



# Thrust and Parry

THE ART OF TOUGH NEGOTIATING

DOES THE THOUGHT OF AN UPCOMING NEGOTIATION GIVE YOU THE JITTERS? RELAX! THOSE JITTERS CAN BE TAMED WITH ADVANCE PREPARATION AND KNOWING THE “TRICKS” OF THE TRADE.

**A**FTER YEARS OF CONDUCTING WORKSHOPS, clinics, and courses on negotiation, we have discovered that most people:

- ▶ consider themselves ineffective negotiators
- ▶ approach negotiation with considerable trepidation
- ▶ fear that their opponents possess a set of negotiating “tricks,” giving the opponents the upper hand.

We believe that negotiation jitters can be tamed; that, indeed, everyone can learn how to negotiate effectively—with or without “tricky” opponents.

BY ROBERT ADLER, BENSON ROSEN, AND ELLIOT SILVERSTEIN

## Negotiating "tricks"

People sometimes ascribe their poor negotiating performance to their opponents' "tricks" when the real reasons they bargained ineffectively are lack of confidence, poor preparation, or insufficient leverage.

The most important negotiation advice is to prepare carefully and have clear goals. If you have properly obtained and analyzed relevant information and have decided on the terms you will (and will not) accept, you will rarely fall prey to your opponent's negotiating tricks.

This is not to say there aren't negotiating techniques; but relying on these techniques to affect outcome is risky business. Techniques sometimes work and sometimes fail. And what works for one person in one situation may not work for another person in the same or different situation. The real trick to negotiating is to select the best technique for you and the situation and to use it effectively.

What follows are the various techniques that we have encountered over the years, the contexts in which they may arise, and counterplays for defending against them. A word of caution: Some of these thrust and parry techniques can be used in unethical ways, so it pays to be vigilant in order to defend yourself against unscrupulous opponents.

We have grouped the techniques according to whether they present low, moderate, or high risks to the user. The best advice to using or defending against them is to exercise good judgment in assessing a situation and implementing the chosen strategy.

## Lower-risk negotiation techniques

### 1. Flattery:

Complimenting an opponent can lighten the mood. Compliments send a message that you are a nice person who hopes to make the negotiation as painless as possible. Subtle flattery usually works best.

**Cautions:** Don't overdo it or sound insincere. Unless you know an opponent quite well, praising an opponent's physical attractiveness can create suspicions about your motives. And realize that standards for flattery

vary according to region, age, sex, and other factors.

**Specific Counterplays:** Be gracious and perhaps respond with equal flattery; but, above all, do not become distracted from your negotiating plan. Acting dismissively toward flattery may unnecessarily hurt the feelings of the flatterer. Why chill an attempt to establish rapport?

### 2. Address the easy points first:

Developing goodwill and building momentum play a large role in reaching agreements. Accordingly, negotiators often set an agenda that addresses the easily-resolved issues first. Once early agreements are reached and trust is established, the parties then turn to the more difficult issues. Agreement is more likely to occur

## ■ The most important negotiation advice is to prepare carefully and have clear goals ■

when the parties trust one another. Moreover, as the parties reach agreement on issues, they establish momentum which can carry them through tougher issues.

**Cautions:** Very few. This is often a very effective approach and generally serves both sides' interests.

**Specific Counterplays:** Sometimes a negotiator will want to hold on to several "easy" issues to help close a deal. If the easy issues are bargained away at the outset, there will be few sweeteners to help reach an agreement. In such an instance, the negotiator should indicate that he or she is unprepared to discuss the issue early in the negotiation.

### 3. Silence:

Saying nothing when an opponent expects you to speak can be exceptionally effective. Many people find themselves so uncomfortable with silence that they begin talking, often without thinking. This can lead to inadvertent admissions or unplanned concessions. It can also lead to an opponent's offering increasingly favorable terms without the silent negotia-

tor proposing counteroffers. Silence works especially well with opponents who employ bullying tactics or who demonstrate great impatience.

**Cautions:** Silence can trigger anger, frustration, or hostility in an opponent and thereby impede progress in a negotiation.

**Specific Counterplays:** Responding with silence can sometimes defeat this ploy. A better approach probably is to call the opponent on the tactic. In a pleasant manner, ask "Why are you being silent?" or "Does your silence suggest something that needs to be addressed?" These responses put the ball back in the opponent's court.

### 4. Inflated opening position:

Virtually everyone who has ever negotiated has employed this technique. Negotiators propose an inflated opening offer to their opponents with two thoughts in mind: it may elicit a counteroffer that tips the opponent's hand or it may shift the point of compromise, if compromise is the method that settles the negotiation, in favor of the negotiator who opened with an extreme proposal.

**Cautions:** When an opening bid is greatly exaggerated, it may either kill an opponent's desire to continue or trigger an equally inflated response from the other side—widening the gap between the negotiators and creating substantial mistrust.

**Specific Counterplays:** Call your opponent on the technique. Ask him or her to provide the underlying rationale or point of reference for the opening position. If necessary, respond by saying, "Your opening position is totally out of my range. Let's get a bit more serious, please."

### 5. "Oh, poor me":

Sometimes negotiators will seek to convince opponents that they are in a very weak position by citing personal or professional hardships. This approach may lead opponents to let down their guards or make concessions out of sympathy. Depending on the circumstances, "oh, poor me" can be a very effective technique—disarming opponents may produce concessions that muscling them never could achieve.

**Cautions:** Instead of eliciting sympathy, this approach may bring out the other side's killer instinct. If so,



the negotiator may be forced to spend extra time convincing the opponent that, despite the negotiator's misery, an oppressive agreement is unacceptable.

*Specific Counterplays:* One response is to counter with miseries of your own ("You think you've got problems? Let me tell you mine. . ."). Another is to listen and respond sympathetically, but to hold firmly to your interests and needs.

## Moderate-risk negotiation techniques

### 6. Stalling and Quibbling:

This is a variation on the "silence" technique. The negotiator quibbles endlessly about minor details—such as the shape of the negotiating table or other minutia—until the negotiator's frustrated opponent begins making admissions or concessions on major points simply to get matters addressed or resolved. This is a higher risk strategy than silence because it is quite likely to anger or alienate opponents.

*Cautions:* The same as with silence.

*Specific Counterplays:* At the outset, be sure your opponent really is quibbling. What seems to be a minor detail to you may be a matter of great significance to your opponent. If, after testing the waters, you are quite certain that your opponent is quibbling, you can quibble back, but that usually reinforces the opponent's determination to continue the ploy. Depending on the circumstance, you might simply indicate that you recognize the ploy and will not cooperate. For example, you might say "Let's focus on the key issues now. We can worry about the details later." Another counterplay is to leave the negotiation until it seems clear that this approach will not continue. As a last resort, a high-risk strategy is to feign a loss of temper and insist that the parties resume substantive bargaining.

### 7. "Good cop, bad cop":

Also known as the "Mutt and Jeff" routine, this is a technique associated with police departments. Using this approach, a team of at least two negotiators subjects the target to "tough" and then to "kind" treatment. Or, one negotiator treats the person harshly and one treats him or her gently. The trick is for the "bad cop" to get the person suffi-

ciently intimidated, disoriented, or distracted to trust the "good cop." The victim then may make admissions or provide concessions to the conciliatory good cop. This works well when someone is held in custody; it may not work as well when your opponent can walk away from the negotiation.

*Cautions:* "Good cop, bad cop" is such a well-known technique that few people with any sophistication are fooled. Moreover, when someone can easily break off negotiations, the psychological impact may be minor at best. Finally, it is possible that "Mutt" and "Jeff" truly have different personalities and approaches, and are not using a ploy.

*Specific Counterplays:* You can sometimes stop this ploy by gently

■ *Negotiators may find it convenient not to have the authority to reach agreement* ■

saying "Look. Will you guys stop 'Mutt and Jeffing' me." You should also consider a "divide and conquer" approach by negotiating with the more accommodating party.

### 8. "Limited" authority:

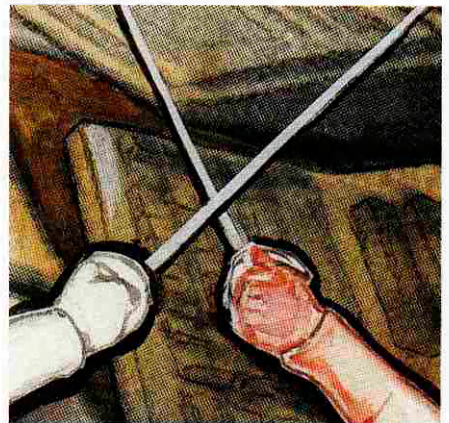
Negotiators occasionally find it convenient not to have the authority to reach agreement. In some cases, they may have the authority, but pretend that they do not. Limited authority permits a negotiator to take a tough position without appearing to do so—"I'd love to accept your offer, but my boss says it's too low." The opponent's anger is deflected toward the "higher authority" while the "limited authority" negotiator appears to be reasonable.

A good example is the "highballing" technique sometimes used by car salesmen (discussed later in this article). An interesting variation of "limited authority" occurs when a negotiator represents a larger group and cannot act without the group's permission. Union negotiators, representatives of citizens' groups, and even some elected officials may express re-

luctance to reach agreement without the support of their constituencies.

*Cautions:* One must be believed for this tactic to work. One also runs the risk of having an opponent insist on negotiating with the person who has the appropriate authority.

*Specific Counterplays:* If you suspect that an opponent is using a supervisor ploy to hold out for harsher terms, you can always respond, "Let's meet with your supervisor since you seem to lack adequate authority." (This is known as the "don't talk to the monkey if the organ grinder chooses the tune" counterploy.) Another response is to indicate that until both sides have equal authority to



reach an agreement, further negotiation will be impossible. Yet another response is to continue negotiating as though the other person had adequate authority with the thought that if you reach a good agreement, it will be acceptable to all concerned. The key to most authority issues is to avoid becoming psychologically committed while the other side remains free to reject the deal.

### 9. "Other offers pending":

One of the simplest and most widely-used ploys in negotiations occurs when a negotiator tells an opponent that there are other offers for the item in which the opponent is interested. If the opponent believes this, the opponent will sometimes make a higher bid than he or she intended. In effect, opponents end up bidding against themselves. This seems to occur most often with real estate transactions where potential buyers are told about the eager interest of other buyers.

*Cautions:* This tactic risks scaring off potential purchasers who perceive



that it is too late to get a reasonable deal. Or, the negotiator may not be believed, which substantially damages the negotiator's credibility.

*Specific Counterplays:* If possible, get the opponent to disclose what the other offer is and who made it. If not possible, focus on the deal that you can get, not the deal an anonymous

bidder has offered. Acting unimpressed by the prospect of another offer helps. Statements like "I can't get into a bidding war against someone I don't know" or "If someone outbids me, so be it" help in defusing this ploy. Above all, you must have a very clear idea of your other alternatives and of your walkaway point.

## PLANNING FOR A NEGOTIATION

As readers will note, we stress the importance of planning and preparation as the best strategy for dealing with "tough" negotiating techniques. A well-prepared negotiator, because he or she will have clearly defined goals, substantial information, and a well-thought-out (but flexible) strategy, will rarely be overcome by a crafty, but unprepared, opponent. Excellent preparation presents a formidable armament against negotiating ploys. Here is a checklist of what we believe every careful negotiator will have thought out before entering a tough bargaining situation.

### 1. Goals in Priority Order

- ▶ mine
- ▶ theirs (my best guess)

### 2. Information

- A. Information I need from them
  - ▶ before the negotiation
  - ▶ during the negotiation
  - ▶ after the negotiation
- B. Information I need, but can find from sources other than them
  - ▶ before the negotiation
  - ▶ during the negotiation
  - ▶ after the negotiation
- C. Information they need from me (my best guess)
- D. Information I am willing to disclose—and the circumstances under which I'll disclose it (critical moment, in exchange for other information, and so forth)
- E. Information I am not willing to disclose

### 3. Negotiation Strategy

- A. Choice of approaches:
  - ▶ hardball
  - ▶ conciliatory
  - ▶ friendly
  - ▶ collaborative
- B. First offer made (by me or them)
- C. First realistic offer (by me or them)
- D. Concession points (i.e. reasons I give for making concessions)

### 4. Ongoing Assessment of Negotiation

- ▶ points that suggest negotiation is going well
- ▶ points that suggest negotiation is not going well
- ▶ strategy in case negotiation is going well or going badly
- ▶ moment at which I temporarily break off negotiation
- ▶ moment at which I permanently break off negotiation

### 5. Documents Needed

- ▶ documents already prepared
- ▶ documents that need to be prepared

## 10. Psychological ploys:

There are numerous psychological ploys that negotiators use to try to intimidate their opponents and to gain the upper hand. If opponents can be made to feel distracted or insecure, they may make concessions to which they otherwise would not agree. Here are some of the psychological ploys we have run across:

- ▶ insist that meetings be held on one's home turf
- ▶ schedule meetings for inconvenient times
- ▶ seat opponents in uncomfortable chairs
- ▶ seat opponents in lower chairs
- ▶ seat opponents with the sun in their faces
- ▶ make opponents wait for uncomfortably long periods for meetings to start
- ▶ interrupt meetings with "important" phone calls or side meetings to impress or intimidate the opponent
- ▶ engage in side conversations that demonstrate how "tough" one is, knowing that one's opponent will overhear the conversations.

*Cautions:* All of these ploys risk angering an opponent. Angered opponents are likely to adopt similar ploys in retaliation, become irritated and defensive, or walk away from the deal. Even if the negotiation continues, the process is likely to engender less emphasis on the merits and more on maneuvers and countermaneuvers.

*Specific Counterplays:* In each instance, the negotiator should weigh the ploy being used and adopt an approach that seems appropriate to the situation. For example, you can respond to an insistence that a meeting be held on someone's home turf by suggesting a neutral site or that the meetings alternate between offices. You can respond to various indignities by asking pleasantly for the indignity to be removed ("Can we shift seats? The sun's in my face." or "This chair is a bit uncomfortable. Do you have a different one?") With respect to being kept waiting, you may respond differently depending on the circumstances:

- ▶ Where you seek quick agreement (or the other side has greater leverage), simply ignore the delay.
- ▶ Inform the receptionist (or leave a note stating) that you can wait



no longer and leave.

- ▶ When the other side finally appears, take a 15-minute walk (or make a 15-minute telephone call) to let them wait.
- ▶ When the other side arrives, indicate that since the meeting is starting late, you must leave early due to another appointment.
- ▶ Pleasantly, but firmly, inform the other side that you don't appreciate being kept waiting. Ask whether future meetings will start late.

## Higher-risk negotiation techniques

### 11. Unexpected temper losses:

A negotiator who calmly discusses matters for most of a meeting, but then unexpectedly erupts in anger can sometimes seize the initiative from his or her opponent. Anger can break impasses, emphasize points, and dissolve opposition. Anger can also be seen as a particularly genuine expression of one's interest, especially if it carries important disclosures of information. On the other hand, anger can be seen as an immature or unwarranted display of emotion, causing a loss of respect. It may also be perceived as manipulative or insincere, or as a diversionary tactic. Anger can cause a negotiation to break down or lead opponents to harden positions that otherwise might have remained flexible. A negotiator must be able to read the moment as well as the opponent for this technique to work well.

*Cautions:* There are few techniques with greater potential for shattering the possibility of reaching an agreement than anger, especially when you truly feel angry. Also, there are few techniques that stand a smaller chance of being undone if they prove unsuccessful. This technique probably stands a better chance of success if one's anger is more feigned than real (unless, of course, it is perceived as feigned). Real anger is an obstacle to clear thinking, problem solving, and favorable agreements.

*Specific Counterplays:* Depending on the circumstances, effective responses to anger vary widely. If an opponent's anger has disoriented a negotiator, it makes sense to call a break in the negotiations in order to give both sides an opportunity to regain composure. In some cases, ig-

norning the temper tantrum can embarrass and quiet the angry opponent—the opponent may feel guilty or ashamed and make a concession as an unspoken apology. In other instances, responding with a temper tantrum of your own can lead the angry opponent to abandon the approach. Humor also can defuse a tense situation. Similarly, an apology may dissipate tension, but the danger in an apology is that it may be misperceived as capitulation to the angry negotiator. Finally, if your opponent has a reputation for angry outbursts, it may be wise at the outset to negotiate the "rules of engagement"—such as no personal attacks, no yelling, and no smirks or scowls.

### 12. "High-balling":

One well-known "limited authority" ploy sometimes used by auto dealers is "high-balling." Under this technique, a salesperson appears to

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reach an excellent deal with the customer (usually one on the verge of leaving the showroom). The salesperson then takes the deal to the sales manager, who then rejects the deal as insufficient. In the meantime the customer has become psychologically committed to the purchase. If so, the salesperson may be able to lead the customer to pay hundreds or thousands of dollars more on the deal. Typically, the customer never blames the salesperson for the deal's rejection. The salesperson is able to play the role of being the customer's friend, which permits the salesperson to get the customer to reveal his or her bottom-line position or to gain the customer's trust so that the customer will believe that he or she got the best deal possible. High-balling is sometimes also used to re-open negotiation issues upon which agreement

has supposedly been reached.

*Cautions:* One may easily lose a potential customer.

*Specific Counterplays:* If the opponent is an automobile dealer, leave and buy a car elsewhere. If the opponent is not a car dealer, or you are reluctant to pursue the option of shopping elsewhere, indicate that you consider the entire deal open for renegotiation and bring up points that you have previously conceded. Once you have been high-balled, you should proceed with the utmost caution since your opponents have shown that they cannot be trusted.

### 13. Boulwarism ("take it or leave it"):

Named after Lemuel Boulware, former vice-president for General Electric, this technique was used in collective bargaining for many years. Boulware would seek input from the union on all aspects of a pending labor contract in a comprehensive manner, would then make an offer which he considered fair, and would not retreat from the offer except if someone could show he had made a mistake in his facts. In essence, he applied a "take it or leave it" strategy.

*Cautions:* This is a highly aggressive strategy that essentially forces a weaker or less aggressive opponent to make most of the concessions. As with other aggressive strategies, this approach tends to produce feelings of anger and frustration in one's opponent. An intransigent position often elicits a similar reaction from others.

*Specific Counterplays:* Probe the assumptions of the party who has made a "take-it-or-leave-it" offer. If the assumptions can be disproved, that may make the party willing to move on the particulars of his or her offer. Appealing to the other party's sense of fairness may also move the discussion forward. You should also consider calling a halt to the negotiation to allow the other side to back down from its position without losing face. If the other party refuses to budge, you should coolly consider whether accepting the offer is better than walking away. As part of this consideration, you should factor in the likelihood of further dealings with the stubborn party. If this is the start of a long-term relationship, you should assess the effect of setting a



"take-it-or-leave-it" precedent.

#### 14. Wait until the last moment:

When a negotiator knows that an opponent has a deadline, the negotiator may dicker endlessly about minor details and then, at the next to last moment, make a somewhat reasonable offer heavily stacked in the negotiator's favor. The opponent who may have concluded that no deal was possible might leap at the halfway reasonable offer.

**Cautions:** Timing is critical with such a ploy. Also critical is the ability to read an opponent. If you guess wrong on either point, you are not likely to make a deal.

**Specific Counterplays:** If you suspect that this ploy is being used, call the opponent on it by saying "I can't be very flexible about a deal if we don't start negotiating about the main points soon." Another response is to set an earlier deadline for serious negotiations to begin or end, thereby leaving a time buffer for extended negotiations. Again, knowing one's alternatives to the deal under discussion is critical in moments like this.

#### General counterplays

The following general counterplays often work against annoying or unfair tactics in negotiations. Assess the circumstances to see which will work and which will not.

**Negotiate about the negotiation:** One way to throw an opponent's game plan awry is to negotiate about the negotiation. That is, at the outset, try to

reach agreement about matters that can promote trust between the parties. For example, you might state, "Jane, before we start talking, can we agree to keep our discussions confidential and tentative until we're close to agreement?" Another opening might be, "Jerry, let's agree to remain cordial and not make personal attacks on each other during the talks, okay?"

**Ignore the ploy:** Recognizing that an opponent is engaged in a negotiation "trick" is often enough to render the ploy ineffective. A negotiator is unlikely to feel psychologically disadvan-

■ *Good negotiation demands that you read the situation well and respond appropriately* ■

tagged by such a tactic if he or she understands what the opponent is doing.

**Call the ploy:** Sometimes it is useful to call your opponent on a particular trick to show that it is not likely to succeed. For example, a statement like "Will you guys please stop 'Mutt and Jeffing' me so that we can get down to business" may well stop the ploy and move the negotiation forward.

**Interrupt the negotiation:** Sometimes it is useful to take the additional

step—after calling your opponent on a ploy—to interrupt the negotiation for a period of time. Indicate that negotiations will resume only when the ploys stop.

**Maintain flexibility:** The critical feature of good negotiation strategy is that you read the situation well and respond appropriately. Not every slight or annoyance is intentional. Before you respond, you should be reasonably certain that your opponent truly is employing a negotiation "trick" on you. In addition, you should always consider helping your opponent save face if you have stopped a negotiating ploy. Having demonstrated that you cannot be tricked, you should focus on reaching agreement, not on embarrassing or ridiculing the opponent. This requires quick, but thoughtful, analysis and substantial flexibility.

#### Conclusion

Over the years we often have been perplexed at the time and effort that negotiators and their opponents will devote to planning negotiation "tricks" instead of focusing on the specific issues. For the most part, we have found negotiating ploys to play a relatively minor role in affecting the outcomes of negotiations. More important is the amount of time that negotiators spend refining their goals, gathering information, and developing a negotiation strategy. It would be misleading to contend that negotiation "tricks" never play a decisive role—sometimes they do. But, they usually work on those who are unprepared or unsure. Before your next negotiation, review these techniques and responses to them; after all, forewarned is forearmed. ■

#### ROLE PLAYING AND SIMULATION: PRACTICE MAKES PERFECT

In our workshops and classes, we use role playing and bargaining simulations to illustrate how negotiators use various tactics to help obtain favorable agreements. As students gain experience with tactical bargaining and with fending off their opponents' tactics, their confidence levels increase. Practice and more practice help us all to assess situations, size up opponents, develop strategies, and respond quickly to different techniques.

If you face a challenging negotia-

tion, consider getting a friend or colleague to do a "dry run" of the bargaining with you. At a minimum, run variations of the negotiation through your mind to see how you might respond to the possible approaches that your opponent might use. Practice does not guarantee that you will anticipate every twist and turn of a negotiation, but it does give you an advantage in preparedness. This, in turn, should add to your overall feeling of confidence, which is a critical factor in successful negotiations.

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