

Unethical Negotiating Gambits And How To Protect Yourself Against Them

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Let me teach you the unethical gambits that people can use to get you to sweeten the deal. Unless you're so familiar with them that you spot them right away, you'll find that you will make unnecessary concessions just to get the other side to agree with your proposal. Many a salesperson has had to endure an embarrassing interview with a sales manager who can't understand why he made a concession. The salesperson tries to maintain that the only way to get the order was to make the concession. The truth was that the buyer out maneuvered the salesperson with one of these unethical gambits.

There's no point in getting upset with the person who uses these unethical Gambits. Power Negotiators remember to concentrate on the issues and think of negotiating as a game. Unless the individual is Mother Theresa, he or she is simply doing what he or she is on this planet for, which is to get the best possible deal from you. You must be skilled enough to instantly recognize these unethical gambits and smoothly counter them.

The Decoy

The other side can use the Decoy Gambit to take your attention away from what is the real issue in the negotiation.

Several years ago, an association hired me to do a seminar at John Portman's Peachtree Hotel in Atlanta. That's a Westin Hotel and a fabulous place. It's 73 stories high, one of the tallest hotels in the country and possibly the world. It's like a round tall tower with only 15 or so pie-shaped rooms on each floor.

As I walked into the hotel I was wondering what I could do to provide an illustration to the people who would be in the seminar the following day, to show how effective Power Negotiating can be. A room had been pre-arranged for me by the organization that had hired me, and I decided to see what I could do about negotiating down the price of the room. Rooms at the Peachtree then typically cost \$135. They had given me a very good corporate rate of \$75. Nevertheless, I determined to see what I could do and within 10 minutes got them to reduce the price of the room to \$37.50.

I used the Decoy Gambit on them. They told me that they only had a twin-size room for me. If they had said they only had a full-size room, I would have asked for a twin bed, you understand. It didn't matter what it was, but I said "The association that hired me booked this room a month ahead of time. I am not going to accept a twin-size room." The desk clerk brought out the manager. He explained that they have 1,074 rooms in the hotel. Guests already occupied 1,064 of them, so they only had 10 available, and I would have to settle for a twin-size room.

So, I used the Trading Off Gambit. I said, "Well, I might be willing to settle for a twin-size room, but if I do that for you, what will you do for me?" I thought possibly they might offer a free breakfast, or something like that. However, to my amazement he said, "We might be able to adjust the price of the room a little bit. How would half price be for you?"

I said, "That would be just fine." Then, as they gave me the key to the room, the manager said, "Let me check just a moment. We may be able to do something more for you." They made a telephone call and found out that they did have a queen-size room available. Maintenance had just finished redecorating it, and they weren't sure whether they had released it yet. So, I ended up getting a \$135 queen-size room for only \$37.50.

The Decoy I used was that they only had twin-size rooms available, not king-sized. That wasn't the real issue at all, of course; what I wanted to accomplish was a reduced room rate. The size of the bed took their attention away from the real issue.

Watch out for people who lure you away from the real issue with the Decoy Gambit. Let's say that you sell custom made tools and dies, and your customer is insisting on accelerated shipment. Stay focused and isolate the objection. "Is that the only thing that's bothering you?" Then go to Higher Authority and Good Guy/Bad Guy: "Let's get something in writing, and I'll take it to my people and see what I can do for you with them." Then turn the tables: "We may be able to accelerate the shipment, but it's going to increase the non-recurring engineering charges."

The Red Herring

The Red Herring Gambit is a further twist on the Decoy Gambit. With the Decoy, the other person raises a phony issue to get concessions on a real issue. With the Red Herring, the other person makes a phony demand that he will subsequently withdraw, but only in exchange for a concession from you. If the Red Herring distracts you, it will deceive you into thinking that it's of major concern to the other side when it may not be.

The classic example of the use of a red herring came during the Korean War armistice talks. Very early in the talks the parties concerned agreed that each side would be represented at the table by officials of three neutral countries, along with their own national negotiators. The South Korean side selected Norway, Sweden, and Switzerland as their three neutral negotiators. The North Koreans chose Poland and Czechoslovakia, but couldn't seem to choose a third. They suggested that the talks start, and they would identify a third country later.

What they were really doing was leaving an opening for the Red Herring Gambit. When the time came and they had set the stage, they announced their selection for the third country: The Soviet Union. The international outcry was unanimous: "The Soviet Union? Now wait a minute. The Soviet Union isn't a neutral country."

The North Koreans responded by saying that the Soviets were not directly involved in the conflict, and there was no reason for them to be considered biased.

They waged the battle of the Red (pardon the pun) Herring for quite a while, until the situation became absurd. The North Koreans continued to insist that they couldn't understand what the objection was to using the Soviet Union as a neutral third party, until the objections of the South Koreans seemed as ludicrous as the demands of the North Koreans. The negotiations had stalemated.

Just as it seemed that the pointless arguing would continue forever, the North Koreans announced that they would abandon their insistence on having the Soviets at the negotiating table, but they expected a reciprocal concession.

Both sides had agreed earlier that during the negotiations, neither side would rebuild their airstrips. The North Koreans realized later that this left them at a severe disadvantage because we could fly planes off aircraft carriers, but they needed their runways. So the North Koreans decided that it was time to use the Red Herring Gambit and suggested the Soviet Union as the third neutral country. Now it was time to name the price: They would concede and choose a different country to represent them, but only if the South Koreans would waive the restriction on rebuilding the airfields.

The North Koreans never seriously thought that we would agree to letting the Soviet Union be part of the negotiations. However they were able to magically create a bargaining issue out of thin air and then trade it off later for an issue about which they really cared. When the other person is creating a red herring issue that she will try to trade off later, keep your eye on the real negotiating issues and don't let her link it to a concession you're reluctant to make.

Cherry Picking

Cherry Picking is a gambit that a buyer can use against a seller with devastating effect, unless the seller is a Power Negotiator and knows his or her options.

If you're thinking of acquiring a new piece of equipment for your company, you can use Cherry Picking to your advantage. Shop around and accumulate information before you make a decision. Call up companies and have all their sales people come in and make a presentation to you. You'll find that one has a good point in a particular area, perhaps a fast shipment. Another has a low price and a third has a good guarantee. So, from all these interviews, you piece together the ideal piece of equipment.

Then you go back to the one you like best and say, "I'd like to buy your equipment except that I want to get the longer guarantee. Or I want to get the faster shipping." In this way, you create the type of deal and the kind of contract that you want.

So, buyers should push for itemized contracts whereas sellers should avoid it. Because Cherry Picking is to me an unethical gambit, the perpetrator is less likely to do it to someone he knows and trusts than he is to a comparative stranger. So, sellers can forestall this tactic by building a personal relationship with the buyer.

Another way to handle people who might want to Cherry Pick you is to forestall the Gambit. Let's say that you're a contractor who is trying to sell a remodeling job to a homeowner, and you know she's going to talk to all the other contractors in town-how do you forestall it?

The answer is to know more about your competition than they'll ever learn. So the homeowner says, "I want to check with some other people before I make my final decision."

You respond, "I absolutely agree with you." Always agree up front, right? Salespeople should always agree with any objection however ridiculous it is and then work to turn it around. "I absolutely agree with you. You should check with other companies before you make a decision. But look, let me save you some time. Have you talked to Ted Smith over at ABC Construction? He uses XYZ cabinets that have this feature, this feature, and this feature; but they don't have this. Then if you talk to the national department store company down at the mall, the sales person who'll come out will be Fred Harrison, and he'll tell you about model number such and such . . ."

By the time you've gone through letting her know how much you know about the competition, she's going to think, "Why on Earth do I need to waste my time talking to all these other people, when this person knows more than I'll ever learn."

To defend yourself against Cherry Picking always consider the alternatives of the other side before making a concession. The fewer alternatives the other side has, the more power you have. If you as a seller refuse to budge on your price, then you force the buyer to pay more from another supplier or use multiple suppliers. In the case of the home remodeling job, this would mean that the homeowner would have to bypass you as the general contractor and contract with each sub-contractor separately. This may require more knowledge or expertise than the other side possesses or may create extra work and pressure that it is not worth the savings.

The Deliberate Mistake

The Deliberate Mistake is a very unethical tactic, and as with any con job, it requires a victim who also lacks ethics. The seller baits the hook when she prepares a proposal and deliberately leaves out or under-prices one of the elements. For example, the car salesperson who runs an adding machine tape on the cost of the car but includes only the price of a tape player, when the car also has a CD player. If the buyer takes the bait, he starts thinking that he now has an opportunity to put one over on the car salesperson. He becomes eager to close the deal before the salesperson spots the mistake. This eagerness makes the buyer a sloppy negotiator, and he may end up paying more for the car than if he had pointed out the mistake. Apart from that, the salesperson still has the option of "discovering" the mistake before the buyer consummates the sale and, with an accusing look, shames the buyer into paying the extra amount.

The counter-gambit may sound high minded, but it's obvious. Never try to get away with anything. If your greed doesn't cost you at that moment, it will certainly catch up with you later down life's road. Instead, point out the mistake and say, "I assume that you're not charging me for the CD player because you're trying to get me to make a decision now?"

The Erroneous Conclusion

A variation of the Deliberate Mistake is the Erroneous Conclusion close. Using this method, the salesperson asks a question of the buyer, but deliberately draws an erroneous conclusion. When the buyer corrects the salesperson, she finds that she has made a commitment to buy. For example, the car salesperson says, "If you did decide today, you wouldn't need to take delivery today would you?" The buyer responds, "Well, of course we'd want to take it today."

The real estate sales person says, "You wouldn't want the sellers to include the refrigerator would you?" The buyers hadn't been thinking of doing that, but the refrigerator looks better than theirs

does so they reply, "Do you think they would include it?" The salesperson responds with, "Let's include it in our offer and see what happens."

The boat salesperson says, "You wouldn't expect us to include a CB would you?" The buyer sees an opportunity to get something for nothing and responds, "I sure would."

The Default

The Default Gambit is one that involves a unilateral assumption that obviously works to the advantage of the side proposing it, such as the company that sends a payment check to a vendor after having deducted two and a half percent. Attached is a note that says, "All of our other vendors discount for payment within 15 days, so we assume you will too." Or the salesperson who writes a potential buyer, "Because I haven't heard from you on your choice of options, I will ship the deluxe model unless I hear from you within ten days."

The Default Gambit preys on busy or lazy people; it assumes that rather than take action the other side will take the easy way out and let you get away with it. Once you have failed to respond, the law of precedent comes into play. When you finally do object the perpetrator is able to say, "But you've never had a problem with it in the past."

As with all unethical gambits, call the other side on it and gently explain that you expect to see a higher level of ethics from them in the future.

Escalation

I once knew a man who became very wealthy after he sold his real estate franchise to a large corporation. He had been one of the original purchasers of a territory when real estate franchising was new, and the founder of the company was running around the country trying to sign up anyone who believed in his concept. Many years later a huge New York corporation had bought the master franchise and was starting to buy back the territorial franchises. After attending one of my Secrets of Power Negotiating seminars, he asked me to join him for a drink and asked me, "Roger, have you ever heard voices speak to you when you're negotiating?" Not wanting to admit it if I had, I asked him what he was talking about. He told me that after he had agreed to sell his territorial franchise to the new corporate owners for what he first thought was a huge amount of money, he started to have second thoughts. Because his was the first franchise the corporation was buying back they flew him to New York for a signing ceremony to be followed by a press conference at which they would announce the corporation's plans to buy back all the franchises. "The night before the ceremony I had trouble sleeping," he told me. "I lay on my bed wondering whether I was doing the right thing. Suddenly I heard a voice talking to me."

"What was it saying," I asked him, half expecting a humorous punch line.

"It said, 'Joey, you're not getting enough money.' So the next morning I went down and asked for another half million dollars and got it."

What Joey was describing was a classic case of escalation-raising demands after both sides have reached agreement. Of course it's outrageous and unethical, but just as Joey thought he heard voices telling him to do it rather than accept responsibility for his actions, the perpetrators often don't see any harm in cutting the best deal by any means possible. So, why is anyone ever allowed to get away with such outrageous behavior? All too often, the other side swallows its pride and concedes just as easily as that corporation conceded the extra half million. In that case,

the corporation paid rather than faces the humiliation of having to call off the press conference. In other cases, the other side has simply become too emotionally involved in the purchase to back out.

The history of big business is full of stories of people who extorted a little more out of a deal simply because they had enough leverage to do so. Frankly, I have mixed emotions about how to respond. My heart tells me that if people do that, you should call their bluff and walk away from the deal on principle. However, I also believe in keeping emotions out of a negotiation. If that New York corporation was able to pay the extra half million and still have it be a good deal (and it was still a very good deal) then they were right to swallow their pride and pay the money.

There are some responses to escalation other than swallowing your pride or walking away. You might try these:

Protecting yourself with Higher Authority. Tell them that their suggestion does not offend you, but that your board of directors will never renegotiate a deal once it has been made and they will force you to walk away. Then Position for Easy Acceptance by telling them that although you cannot budge on the price, you might be able to offer them something of value in another area.

Escalating your demands in return. Tell them that you are glad that they want to reopen the negotiations because your side has been having second thoughts also. Of course, you would never renege on a deal, but since they have chosen to negate the original proposal, your price has now gone up also.

It is better to avoid Escalation than to have to deal with it. Avoid it by using these techniques:

Tying up all the details up front. Don't leave anything to "we can work that out later."
Unresolved issues invite Escalation.

Building personal relationships with the other parties that makes it harder for them to be ruthless.

Getting large deposits so that it's harder for them to back out.

Building win-win negotiations so that they don't want to back out.

Planted Information

Returning from a speaking engagement, I was discussing that day's Presidential press conference with my seatmate. "I don't believe he's telling us the truth," he told me. "I met a man who knew someone who works at the White House, and he told me that the President did know all about it all along. He's covering something up." What amazed me about this was that I found myself believing what this man was telling me, rather than believing what I had earlier heard the President of the United States say at the press conference. Why? Because we always tend to believe information that we have obtained surreptitiously.

Planted information can be an astoundingly powerful influencer.

A salesman is making an impressive presentation to a board of directors. Flip charts and audio visual aids surround him. He is fervently making a plea that they go with his company because it offers the best value in the marketplace. He believes that no competitor can undercut his prices and feels confident that he can close the sale at his asking price of \$820,000-until he sees one of the directors pass a note to another director who nods and lays the note on the table in front of him. Curiosity gets the better of the salesman. He has to see what's on that note. He finishes his presentation, then approaches the table, and dramatically leans toward them.

"Gentlemen, do you have any questions?" Out of the corner of his eye, he can now see the note. Even reading upside down, he can see that it says, "Universal's price is \$762,000. Let's go with them."

The chairman of the board says, "I do have one question. Your price seems high. We're obligated to go with the lowest price that meets our specifications. Is \$820,000 the best you can do?" Within minutes, the salesman has lowered his price by \$58,000.

Was the note real or was it Planted Information? Although it was just an unsubstantiated note scrawled on a piece of paper, the salesperson believed it because he obtained the information surreptitiously. Even if they had planted it, could the salesperson cry foul later? No, because they didn't tell him that the competition's bid was \$762,000. He obtained the information surreptitiously, and he must accept responsibility for his assumptions.

Simply knowing about planted information will help you to diffuse this unethical tactic. Any time that you are negotiating only based on information that the other side has chosen to tell you, you are extremely vulnerable to manipulation. When the other side may have planted the information for you to discover, you should be even more vigilant.

The best advice I can give you about unethical negotiating tactics is the same advice as I would give you if you planned to walk down an alley in a third world country:

Learn the swindles and the tactics that unscrupulous people use.

Be alert to them and when you see the first evidence of a scam being pulled, don't hang around out of curiosity or a desire to outsmart the perpetrator-just run away from it as fast as you can.

Never let your greed get the better of you. All con artists need a co-conspirator to pull off a con game. If the tactic doesn't sound right to you, pull away as quickly as you can.

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