

Commercial Insurance Update

Topics Affecting Buyers of Commercial Insurance

MSP C 12/2002 – “Negotiating”

December, 2002

Negotiating

Why would a commercial insurance brokerage feature an article on negotiation in its bimonthly newsletter? The answer is really quite simple.

First and foremost, our job is to manage risk for our clients. This involves identifying areas in which losses could occur, and figuring out the best ways to (1) control these losses, (2) transfer them to a third party or an insurance company, or (3) eliminate them. Negotiation is a key aspect in each step of this process.

Most of us have never taken a course in negotiation. It certainly wasn't one of the classes that I took when I went to college, yet we all negotiate every day, at work and at home.

Negotiation basically means getting what you want from others. It is back and forth communication designed to reach an agreement when you and the other party have some interests that are shared and others that are opposed.

What makes a good negotiation, and more importantly, what makes a good negotiator? Are these skills you can learn, build on and improve?

I'm convinced that negotiation can be learned. One of the best books on the topic is written by Roger Fisher and William Ury of The Harvard Negotiation Project. Their national best seller, *Getting to Yes – Negotiating Agreement Without Giving In*, is an excellent read, and one that all your key executives and employees should be exposed to.

The book is mercifully short (154 pages), and focuses on what is called “Principled Negotiation.” Principled negotiation “deals with the merits of a problem rather than the standard haggling involved with positional bargaining.” It suggests that “you look for mutual gains wherever possible, and that where your interests conflict, you should insist that the result be based on some fair standards independent of the will of either side. Principled negotiation,

when done correctly, is hard on the merits, soft on the people, and employs no tricks and no posturing. Ideally, it enables you to be fair while protecting you against those who would take advantage of your fairness.”

Principled negotiation is broken down into four key areas:

1. Separating the People from the Problem

Separating the people from the problem is not something you can do once and forget about. You have to keep working at it. The basic approach is to deal with the people as human beings and

Negotiating (Continued on page 2)



IN THIS ISSUE:

Negotiating.....	1-2
Cavnac & Associates' Charitable Giving Program.....	2
Hope & Fear: 2 Powerful Motivators.....	3-4
Angela Duron Attains CISR Designation.....	4
Conventional Wisdom Turned Upside Down.....	5-6
Eileen Jolly Competes in Half Marathon	6
Casinelli Raises \$3,200 for Clubs.....	6

Published by

Cavnac & Associates

INSURANCE BROKERS

License No. OA99520

1230 Columbia Street, Suite 850
San Diego, CA 92101-3547

✧ Phone 619-234-6848
✧ Fax 619-234-8601
✧ Website www.cavnac.com

Negotiating (Continued from page 1)

with the problem on its merits. The challenge is to look at the problem as a situation to be resolved, which generates the best outcome for the parties concerned. It's essential to avoid getting personal, while staying focused on the merits of the issue.

2. Focus on Interests, Not Positions

Interests motivate people, but people tend to get stuck on positions. In many negotiations, a close examination of the underlying interests will reveal the existence of many more interests that are shared or compatible than ones that are opposed.

3. Invent Options for Mutual Gain

Generate as many options as possible before selecting among them. Invent first, decide later. Look for shared interests and differing interests to dovetail.

4. Insist on Using Objective Criteria

The alternative to using objective criteria as a means to settle differences is to use the will of each party. No negotiation is likely to be efficient or amicable if you pit your will against another's. The solution is to negotiate on some basis independent of the will of either side, in other words, using some sort of objective criteria.

The book deals with several other areas which are often a factor in negotiations, including:

- What if they are more powerful?
- What if they won't play?
- What if they use dirty tricks?

Roger Fisher and William Ury also wrote a sequel to *Getting to Yes*, called *Getting Past No*. This deals with those situations in which the initial negotiations are not successful. Once again, this book is quite short, but right on point.

Another expert on negotiation is Michael Strogoff of Strogoff Consulting. Mr. Strogoff focuses on the design profession, but many of his articles are general enough in nature to benefit most of our clients. His monthly newsletter, "*Negotiating Strategies*," is tailored for design professionals and their advisors, and provides practical, proven techniques for negotiating better and more profitable agreements.

To request a sample copy or find out about subscribing to *Negotiating Strategies*, call 866 ARCH ENG (1 866 272-4364) or email Newsletter@StrogoffConsulting.com <<mailto:Newsletter@StrogoffConsulting.com>>.✿

Cavignac & Associates' Charitable Giving Program

One of the objectives underlying our Mission Statement is to be an "Effective Corporate Citizen." This involves supporting non-profit and charitable organizations that are making valuable contributions to our community. One of the ways we do this is through our Charitable Giving Program. Everyone at Cavignac & Associates contributes money during the course of the year, and as we near the holidays we identify several organizations that we feel need our help the most. This year we are supporting both the Polinsky Children's Center and the Monarch School.

The **Polinsky Children's Center** was opened in 1994 to replace the overcrowded Hillcrest Receiving Home. The 92,000 square foot facility located in Kearny Mesa houses up to 280 (and sometimes more) abused, abandoned and neglected children each night in age-appropriate, home-like cottages. Children receive an assessment of their needs, are provided education (there is a school in the facility) and are placed as soon as possible into the care of a relative or approved foster home.

For more information about the Polinsky Center, visit its Web site at www.capfsd.com.

The **Monarch School** provides an environment where homeless and at-risk teenagers and children can reclaim their lives and achieve their dream of a normal, productive life through education. The goal of the Monarch School project is to help each child who enrolls at Monarch to develop a sense of positive self-worth and self esteem. The Monarch School is located in Downtown San Diego. For more information on Monarch check out their Web site at www.monarchhigh.com

Penny Kelley and Sandy Hoffman of our office are taking the lead on this endeavor, and will shop for those items needed most by the children who are helped by these two organizations.✿

Hope and Fear — Two Powerful Motivators

By Michael Strogoff, AIA

Excerpted from the July 2002 Issue of “Negotiating Strategies” Newsletter

According to the Wall Street Journal, one of the most successful training programs for selling insurance annuities counsels salespeople to forget about using graphs and financial printouts. The training manual states “*People buy on emotions! Emotions of fear, anger and greed.*” (“Annuities 101: How to Sell to Senior Citizens,” July 2, 2002).

Advertising executives have known this for decades. People make buying decisions based on their emotions and justify their decisions based on analysis. Through exhaustive testing, people within the advertising industry also know that two of the most powerful motivators are hope and fear.

Hope

While deciding to purchase a specific brand of skin cleanser in the hope of eliminating acne arguably differs in significance from deciding which architectural firm to retain to design your new home, both decisions involve hope. In the case of the skin cleanser purchaser, the hope is for a lifetime of blemish-free bliss with one’s perfect mate.

For homeowners, the hope is for the house of their dreams. For other types of architectural clients, the hope might be for a high return on investment, an office space that improves worker productivity or an environmentally friendly building. These clients will pay a premium to the architectural firm they believe will best fulfill their hopes.

Marketing statements such as “*The last five buildings our office designed were fully leased before construction was completed*” appeal to a developer’s emotions (hope or greed, depending on one’s perspective). Only after the emotional response will most developers perform their due diligence — reference checks, construction cost comparisons, site visits, etc.

Fear

The fear of loss is an even more powerful motivator than is the hope for gain. People fear making mistakes, missing opportunities, losing something of value, wasting money, being embarrassed. The list goes on. According to Harry Mills in his book *Artful Persuasion* (Amacom, 2000), “*of all our emotions, fear is possibly the most powerful motivator.*”

Again, advertisers know that invoking fear works when selling a product or service. American Express’ “*Don’t leave home without it*” commercials show a family lost in a foreign country. Life insurance commercials provide a glimpse of what it must be like to be a widow trying to balance a checkbook with three young children pulling at her skirt. One of the most effective public service announcements of the 1970s began with a solemn voice asking “*It’s 10 p.m. Do you know where your children are?*”

Harry Mills describes that for fear to work as a motivator, it must meet four conditions:

1. The appeal must actually create fear.
2. A specific recommendation must be made about how to overcome the fear.
3. The listener must believe that the recommendation will work.
4. The listener must believe that the person or company making the recommendation is capable of carrying it out.

For design professionals, asking simple questions during the initial marketing or negotiating meetings is one of the best ways of ascertaining a client’s fears. Try asking questions such as, “*What trepidations, if any, do you have about this pro-*

Hope and Fear (Continued on page 4)

ject?” or, if the client recently completed another project, “What would you do differently if you had the chance?”

Most clients, when responding, will provide all the information needed for design professionals to craft a winning marketing and negotiating strategy. They might state, “I’m concerned about the quality of contractors in this area” or “On future projects, I would establish a much higher contingency to cover unexpected costs.”

“The fear of loss is an even more powerful motivator than is the hope for gain”

Knowing a client’s fears, a design professional can craft his message to meet Harry Mills’ four conditions. If an architect wanted to negotiate fees for extra site visits during construction, he could call upon the client’s concern about the quality of available contractors.

A portion of the architect’s fee proposal might read, “Our typical fees include site visits during construction that coincide with key milestones in the contractor’s progress. In our experience with the public bid process, whereby the lowest cost contractor is selected, this frequency of site visits is not sufficient to adequately monitor the contractor’s progress. The contractor could spend weeks constructing a defective building before our team observes the defects. Rather, we suggest that our team conduct weekly site observation meetings to help ensure that construction proceeds smoothly. We can provide these additional visits for a fee of....” This offer builds on the client’s fears and offers a credible solution that benefits both parties.

Messages do not need to be negative in tone to invoke a client’s fears. With clients fluent with construction, the above language can be changed to read, “We recommend that our team conduct weekly site observation meetings to help ensure that construction proceeds smoothly. We can provide these additional visits for a fee of....” The client will infer what might transpire if he elected not to pay for weekly site visits.

Whether you use hope or fear as a persuasive technique, make sure you provide clients with specific recommendations for solving their problems

and stress your role as their advocate. Otherwise, you sound like you’re selling skin cleanser.✂

“**Negotiating Strategies**” is a monthly newsletter for design professionals and their advisors with practical, proven techniques for negotiating better and more profitable agreements. To request a sample copy or find out about subscribing to **Negotiating Strategies**, call 866 ARCH ENG (1 866 272-4364) or email Newsletter@StrogoffConsulting.com <<mailto:Newsletter@StrogoffConsulting.com>>.”

Angela Duron Attains CISR Designation

Cavignac & Associates strongly believes in the value of continuing education for our insurance professionals. We proudly announce the educational achievement of our Account Administrator Angela M. Duron, who attained the nationwide Certified Insurance Service Representative (CISR) designation.

Angela began taking the six classes required for designation in the spring of this year to broaden her insurance knowledge. “Although I originally took the four commercial CISR classes required for the designation just to broaden my commercial insurance knowledge, the CISRs I met in those classes convinced me that the camaraderie of the nationwide CISR network would be a tremendous asset in my work,” Angela explained. “After completing the commercial insurance classes, I decided that I would also take the two personal lines classes necessary to achieve the nationwide designation.”

Congratulations, Angela!✂

Cavignac & Associates
INSURANCE BROKERS
License #OA99520



www.cavignac.com

Conventional Wisdom Turned Upside Down

By Michael Strogoff, AIA

Excerpted from the July 2002 Issue of "Negotiating Strategies" Newsletter

Most popular books and articles on negotiating contain a number of assertions that are seldom challenged. The authors imply that their words of wisdom apply to negotiations involving almost any subject — salaries, services, relationships, products. When applied to architectural and engineering services, however, many of these truisms just aren't true. Here are a handful of negotiating myths that, when applied to negotiating professional services, should be taken with more than a few grains of salt:

Myth # 1: Always have a bottom line.

Most negotiators define a "walk-away" point before they start negotiating, thinking that this keeps them from making emotional or irrational decisions and gives them more discipline to hold firm when the other party digs in. When negotiating A/E services, this is ill-advised. Bottom lines inhibit creative thinking and keep the parties from reaching a win-win solution.

For example, if an architect enters a negotiation determined not to accept less than a \$100,000 fee and to walk away if the client insists on retaining some of the fee until the end of the project, there's nothing to do other than terminate the negotiations if the client insists on either or both of these. However, the architect might have been elated with \$90,000 for a more limited set of services and the release of any retention at the end of each design phase. With a "walk-away" approach, the architect might never have discovered this preferred solution.

Instead of a bottom line, design professionals should know what alternatives they have to reaching an agreement (see "What To Do When Staff Are Sitting Idle" in the June, 2002, issue). Then, as a negotiation progresses, the design professional can weigh the likely outcome against his alternatives. If he doesn't think he can achieve an outcome better than his alternatives, only then should he terminate discussions.

Myth # 2: Never make the first offer.

Most clients undervalue architectural and engineering services and underestimate the level of effort required. Why let a client put the first number on the table when it most likely will be inadequate? And negotiating a higher fee probably leads to a lose-win outcome in the client's mind. It's usually better to propose a fee before a client puts forth a number. Besides, imagine telling a client, "No, first you tell me what you want to pay."

Myth # 3: Never make a concession without getting something in return.

Conventional wisdom says that whenever you give something, get something in return, otherwise you invite the other party to ask for more. Concessions, when used properly, are powerful negotiating tools. Try conceding on items that cost you little but are worth a lot to the other party.

For example, the good will created by agreeing to develop a computerized rendering at no additional cost to help a client raise project funds might prove valuable later when you need your client's cooperation. Just be careful not to telegraph a pattern of conceding — that is what creates expectations for more concessions.

Myth # 4: Don't accept the first offer.

Most negotiators counsel never to accept an initial offer for two reasons. First, the other party will often second-guess their offer. They'll think, "It was too easy — I could have done better." They won't gain the satisfaction that comes when one's first offer is rejected. Once an agreement is reached they think that they pushed the other party to their limit. The second reason is the flip side — the party who accepts a first offer will always regret it. If they had just held out longer, they lament, they would have achieved better results.

Conventional Wisdom (Continued from page 5)

But consider this. If a design professional, through his marketing and negotiating efforts, effectively communicates the value his team brings to a client, then his client's first offer is likely to reflect that value. If so, why hold out for more fees? Negotiating higher fees at that point usually means elevating the client's expectations to an unrealistic or unachievable point. And unmet expectations are bad business.

Myth #5: Keep your cards close to your chest.

Information is power but only when used wisely. The relationship between an owner and a design professional is based on trust and everything thus far agreed upon in a negotiation can unravel when that trust is called into question. Often, showing some of your cards bolsters trust and helps move a negotiation toward a fruitful conclusion.

For example, when confronted with a deal-breaker, explaining exactly what your team is prepared to accept — and why — might encourage the other party to back off. Limit your game playing to the poker table — the stakes are lower.

Myth # 6: Always ask for more than you expect to get.

Although many people in our culture expect some give-and-take when negotiating, a better strategy is often to quote a fee and stick to it. Tell clients that your fee represents the levels of effort required to meet their goals and provide the level of services they expect. Most clients worth keeping will respect design professionals who make clear their commitment to deliver services cost-effectively but that they won't compete based on price.

Myth # 7: Keep the other party saying "yes."

Give the other party credit for some level of intelligence. Don't you think they'll see through this simply ploy? This tactic might work when selling vacuum cleaners but not when selling professional services.

When negotiating A/E services with an owner, conventional wisdom must be viewed in light of personalities, degrees of trust, and each party's goals, experiences, commitment to collaboration and sense of fair play. The only conventional wisdom that should be taken at face value: Every negotiation is different.✂

*"Negotiating Strategies" is a monthly newsletter for design professionals and their advisors with practical, proven techniques for negotiating better and more profitable agreements. To request a sample copy or find out about subscribing to **Negotiating Strategies**, call 866 ARCH ENG (1 866 272-4364) or email Newsletter@StrogoffConsulting.com <<mailto:Newsletter@StrogoffConsulting.com>>."*

Eileen Jolly Competes in Silver Strand Half Marathon

Commercial insurance employee Eileen Jolly competed in the Silver Strand Half Marathon on Sunday, November 17th. The course is 13.1 miles starting at Sunset Park in Coronado (about 1 mile north of the Hotel Del), runs along the Silver Strand and ends at the Imperial Beach Pier.

"The cause is 'Athletes Helping Athletes,'" Eileen reported. "Proceeds from the run go to physically challenged athletes – and I'm talking about athletes that run with no or only one leg! It's inspiring – and humbling– to see these athletes on the course and finishing the race."

"Besides wanting to help with the cause, it is very much a personal goal for me," added Eileen, who is in her 30s. "I've always enjoyed running, but find I run better when I have a goal to reach. I did the race two years ago and wanted to do it again. It's only my second half marathon. I have not attempted a full marathon yet – maybe when I turn 40?!"✂

Patrick Casinelli Raises Money for Clubs

Cavignac & Associates' Employee Benefits Account Executive Patrick Casinelli recently completed the 17.1-mile point-to-point mountain race in Colorado while raising \$3,200 for the Carlsbad Boys & Girls Clubs. The Imogene Pass Run takes place along a route from Ouray — 7,810 feet elevation — and Telluride — 8,820 feet elevation — over the 13,120-foot Imogene Pass in the western San Juan Mountains.

Patrick ran the race in memory of his father, Mike Casinelli, who regularly participated in the run, and honored his father with a toast at the 12,500-foot elevation where a plaque honoring Mike Casinelli was placed by Terry Lingenfelder in September 2000.✂