

Lecture 2

- Debrief
 - Street Streaker
 - Alpert-Raiffa Experiment
- Today's Discussion Themes
 - Who should make the first offer?
 - Bluffing, Strategic Misrepresentation & Lying!
- Negotiate Salt Harbor
 - Private Information and Facts

Who Should Make the First Offer?

What Should it be?

- Is there a universal, reliable advantage to making the first offer?
 - Only when we are highly certain of our counterpart's BATNA (reservation (walkaway) price)
 - We can rarely determine our counterpart's reservation point at the outset

- The first offer can be a powerful anchor

 **HOWEVER!**

- If we have made an overly generous first offer, we may fall victim to the Winner's Curse
- If we have made a ridiculously low offer or ridiculously high offer, we may insult or not be taken seriously

- Does Making the First Offer Lead to a Better Outcome for You?
 - **YES!**, if you are certain of your counterpart's BATNA
 - **NOT NECESSARILY** if you are uncertain

Let Your Counterpart Make the First Offer IF

- She has more market information than you do
- You are unsure about her reservation point
- You suspect that you are strongly influenced by subjectivity, emotion

Ethics

Bluffing, Lying, Speaking the Truth

Bluffing

- A respected business person remarked with some heat, “You mean to say you’re going to encourage managers to bluff? Why, bluffing is nothing more than a form of lying! You’re advising them to lie! ”

A.Z. Carr “Is Business Bluffing Ethical?”

HBR Jan-Feb 1968

- “I agreed that the basis of private morality is a respect for truth and that the closer a business person comes to the truth, the more he or she deserves respect. At the same time, I suggested that most bluffing in business might be regarded simply as game strategy--much like bluffing in poker, which does not reflect on the morality of the bluffer.”

A.Z.Carr in *“Is Business Bluffing Ethical?” HBR 1968*

“We can learn a good deal about the nature of business by comparing it with poker. While both have a large element of chance, in the long run the winner is the individual who plays with steady skill. In both games ultimate victory requires:

- Intimate knowledge of the rules,
- Insight into the psychology of the other players,
- A bold front,
- A considerable amount of self-discipline, and
- Ability to respond swiftly and effectively to chance opportunities.”

Poker

- “In poker it is right and proper to bluff a friend out of the rewards of being dealt a good hand. In the words of an excellent poker player, President Harry Truman, “If you can’t stand the heat, stay out of the kitchen.” If one shows mercy to a loser in poker, it is a personal gesture, divorced from the rules of the game.”

A.Z.Carr in *“Is Business Bluffing Ethical?”* HBR 1968

- “Poker has its special ethics, and here I am not referring to rules against cheating. The players who keep an ace up their sleeves or who mark the cards are more than unethical; they are crooks, and can be punished as such--kicked out of the game or, in the Old West, shot.”

A.Z.Carr in “*Is Business Bluffing Ethical?*” HBR 1968

When Should the Truth be Spoken?

“I quoted Henry Taylor, the British statesman :

“Falsehood ceases to be falsehood when it is understood on all sides that the truth is not expected to be spoken”

“In court, everyone from the judge on down takes it for granted that the job of the defendant’s attorney is to get their client off, not to reveal the truth; and this is considered ethical practice”

“I reminded my friend that millions business people feel constrained every day to say *yes* when they mean *no* and this is generally accepted as permissible strategy when the alternative might be this loss of a job. “

“The essential point is that the ethics of business are game ethics, different from the ethics of religion”

“Individuals within a company often find it difficult to adjust to the requirements of the business game. They try to preserve their private ethical standards in situations that call for game strategy.

John Rutledge in *Forbes*

“...walk away from a deal, any deal,
rather than violate your principles to win
it.”

Ethics in Negotiation

Reitz, Wall & Love
Kelly School of Business
Indiana University

Questionable Tactics

- **Lies**
 - Statements made in contradiction to negotiator's knowledge of belief about something material to the negotiation
- **Puffery**
 - Exaggerating the value of something in the negotiation

- **Deception**

- An act or statement intended to mislead the opponent about the negotiator's own intent or future actions relevant to the negotiation

- **Nondisclosure**

- Keeping to oneself knowledge that would benefit the opponent without damaging your position

- **Information Exploitation**

- Using information provided by the opponent to weaken him, either in the direct exchange or by sharing it with others

What is Permissible?

- You are NOT required to disclose personal information that could be harmful to your case:
 - Reservation price, amount willing to pay
- But you are NOT permitted to lie about it.

- **Are you permitted to disclose the true value of an object to a misinformed seller?**
 - There is nothing wrong with being generous
 - However, if you are an agent for another, you are required to obtain the best deal possible that is legally and ethically permissible, so you cannot disclose the true value.

- **Is it ethical to maximize your payoff at your counterpart's expense?**
 - Yes, but it depends on the manner in which the gain is pursued
- **What about a distributive bargain?**
 - The Golden Rule says that a negotiator should pursue his own interests only as far as he would want the opponent to do

Lost Opportunities

- In integrative and balanced concerns bargaining, one has the opportunity to assemble “packages” of offers that, if properly exploited, leads to joint gains by all parties to the negotiation
- Unethical behavior, if detected, drives your negotiating partner to withhold information, undermining possibilities for generating joint gains

In Sum

- Unethical behavior often backfires and leaves you worse off than if you had done the “right thing”
- Recall Rutledge’s admonition:
“...walk away from a deal, any deal, rather than violate your principles to win it.”

“When is it Legal to Lie in
Negotiations?”

G.R. Shell

Sloan Mgt Review Spring 1991

- “It is a mistake to assume that certain forms of deceptive conduct are legal and that ethical sensibilities alone should govern negotiating behavior.”
- “Business negotiation law is infused with the norms of ethical business conduct.”
- “Unethical bargaining practices are often either illegal or become so after brought to light.”

- “When ethically acceptable conduct such as lying about reservation price appears to run foul of legal definitions, the law adjusts and refuses to penalize it.”
- “...an ethical sensibility, far from being a ‘luxury’ in business negotiations, may be a negotiator’s best counselor.”

Sloan Management Review Spring 1991

U.S. Court of Appeals for the Seventh District

“In a business transaction both sides presumably try to get the best deal. That is the essence of bargaining and the free market...**No legal rule bounds the run of business interest. So one cannot characterize self-interest as bad faith”**

“No particular demand in negotiations could be termed dishonest, even if it seemed outrageous to the other party.

“The proper recourse is to walk away from the bargaining table, not sue for “bad faith” in negotiation”.

FRAUD!

- “...when the speaker makes a knowing misrepresentation of a material fact on which the victim reasonably relies and which causes damages.”
 - A car dealer resets the odometer
 - The seller of a business lies about business debts
 - A home seller fails to disclose termite infestation
 - Ken Lay just prior to Enron’s demise

Lying About Reservation Price

“Lies about reservation price are so prevalent in bargaining that many professional negotiators do not consider such misstatements to be lies” Shell (1991)

“Negotiating with Liars”

Adler in Summer 2007 Sloan Mgt Review

- Prepare!
 - Background checks
 - Anticipate scenarios
 - Commit to high standards

- Ask same question differently
- Summarize and demand “Yes” or “No” answers
- Ask questions to which you know the answer
- Take notes
- Establish contingent agreements

Salt Harbor Negotiation Guidelines

- All numbers are to be taken as **FACT**. You cannot modify or change them
- If “plus or minus x%” appears beside a number—**IGNORE** the range statement and **adopt the mid-point as a CERTAINTY EQUIVALENT**.

- **Your Obligation: KEEP CONFIDENTIAL INFORMATION CONFIDENTIAL.**
 - Do not show your confidential information to your negotiating counterpart *before, during* or *after* the negotiation
- Enter your results in the online survey as soon as you have completed your negotiation.

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