not honest with you.
15. If they are telling you way too much about something it could be a lie or on the other hand they may be trying very hard to convince you of something....Ignore the lie aspect ever so momentarily and ask yourself why it's important that you believe what they are trying to convince you of...something is going on and you really need to get to the bottom of it.

# AND YET EVEN MORE LIARS...

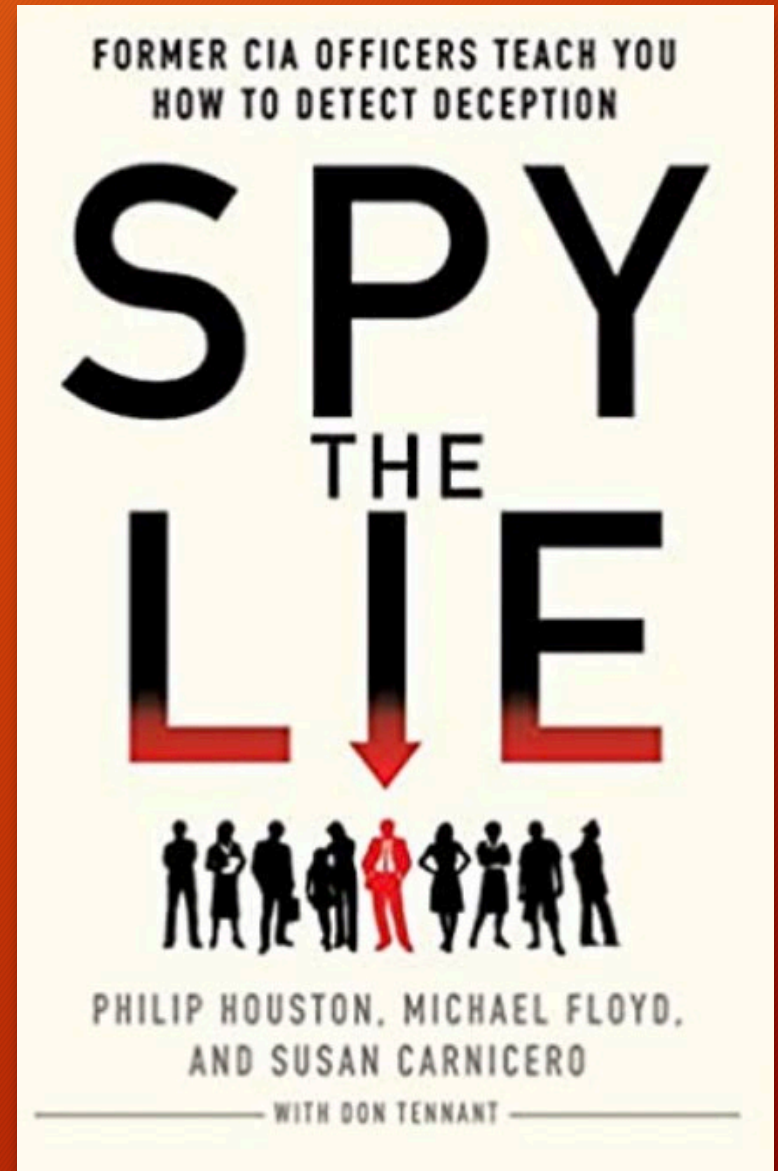
- A bigger problem you may face is the one concerning eye contact. A standard quality people look for in liars is for them to look away. They know this and so a few liars go out of their way not to break eye contact. Locking in a gaze will cause eye irritation and they will blink a lot. This is the bigger tell. People in their normal lives look everywhere and strange behavior such as this will not manifest.



# SPY THE LIE

Authors Philip Houston, Michael  
Floyd, and Susan Carnicero

How to spot deception.





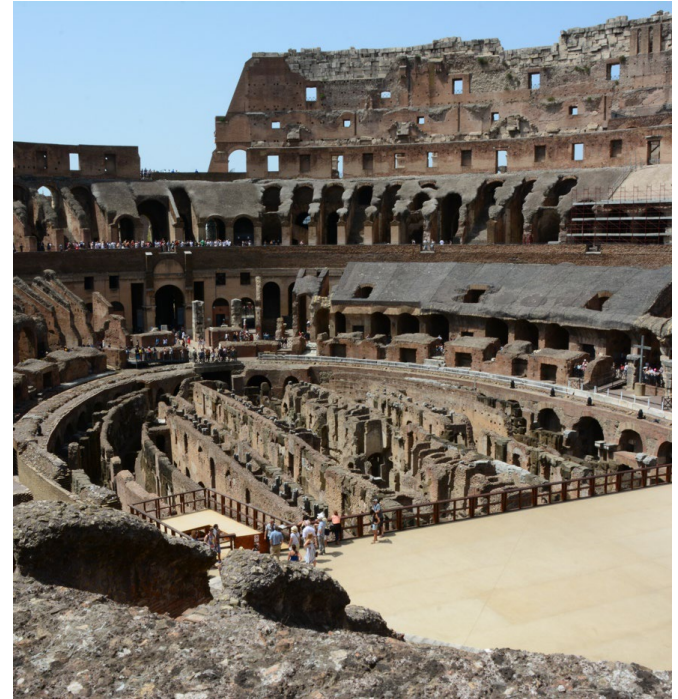
# THE RIVER THAT RUNS THROUGH IT

- What forces control the discussion?
- Who does the person answer to?
- What is expected of that person?
- What does that person think is expected of her/him?
- How does that person's disposition alter the reality of what is expected of them?



# THE REALITY OF THE WORLD YOU LIVE IN

- Betrayal is an option in today's society...many people don't think twice...and cognitive dissonance then comforts them
- Morals are out the window or optional
- Marriages are even broken up via text
- Your rival does not care how much you hurt or suffer, the consequences of the actions, or the damage done



# SLOWLY.....(Don't GET CAUGHT IN THIS)

- Don't be the boiling frog
- Dynamics will occur ever so marginally...but think of gas prices, think of Internet customer service, think of COVID



# LISTEN...SHHHHH

Your rival will provide you with literally thousands of cues at different levels that inform you of who they are.

Listen to every word they use. Ascertain why they made those choices.

What is their body language when they are stating something important.

Watch the eyes for cues.

Watch the neck too...when do they turn away? How do they turn away...what angle?

# POSITIONING: IT'S WAR IN YOUR HEAD

- The minute you make a submissive move it will never be the same (the lover who asks how he was).
- Standing your ground but offering concessions is not the same; there is mercy with power.
- Real power v ego (the most powerful people are gentle but firm with boundaries); egos are fragile and always need to prove something.
- Positioning; the battle for your mind by Ries and Trout (Dec. 13, 2000).
- Thick Face Black Heart (Chin-ning chu July 1, 1992)
- Harvard's program on negotiation



# WHEN IT ISN'T ABOUT THE ISSUE ANY MORE

- Pay attention to what is at stake...run some tests...it may not be what you think it is. Think of face-saving. Think of corporate obligations. Think of how they look in front of their families, co-workers, etc. Are they exacting revenge?
- Watch for the defense...when is it stronger.? What is your rival defending?



# There Are 2 MAJOR GROUPS OF PEOPLE



There are people who can understand from a number of perspectives, who are open to the concept of listening, and despite some being stubborn, are open to new ideas and to being persuaded otherwise. These are the majority of people you will meet.; call them Group 1.

There is a second group of people who are much harder to reason and negotiate with. Until you understand this, you will think all people are alike and this is a fatal mistake. Most negotiation books assume we are all alike and their scenarios work on everyone...wrong. This is a distinction very few negotiators get, yet makes all the difference in the world, justifying the fact that every negotiation has to be custom-made.

The second group, for lack of a better nomenclature, we will call the NACs, or non-accountables.

NACs have a number of characteristics that will easily betray them:

# NAC's CHARACTERISTICS

- The biggest factor is that you can show them that something is blatantly not so, but because their rule book or whatever they use as their justificatory mechanism, they will simply ignore what you present. They will not even have the courtesy of acknowledging your comment with an answer.
- They will jump on one phrase and never let it go. For example, if you misspoke (not necessarily lied) they will never let it go and be suspicious about everything you say.
- When they are at work, something that is not in their department is not their concern. They do not care about the integrity of what they do in the sense that it is only their little corner they are concerned with. EXAMPLE: Hospital signs/You tell them their phone system is defective



## NACs' CHARACTERISTICS CONTINUED

- They rarely apologize or take accountability for their own mistakes.
- You can ask them to change a certain behavior until you are blue in the face and they will always do things the way they did them.
- They demonstrate little empathy except when it comes to themselves. They really do not care, but hide it well. They are not much concerned with human suffering, even if they could minimize it. They really could care less about any inconvenience they put you to, even if they have the power to minimize it.
- They pretend to be team players but they are really only on 'team them'.
- They will hold you to the rules to the nth degree but somehow always feel they should get a free pass



## GROUP 2 CHARACTERISTICS CONTINUED

- These type of people normally work in organizations that lower their accountability, they work in ones that have a group setting, and often where they have a sense of power, as they lack that intrinsically. You often find them working for large corporations or government agencies. Examples include nurses, university professors and decision-makers, administrative officials for the government, and corporate managers.
- These are the hardest people to negotiate with. They often will not negotiate for the betterment of a situation, only if there is something in it for them; if they have no stake, they simply do not care. They tend to be very cold and calculating, caring only for their individual needs. They tend to have narcissistic qualities.
- If you have the bad luck of having to negotiate with one of these, you need to ascertain what is in it for them.



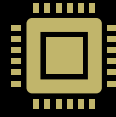
## DEALING WITH GROUP 2s

1. Be careful what you say as they will memorize every word and will be quick to label and may judge you.
2. Be careful never to fall into a category of their 'rule book' or else the negotiation is over if it's something they do not agree with.
3. Be cognizant of when they turn things on you and quickly bring it to their attention.
4. Do not try to get to know them personally as they will use anything they learn about you to hold against you...they use these as anchors...they are constantly looking for peoples' weaknesses as it makes them feel better about themselves and more in control. You can be friendly, but befriending them in a negotiation will be at your own peril.
5. Do not make them feel as if they are losing control or they will increase the volume on their tactics.
6. Make certain you do not say anything that affects their egos or they will lash out. They, as a group, love to get revenge on anyone who they believe hurt them.
7. Do not get frustrated if reasoning with them is not possible. More importantly, walk on eggshells and watch every word. You can only attempt to reason with them if you use their paradigm.
8. Do not show signs of frustration as they will judge you for it.
9. Do not ever go over their head on something or you will pay. This is why it is important to always negotiate with the lead decision-maker, that person will hopefully be more open to conversation.
10. Last but not least, do not expect them to do the right thing; plan accordingly. To them, right is not an absolute, it's whether it's right for them or not.

AGAIN, THESE ARE BROAD GENERALIZATIONS AND PEOPLE MAY HAVE ONE OR MORE TRAITS, ALL OF THEM, OR EVEN MORE: RECOGNITION IS THE KEY HERE.



# 'THEIR' WORLD v. YOUR WORLD AND THE REAL WORLD



What is your rival's reality?



We all think there is only one version of the world



Nothing is final, even if they tell you; even taxes are not final, only death is



Most things are negotiable...most people are not

# PARTING THOUGHTS

Do

Do everything with integrity...not just because you have to.

Drink

Drink plenty of coffee...the analysis that takes place by your brain at the multiple levels will wear you out. If the person's respiration rate rises by one breath you will need to know about it. Be careful about the crash later due to sugar of the caffeine,,time it or have more coffee handy!

Take

Never take advantage of someone. If you did them a huge favor because you didn't take advantage of something they didn't see...tell them...they can't appreciate what they don't know, and it increases your credibility.

Remember

Remember all of us were once children...then something happened...treat your rival accordingly. The inner child still lives on; BE KIND.

Treat

Treat the person as if you can predict the future and only you know this person will turn out to be one of your best friends.

# Quotes and Inspiration

- “It always seems impossible until it’s done.” - Nelson Mandela
- “Whatever you do, strive to do it so well that no man living and no man dead and no man yet to be born could do it any better.” - Benjamin Elijah Mays
- “If you expect the world to be fair with you because you are fair, you’re fooling yourself. That’s like expecting the lion not to eat you because you didn’t eat him.” - John Spence
- “Ships don’t sink because of the water around them; ships sink because of the water that gets in them. Don’t let what’s happening around you get inside you and weigh you down.”
- “Thinking is difficult, that’s why most people judge.” - Carl Jung.
- “Never argue with a fool, onlookers may not be able to tell the difference.” – Mark Twain



# Quotes and Inspiration

- “Listen, smile, agree, and then do whatever the f--- you were gonna do anyway.” Robert Downey Jr.
- “Nobody cares about your story until you win. So win.”
- “A wise man gets more use from his enemies than a fool from his friends.” - Baltasar Gracian
- “The people who are crazy enough to think they can change the world are the ones who do.” - Steve Jobs
- “You were assigned this mountain to show others it can be moved.”
- “Everyone is a genius. But if you judge a fish by its ability to climb a tree, it will live its whole life believing that it is stupid.” - Albert Einstein





SAN DIEGO  
**BIZ LAW**



I hope you enjoyed this presentation and something shared will change your life, or your client's life for the better.

If you have any challenging negotiations and would like to brainstorm them, it is usually best to contact me in the afternoons. My phone number is (619) 793-4827; my email is [counsel@SanDiegoBizLaw.com](mailto:counsel@SanDiegoBizLaw.com).

Go out and make the world a better place, even for one person. They may be one of many to you, but to them, you could be their whole world.

Best of Luck!

Stefano Riznyk

