

**AUGUST 2024**  
**COMMERCIAL/BUSINESS NEGOTIATION**  
**LESSONS, STRATEGIES AND TECHNIQUES**  
**(Part III)**

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**COMMERCIAL/BUSINESS NEGOTIATION LESSONS,**  
**STRATEGIES AND TECHNIQUES**  
**(Part III COLLABORATION)**

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This newsletter is the third part of a multi-part series to help you understand the factors, skills and strategies involved in business negotiations. The first two parts were provided in our July 2024 newsletters and reviewed the factors that affect the negotiation process and the

importance of due diligence/information gathering. This third part reviews the most commonly thought of stage for negotiations. It is the jockeying and the sending of offers and counter offers when the emotions, excitement, passion and possibly tempers are running high. There are many misconceptions about this stage, but objectively it comes down to: 1) clear and effective communication and collaboration to “convince” the other party to work with you; and 2) managing personalities and situations to avoid irreconcilable blowups and disputes. This part three will specifically discuss clear and effective communication whereas managing personalities and situations will be reviewed in a future newsletter.

### **RECAP OF PRIOR STAGES**

The first stage is that the outcome of a negotiation is highly determined by the following five factors: who has the informational advantage, who holds the chips, the relative creativity of the parties, the relative communication skills/charisma of the parties, and the ability to follow through. The idea is the party who is relatively stronger in these areas usually will obtain superior results. You should know what place you are negotiating from as this helps to set realistic expectations realizing how much you can or cannot press the other side, and helps you realize what steps can be taken to improve your situation. The second stage was about obtaining information pre- and post-contact. This information gives you the lay of the land, lets you know what each party has to offer, and to come up with a plan on how to achieve what you want. Without this, you are lost in the dark.

### **COLLABORATION STAGE – COLLABORATION – CLEAR AND EFFECTIVE COMMUNICATION AND COLLABORATION**

One of the most important skills of the collaboration stage is clear and effective communication. Without it even though you may be willing to offer the other party more dollars or product for little or no additional consideration, they may reject your offer if they do not understand what you are offering. Your task or role is to use the different tools available to you to make sure your message is easily digestible and understandable by the other side so that the message comes across clearly. This is done by: a) knowing what you want and understanding the circumstances; b) presenting the message in the “language” of the other part; c) reading between the lines; d) communicating through the proper medium; and, e) use of proper timing.

1. *Know What You Want and Understand the Circumstances:* You cannot communicate clearly if you do not know what you want yourself or do not fully understand the circumstances. This is the only way you can give a clear message. It also avoids over speaking and over committing when certain facts or circumstances are still unknown. Not knowing what you want may only aggravate the other side whereas they may think you are indecisive, ineffective and weak-kneed and it tests your counter-party’s patience and tolerance. Knowing what you want allows you to be clear from the beginning to ensure every communication has the same goal. As a result, do not begin this stage of negotiating until you have answered all material and critical lingering questions and issues that are to be answered in the first two stages of

business/commercial negotiations.

## 2. *Speaking the Other Party's Language:*

It is important to communicate in the “language” of the other party for them to understand what you are trying to achieve and what you want and need. This sounds simple enough, but many times negotiations break down because even though both parties are speaking “English,” they are not speaking the same language. Everyone has different ways of processing language, information and words/data. If you communicate in a language and mannerism they are familiar with, your message will be much clearer to them.

The simplest example is if a party during negotiations says and offers “Ti darò un milioni di dollari gratis.” Those that understand Italian will gladly accept that offer. Those that do not understand Italian are thinking “what about a million dollars?” These words mean “I will give you one million dollars for free.” To say it simply, as you just experienced if you do not know Italian, speaking a language that the listener understands greatly improves the listener’s comprehension of your message.

Where this plays out is some people think in heuristics and simply want bullet points, some are technical and prefer a 50 page report, some prefer a flashy presentation, some prefer charts and graphs, while others prefer illustrations, diagrams, and flow charts. Some individuals think more technically, scientifically, and mechanically whereas others think more emotionally, passionately, or impulsively. Some individuals love to speak only in technical field jargon while others do not want to hear any “fancy words.” Part of your task in the due diligence stage is to get familiar with the other party’s communication style and learn how to couch your message in a way the other party thinks. If you are not speaking their “language” then your message may sound like the above Italian sentence does to non-Italian speakers: “blah blah blah million blah dollars blah.” Learning their language and how to speak to them greatly improves your negotiation position. You cannot help yourself if you do not speak in the language of your counter-party.

## 3. *Reading between the Lines and Collaboration:*

Most people think simple and effective communication is the result of being naturally graced with a golden tongue. However, what is truly golden in these individuals IS NOT their tongue, but their eyes and ears. While the immediate prior section is about couching language in a form that is more digestible to the other party (in their “language”), this section is about reading between the lines of what the counter-party is saying and reacting properly to his/her reactive message. This provides little nuggets of important information that many people miss that allow you to see into the counter-party’s head. This allows you to take control of, guide and continue the negotiations because you are the only one to see the full picture. It allows a skilled negotiator to take advantage of the immediate situation and possibly find a more optimal negotiation result by collaborating with the other party to find the happy medium where both

parties are happy or happier together than separate.

An extremely simple real life example is if it is cold out and someone said “who opened the window?!?!” A less charismatic person would say “I opened the window” and move on not realizing the true message or what the other person is thinking. This may frustrate the first person and he would shut the window himself. Then it may spiral into a passive aggressive situation where the parties open and close the window as each gets hot and cold, and ends up in an argument. A more charismatic person would read between the lines and realize the person that opened the window was hot and the other person is really saying “why did you open the window, I am cold, and please do not open it again.” The charismatic negotiator will realize the temperature in the room is the underlying issue, not the window being open. He will use this extra knowledge to strike a balance that makes everyone happy like the window may be cracked open instead, a smaller window in another room could be opened, or maybe the heat could be turned down a degree or two.

The skilled negotiator uses this extra knowledge to find a happy medium between the two parties, avoids a blowout, and saves the time and frustration just by reading between the lines of what each party is truly saying through their words and actions. Many times these skilled negotiators can find solutions or alternatives that create a one plus one equals three situations where both parties are much better off together by seeing each side’s true needs and thinking outside of the box of how to satisfy those needs.

#### 4. *Communicating through the Proper Medium:*

To be clear and effective it is important to be cognizant of the appropriate medium to communicate through. You can communicate in person, through a video conference, through a phone call, through face time or through email. Some forms will be more effective than others for different circumstances.

Generally, in person, video conferencing or at least a phone call should be the preferred medium when ironing out the agreement or discussing hot topics. This is because you receive real-time feedback and the array of minute information such as facial expression, body language, tone of voice, and the circumstances surrounding the meeting, that we are instinctually meant to read while communicating. It allows you to address sensitive issues more delicately and more precisely. Preference should be in person, video conferencing, and then phone as practical as each medium provides less rich detail to read and react to the situation that arises.

Email is a great tool for negotiations, but should not be the primary means of negotiating. Email tends to lead parties to grandstanding/airing dirty laundry on hot topics as passive aggressive individuals become “keyboard warriors” when alone behind a screen. Also, it is easier to misinterpret something without the real-time feedback, body language, facial expressions, and voice intonation. Limiting full blown negotiations to email will greatly limit a skilled negotiator’s advantage to read the

situation and react (again the eyes and ears create the advantage, not a golden tongue) and may cause a negotiation to fail. However, emails are great for logistics like setting up meetings/calls, to confirm details of a face to face, a video conference, or a telephone meeting (i.e. ensure both parties are on the same page), or to iron out minor issues. Emails are superior here as you can send an email addressing the one or two open issues instead of getting dragged into something unrelated.

Thus in this age where video conferencing and email have been added to the traditional in person and phone call mediums, understanding the advantages and disadvantages of each will have a tremendous effect on the communication. Know where to use what medium to help ensure the negotiation stays on point.

5. *Communicating in the Proper Timing:*

In addition to the message and medium, timing is a highly important factor the skilled negotiator uses to his/her advantage. Sometimes the timing of communication is as important as the message itself. Responding quickly to a serious issue that the other party brought up (especially if you are at fault) will signal concern and respect for the importance of the matter. This may afford you more leeway or tolerance when addressing the issue as the timing shows respect and compassion, and that you share their same concern. Slowing a response, especially when the other party is being unreasonable or when you have other suitors, may be good to loosen up an unreasonable party or allow you to see if there are better alternative deals. The timing of the response helps emphasize and accentuate message.

**CONCLUSION**

Clear and effective communication is about knowing what you want, being aware of what you are saying, knowing what the other party wants to hear, and understanding how they want to hear it. While it is easier said than done, understanding and executing the concepts outlined above (or hiring someone that does) will make you a clearer and more effective communicator by increasing your awareness in negotiations, helping others understand you, and knowing what tools you have available to get your message across, and bridge the gaps between you and your counter-parties. This in turn will help you achieve greater results in your negotiations as you learn road blocks and impediments that were once and are easily navigable.

If you need help or assistance in any of your business negotiations, one of our **Philadelphia Business Attorneys** is here to take assist you. Contact **Pozzuolo Rodden Pozzuolo** today!

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