
----- WHAT'S UP, DOC? -----
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"Creating Leadership Solutions for Profit and Growth"

THIS MONTH'S THEMES: HARDBALL NEGOTIATIONS

Whether you're a businessperson, a job seeker or a party to some personal litigation, you may decide to play hardball during negotiations, depending on your circumstances. You may even be advised to play hardball - to be very tough and uncompromising - by friends or by legal counsel. There is nothing wrong with playing hardball. Your negotiation strategy and tactics should be chosen to fit your strategic interests and the situation you face, and while not all situations may be appropriate for taking a very tough stance, some do. In this month's newsletter, we'll take a quick look at how to play hardball successfully, and point out a few things you should think about when you're taking a tough negotiating stance.

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THIS MONTH'S QUOTES:

"The wit makes fun of other persons; the satirist makes fun of the world; the humorist makes fun of himself." -- James Thurber

"The creation of something new is not accomplished by the intellect but by the play instinct acting from inner necessity. The creative mind plays with the objects it loves." -- Carl Jung

"A thing derided is a thing dead; a laughing man is stronger than a suffering man." -- Gustave Flaubert

1. SEVEN POINTS FOR PLAYING HARDBALL

HAVE MORE INFORMATION

If you're going to take an aggressive posture, you had better have very good information about the other party, and the other party's sources of leverage. If you discover – too late! – that the other party has more leverage in the negotiation than you do, then by taking an aggressive stance you will later have to abandon, you will probably be cutting off any other options you may have. Playing hardball loses goodwill, and if you are in an inferior leverage situation, goodwill is a lot of what you will need to be able to enhance your leverage position through the life of the negotiating effort. There are ways to build momentum and enhance a weaker leverage position, but they lie beyond the scope of this discussion. For now, the main point is this – if you want to play hardball in a negotiating situation, know full well what you are getting into in advance. Have more information that the other side does about you, and know the other side's potential sources of leverage. Hardball works best when you have more leverage, or at the very least, about equal leverage, relative to the other side.

HOW TO USE THREATS

There are direct and indirect threats. Imagine a poker game in some old Western movie. If one player stretches just enough to uncover a pistol on his belt, without making a big deal of the weapon, that's an indirect threat. To make the threat direct, the player would say something like, "Look, buster, keep all your cards on the table. I've got a Colt 45 here and I have no problem using it!" I like to advise even aggressive negotiators to favor the use of indirect threats whenever possible, because going right to a direct threat gives them no room to maneuver, or up the ante of pressure on the other party when they might wish to do so. In negotiating, threats center around your ability to make the other party's situation worse. How? A few years ago, I knew a business partner whose relationship with another partner had turned sour, and he wanted to renegotiate their agreement. At one point in the negotiation, he made a point of inviting a friend of his into the office for lunch who worked for the IRS, and asked his partner to join them. The partner had, shall we say, some things to hide. The lunch proceeded without incident, but the threatened partner got the point, and the negotiations proceeded rather differently after that! Now, that was a clever use of an indirect threat.

MAINTAIN A UNIFIED FRONT

If you're going to play hardball, then your decision making team had better be unified, and had better communicate to the other side with one voice, and preferably through one individual. Have your arguments off stage and be committed to live by any group decisions. Obviously, this is a lot easier if you have just one decision maker or key stakeholder to account for. If you retain counsel, don't undercut your lawyer by having outside communications with anyone on or close to the other side, outside of your lawyer's knowledge. As simple as this rule may seem, it is broken more often than people like to admit. In business deals, sometimes decision makers send indirect signals through the press that they should not, and in divorce proceedings, people do all kinds of things without coordinating their efforts with a lawyer. Since hardball negotiations are premised on the projection of strength, you need to present a united front, since anything else will undermine your whole strategy.

AS ALWAYS, GENERATE OUTSIDE OPTIONS

This is classic stuff, for any negotiating situation. You need to work on at least two fronts: engage the other side in the negotiation, who, if you are playing hardball, is your opponent. And on another front, you must continue to recruit, generate and refine other options that make it easier to get what you want and need outside of any negotiated agreement with your opponent. Having a strong BATNA – your “best alternative to a negotiated agreement” – enhances your leverage and undercuts any power your opponent may have to dictate the terms of an agreement.

RISKS OF PLAYING HARDBALL

Hardball is potentially bad if you have any strategic interest in maintaining a relationship with the other party, or if you have an interest in keeping the option of future good relations and good will open. Before deciding to play hardball, decide first if the stakes are high enough to warrant an aggressive investment of energy in the process, and decide also how important it is to you to keep some semblance of a relationship intact. Threats are very dangerous to use if there is any interest in a future relationship – they can backfire big time. Another risk is this: if you decide to play hardball on all fronts, on all issues, in a negotiation, then you may invest undue energy in small matters that are less important to you. That can prevent you from getting some concessions you may desire on issues more important to you. Playing hardball can freeze the other side into an expensive, protracted process of contesting everything, to no productive end for either side. But on the other hand, if you loosen up on non-critical issues, you can build some momentum that can make it easier for the other side to give on matters more important to you. Sometimes a strong competitive approach to negotiation can get in the way if it is not employed wisely.

PLAN YOUR CONCESSIONS STRATEGY

Before beginning any negotiation, you should decide on your concessions strategy. Playing hardball is predicated on a projection of power, and some people like to project power by making every issue, no matter how big or small, a serious point of contention. The idea here is to where down the other side and to send the implicit message, “Surrender, because I’m not going to give an inch, ever!” Under this approach, no concession is ever really contemplated, unless by force from the other side. This approach has its proponents, though it can risk a waste of energy on unimportant issues, create more animosity than is necessary, and prevent your ability to gain strategic concessions you desire. Another approach when playing hardball is to prioritize your objectives, and be willing to make strategic retreats on some less important issues while holding the line on your critical needs. Some hardball negotiators like to make such retreats, contemplated from the beginning, at a strategic moment, after a protracted period of contention, just to break a deadlock and give the other party a way out while saving some face. After a protracted period of hardball, when the other side is worn out and the negotiations seem all but dead, an unexpected concession from one side can seem like a life boat to the other side, who may want to seize the chance to make some concessions just to get the whole thing over with. This is a bit of a psychological game, but whatever concessions strategy you choose, use it wisely, based on a full assessment of your interests and those of the other side.

EMPLOY LEGAL COUNSEL WISELY

Don’t undercut your counsel, but understand if and when your attorneys have motivations and reward systems that are not directly aligned with yours. Generally speaking, younger attorneys who are trying to prove themselves in a firm and gain partnership like to show that they are tough. Being seen as “soft” is not in their professional or career interests, and they sometimes have more to lose by advising you to ease up and consider a deal than they do in advising you to hold firm: they can never be blamed for a bad deal that they never recommended. By the same token, as your advocate, your attorney’s role is to help you be aware of all the tools at your disposal, and to fight on your behalf, which is what you want. There’s a balance here that you should be aware of when you employ counsel, so that you can use your attorneys wisely. The best attorneys will ask you up front how important any continuing relationship with the other party is to you, and factor that strategic interest into their negotiating strategy and tactics. On the other hand, less experienced attorneys may view every problem as a nail because what they have is a hammer, and they may get too far out in front in an aggressive posture than is in your interests. In some firms, the aggressive, fighting posture is so universally ingrained that the attorneys there have no other skills in their tool kit to help you get what you want and need. Generally speaking, more experienced attorneys can take more than one approach, and you may also

want to select your attorney based on their personality, and how it best fits your strategic interests and desired negotiating posture. Be aware also that protracted negotiating processes can help build billable hours, so some attorneys might not be as adept in employing strategies other than hardball that might lead to a positive outcome in less time. I assume no bad faith here, but with pressure to add billable hours to the firm, some attorneys may have less of an opportunity to gain negotiating skills that can complement a hardball stance. So, when you employ counsel, employ the best counsel you can get, and talk with your attorney about your interests as you see them so that you can be coordinated on your negotiating strategy from the outset, even when hardball is the right game to play.

2. SPECIAL COUPON FOR AN UPCOMING EVENT

SAVE \$40.00!!!

For subscribers to “What’s Up, Doc?,” you can save \$40.00 off the \$135.00 early bird registration price for the highly acclaimed business growth seminar, “What’s Next for Your Business? How to Grow Smart, Stay Lean and Beat the Competition.”

The event is cosponsored by the Wharton Club of Washington, DC and by Microsoft, and will be held on the morning of March 24, 2004.

To learn more about the event, go to www.optimalbusinessgroup.com, and when you register, enter the coupon code “GOLD” in the space provided to receive your special discount.

Don’t miss it! Looking forward to seeing you there. . .

3. RECOMMENDED BOOKS AND FILMS

BOOK: “Sun Tzu: The Art of War for Managers,” by Gerald A. Michaelson; Adams Media; Avon, Massachusetts; 2001.

I’ve been reading and occasionally rereading translations of Sun Tzu’s “The Art of War” for years now, and using my imagination to translate the

author's ancient principles into business situations. But this book helps do that work for you. Michaelson goes through the text, and the principles offered in the original work, and applies them concretely to situations managers face. As a result, he succinctly offers his 50 strategic rules for managers. A neat little read.

FILM: Just rentals. . .

Oscar season or no Oscar season, I just have not seen any movies lately. I saw the DVD of an adaptation of a Grisham novel, starring Gene Hackman and Dustin Hoffman, called Runaway Jury. It was ok, nothing wrong with it – your standard, decent legal thriller. I'm a huge Gene Hackman fan. . . well, wait, I don't mean I'm getting fat. . . well, I could stand to lose a little. . . oh, you know what I mean. Add a few points to the movie if you're a Gene Hackman fan, as I am. Find out more about this movie [here](#).

4. CHUCKLES

Man, you know, some of these tech help desk people are rough. I had a problem with my system and finally got someone to help me on the phone. As it turned out, I had made a pretty silly mistake, and it was easy to fix in the end. But then the help desk person sent me this link via email! (Click [here](#).)

5. PROMOTE YOUR OWN GROWTH

You don't have to live near the Schuler Solutions main office in Alexandria, Virginia to benefit from my coaching services. Great work can be done for your own growth and development over the phone and through document review via email. To find out more about your coaching options and available coaching plans, just click [here](#) now.

6. ABOUT DR. SCHULER

A. J. Schuler, Psy. D., an expert on leadership and organizational change, provides consulting services, keynote presentations and seminars for client companies. His trademark is highly personalized service that leads to measurable increases in productivity, profit and growth. He also provides personalized leadership education and coaching for highly motivated clients.

Dr. Schuler, President of Schuler Solutions, Inc., has served diverse organizations in the private and public sectors, including The Ritz-Carlton Hotel Company, Sony Development, Nomura Securities and the Executive Office for Immigration Review.

A graduate of the Wharton School of Business, Dr. Schuler has successfully led the profitable growth of a dynamic, international consulting firm while serving as Operations Director, and has successfully coached over five hundred CEO's and corporate executives.

7. HOW TO SUBSCRIBE OR UNSUBSCRIBE

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8. NEWSLETTER STATEMENT OF ETHICS

NEWSLETTER ETHICS: This e-Newsletter will be sent to subscribers only upon REQUEST, though subscribers may forward this letter to anyone they wish. Subscriber identities or contact information will NOT BE DISCLOSED to any other persons or entities under any circumstances.

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“Make each day your masterpiece.” -- John Wooden

P.S. - Remember to send in your comments and successes, and to forward this newsletter to at least one friend! Thanks . . . AJS