



Best Practices in Negotiation: Dealing With Liars and Tricksters



A perennially favorite topic in my “Best Practices in Negotiation” seminars at UCLA and UC Berkeley is how can you protect yourself from the dirty tricks and deceptions that our counterparts might throw at us?

No question about it, we need to be on our toes, first and foremost, to sense when we’re dealing with someone who isn’t truthful. One of the toughest decisions you’ll make in negotiating is what to do once you have proof that your counterpart is a liar.

Do you cut off all contact, withdrawing on the spot from any current transactions? This isn’t always possible, practical, or desirable. Though, strictly speaking, you do have a justification to at least call for a pause in the action, to determine whether you and your assets are at risk.

And is there a material difference between big lies, ones that misrepresent significant deal points, and little ones that seem irrelevant to the proceedings? For instance, I was dealing with two executives at a company

that was a franchised unit of a major services firm. One person revealed disparaging information to me about the other, not because I probed for it, but because he volunteered it.

A few days later, the partner confessed that they were married to each other, though she pointed out, “For business purposes, we generally keep it a secret.”

Apart from the disclosures they each made regarding the other’s management practices, which was pertinent to my mission as a consultant, their marital status wasn’t relevant – until it became clear that they’d lied about it.

“Why lie?,” I found myself wondering. Did it serve any purpose, except to alert me to the fact that they do lie, that they practice deceit, that they’re in the habit of using ruses?

Soon thereafter, I chose to sever our relationship, partly because I believe in the “Iceberg Theory” – if what you can see of a person’s ethics is treacherous, it’s likely that what you cannot see, what lies below the

One of the toughest decisions you’ll make in negotiating is what to do once you have proof that your counterpart is a liar.

surface, is potentially devastating; so steer clear!

One of my law school professors admonished those of us that were studying mediation with him to consider the sage advice that one of his mentors gave him.

“99 percent of legal problems can be avoided if you simply deal with honest people.”

But wasn't it the Greek philosopher Diogenes who wore out many sandals pounding the cobblestones of ancient Athens, lamp in hand, seeking to find “an honest man”? If we do business solely with completely honest people, won't we become very lonely negotiators?

For practical purposes, I believe it's wise to make a few distinctions. There are three kinds of liars:

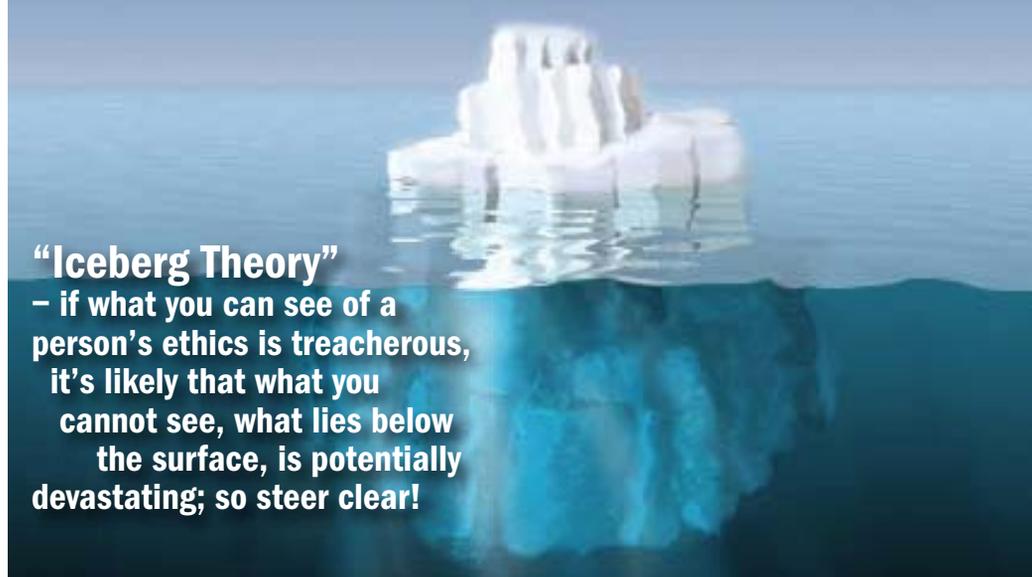
- 1 Those who do it where something major is at stake and they're pursuing it.
- 2 Those who lie about trivial things, out of habit, or seeking some thrill.
- 3 Those who exaggerate or negligently misrepresent facts, without checking or supporting them with proof.

I would avoid dealing with the first two, not bothering to accuse them of prevarication or mendacity. Just walk away, if you can't run.

With the third, I'd proceed, but carefully, requesting documentation or substantiation for every assertion they make. The adage, “Trust, but verify” is always good advice, especially when you're negotiating.

There are also various dirty tricks that you should be able to spot:

The Missed Deadline. Often in business, people will “play the clock” as meticulously as a championship-winning football coach does. But instead of calling official time-outs, they'll simply become “no-shows” after promising to meet specific deadlines. It will seem that they've fallen off the earth. Let's say they promised to seal the deal by Friday. That day comes and goes, and you receive no word. Naturally, you've been putting the rest of your life on hold pending the consummation of this agreement and, as the late afternoon sun starts to set, with the clock ticking off the seconds until the weekend, you're



“Iceberg Theory”
– if what you can see of a person's ethics is treacherous, it's likely that what you cannot see, what lies below the surface, is potentially devastating; so steer clear!

sweating whether you have a deal at all. Not wanting to seem too needy or too hot for the deal, you decide to return silence with silence; but that makes for a nervous weekend, to say the least. Why would someone put you through this stress? They might be looking to extract major concessions from you, and one way to do that is to make you anxious to ink an

understanding, ANY understanding. Or, they may want to test your overall desire and willingness to do business with them. **SOLUTION:** There's nothing wrong with sending an e-mail or leaving a voice message to remind them of the (passed) deadline, asking “Are we still on track?” Typically, that will smoke out any problems and ultimately clear the air.



If you're going to make a concession, get one, in turn, right away, by saying "If I do X, are you willing to do Y?"

The Nibble. This is a 12th-hour request for a seemingly minor concession. Just when you thought the deal was sealed, your counterpart suddenly asks for a morsel more. A well-known negotiation consultant tells a story about a fellow who'd buy a suit from a store and ask, "What shirt and tie would you suggest with this outfit?" After the clerk would bring over a perfect match, the negotiator would say, "Now, if I buy the suit you'll throw in the shirt and tie, won't you?" A quick

calculation is made. "Is it worth 10 percent of the price of the suit for me to offend this customer, or should I cut my commission a little and make him happy?" **SOLUTION:** "I'd love to throw them in, but only if you're willing to pay the REGULAR price and not the sale price for the suit. Would you prefer I write it up that way?" If you're going to make a concession, get one, in turn, right away, by saying "If I do X, are you willing to do Y?"

The Re-Negotiation, also known as "Stick-Em-Up!" You see this in pro sports where an athlete in the second year of a three-year contract is performing above expectations, earning more than his keep. His agent runs to management and says, "Let's talk about a contract extension, shall we?" What he wants to do is to tear up the remaining season-and-a-half on the existing

deal and get his client a better offer and long-term career security, immediately.

Is this LEGAL? It is, if both parties agree to a modification; but if the athlete is saying, "Pay me more right away or I'll under-achieve," then it's more like a breach of contract.

Of course, in any negotiation for human services, if the transaction gets too acrimonious you might win the ballplayer or employee but lose his goodwill. Then, you've made an awful deal.

Knowing this, most pro franchises will open talks with players who are performing above expectations, though from a strict contractual perspective, they could stand firm and require the player to perform at the rate he originally negotiated for the third year.

Lest you think this is a game only played by multi-millionaires, consult your local sales manager, who can regale you with all kinds of stories about showroom superstars who want bigger salaries and commissions the minute they demonstrate a knack for closing deals.

Overall, I have identified and invented some "101 Best Practices in Negotiation." Stay tuned for future articles in which we'll explore them! **N**

Dr. Gary S. Goodman is a top speaker, sales, service and negotiation consultant, attorney, TV and radio commentator, as well as the best-selling author of 12 books. He conducts seminars and speaks at convention programs around the world. He can be reached at gary@customersatisfaction.com and followed on Twitter @Bargainer.