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Trips and tips for negotiation self-defense: Forewarned is forearmed

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Abstract Continued attention in both the popular and academic press regarding negotiation and the related concepts of influence and persuasion is nothing short of astonishing. The topics on which we focus in this article, however, are rarely—if ever—vetted in such outlets. We venture, with some measure of caution, into the dark side of negotiation: those tactics that may be duplicitous, unethical, and unprincipled. Such tactics provide a quintessential moral hazard, as they are both brutally effective and rarely illegal. It is not our intent to provide a treatise on unsuitable behavior. Rather, our objective is to establish that no one need be victimized by such behaviors, as all of these tactics are avoidable. It is in this spirit that we provide some guidelines on self-defense in a negotiation context to avert and attenuate the consequences of these behaviors.
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1. An invitation to the dark side?

The attention to negotiation and related concepts of influence and persuasion in the academic literature and popular press is remarkable. Familiar to many and among the earliest popular treatments is Dale Carnegie's (1936) *How to Win Friends and Influence People*. One of us (Dan) fondly remembers his grandfather, a long-time insurance executive, telling him that this book was easily the best ever published. A keyword search of the term 'negotiation' amongst book titles in the Amazon.com database results in 4,405 listings. A similar search of 'persuasion' and 'influence' results in 2,963 and 26,523 hits, respectively. Utilizing the EBSCO Academic Search Premier and Business Source databases, for the period spanning 1866 through 2009—and this for only academic journals—there were 5,732 titles. When the terms 'persuasion' and 'influence' were included, there were over 93,601 hits. In fairness, these counts may be overestimated because not all of these titles directly address the classical notions of negotiation/persuasion/influence. That observed, the count is underestimated in some ways, as well. Consider, for example, that some of the most popular books in this genre (e.g., *Give and Take* by Karrass (1974) and *Getting to Yes* by Fisher and Ury (1981)) do not include these expressions in their main titles.

In any case, the broad concentration of such material continues apace. Attention regarding negotiation persists, for example, in the popular press (e.g., Babcock & Laschever, 2009; Forsyth, 2009; Malhotra & Bazerman, 2008; Ross, 2008; Shell, 2006); in the academic community (e.g., Korobkin,

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2009; Lewicki, 2010; Lewicki, Saunders, & Barry, 2009; Maio & Haddock, 2010; Schmidt, Geddes, & Arthur, 2008); in public policy and international studies (e.g., Berger, 2009; Botto, 2009; Limbert, 2009; Moore & Woodrow, 2010); in a historical context (e.g., Cushing, 2009; Kimura & Ealey, 2008; Stanton, 2010); and at law (e.g., Craver, 2009; Kutinsky, 2009; Silkenat, 2009).

Our focus in the succeeding sections of this article, however, is rarely vetted in the outlets to which we have referred. We cautiously venture into the 'dark side' of negotiation. This dark side has two elements about which we should be aware. First, such tactics are—or certainly can be—duplicitous, unethical, and unprincipled; but—and herein lies the textbook moral hazard—these tactics can be brutally effective and are rarely illegal.

In that spirit, we tender a disclaimer of sorts. What follows is not a treatise on the implementation of unsuitable behavior. Recognizing that others may find such behavior less offensive, we do describe certain behaviors that we believe can be of the egregious type. We do so, however, to provide a primer on self-defense in the negotiation context to resist such tactics and to avert their consequences. From the outset, we would add that no one need ever be victimized by such tactics, as all are avoidable.

We do, though, recognize the implicit risk. Some may view our efforts as constituting a veritable tutorial on the use of these aggressive tactics. In response, we ask the reader to consider a book of matches. Such a device could have warmed—possibly even saved—untold numbers of people lost to blizzards, extreme cold, or otherwise intractable conditions. Those same matches could, however, be the means to set ablaze and lay waste to city blocks. Would mankind have been better served if our early ancestors had consigned fire back to the lightning from which it almost certainly derived? Similarly, high grade steel can be fabricated into scalpels and kitchen cutlery; it can also be machined into switchblade knives and other tactical weapons. Shall we, then, ban the use of carbon steel? Shall we prohibit sharp edges?

In subsequent sections, we provide several such examples in a negotiation context that are relevant to persuasion and influence, as well. We present these, each in turn, without elaborate transition except to describe these tactics and the self-defenses to mitigate their impacts.

2. Cloning: It just does not get any worse

Consider a person, Carl, who has a vintage piano for sale. He has listed the instrument in the local newspaper at $3,800. The next morning, Carl receives a telephone call from a potential buyer named Sarah, who asks a few questions about the instrument. She explains to Carl that she would love to see and play the instrument, but cannot afford the full asking price of $3,800. Sarah politely asks if it would make sense for her to come to Carl's house early that evening if the price were more affordable for her at $3,400. Carl agrees and Sarah says she will be there about 6:30 p.m. But she does not actually come.

The next morning, Carl receives a second call about the piano, this time from Tim. Carl and Tim talk about the instrument at some length. It seems that Tim is well-informed about the instrument, the brand, its features, and so on. He seems very enthusiastic and would enjoy meeting at Carl's home to play this piano. Tim has apparently spent some time on the Internet and explains to Carl that he thinks, based on his research, the price for this instrument should be something on the order of $2,900. If a deal could be made nearer to that number, Tim tells Carl, he could drive over in about 20 minutes. Carl agrees, but informs Tim that he would not be able to take a check in payment. Tim says that he understands, and he would see Carl in a few minutes. Unfortunately for Carl, Tim does not show up that morning or at any subsequent time.

Later that evening, Carl receives yet another call, this time from Mary. Mary, too, seems quite knowledgeable about Carl's piano, and tells him that she would definitely like to play it. Mary adds that if the instrument were in good condition, she would almost certainly buy it, but at no more than $2,750. At that price, Mary assures she will bring with her a money order made out to Carl. Not only that; if agreeable to Carl, she would come to Carl's home with her two brothers and another friend with a truck, and would take possession of the piano that very day. Carl agrees. Mary arrives as promised, with the money order for $2,750, and takes immediate delivery of the piano. Carl receives his money and Mary receives her piano.

2.1. Cutting to the chase: What really happened?

Carl was victimized by what is referred to as a *cloning strategy*. Sarah, Tim, and Mary were not independent bidders; rather, Sarah, Tim, and Mary are friends—or 'confederates,' if you prefer. Sarah and Tim had no intention of buying Carl's piano, or any piano, at any price. They did, however, agree to help Mary. With Sarah's call to Carl, she determined that Carl—the owner of the piano—was 'soft' on the price of the instrument. He indicated that he might

sell it to Sarah for $3,400 as compared to the initial $3,800 asking price. Then, Tim was able to determine that the price might be even softer, at $2,900. Then, Mary—armed with this extremely high-quality information—took the next step, and bid $2,750. She buttressed her bid by hooking Carl with guaranteed money (a money order) and her intent to take possession immediately (her brothers/friends/ truck). Not bad: A $1,050 discount—approximately 28%—for the bother of three telephone calls.

2.2. Moving cloning to a larger stage

Consider our friend Carl again. This time, however, there is no piano at issue. Instead, Carl, through a local broker, has listed his home for sale. For the sake of this discussion, assume that the list price is $475,000 (the exact number is of no consequence). In the first week of the listing, Mrs. Warren arrives with her real estate agent and inspects the listed property. She seems quite enthusiastic, but since her husband is out of town for 2 weeks or so, she is concerned that someone else will put in a bid for the property before she has the opportunity to do so. Mrs. Warren's realtor assures her that she can make an offer subject to spousal approval. In that way, she can at least determine the seller's interest.

Accordingly, Mrs. Warren, aware of the very challenging housing market, submits a bid for $332,500 (a 30% discount). Carl—anxious to sell, but not at that steep of a discount—counters with $392,000 ($\approx$ 17.5% discount). The potential buyer, Mrs. Warren, declines the offer and tells her broker that she is no longer interested.

A few days later, Mr. and Mrs. Timberlake tour the same house with their real estate agent. They, too, seem very interested. Carl does not know that the Timberlakes could not remotely qualify for a loan to purchase his home. Even so, the Timberlakes submit a formal bid to purchase at $372,000 ($\approx$ 22% discount from the asking price of $475,000). Carl counters with $382,000 ($\approx$ 19.6% discount). The Timberlakes decline the counter.

The next day, Mr. Gregory, with his real estate agent, tours the property and bids $376,000 ($\approx$ 21% discount from the original price). The offer is accepted and, in due course, the transaction is successfully completed.

2.3. Major league cloning: What happened here?

As with the piano example, the bids from Mrs. Warren, Mr. and Mrs. Timberlake, and Mr. Gregory are not independent. Rather, this was a joint and concerted effort to secure Carl's home for Mr. Gregory at the lowest possible price, or something very close to it. As before, Mrs. Warren and the Timberlakes had no intention, at any time, of securing the listed home. Also, despite their apparently good-faith bids, there was no risk that these parties could have been forced to actually buy the home if their bids had been unexpectedly accepted. Remember that Mrs. Warren would have needed spousal approval; that, obviously, would not have been forthcoming. The Timberlakes would have had a condition of purchase that included qualifying for financing; that, too, as we noted, could not have happened.

In three steps, Mr. Gregory—with the astonishingly high-quality and free information he received from Mrs. Warren and the Timberlakes—learned that Carl was soft from his initial asking price of $475,000 to the lower counter of $392,000 to Mrs. Warren. Next, he knew that the price was even softer through the counter to the Timberlakes of $382,000. This information guided his bid—the only legitimate one—of $376,000, which did consummate the transaction.

2.4. Cloning self-defense

There are two issues to bear in mind when confronting what may be an attempt to use a cloning tactic against a seller. Obviously, negotiations should not be conducted over the phone or by e-mail. When a potential buyer suggests that he or she would be delighted to review the item for sale if the price were lower, the seller should decline. Instead, the seller should suggest to the potential buyer that any negotiations would be facilitated by his or her inspection of the item. If the person to whom the seller is speaking is not actually a potential buyer, then this contrived entreaty for information on the softness of the seller's asking price will be unsuccessful.

More critical, however, is the realization that the driving force behind a cloning attempt is to determine the seller's bottom-line offer, or something very close to that. A cloning strategy, then, will always be accompanied by a low-ball offer. This will normally be an offer for which there is absolutely no expectation of acceptance. It would be rarely observed that a bid of $2,000 for an item listed at $4,500 would be accepted. That, though, was not the point of making the low-ball bid. The object of the exercise is to generate a counter offer from the seller. If such a bid, for example, were to be countered by lowering the offering price from $4,500 to $3,800, then two things have occurred. One, the cloners have won the first phase, and there is more to come. Two, whoever made that low bid—whether driven by cloning or otherwise—has just garnered,

at no cost, a potentially lucrative piece of information. He or she has just made $700 (and who knows how much more to come) in a few minutes. Incidentally, and at the risk of some understatement, most observers would agree that the annual rate of return on such a transaction is astronomical.

2.5. Do not respond to a low-ball bid

Let's move back to the larger stage of the $475,000 house. In that case, the first offer was for $332,500 (a 30% discount). Set aside, for a moment, the issue of cloning. Assume that this offer is legitimate; a bona fide offer for which the bidder might actually close the deal at that price. Whatever the bidder's motivation, the bid appears to be a low-ball offer. Given that, any financial response will likely provide far too much information. Suppose that the owner counters with $425,000. What was the point of that? The owner has just signaled to the bidder that the price is soft by at least $50,000 (again, what is the rate of return on that?).

There is a very strong alternative: through his or her realtor, the sellers should politely inform the bidder that they would not be able to respond to an offer in that range. As an aside, please note that realtors will *hate* this tactic. It is in their interest to keep this potential transaction alive (see Table 1). A realtor will likely be very unhappy with a seller's reticence, or outright refusal, to counter what he or she believes to be a low-ball offer.

We would not respond to any low-ball offer—in person, over the phone, or by any other means; for a house, a vehicle, a piano, a guitar, or anything else. It is possible that the potential buyer's bid was not meant to be a low-ball offer. Instead, the offer was legitimate. Aggressive, yes; exploitive, no. Even so, the seller should not provide a counter offer. If the seller declines to respond to an offer in the range of the potential buyer's bid, then the bidder—if he or she remains interested—may always provide a less aggressive offer.

2.6. Practice pointer: Beware—Cash is king

Suppose that Harold was invited, along with six other people, to dinner at an upscale restaurant. It turned out to be a nice occasion: great wine, delicious food, and exceptional service. The gentleman who arranged this dinner made it very clear from the outset that he would happily be responsible for the charges. All the guests were most grateful for his good company and generosity, and Harold suspected the bill would average $100-$150 or more per person. In any case, consider the following scenarios:

- In the first scenario—and probably the most appropriate, given the circumstances—Harold and the other guests were never aware of the actual billing. Unbeknownst to them, their host had previously arranged to pay for the evening, had provided the management of the restaurant with the billing information, and at no point were Harold and the other guests aware of the actual transaction. This was handled behind the scenes and neither Harold nor the other guests actually knew the amount of the bill, the associated gratuities, or any other related fees.

- The second scenario, and almost certainly the most common, would be that the waitperson provided the host with a bill. The host elected

Table 1. The importance of keeping it in play

Consider the relative effects of discounts from the perspective of the seller and a typical realtor transaction. For a home offered and sold at $475,000 the real estate agents would receive 7%; in this case $35,625. Notice that we referred to real estate agents (plural). It is not unusual for there to be more than one real estate agent and more than one real estate company involved in any given transaction. In that case, there are actually four relevant parties: the listing agent, the listing real estate company, the selling agent, and the selling real estate company. In this example, then, the listing real estate company will receive half of the fees: approximately $17,812. The other half would go to the selling real estate company. While there will be some variance in agreements between agents and their company, we will assume that the agent receives half of these funds. So, the selling agent would receive approximately $8,900 for this transaction.

Given that, we can now examine the relative impact of discounting on the seller of the home and the selling agent. Suppose that this house with a $475,000 asking price actually sold for $400,000. Obviously, the impact on the seller is $75,000. What is the financial loss for the selling agent? As noted, if this house had sold at $475,000 the selling agent would have received approximately $8,900. At a price of $400,000 the selling agent would receive $7,000. With no disrespect to any of the involved parties, the reality is that there is every motivation to keep the selling of the property in play. The impact of a $75,000 discount on the homeowner is $75,000 but on the selling agent the impact is about $1,900—a factor of approximately 40:1.

to pay the invoice with a credit card, signed the forms as appropriate, and the transaction was completed.

- The third scenario is that the bill was delivered to the host and, after having reviewed it, the host reached into his pocket and left $1,200 in $100 dollar bills on the table just prior to Harold and the other guests leaving the restaurant. This scenario, perhaps a bit ostentatious, almost certainly had a different effect on Harold and his friends. While $1,200 is something less than a king's ransom, few people who are not bank clerks have ever actually seen that many $100 bills at one time. Cash on the proverbial barrel head often has a strange impact on people, and certainly on their behavior.

Let's again return to the piano example and illustrate how cash could have provided even more leverage on the final price for that transaction. The initial asking price for Carl's piano was $3,800. With the cloning scheme, the final price was $2,750. Remember, too, that part of the final price bargain was that Mary would arrive with a truck and several friends to literally take the piano away.

Suppose all of this happened exactly as promised, save one consequential difference: Mary played the piano, complimented it, and explained that there would be a problem. She did everything she could to get the $2,750 but just couldn't come up with the full amount. She borrowed money from her sister, her mother—whomever—but could not get it all. But, then Mary lays $2,565 *cash* on the counter (25 $100 bills, and the rest in assorted bills) and says she hopes the amount will be satisfactory.

Consider this from Carl's viewpoint. The truck is outside the door, there are people standing by to load the piano, and there is $2,565 in cash on the counter; Carl has never seen 25 $100 bills in one place at one time. We suspect that most sellers, given these circumstances, would accept the cash and complete the transaction on the buyer's final terms.

Now, let's take another look at the house purchase scenario as earlier described. We would not suggest that the sale of a home for $400,000, or something on that order, would likely be consummated with cash. But, there remains an opportunity for the buyer to 'save' a few dollars. Suppose that the sale of Carl's home is contingent on an inspection. The inspection was not unreasonable, but there were a number of issues that Mr. Gregory thought should be addressed. Carl conceded these points, but preferred not to correct them. Instead, he promised to provide Mr. Gregory with $10,000 at closing. Mr. Gregory, under these probably off-book circumstances, could use the money for any purpose at all, correcting the inspection issues or otherwise.

On the day of closing, all the necessary parties are present and the all the elements are in order, save one: near the end of the proceedings, Carl is apologetic, but states he simply was not able to come up with the $10,000 as promised. He could, however, get fairly close and hoped it would be alright. He hands Mr. Gregory an envelope containing 75 $100 bills, for a total of $7,500. We strongly suspect that such a deal would have closed without incident. Cash is king.

2.7. Practice pointer: Stuff may be king, as well

In some respects, the 'stuff is king' approach is similar to the 'cash is king' example. People seem to react differently to cash; people also react differently to high-end products. Consider a beautiful home with a list price of $2.3 million. The parties, all in good faith, are several hundred thousand dollars apart and seem to be at an impasse. The seller counters the last offer not by further compromising on the price, but by promising the buyers that in the garage there will be a new BMW 760Li sedan (list price starting at $136,600) in the color of the buyer's choice at closing. We suspect that this automobile will, at something near that price, substitute nicely for much more (e.g., $250,000 — $325,000) in the ultimate selling price of the house.

The next section of this article comprises several critical elements in negotiation, in concert with closely related principles of persuasion and influence. The core focus of our attention is easily captured.

3. It is what it is

When thinking in terms of influencing someone to either do or not do something, people commonly reflect upon the many aspects of reward and punishment. The foundations of such approaches are timeless in psychology and organizational studies, but the work of French and Raven (1959) is among the earliest comprehensive typologies of approaches to influence. Notably, however, it is possible—easy, actually—to influence people without resorting to either reward or punishment (for a compelling compendia, see Cialdini, 2006, 2008; see also Frymier & Nadler, 2008; Goldstein, Martin, & Cialdini, 2008; Kotter, 2008).

Consider Martin, who has always been a very good student. Given his accomplished record, he was admitted to a well-respected university. On his first

test, Martin received 79 out of a possible 100 points (Figure 1). He could not remember the last time that he had received such a low grade and was, not surprisingly, very disappointed.

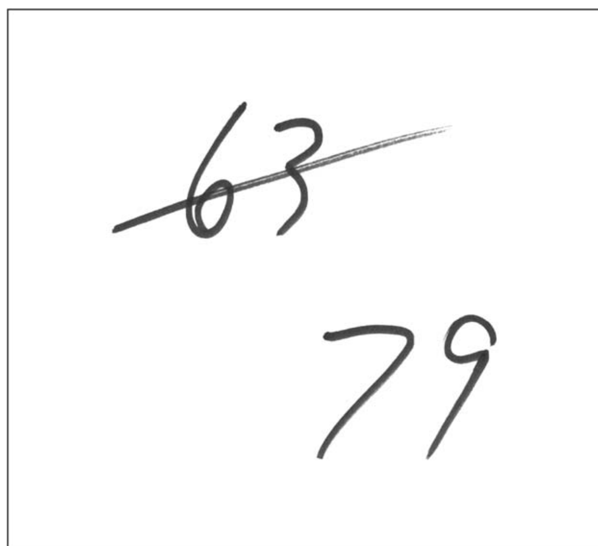
In a second scenario, Martin saw—on the cover page of his graded and returned exam—a score of 63, crossed out and replaced with a score of 79 (Figure 2). We can imagine that Martin may actually be relieved with the 79, given that he initially was set to receive 63, a grade the instructor apparently decided to change.

Now, consider a third scenario. In this case, a grade change has also occurred, but in a decidedly different direction. Here, the first marked score was 94, which was then changed to 79 (Figure 3). We can imagine what must now be on Martin's mind.

A final scenario is, in some ways, even more interesting—because, frankly, it is diabolical.

Figure 1. **The cover page of a test—Take 1**

Figure 2. **Cover page of a test—Take 2**



Martin receives his graded exam and sees listed a series of numerical entries, each presumably representing some function of different sections of the test (Figure 4). The four entries are 16, 16, 17, and 18. This has been totaled to result in a score of 79. Doing some quick math, Martin realizes this score is incorrect; the total should actually be 67. With no disrespect to Martin, what are the chances that the average student would bring this error to the attention of the instructor?

We strongly suspect that these four scenarios will influence the average student very differently. The first scenario (Figure 1) will be disappointing; the

Figure 3. **Cover page of a test—Take 3**

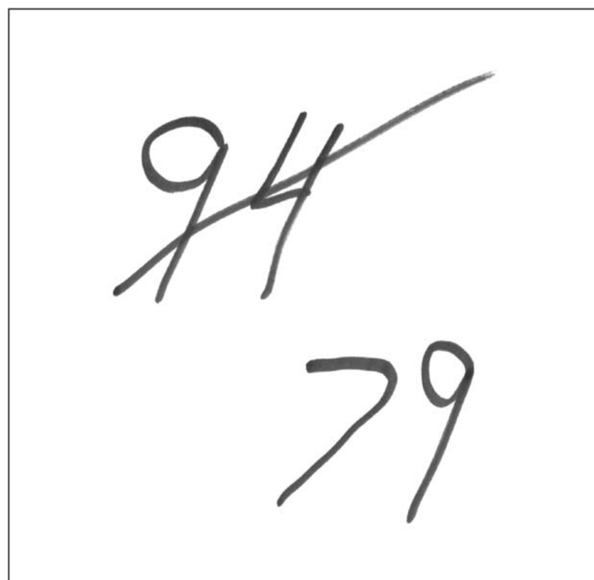
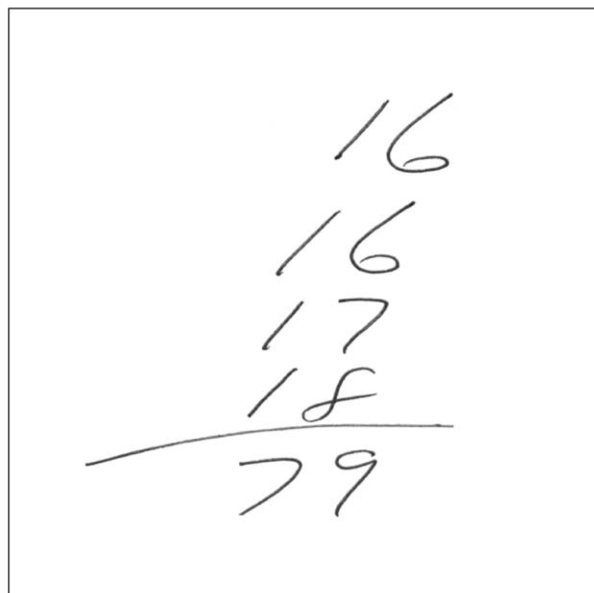


Figure 4. **Cover page of a test—Take 4**



second (Figure 2) will be far less disappointing; the third (Figure 3) will be maddening; the fourth (Figure 4) will probably leave the student thinking he or she is somehow very fortunate. That said, what does any outside observer know about every one of these scenarios? The outcome is identical. Every single scenario resulted in a grade of 79. Despite that, we would likely have observed very different reactions to those scores.

There are many ways in which persons' attitudes and their behaviors can be managed—or manipulated. These include creating or implying conditions of scarcity; social proof; ingratiation; commitment; consistency; attractiveness; similarity; 'discovered' error; reciprocity; contrast; choice/preferences/alternatives; and consistency (e.g., Cialdini, 2006, 2008; Dawson, 2000; Gass & Seiter, 2010; Goldstein et al., 2008; Perloff, 2007; see also Rogers, 2003 [especially chapters 1 and 6] for fascinating discussions of influence/persuasion in another domain).

3.1. Example from a retail outlet

Suppose that David is in the market for a new television. He visits a well-known outlet that is featuring a much-promoted sale this weekend on such products. Near one particularly popular brand of TV, there is a large sign. Near the top of the sign, a price of $1,580 is crossed out by a bold black bar; below it, $1,292 has been crudely written. That price, too, has been stricken and a 'final' price of $1,119 has been listed. It appears then that the sale price of this product started at $1,580; was reduced once to $1,292; and is now offered at $1,119. That would suggest a steep discount ($\approx$ 31%). Maybe so; maybe not. Actually, it does not matter. This example resembles the earlier one regarding test grades, some of which had been rather crudely replaced.

The price of this TV is now apparently $1,119. It does not matter what an earlier price was. It does not matter what the intermediate prices were. It definitely does, however, matter what the final price is. The apparent contrast of this price to some other prices is worthless information. Perhaps those prices *were* based on some legitimate index; but, it does not matter.

Practice pointer: The exactness of some of these sale prices (e.g., $1,292, $1,119) is supposed to leave the impression of precision; that somehow these prices were very carefully determined. That, too, simply does not matter.

3.2. Another retail example

Consider another retail extension of an earlier point. In this case, there is a television with a huge sign promoting a 35% discount for "this weekend only." The normal—or, at least it is advertised that way—price of this TV is $2,100. Sure enough, that number is crudely crossed out and below it the new sale price has been entered, $1,261. Wow, that is a good discount! Actually, it is too good; a $2,100 item marked at $1,261 is actually discounted by just over 40%. The store has made a mistake and this is a really terrific deal! With due respect, we doubt very much that a 'mistake' was made. We suspect this error was deliberate, and that management hopes potential buyers will notice the 'mistake' and leverage that error in their favor. This is the retail equivalent of the final test scenario (Figure 4). Was Martin's mark of 79 actually a mistake of addition, or was the error deliberately designed to dissuade him from bringing other issues about the exam to the instructor's attention?

The bottom line is that it does not matter. Maybe there was a mistake, maybe not. Such 'errors,' real or imagined, are very effective at changing persons' attitudes and their resultant behavior with regard to such transactions. Let's cut to the chase with the $1,261 TV. That is apparently the price. It does not matter how anyone arrived at that price. It is what it is.

3.3. Not all errors are errors. . .Revisited

In the prior section, we were dealing with an error discovered by the potential buyer, but perhaps not by the seller. Errors immediately discovered by the seller, however, can have a positive impact on a potential buyer. This occurs when the error, if undiscovered, would have *adversely* affected the buyer. Suppose Karen is in the market for a new automobile (the actual type of car or its price is of no consequence in this example). During the early stages of the transaction, Karen explained to the salesperson what options she would want with the vehicle: type of stereo, navigation, all-weather tires, leather upholstery, keyless ignition, and so forth. Obviously, the salesperson was keeping a running total of these upgrades to eventually determine the price of the car. When this part of the transaction was completed, the salesperson reported to Karen that the total price for the car with these additions would be $38,053. At that point, Karen engaged the salesperson in a negotiation, trying to reduce the quoted price.

After an accommodation or two, the salesperson looked puzzled and announced to Karen that he thought there was a problem. Needless to say, Karen was concerned with the sound of that; she was logically worried that the 'problem' would not be in her favor. The sales associate fitfully entered data

into his desk calculator, shaking his head and making notes. Finally, he apologized to Karen, saying the quoted price was incorrect and admitting fault. Theatrically pausing, he said they would have to redo the cost worksheet. Karen, for obvious reasons, feels that the price is about to be adjusted upwards.

Much to Karen's surprise, the salesperson explains that he made a mistake and entered the leather upholstery upgrade twice. Because of that, the price of the car would be less, by $985. Then, he caught himself and said he forgot to reduce the sales tax related to the discount; at 7% on $985, Karen would save an additional $68.95. Accordingly, the price he originally quoted Karen was too high by $1,053.95. Karen was delighted, and the 'new' price was agreed upon.

Imagine yet another 'crisis' that is decided in Karen's favor. In the middle of discussions, Karen's salesperson receives a phone call; or, better yet, someone who seems really annoyed asks to have a few words with him in private. The sales associate excuses himself and returns in a few minutes. He explains to Karen that the other party—a fellow salesperson, as it turns out—is very unhappy because he thought he had a pending transaction with another customer, for the very car Karen wanted. The salesperson apologizes to Karen for the intrusion and assures her, in no uncertain terms, that he has secured this car—for her.

Okay. Maybe there *was* an issue about the availability of the car, or maybe there *was* a pending contract, or both. What possible difference does it make? There is no reciprocity here. Karen owes no favor in return to the salesperson. The car is, apparently, available at some price. That is what matters.

It is possible that both of these scenarios were honest mistakes; honestly discovered and appropriately adjusted. It is also possible that these gambits were used to thwart further negotiations and to clad the salesperson in the robes of the good guy. Either way, it does not matter. The availability and price is what it is. The process by which it was reached is irrelevant.

3.4. Another peek into the window of scarcity

A vintage pre-war Martin D-45 guitar, if you could find one, would cost over $150,000. Why? It is because there are so few of them; indeed, less than 100 of these instruments were produced from 1933-1942. Some items, such as the Martin D-45, are actually rare. If there is a demand for these limited goods, then scarcity tends to make them relatively expensive. By the same token, some items—while not necessarily rare—can seem to be rare. Either way, to the extent to which a sought item can be made to appear rare, it will affect persons' attitudes and behaviors regarding the value of the sought object.

In that spirit, let's return to Carl and his piano. In the current scenario, cloning is not an issue. Rather, Carl (the seller) is attempting to increase the price of the piano for sale. Carl has placed an advertisement in the local newspaper, listing his vintage piano at the asking price of $3,800. We will assume that the advertisement has been effective, that the piano has been very well maintained, and that some demand for the instrument can be reasonably anticipated. One question comes immediately to mind: How should Carl manage the process of showing the instrument? Clearly, a potential buyer is unlikely to purchase the instrument without having played it. On the late Friday afternoon of the advertisement's appearance in the local paper, Carl's phone begins to ring.

Because he expects delivery of a new piano early the following week, Carl would like to sell the vintage piano as quickly as possible. To this end, he plans to be home all day on Saturday, and will also sacrifice his evening if necessary. Carl's first thought is to divide Saturday into several 75-minute periods. He believes this is enough time for an interested party to play the instrument, engage in a bit of bargaining, and hopefully close the transaction. That would give Carl the ability to schedule at least 8-10 appointments over the course of Saturday morning and evening. Let's call this approach Plan 1.

Plan 2 has an entirely different character. As the calls begin to come in, Carl could schedule all of the interested parties from 10 a.m. until noon. If the demand is as high as Carl expects, then that 2-hour period will be pandemonium. There will be cars parked all up and down the street, many people will be simultaneously vying to play the instrument and, yes, there will be some frustration. But, what is the mindset of the people who have arrived at Carl's home? It occurs to them that this must be a red-hot instrument; everybody wants to play it, and everybody probably wants to own it. These folks cannot wait for their turn, and they hope against hope that no one will buy it before they get a chance to do so. This notion that 'everybody is doing it' is often referred to as *social proof*. Perhaps the key issue is what impact this mindset has on the environment for negotiating the price of this instrument. We suspect that, under the described circumstances, there will be potential buyers who would now willingly pay a premium for Carl's vintage piano.

3.5. Back to a retail scenario

Imagine a well-publicized sale or close-out of appliances and televisions: 50% off everything. Consider a potential customer who arrives mid-morning to find that 30%-40% of the shelf-featured merchandise has a big red sign on it saying, "Sorry. Sold Out." Moreover, the premises are basically bedlam; there are shoppers everywhere. So, what is the mindset under such circumstances? Oh my, everything is selling like hotcakes; I have got to get busy!

Before adopting that approach, though, let's analyze some alternative considerations. First, the scenario as described does not lend itself to negotiation. Also, are the potential buyers absolutely sure that all of these products are sold out? If a given potential buyer were to ask a salesperson if he or she is certain that product the buyer just 'has to have' is absolutely not available in the back, what would the answer be? Maybe there is just one more? Maybe in a different size? Maybe a different color? Yes, there just might be. Or, maybe the salesperson would let a buyer order one of those out-of-stock products. Of course, the store might not be able to do that for this 'low, low price.' If not, maybe a buyer could buy the floor model. Yes, indeed; that might work. Are potential buyers certain that there ever was—at least, this day—a boxed product available? Or was the point of some of this exercise, from the outset, to move floor models?

Once again, we need consider nothing beyond this: It is what it is. This retailer either has the product the potential buyer wanted, or not. And, if it is available, it is offered at some price. And, that price is acceptable to a buyer, or not. It really does not matter how many products have, or have not, been sold today. Also, it does not matter if potential buyers had to park three blocks away or how many other customers (*social proof*) may be on the premises.

4. Final thoughts and a bottom-line practical pointer

In all of the examples provided, there is some aspect of potential manipulation; a deliberate attempt to modify persons' attitudes and behaviors with regard to some transaction. As noted, such attempts are not dispositive. In every case, it is possible for potential buyers or sellers to defend themselves against these tactics. In practice, however, many such buyers or sellers may not want to defend themselves at all. It is not that they wish to be manipulated. It is possible, however, that they simply do not wish to be bothered. And, they may have a very sound reason for that decision.

People who would mislead us, those who are both familiar and facile with these unscrupulous techniques, may actually provide two general risks rather than just one. Certainly, there is an issue regarding the early process including availability, price, and other relevant considerations. Some of these may have been disappointing or misleading, but those tactics are easily averted or attenuated. Even so, there remains some peril that is less easily defended.

The remaining concern is the fidelity of the late and post-deal period. Will closings or their functional equivalent be as agreed? Or will issues be revisited, or new issues raised, at the 11th hour? Will delivery be as agreed? Will maintenance and warranties be as agreed? The broader point is that if some party has not met reasonable expectations for fair play in the earlier stage, why would we expect a different pattern of behavior in the latter stage? Even if we have been able to minimize the early stage nonsense, the better course may be to decline the transaction altogether.

Perhaps it would be time to decide that this is simply not the party with whom we would like to do business. If the process is compromised, so may be the entire transaction. It is much easier to assert some control over a transaction in the early period, when the object of the transaction has not been tendered (a product) or performed (a service). It is much more difficult to obtain relief in the post-transaction period, when the allegedly culpable party has received their consideration for products delivered or services rendered. If the early stages of a potential transaction have been something less than expected, perhaps there should be no late stage.

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