7 Ways Your Next

Having practiced law for 20 years, Marc Simon has earned a reputation as a fair but shrewd negotiator.

Once, prior to his career as CEO of Halo/Lee Wayne (*asi/356000*), Simon squared off with executives from a Japanese bank, using a simple information-gathering strategy to achieve jaw-dropping results for his clients. “The bank came to the table with a purchase offer of $5 million,” Simon remembers. “I thanked them for the offer and then asked them how they arrived at that number.”

Carefully and thoroughly, the Japanese executives detailed their calculations, eventually acknowledging they multiplied yearly earnings, in this case $500,000, by a factor of 10. Simon stood impressed. “I marveled at the explanation,” Simon says. “It was precise.”

With so much exactness in the bank’s position, the negotiations seemed headed for an anticlimactic conclusion, but in a moment, the game was about to change. Coolly, and undoubtedly with a glint of satisfaction, Simon revealed his client’s company had actual annual net earnings of $4.5 million, after several tax-related and financial adjustments were made.

To Win Negotiation

While every negotiation is different, everything is negotiable these days. Here, we present expert advice on how to negotiate successfully in seven different scenarios.

By Dave Vagnoni

"They started talking to each other in Japanese," Simon recalls, with a modest chuckle.

Using the guidelines just established by the bank, Simon's clients suddenly were in line for a dramatically higher payday than it first appeared. "They came back with an offer of over $19 million," Simon says. "I told my clients that I thought we could get them up to $22 million. They were OK taking the $19 million, though."

While a less experienced and unprepared negotiator might have quickly agreed to the bank's first offer, Simon practiced patience. "Sometimes it's all about asking the right questions," he says. "No matter what, though, after you define objectives, you also have to be prepared to justify what you've decided you absolutely have to have."

Here at *Counselor*, we decided we had to have the advice of the very best deal-makers around. Securing the help of more than a dozen consultants, business experts and industry innovators, here we present a consummate, no-nonsense guide to negotiation.

While we can't guarantee you'll become a deal-making dynamo, we do promise that the following tips in seven everyday scenarios will strengthen your negotiating stance from the boardroom to the bank to the bargaining table.

The "Win-Win" Acquisition

Recently, executives at The Vernon Company (*asi/351700*) walked away from a multi-million dollar acquisition, deciding the deal would be too risky. "At the start, everything looked good," says Dave Regan, vice president of sales. "We were dealing with a successful company. But in the end, what we didn't like was that the owner wanted all the cash up front and not really an earn-out. He really wanted to get out of the business and not stay on for very long at all. We want stability."

Because The Vernon Company considers so many acquisitions, up to 40 annually, company President Chris Vernon has developed a detailed approach to purchasing companies. "A lot of it is knowing what you want going in and doing your homework," he says. "We ask for certified financials and eventually we want a list of their top 20 accounts. We're looking to see if they're diverse or if all their sales are concentrated in one place. The less diverse, the less we're interested."

Vernon also scrutinizes character. "It's like running a forensic report," he says. "We inspect credit, criminal records and a company's tax history. Some things we find might not be a deal breaker, but we need the story to make sense."

Conversely, if you're trying to sell your company, Vernon suggests you conduct some specific research about possible acquirers. "You should check out any public records available that can give you information about a potential buyer," he says. "For example, you want to see if they have any lawsuits against them, find out their financial history and talk to suppliers about their reputation."

Once the prep work is done and you've made it to the bargaining table, negotiation expert Stuart Shlossman of Watershed Associates recommends a checklist of tactics. "First, you can't negotiate with yourself," he says. "You need to state what you want and be able to back it up, realizing that you're never going to get a price better than your first ask. You can't start with your goal."

While some negotiators prefer to receive the initial offer, Shlossman suggests being aggressive. "I'd rather go first and defend my position," he says. "The reality is the first person that says something stupid will lose, not the person that goes first. Figure out what the most desired outcome for you is and don't get angry if the other side pushes back."

David Wachtel, president of Hautacam Consulting Inc., preaches the importance of asking open-ended questions. Before you concede and lower your asking price during what appears to be a stalemate, Wachtel would rather you purposefully probe a bit more.

"Once I was negotiating with a CFO who had to bring back the best deal to her CEO," Wachtel says. "By asking 'why,' not 'what,' questions, I was able to find out that it was really about showing her boss that she got the number up." So, having already agreed in principle to a number, Wachtel's negotiating partner said she wanted a 25% addition and he countered by asking for a 20% reduction off of that premium. The tactic brought the end number back to a price they had already agreed on, but one that she could show her boss actually improved from the beginning of the negotiation. Everyone was happy.

Get A Better Lease

Apologizing for the rumble of noise in the background, Brandon Mackay speaks a bit louder on the phone. "Everything is negotiable right now," he says, talking from his company's recently added facility in Utah. "Rates have retreated back to the point they were in 2003 and 2004. The key is not to fall in love with a property."

As president and CEO of SnugZ/USA (*asi/88060*), Mackay just finished a deal to expand his company's space by 12,000 square feet at a new site. "Price was the most important consideration and location was second," he says. "It's a lot like negotiating a car. You have to be willing to walk away."

If you're looking to lease a property, Mackay recommends working with more than one broker to encourage competition. "Commercial realtors are not always fun to deal with," he says. "It's OK to have them play against each other a bit. Later, you're also able to negotiate other costs that you might not think of, like maintenance fees."

Loras Heck, president of Proforma Marketing & Promotional Solutions (*asi/300094*), endured a lengthy series of negotiations before she was able to move into a new office. "I had to think about what I really wanted and what I could give up," she says. "We had been in a larger space and we realized we didn't need that. Now, in a smaller space, we've saved quite a bit on overhead costs."

Heck is a strong believer in carefully choosing words during negotiations. "You have to stick to what you want and not talk too much," she says. "I think the leasing company just got tired of me calling them.

Negotiation 101

Here are four simple tactics to follow in any negotiation.

* **Seek progression.** If you reach an impasse on an issue, move on and come back to it later. Time – and a bit of inertia – will sometimes change the dynamics of a specific contentious issue.

* **Listen. Follow the 70/30 rule.** Listen 70% of the time and talk only 30% of the time. Try to determine the objectives of the other party. And always remember that silence can be very important to a negotiation. It could force the person across the table to divulge something she wasn't planning on saying.

* **Maintain credibility.** Once you agree to a point, don't hedge or try to renegotiate. It's vital in any negotiation to not try to get more than has already been agreed upon. Even if you feel like you could get more in a deal, once you've agreed to something, call off the negotiating dogs. Make a note to remember at contract-renewal time that you could get a better deal.

* **Develop options.** Never give yourself one choice. Determine alternatives in advance. Negotiations are based on give-and-take. Everyone wants to feel like they walked away from the table with something, so think of potential options beforehand. For example, you may be willing to accept a higher price from a supplier as long as you get more favorable delivery terms. This could be something the supplier finds attractive, as well. Just be sure to know all of your options before beginning a negotiation.

"You have to be willing to walk away."

BRANDON MACKAY, SNUGZ/USA (ASI/88060)

They agreed to give us a new property without changing the contract conditions, like the date the lease was set to end."

As with any complex deal, experts advise having an attorney review a real-estate leasing contract. An attorney, for instance, might be able to spot imbalances, like contracts that propose price based on total square footage, instead of usable office space. "You need to be looking nine months in advance of the end of your lease," says Mike Schatzki, an author and principle at Negotiation Dynamics. "If you have options, you'll be able to see differences and play a bit of a game of chicken."

Of course, it's not just property leases that are negotiable. As an expert in managing equipment leases, Mary Redmond tells clients to request concessions up front. "So many businesses never ask leasing companies to waive fees," Redmond laments. "There are documentation fees, late fees and early buyout fees. They're all negotiable."

Redmond recommends businesses negotiate the overall equipment price first, before considering terms of the lease. "It's not just about what you pay per month," she says. "If you can get the total cost down, you'll have less to pay. You can have a decent monthly rate, but you don't want to be paying forever. You have to pay attention to notices in contracts, too. I'm telling you, 99% of leases contain 'gotcha' clauses."

For example, Redmond says, while some contracts offer discounted equipment at the end of a lease, others demand a fair market-value cost. At the close of a deal, some contracts also automatically renew unless several months notice is given by the lessee. "You could be talking tens of thousands of dollars you'd be spending that you didn't want to spend," Redmond says.

The Fairest Price

During a recent role-playing session between *Counselor* and Greg Williams, the self-proclaimed Master Negotiator, the conversation suddenly turned a bit awkward. After some proposals were exchanged, it was obvious that Williams, a hypothetical distributor, wanted to pay his supplier much less than $400 for his order. He eventually managed to get the price down to $380.

Then, still unsatisfied, Williams just stopped talking for a while. Three seconds went by, then five, then 10. "Well, I see," started Williams, finally breaking the tension. "Is that really the lowest you can go? If it is, then I'll probably get back to you." Before Williams could hang up, he got an offer of $375. "Well listen, thanks for the offer," Williams replied. "I appreciate you going so low and I really will call you back. Goodbye."

Knowing that his hypothetical client, a bank that wanted an order of pens, already offered to pay $500, Williams had negotiated a nice margin for himself. "You need to be careful with verbiage," he says. "You have to let the party you're negotiating with really know you need the lowest price. But then you give them something in return."

With a supplier ready to agree to a $375 pen order, Williams took an unconventional approach. "I just wanted to thank you for your offer of $375," Williams began, back in role-playing mode. "I'll tell you what. I've been able to work some things out with my client and since you helped me and gave me your lowest price, I have an offer for you. I'm going to agree to a deal of $410. It's the least I can do for you."

And, suddenly, Williams had negotiated a deal that both sides were happy with. "What I was trying to do was create a relationship," he says. "I got a good price and I gave the manufacturer a better deal than they thought they were getting. They're going to feel like I did something for them."

While Williams prominently used silence as a technique in our exercise, Ed Brodow suggests other tactics. "You tell them how much you absolutely love their product but you just can't afford it," says Brodow, author of *Negotiation Boot Camp*. "That's the sob story."

Brodow also teaches other strategies like "the nibble" and "the flinch." In "the nibble," a buyer tries to convince the seller to throw in something extra, like a free pair of shoes with the purchase of an expensive dress. In "the flinch," the buyer calls the seller's price "crazy" and waits to see if a discount is offered.

Brodow also recommends using humor in negotiating price, with the goal of lightening the mood and weakening the seller's defenses. "In negotiation, you have to be optimistic and believe you have the power," he says. "It's like a self-fulfilling prophecy. You won't be successful unless you convince yourself it's OK to negotiate. Fairness is an elusive concept. Fairness is what you and I agree on."

Of course, while price matters greatly, distributors know there's more to a deal than just numbers. "There's a soft cost involved," says Mark Ziskind, COO of *Counselor* Top 40 distributor CSE (*asi/155807*). "We're able to negotiate a lot of deals where we don't come

How To Interpret Body Language

Eyes. If you're negotiating with a right-handed person, they will more often look up and to the right when they're lying.

Mouth. Covering the mouth is a sign of suspicion, while throat-clearing usually indicates nervousness.

Feet. If someone's feet are pointed toward you during a conversation, they are generally interested in what you have to say.

Arms. If someone suddenly crosses his arms, he doesn't like the direction of the conversation or a comment you've just made.

Source: Greg Williams, consultant and negotiation coach in with the lowest price. It's about the comprehensive package you can offer, including service and timeliness of delivery."

"You're never going to get a price better than your first ask. You can't start with your goal."

STUART SHLOSSMAN, WATERSHED ASSOCIATES

Improved Health-Care Rates

Synonymous with the pain of sitting on a large cactus, even the thought of trying to bargain with health-insurance providers can be horribly unnerving. "There's not a lot of room for negotiation, especially if you're a smaller business," admits Bob Benson, CFO of Sunrise Identity (*asi/339206*). "We ask our employees what is important to them and then try to be creative in what plans we can come up with. For example, we go through a third-party administrator for vision and dental coverage. Then we provide reimbursements up to a certain limit."

Sometimes creativity can involve switching brokers, which Sunrise did roughly three years ago. "There were some issues of service and timeliness with the broker we were using and we wanted to see what was in the market," Benson says. "With a larger broker, we were able to find some solutions in our case. We feel like we can offer employees pretty low deductibles and a reasonable maximum for out-of-pocket costs."

David Wachtel, a consultant who also teaches at Indiana University, believes there's a knowledge gap that prevents businesses from earning better deals. "Unless you have a ton of employees, you're going to get pooled in with other small businesses," he explains. "You have to offer a health-insurance company a good reason to give you a better rate. You have to show why you're a good risk. It helps if you have a good relationship with your broker and he's more than just a name."

Part of demonstrating good risk is selling your business as one that's growing, setting your operation apart from many layoff-prone, cost-cutting companies. "If you can show membership growth, you'll have more leverage," says Dean Hatfield, senior vice president of Sibson Consulting. "You might also want to consider joining in pilot programs that providers offer. Vendors are in competition, too, and will try out new programs and will need participants."

Hatfield has also advised clients to negotiate incentives for paying premiums earlier than the due date. He additionally suggests offering a testimonial of good service in exchange for better rates or coverage perks. "You can be a reference or even a spokesperson for their company," he says.

Over time, of course, the best way to keep rates down is to have a healthy staff. Wanting to keep its employees happy, motivated and not overwhelmed by insurance costs, Sunrise is one of several industry companies that offer wellness initiatives. In recent years, the company has brought in a kickboxing instructor, a chiropractor and a nutritionist, who taught employees how to cook healthy meals. "We've always gotten good feedback," Benson says.

Dealing With Debtors

When lawyers representing a stonewalling client recently balked at having to make a contractually obligated payment, Derek Block didn't overreact. "Basically our relationship with the client had ended and we had mutually agreed to part ways," says Block, president and CEO of Touchstone (*asi/345631*). "We had run a good program for them. As part of the deal they had to buy out the inventory at the end. The lawyers were just looking for a loophole in the contract."

Instead of negotiating with the client's legal department, Block contacted the person who originally signed the deal. "I asked her if we had fulfilled our obligation and she agreed we had," he says. "She said we had been great to work with."

Next, Block used what he calls "business savvy" in showing he intended to protect his company's interests. "I told her that if payment wasn't made that I would likely bring it to the CEO, and I didn't want it to reflect poorly on her," Block says. "I just wanted it to be amicable."

Soon, Block got what he wanted and Touchstone got paid. "You always have the option to go after someone who owes you money, but I never pull out that card," he says. "You just want to find reasonable ground. We want them to see our perspective. We'll try to get a company to commit to a number and then follow up with confirmation in writing."

Sometimes, though, what's right and wrong doesn't always align with what makes the best business sense. "You don't want it to become a distraction," Block says. "It might be better to just get some of the money you're owed. We try not to come across as demanding payment. We want to know what's going on to find out if a company is just being brash and refusing to pay or if they're really in trouble."

John Amsterdam, president of supplier Neet Feet (*asi/73525*), agrees that a hard-line approach only serves to complicate a standoff. "Flexibility is key to getting money you're owed," he says. "If you extend considerations, eventually they will pay. It's been our experience that they almost always come through."

When working with a debtor, consultant Mary Redmond cautions against making verbal agreements. "You have to set expectations and then use the 'parrot' method," she says. "You repeat the expectations so they're clear and understood. Then you get them in writing and set a certain amount of time for a response."

Finally, experts say if a delinquent customer rejects the terms of payment you've outlined, ask them to make a counteroffer. "Debtors have to prioritize who they're going to pay," says Halo/Lee Wayne's Simon. "You want them to commit to paying you."

A Good Loan

After drafting a business plan covering the next five years, it recently became clear to Kevin Scharnek that he needed to work with a larger bank. “We had been with a smaller bank, but they just couldn’t handle all of the programs we were working on,” says Scharnek, president of 14 West LLC (*asi/197092*). “In this economy, clients are pushing us for the best deal, so why shouldn’t we do that with banks? I was able to cut a phenomenal deal.”

Because 14 West is financially stable with an excellent credit history, Scharnek held the bargaining chips. Scharnek maximized the deal’s value, though, in knowing what concessions to target. Ed Brodow, who presents seminars on negotiation tactics, fittingly calls this approach the “squeeze” strategy. “Pressure is an important part of negotiating,” says Brodow. “We have the tendency to focus on our own pressure. But if you discover the pressure is on the other side, you can squeeze them.”

Knowing his business was attractive to several banks, Scharnek insisted on a lower interest rate and waived fees, including processing charges. “I had researched what I was looking for and then talked to other successful business owners and friends,” he says. “I didn’t follow blind leads in choosing a bank. I used referrals. Of course, just getting the interest rate down half of a point can save thousands of dollars.”

With a still-uncertain economy, experts suggest negotiating protections into business loans, as well. For example, you may want to consider interest-only payment provisions in case your business experiences a bad quarter. Also, if you expect a child or sibling to become an owner of your company during the length of a loan, you should ask for pre-approved consent from the bank.

Additionally, experts say you should specify in writing what constitutes a breach of the loan terms, preventing banks from using tangled language that gives its agents unchecked authority. “Right now, you should be looking to avail yourself of some extra benefits with banks,” says “Master Negotiator” Williams. “Because of the stimulus programs, some banks are looking to build up their portfolios with small businesses.”

Of course, not everyone’s credit is pristine. If your company’s credit rating is below average, experts recommend applying for a loan in person at a community bank. A face-to-face meeting will at least give you a chance to make a connection with a bank manager. Be sure, though, to bring along thorough financial records, complete with sales forecasts and the outline of a debt-repayment plan.

Employee Compensation

With such a crowded labor pool, employers are commonly seeing dozens of qualified candidates apply for one open position. Basic rules of supply and demand afford hiring managers an undeniable advantage in negotiation in the current market.

“I like to be up front and ask a person how much money they’re currently making,” says Simon, a perennial member of *Counselor*’s Power 50 list. “I’m going to need some evidence of the number they give, as well. There are ways to bridge a gap in salary with bonuses, basically incentives for superior performance. But, there are lots of other factors besides salary.”

Brodow suggests employers consider creating a compensation package, instead of just focusing on pay. “You could offer a better office or parking spot, a chance for an employee to work from home, a notable title or specific responsibilities,” he says. “Perception is important in this, too. I used to work for IBM and there was the perception that if you worked there you were somehow better than everybody else. But IBM always paid less than other companies.”

If you’re trying to lure a salesperson from another company, you may need to exercise some agility in navigating around company policies. “Let’s say you want to hire someone and vacation time is an issue,” says Watershed Associates’ Shlossman. “The person receives three weeks vacation at their current company but your policy only allows you to offer two weeks to a new employee. Here’s what you do: You offer the person an increase in salary equal to one week’s pay and then you tell them to take a week of unpaid leave. Everybody’s happy.”

Some negotiation experts, like Schatzki, believe employers should surrender leverage to build a better long-term relationship. “You’re buying an effort, not a thing,” he says. “You’re really assigning a behavior and you don’t want anybody to ever feel tricked and cheated. You don’t have to take such advantage of the market.”

Finally, even if you’re a smaller distributor and you don’t think it’s necessary, experts recommend including non-compete and non-disclosure agreements in deals with employees. While the agreements themselves are fairly standard, the condition of time can vary greatly and is certainly negotiable. “The bottom line is,” says Simon, “there’s nothing here that’s in a vacuum.”

Dave Vagnoni is a staff writer for Counselor.

Negotiating A Vehicle Purchase

Trying to get a new car for your business? Check out these tips.

* **Hidden rebates.** Sometimes called marketing support, manufacturers often provide factory-to-dealer incentives that are withheld from buyers. Ask for them.
* **Timing.** Plan multiple trips to a dealership before you buy. The offer you receive will improve with patience. Try to buy off-season and at the end of a month, when dealers need to hit quotas.
* **Soft walkout.** If you don’t like the deal, mention your disappointment and slowly begin to leave. Wait to see if you receive concessions.
* **Outside financing.** If you’ve negotiated a great price, dealers will often try to recoup money in the financing process. Strongly consider obtaining other financing.

Source: Mike Schatzki, Negotiation Dynamics