

## Chapter 3: Negotiating Techniques for Transactioneers

In this chapter, you'll find all of the magic phrases that you can use to cause every seller with whom you talk to agree to any kind of crazy payment plan you can manage to come up with.

Not.

Sorry to disappoint, but there's no magic that will turn sellers who aren't motivated to consider a creative deal into partners in a creative deal.

And there's no negotiating fairy dust that, when sprinkled over a seller, will cause them to do something that doesn't make sense to or for them, no matter how badly you might want it.

However, there ARE ways to talk to people *for whom a creative solution is actually a good solution* that maximize the chances that they'll hear you out, and maybe even agree to what you're proposing (despite the fact that, at least at the beginning of the negotiation, it's completely outside of their frame of reference and comfort zone).

And since the "negotiation" actually starts the moment you pick up the phone, we're going to walk through it in the order in which it happens, which is:

1. Find out if the seller has the deal you want
2. Find out if the seller is motivated to sell at a price/terms that are likely to work for you by getting the details of the situation (both financial and personal) and locating what the real "pain" is
3. Find out what he THINKS he wants
4. Get him to agree to what he actually NEEDS, in the general sense
5. Tell him what you can do for him and why that should ease his pain

Of these steps, 1-3 are very easy with motivated sellers; they're typically anxious to give you information about the property and what they want for it. Step 4 is surprisingly difficult, because most sellers don't come to you really understanding what they NEED, only what they want and hope the outcome will be. And step 5 is all about speaking in English rather than investor-ese, being prepared to answer questions and suss out objections, and being patient.

### The Purpose of the Interview

The first step to any negotiation is to interview the seller about his property and his situation. This interview, when done correctly, serves 3 crucial functions:

1. It gets you the information you need to decide whether the DEAL is right for you—right property in the right neighborhood and right condition etc.
2. It allows you to pre-qualify the seller in terms of his motivation and situation, so you can decide whether to even open up negotiations (and also discover some hot buttons to come back to in the actual negotiation)

3. It gives you the chance to build some rapport—very, very important in later stage negotiations of a creative deal

## Step 1: Using the Interview to Pre-Qualify the Property

If you followed instructions and set limits, there are certain types, conditions, and locations of property that just aren't in your wheelhouse.

A good way to "ease in" to the negotiation and begin to get a feel for how the seller communicates is to ask the easy property questions first—where is it, what is it, what's wrong with it, etc.

These are questions that are, on the whole, easy for most sellers to answer, letting them relax and decide that talking to you isn't scary or threatening.<sup>1</sup>

Plus, if YOU aren't interested in the property, the most likely reason probably has to do with the property itself, so it's best to get these questions out of the way early, in case there's no reason to START a negotiation at all.

## Step 2: Using the Interview to Pre-Qualify the Sellers

You'll quickly discover that even when you've marketed to a seller that has REASON to be motivated (i.e. he's inherited a property), that doesn't mean that by picking up the phone and calling you he's proven that he IS motivated.

And unlike the typical real estate investor, you don't just care THAT he's motivated, but WHAT the source of that motivation is, because that helps you determine which of the many strategies you know to control his property he might be open to.

But there's a big difference between a seller who's "motivated" by the fact that he'd like to avoid paying a commission to an agent and one who's motivated by the fact that he inherited a property 1,500 miles from where he lives, and is a rat-infested junker, and has been on the market for 981 days without an offer.

There's also a difference in the offer you'd make to seller #2 in the scenario above if his property is paid off and his main concern is getting some cash to buy a piece of land, versus if

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<sup>1</sup> Don't believe that sellers find talking to you scary and threatening? Many of them do—they have no idea what to expect when they call you and are on edge about what's going to happen when they do. They're not sure you DON'T have some of that magic fairy negotiation dust and aren't going to talk them into giving you the shirt off their back. Trust me, they're, mostly, more afraid of you than you are of them.

his property has a mortgage on it and his main concern is just getting code enforcement off his back.

So job 1—before you even start to “negotiate”—is to discover how much pain he’s in, how many other options he thinks he has, and to get him off the phone if talking to you is a waste of his time (and yours, of course) in his current situation.

Since there’s no website called WhyIsThisGuySelling.com<sup>2</sup>, the only way to find out the level of the seller’s motivation is to ASK.

And no, it’s not generally going to work to say, “So, on a scale of 1-10, how desperate are you to sell?”<sup>3</sup>, because that question is too subjective (and because early in the conversation, sellers often try to downplay their motivation as a primitive negotiation technique of their own).

Instead, you ask a series of questions about the seller’s situation in an attempt to get him to open up—or at least get hints as to what’s going on. These questions might include things like:

- Why are you selling?
- How long have you been trying to sell?
  - (If the answer to the above question is, “a long time”) Why do you think the property hasn’t sold?
  - (if the answer is, “you’re the first person I’ve talked to”) What are you hoping I can do for you?
- Do you have a time by which you need to sell?
- What happens if you don’t sell by then?
- Have you already bought another home? (if the seller is a homeowner);
- What are your plans for the money?

These are the kinds of questions that speak to the seller’s reasons for selling—and, unless you have an especially reserved seller, should reveal both how motivated he really is and what the real source of motivation might be.

And don’t limit yourself to the questions listed here; follow up on anything the seller might say that indicates he’s motivated. For instance, if he says, “I’m really sick of tenants!”, you want to know exactly what his experience has been—so you might ask, “Are there tenants there now? When did your last tenants move out? How badly did they damage the unit?” and so on.

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<sup>2</sup> Don’t I wish.

<sup>3</sup> Ditto.

Your goal when the seller is making consistent “I’m not motivated” noises is, of course, to get him off the phone as quickly as possible. However, as a Transactioneer, one of the things you’ll get good at doing is recognizing the cases where the seller is actually saying:

*“I’m PRETENDING not to be motivated, because I’m under the impression that that’s how you negotiate”*

Or: *“I AM motivated, but my price and terms demands don’t reflect that because the market hasn’t yet told me that I’m not getting my ideal price in the timeframe in which I need it”*

It’s also important to remember that the seller who’s truly not motivated today might be hyper-motivated 6 months from now. Therefore, when “getting the seller off the phone” because there’s no reason to pursue a negotiation at the moment, your best strategy is complete and total honesty. For instance, you could say something like,

*“Mr. Prospect, I appreciate your call, but I’d like to be perfectly honest with you. Since you really don’t need to sell right now, I’m not your best option at the moment. Since I’m an investor, I need to buy properties at under market prices or with favorable terms, and it sounds like you have no reason at this point to want to accept an offer like that. Your best chance for getting top price and all cash for your house is to put it on the market and wait for a homeowner to come and fall in love with it. The service I provide is really a plan “B” for if you run out of time to sell, or just decide you want it off your hands. I don’t want to waste your time looking at the property or insult you by making an offer that you don’t need to take, but I’m certainly here for you if things change. How about if I call you again in a month or so and see how things are going?”*

## **Don’t Forget: Always Be Building Rapport!**

Before we get to some negotiation tactics, it’s important to take a moment and talk about something that you must ALWAYS be building and maintaining as a Transactioneer: rapport.

Rapport is such a mystery to so many people. We all know it when we feel it, but the idea of intentionally “building” it is a concept that eludes most unsophisticated real estate investors.

Most simply don’t understand how it’s done: they think there’s some sort of one size fits all formula of being agreeable, matching people’s body language (which I’ve personally found tough to both do and get any mileage out of over the phone), and dropping trial closes to get the other guy saying “Yes, yes, yes”.

Others are uncomfortable with it because it seems “fake” (because you’re charming someone that you don’t really care about, and are trying to get something out of, into liking you)

or unnecessary (because bottom line is, they need to sell, but you don't need to buy).

But especially for Transactioneers, **building rapport eases both your life and that of your seller.**

It makes it easier for the seller to tell you what you need to know to present the best solution to him. It makes it easier for you to deliver the “bad news” that you can’t give him exactly what he wants the way he wants it.

And most importantly, it makes it easier for the seller to do the one crucial thing that he MUST do in order to enter into an ongoing financial relationship with you, allowing you to make him payments or to make his payments to the bank—and that’s trust you.

Here’s the most important overlooked fact about creative deals: sellers don’t do them because they always dreamed of getting payments instead of cash. They don’t do them because they’re too stupid to understand that there are risks, or because they’re so sophisticated that they know how to protect themselves from those risks.

**They do creative deals because it solves their problem and because they like and trust you—and the only way you’re going to gain the trust of a seller is to work on rapport-building.**

The best way to begin to build rapport during the initial interview is to simply show interest in what your prospect has to say.

Many of your sellers are in real, agonizing pain of one sort or another. It’s amazing how they’ll relax and open up when they realize that you’re actually engaged in the conversation and not just trying to get to the bottom line price, as are many of your competitors.

And actually BEING interested in their whole story, not just the details about their property, is a real plus. Using “active listening techniques” including restating, paraphrasing, and affirming what they’ve said not only makes you seem more likeable and trustworthy, it also helps later during the actual negotiation when you’ll be coming back to what you’ve learned.

Things to avoid if you want to seem interested in your counterpart include interrupting him, “waiting to speak” (as in, I don’t so much listen as wait for you to shut up so I can speak), finishing his sentences for him, and so on.

The best way to build rapport with any seller is to really internalize and project the attitude that you want to understand and help him. I mean, don’t you like people who are trying

to do something for you?

If you can really hold the apparently-competing thoughts in your mind that you want his property at a price and terms that are profitable to you AND you want him to be happy with the outcome of the sale of his house, you'll have no trouble building rapport with most sellers.

The PRACTICAL outcome of this is that you'll deal with sellers in a very different way than they expect, or that your competitors do. For instance, you'll often end up discussing the pros and cons of ALL the seller's options with him, including those that don't involve selling to you. You'll talk in terms of how your offer might or might not work for him, rather than in terms of why YOU need it to be that way. And you'll get deals that are being heavily fought over by other investors, because they're all focusing on the money and the pressure, while you're offering advice, finding out what's more important to the seller than the money, and letting him know you want what's best for him (even if you happen to believe that's accepting your offer).

Keep this firmly in mind as you're learning the negotiation tactics below; they have to be balanced with rapport building at all time.

### **Step 3: Using the Interview to Help the Seller Understand HIS Limits**

In a perfect world, negotiations with sellers would be ridiculously easy: you'd tell him what you needed to happen to make the deal work for you, he'd tell you the same, and you'd simply step back and see if there were any overlap between his goals and yours where a bargain could be struck.

Unfortunately, sellers don't negotiate real estate deals every day, like you and I do; for that reason, they approach selling their properties in all kinds of strange, non-productive ways. They'll need to be led by you to the point where they're clear on what they MUST HAVE to make the deal, rather than what they IDEALLY WANT.

There are several common situations in which it becomes necessary (and extremely valuable) to have these tactics in your back pocket. We'll call them seller scenarios 1-3.

#### **Seller Scenario 1: The Seller Can't Tell the Difference Between what he WANTS and what he NEEDS.**

You'd think that most sellers of something as expensive, important, and sometimes problematic as a piece of real estate would have thought this through before making an attempt to sell it.

But you'd be wrong.

Every experienced real estate entrepreneur has had endless conversations with “suspects” (that’s what we call sellers when they’re motivated enough to contact you, but aren’t yet proven “prospects) that go something like this:

**You:** “And why are you looking to sell right now?”

**Seller:** “Well, I inherited the property from my great Uncle, and I live 1,500 miles away and don’t really have any use for it. Plus, a Realtor told me it would need \$50,000 in work to make it livable, and I don’t have that kind of cash. Also, the housing court there has issued a warrant for my arrest because they’ve been issuing orders for a year that I’ve done nothing about, and the police called me and told me there are squatters starting fires in it”

**You:** “Wow, that’s awful. What were you looking to get for the house?”

**Seller:** “\$35,000, cash on the barrelhead.”

**You:** “Wow, that seems kind of high compared to what other houses there in Crackville are selling for. How did you come up with that price?”

**Seller:** “Oh, I want to buy a new pickup truck, and that’s what they cost”.

No. Seriously. This happens All. The. Time.

If you’re wondering why you find this exchange so amusing/frustrating/hard to believe (the latter only if you’re pretty new to the business and haven’t had it hundreds of times), here’s why:

- You have a seller here who has every reason to be motivated...
- Who NEEDS to be motivated...
- Who can state WHY he’s motivated...
- Who is NOT going to get his price no matter how many people he calls...
- And yet whose asking price and terms is based on something entirely outside of the actual value of the property, outside of the situation he’s in, and outside of bounds of logic.

The Scenario 1 seller needs help understanding that “the market” doesn’t really care that they want a new pickup truck, or a down payment on a condo, or even just to recover what they have in the house.

He needs you to gently guide him through the process of setting aside what he’d ideally like to get and start thinking about what he can accept.

When you start using these tactics, you’ll see that it’s often the case that the seller can’t express what he needs because he doesn’t even know—usually because he hasn’t allowed himself

to think beyond what he wants.

As you use methods like The Wince, The Takeaway Close, and The Perceived Ultimatum on these sellers, you'll almost hear those unused "reality gears" in their brains start to grind as they slowly, gently, non-confrontationally begin to understand that you just aren't jumping up and down to give them what they "want".

### **Scenario 2 seller: The Amateur Negotiator**

The second type of seller with whom these tactics work well is the amateur negotiator.

The amateur negotiator has heard—and believes—certain very primitive negotiation tactics that stand in the way of you finding out whether he's actually motivated or not.

He thinks that the best way to deal with you is to get you to speak first ('cause, you know, he who speaks first loses), always try to "split the difference" on everything, make you come look at the property before he'll name a price (so that you're "in his territory"), that kind of thing.

He doesn't really understand any of these things, nor does he understand that by convincing you he's not motivated, he's also convincing you not to make him an offer AT ALL.

Conversations with these sellers often go something like this:

**You:** "*And why are you looking to sell?*"

**Seller:** "*Well, I wasn't really, but then I got your postcard, and I thought, 'What the heck, I'll see what he's offering.'*"

**You:** "*And what were you looking to get for your house?*"

**Seller:** "*You sent the postcard, you tell me. You can come look at it and make me an offer, and if I like it, maybe I'll take it.*"

As you probably know, 90% of the sellers who talk like this really AREN'T motivated, and you should never, ever get in your car and drive to their house to confirm that.

But about 10% actually ARE—and just don't want to share that because they're amateur negotiators, and think the right way to approach a negotiation is by playing hard to get.

You can find out which sellers fall into the 90% and which are in the 10% by using some of these tactics, particularly the Limited Authority, Phantom Partner, and Takeaway methods.

### **Seller Scenario 3: The Honestly Mistaken Seller**

There's a third kind of seller that you'll need to use these tactics with: the seller who is truly motivated to sell, but, for one reason or another, honestly thinks his property is worth more/is in better shape/is more desirable than it actually is.

Unlike the Scenario 1 seller, he's not asking his price and terms because of some desire to something unrelated to the property; he actually believes that his property is worth what he's asking.

Most commonly, sellers are badly misled about what they can get for their properties because:

- They're out of town owners with no real feel for property values where you live (the "How can the LOT ALONE not be worth \$15,000????" syndrome)
- They've received other "offers" at the higher price they're asking—even though those offers never closed, and in fact were often never put in writing, and were often made by your super-uneducated wholesaler colleagues who couldn't evaluate them correctly and got laughed out of their local association meetings when they tried to sell the property for even more than the ridiculous price they'd offered.
- They've received information from a perceived expert telling them the property is worth what they're asking. Often, this "expert" is a neighbor who claims to have sold his house for tens of thousands of dollars more than the public records actually reflect, or an agent who did an online automated evaluation model without even looking at the property, or an estate "appraiser" who got \$40 to drive by the outside and placed a value on it without taking inside condition into account.
- They've simply done some primitive math that doesn't reflect real market conditions, like, "The average of the sales prices around here [including all the brand new houses, condos, and giant 10 room mansions] is \$150,000, thus my 80 year-old 800 square foot bungalow must be worth AT LEAST \$100,000". Or, "It appraised for \$345,000 in 2006, the market's recovered now, it should be a great deal at \$300,000".

The problem with these sellers is that they're so (misguidedly) convinced that their property is a great deal at what they're asking, that they honestly haven't given a thought to what they'll do if they're wrong.

Some of the solution to this particular problem is to give the seller the real facts—in the form of market data, pictures of the property (if they haven't seen it in awhile), and so on. But when faced with this new information, the seller STILL hasn't given a lot of thought to what his bottom dollar might be—because he didn't think he'd need to do so. Sometimes it takes a Perceived Ultimatum, or a Phantom Partner, or even Asking Permission to just tell him what you can really pay, and how, in order to make him give this question the thought it needs.

## How to Use “Tactics” without Being Manipulative

I’m always slightly uncomfortable talking to run of the mill investors about negotiation “tactics”.

One reason for this discomfort is that I’m never sure whether the newbie investor is going to take a negotiation tactic too far, and turn it into a big fat lie.

For instance, in the Phantom Partner technique, saying to a seller “My partners are never going to approve that price; they really want me to be in it for more like \$65,000” is an accurate-ish statement if you’re a wholesaler and you know that your buyers are going to want to pay \$75,000 for the property.

But at the point at which you claim that some specific person, real or invented, is your partner, and that he has personally reviewed the deal, and has refused to pay more than \$65,000 for it—well, now you’ve crossed a line.

The other reason I’ve hesitated to share these methods—which I’ve used to successfully close somewhere north of 800 deals—is that newbies and civilians tend to see them as “tricks” that one can use to manipulate sellers into doing whatever you want. And it’s just not so. Because, as we know, there’s no magic that will turn an unmotivated seller into a motivated seller, ever.

But they will, very often, help your potential sellers get what they came to you for—a deal—by helping THEM to understand what’s really important to them.

For example, I have conversations with potential sellers every week that use a very simple negotiation tactic and go something like this:

*Me: “And what are you asking for your property?”*

*Seller: “\$100,000” (what he wants)*

*Me: “And what’s the least you’d take for all cash and a quick closing?”*

*Seller: “\$92,000” (what he thinks he really needs)*

*Me: “Is that the best you can do?”*

*Seller: “yes”*

*Me: “So are you saying that if I can’t offer you \$92,000, we can’t do business?” (The “Perceived Ultimatum” technique)*

*Seller: "Well, no, I'm not saying that..."*

*Me: "Well, what's the number below which we CAN'T do business?"*

*Seller: "Well, I owe \$89,000, and I can't take less than that..."*

Did I TRICK the seller into getting to the bottom line?

Did I force him into telling me what he owned on the property?

No, I just asked him a series of questions that got him to admit that, bottom line, what he NEEDS to get to make this deal work is his mortgage balance, not the \$11,000 higher price he started with.

And sometimes this conversation doesn't go as stated above; sometimes the answer to the question "What would you take for all cash..." is "I won't sell for less than \$100,000". Which is also good, because if you aren't, under any circumstances, going to offer \$100,000 cash, and now you know that if this deal is going to work, it HAS to be a creative one.

So without further ado, here are some of the most common tactics that I use on a day-to-day basis when negotiating real estate deals.

### **Tactic #1: The "Wince"**

**What it is:** a verbal (if you're on the phone) or physical (if you're face to face) flinch, as if you are surprised at something the other person just said.

**When it's used:** Generally when a seller names a price or introduces a new term to the negotiation.

#### **What it sounds like:**

*Seller: I want \$50,000 for my house*

*You: [long, low whistle, followed by a pause]*

*Seller: "Or I could go as low as \$45,000"*

Or

*Seller: "I want \$50,000 for my house"*

*You: "Um, really?? How did you come up with THAT number??"*

*Seller: "Or I could go as low as \$45,000"*

**What it does:** The wince is an easy way to put the seller on alert that the thing they're asking for is not necessarily acceptable to you, without being a flat-out refusal. Typically, the wince alone will get an immediate concession if the seller was just floating the term as an ideal, but already knows that he'll take less.

The wince is a great tactic early in the negotiation for the simple reason that it doesn't require you to actually SAY you don't like, or don't agree, with the thing he's said. The seller often comes off his OWN price without you having to counter it; once he's mentioned a lower price, that's the number you use from then on. For instance, in the example above, any further discussion will be about \$45,000, not \$50,000--\$50,000 is a number you'll never say again.

Psychologically, it's a lot easier for a seller to agree to, say, a \$40,000 price when it was HIM who mention the \$45,000 price than it is when the last thing that came out of his mouth was \$50,000.

**How it can backfire:** First, never use a verbal wince when it's clear that your seller is hard of hearing or not a native English speaker—the entire power of it is lost when you have to repeat or explain it.

If the other person takes the wince as sarcasm or a personal rejection or insult (which will happen if you “wince” when they mention the neighborhood or the condition of the property) or if you overplay it, as in “OH, HOLY GOD, YOU HAVE GOT TO BE KIDDING ME!!”, you will damage your rapport and possibly drive your seller away.

Sometimes the other person doesn't recognize (or doesn't acknowledge) the wince, in which case you can either move on or have a follow up comment (I'm sorry, did you say \$50,000???) ready.

## Tactic #2: The Perceived Ultimatum

**What it is:** Strongly hinting, without coming right out and saying so, that the negotiation will end if the seller doesn't show flexibility on the latest stated price or terms

**When it's used:** As a close-to-final step to getting a seller to his bottom line price or terms, after you've already asked for that number in several other ways and perhaps gotten several concessions already.

**What it sounds like:** The form of the Perceived Ultimatum is almost always “Are you saying that if I can't do \_\_\_\_\_, we can't do business?” For instance:

*Seller: "If you can't give me a monthly payment of \$1,200, I'll just keep the property."*

*You: "So unless I can pay you every dime of \$1,200 a month, we can't do business?"*

*Seller: "Well, I mean, maybe not every DIME..."*

*You: "That's good, because I'd love to buy your house, but I just don't think \$1,200 is going to work for me, because I can't lose money on it every month."*

The nice thing about the Perceived Ultimatum is that it's not such a definitive statement on your part that you can't gracefully back down from it, like this:

*Seller: "If I don't get \$1200 a month, I'll just keep the property."*

*You: "So unless I can pay you every dime of \$1200 a month, we can't do business?"*

*Seller: "Yep, that's exactly what I'm saying."*

*You: "Well, \$1,200 MIGHT work, let's go ahead and set up an appointment and see how close I can get to that"*

**What it does:** Like the Takeaway (see #3), it gives the seller the impression you're about to walk away from the negotiation, and gives him an easy way to keep you on the hook without having to definitively state a new position. He doesn't have to say, "Wait, wait, I'll take \$900 a month", but he does have to show some sign that he's not yet given all he can give. It gives YOU a way to ask for another concession without coming right out and saying that if you don't get it, you'll walk away,

**How it can backfire:** If you don't state the ultimatum as a question, but as an actual ultimatum ("If you don't do X, I'm leaving") it can come off as a threat, put the seller on the defensive, and destroy your rapport.

### Tactic #3: The Takeaway

**What it is:** indicating verbally that the negotiation is at an end or, in a variation (which we'll call the Conditional Takeaway) that you see no alternative but to end the negotiation. It's much like the Perceived Ultimatum, except that the Takeaway is a definitive statement that you will walk away if the other person doesn't move on price or terms.

**When it's used:** This tactic is useful for 2 purposes: first, to actually end a conversation with a non-motivated seller, and secondly, as a last-ditch effort to get movement in a negotiation that's probably going to eventually end in a deal, but which is stuck because the seller needs more time to realize how motivated he is, or needs the market to tell him that the offer you're making him is

a good one.

**What it sounds like:** The general form for maintaining your rapport is, “I can’t help you, why don’t you try \_\_\_\_\_, and is it OK if I call you back in a few weeks to see how it’s going?” For example:

*Seller: “No, I want full price and all cash for my house, or I’ll just list it.”*

*You: “Well, Mr. Seller, it sounds like you have a great house in a great neighborhood and you’re in no hurry to sell it. Listing it is a great option. If you don’t know an agent, I can give you the number of an awesome one. If it’s OK with you, I’m going to follow up with you in 6 or 8 weeks and see how things are going.”*

OR:

*Seller: “I’ve already gotten an offer for \$35,000, so don’t come over here wanting to pay me \$25,000, like those other guys I talked to.”*

*You: “Well, Mr. Seller, if that \$35,000 offer was serious and it’s still open, I’d take it immediately if I were you. If you’ve gotten several offers of \$25,000 from other investors, it’s not real likely that I’d be able to do a lot better than that, because we basically all look at the numbers the same way. Why don’t you hang up the phone, call the guy who offered you \$35,000, and tell him you’ll take it?”*

**What it does:** Challenges the other party to give YOU a compelling reason to stay at the table, or to agree with you that it’s time to shake hands and walk away. Most of the time, the conversation ends with the seller thanking you for your time and advice, but many Scenario 2 sellers will start to backpedal at this point and admit that they’ve already tried to list it, and it didn’t sell, or that the \$35,000 offer was in 2006 or was never put in writing or didn’t close after 6 months in contract.

**How it can backfire:** Unless you offer something helpful (advice, a contact) along with your Takeaway, this tactic can be tricky to pull off and still maintain rapport. Also, if you’re bluffing, use the Perceived Ultimatum rather than the Takeaway; the Takeaway is very hard for YOU to backpedal from. Use ONLY when you really are willing to walk away!

#### Tactic #4: Splitting the Difference

**What it is:** Agreeing to divide the difference between your position and the other party’s position exactly in half. It’s such a common tactic that many sellers are familiar and comfortable with it and, in fact, EXPECT it. While Trading (see below) is usually more advantageous for both parties early in the negotiation, Splitting can be effective toward the end.

**When it's used:** Splitting, as it's commonly used, is one of the most primitive and ineffective ways to get to a win-win deal there is. At early stages of the negotiation, when you and the seller are far apart on what he wants and you can offer, splitting just means that each of you get more of what you DON'T want: the seller gets a lower price than he wants, and you pay a higher price than you want. However, at the END of the negotiation, when you're down to hundreds of dollars, it's a good, comfortable, "fair" way to quickly come to an agreement.

### What it sounds like:

*Seller: "I really don't want to pay for this \$1,200 termite treatment"*

*You: "Well, they're YOUR termites, but I'll tell you what: I'll split it with you."*

*Seller: "That sounds fair."*

**What it does:** Gets you a concession in a way that appears very fair and reasonable; after all, you've agreed to share the difference evenly.

**How it can backfire:** If Splitting the Difference puts you right where you want to be, but the seller counters instead of agreeing, you've just set the new number from which the negotiations will proceed. For example, in the scenario above, if the seller says, "I'll tell you what, you say you'll pay \$600 for it; how about you pay \$900 and we have a deal". Suddenly, you seem unreasonable for refusing to agree to do exactly what you just asked him to do—because all he's doing is Splitting the Difference between the number you've already committed to, and the total price.

For this reason, you might want to use it in combination with a Trial Close (see below) to avoid this problem...saying instead, "If I agree to split the difference with you, can we call it a deal?". This way, if he's going to try to re-split, you can get that out of him before committing to anything.

**How to defend against it:** This is probably the most common tactic used (or rather MISused) by inexperienced negotiators—and by parties who are tired out by a long or intense negotiation and just want to put an end to it.

I say misused, because the result is usually that neither party gets quite what they want, and a better solution is if both people get SOMETHING that they want. If the "split" leaves you where you wanted to be anyway, take it because it will make you look cooperative; if not, use the Trade (see below) instead. Or, alternatively, counter with a "split" that will make the next split end up where you want—for instance, if your last offer was \$90,000 and the seller's was \$110,000 and you want to pay \$97,000 and the seller wants to "split the difference at \$100,000", counter at \$95,000 and then offer to split the difference at \$97,500 (if he doesn't offer it first!).

## Tactic #5: The Trade

**What it is:** Where Splitting is an up-the-middle compromise on a particular term of the purchase, Trading is a more sophisticated—and more win-win—way to give the seller something that's important to him, while getting something that's MORE important to you.

**When it's used:** When the seller indicates that any particular term of the sale is extremely important to him. The 2 most common times you'll use this are when the seller is stuck on price and when the seller wants to change the terms of the purchase agreement so that you're paying more of the costs of closing.

### What it sounds like:

*Seller: "I can't take one dime less than \$120,000, because that's what I've put in the property, and I'm not going to lose money".*

*You: "I'll tell you what, I can absolutely do that price, as long as you're willing to let me pay it in payments. How does \$5,000 at closing and \$1,150 a month for 100 months sound?"*

-OR-

*Seller: "I'm good with the price, but I'm not paying all these expenses on this contract. I want \$19,000 in my pocket when I leave that closing"*

*You: "Mr. Seller, those are typical seller expenses. The guy you bought it from paid them when you bought the house. If I pay them for you, I'm not paying \$19,000, I'm paying \$20,000, which doesn't really work for me. But if you'll leave the refrigerator, stove, and dishwasher, that'll make it cheaper for me to get it rent ready, and I can pay those expenses for you."*

**What it does:** Allows you to construct an actual win-win deal where the other party gets more of the things that are really important to him and you get more of things that are really important to you. It also allows you to get something for everything you give up—which is a good reason to ask for things in your purchase agreement (like that the seller will pay all the usual seller expenses + title search and title insurance) that you're willing to negotiate away later if necessary.

**How it can backfire:** If you try to get something that the other party has already made clear is non-negotiable, you'll just make him angry and lose the deal. Only mention things as possible trade items that the sellers HASN'T already taken off the table by telling you they're crucial to him.

Also, if you try to get something big every time the other guy wants something little (“Well, I guess I pay for the title search if you leave the Jag in the garage...”) you’ll seem greedy and manipulative. It’s a trade, not an excuse for blackmail.

### Tactic #6: Phantom Partner/Limited Authority

**What it is:** Blaming another person, thing, or circumstance, for your inability to give the seller what he wants, or for a delay in giving him what he wants.

**When it's used:** Usually in the middle or final stages of a negotiation, to renegotiate or deliver bad news while maintaining rapport, but sometimes at the beginning stages to get a piece of information or some cooperation that the seller is withholding.

#### What it sounds like:

You: *“I’m sorry, Mr. Seller, but my partners are all telling me that the repair costs are a lot higher than I estimated, and that we can’t do the \$155,000 we talked about. Would you like to rip up the contract, or could you think about taking \$145,000?”*

OR

*You: “What do you want for your property?”*

*Seller: “I don’t know, just come over and make me an offer.”*

*You: “Well, Mr. Seller, I’d love to do that for you, but I get about 20 calls a week from people wanting me to buy their houses, and my wife has told me flat-out that I’m not allowed to take the time away from the kids to go see a house unless I know what it’s going to cost us. She’s going to ask me, and unless I want to get a divorce, I’d better have an answer for her.”*

OR

*Seller: “Why do you need to take over my payments? Why can’t you just go to the bank and get a loan like everyone else?”*

*You: “Here’s the thing—since I’m not going to live in the house, the bank makes me put 20% down to buy it, which is \$50,000. I can buy a whole house for that price. Since the bank won’t give me the kind of loan they gave you, the only thing that makes your house attractive to me at this price is if I can take over your loan and get in without having to put \$50K down.”*

**What it does:** Lets you say “no” while maintaining rapport by blaming the “no” on someone or something else. It allows you to be 100% “on the seller’s side” while still not giving him what

he wants

**How it can backfire:** If you lie and get caught at it (for instance, you say that the bank requires 50% down and the seller knows they don't) you ruin your credibility and look silly. Some men foul it up because they can't stand to stay in the role of limited authority, and keep flip flopping between being the one in charge and the one who can't make a decision without asking. Some women play up the role too much and end up getting the reaction, "Maybe I should just talk to this partner of yours man to man, and then we can get something done."

### Tactic #7: Good Cop/Bad Cop

**What it is:** Exactly what it sounds like: you and a partner take on the roles of the good cop (who maintains rapport, defends the seller's position etc) and the bad cop (who points out flaws in the property, questions the terms of the deal etc)

**When it's used:** In face-to-face negotiations, particularly when the seller is with you at the time of the inspection, or sitting down to negotiate the terms of the deal face-to-face, and your "other cop" partner can be present. Similar to "Phantom Partner", except your partner is actually there and making his own objections.

#### What it sounds like:

*Seller: "Here's the furnace. It works good."*

*Bad Cop Partner: "Maybe, but it's got to be 25 years old! We'll definitely have to replace it"*

*Good Cop Partner: "You think so? Since it works well, maybe we can leave it."*

*Bad Cop Partner: "No way. You know how sensitive people are to heating costs these days, and these old furnaces send 20 cents of every dollar right up the flue."*

*Good Cop Partner: "Well, maybe you're right. Let's talk about it later when we're not wasting the Seller's time".*

**What it does:** Same as phantom partner, with even more credibility. Allows you to get out on the table everything you always WISH you could say to the other person, but keep your rapport with the seller. Your partner's rapport is, of course, destroyed in the process—but that's OK, because the seller sees you—the good cop—as being on a team with him and against the bad cop partner. Yeah, it's obvious, everyone knows about it—and it works.

**How it can backfire:** Make it too obvious, and it can be cartoonish. It's important that the right person—the one that HASN'T been building rapport with the seller—be the Bad Cop, and

some people just aren't comfortable in this role. Also, the Bad Cop Partner shouldn't be too insulting to the property or the deal...keep it respectful.

Again, there can be distinct differences in how men and women can play this effectively. A man playing good cop to his wife's bad cop might be more effective with a male seller (they can go off into a corner and complain about how women are too picky) than with a female seller (who might see the woman/bad cop as being patronized by the husband).

### Tactic #8: The Set-Aside

**What it is:** A way to temporarily remove a contentious item from the table to see if other terms can be worked out, before returning to the controversial item.

**When it's used:** When you're in general agreement with the seller about a lot of the terms of the sale, but there's one thing—usually NOT the price—that you and the seller are far apart on

#### What it sounds like:

*Seller: "I really have to have 90 days to move. My new house won't be ready until then."*

*You: "Unfortunately, that will give me possession on the 1<sup>st</sup> of October, and I'll be getting it on the market around Thanksgiving, which means it won't sell until February. Are you sure you can't rent an apartment for those 3 months?"*

*Seller: "I'm not going to move twice in 4 months. I have 7 kids."*

*You: "Well, I'll tell you what. Let's leave this for the time being and see if we're even on the same page about the price and terms. If we can agree on that, we'll revisit it.*

*Otherwise, there's no reason to worry about it."*

**What it does:** Defuses an issue that's getting too emotionally charged. Hints that some compromise might be possible if you get what you need, without promising this. Also, it's much easier for sellers to decide to compromise when all the other terms of the sale are hammered down, and the only thing stopping it from moving forward is the thing he's stuck on.

**How it can backfire:** In a complex negotiation, setting an important issue aside for too long can bring hours of work to naught if it can't be resolved. Also, setting an item aside does not guarantee that it won't still be a deal-killer when it comes back up.

### Tactic #9: Trial Close/Assumptive Close

**What it is:** A Trial Close is a way to get the other party agreeing to as many issues (usually small and obvious) as possible. An Assumptive Close is its close cousin, and assumes agreement

or success as a foregone conclusion instead of a “maybe”

**When it's used:** Throughout the negotiation process, as many times as possible

**What it sounds like:**

Trial close:

*You: “If we can agree on a price that makes you happy, are you ready to sign a contract today?”*

Assumptive close:

*You: “When we agree on a price, we'll go ahead and sign a contract today.”*

**What it does:** In theory—and it's a theory that's been around since at least the 1930s—trial closes soften up the customer to agreeing to everything throughout the negotiation under the theory that once they get to saying “yes”, they are psychologically more prepared to say “yes” to the big, important things. I find that what it's really good for is discovering if there are any objections or hot buttons you've missed.

**How it can backfire:** If you're using it under the “get them to say yes” theory and they say “no” instead, you'd better have a way to recover. Also, I see many people trying to use trial closes but wording them backward so that the other person has to say “no” to agree—for instance, “is there any reason we can't sign a contract today?”

**Tactic #10: Asking Permission**

**What it is:** Getting the seller's specific, verbal permission to present terms other than what he has already stated are acceptable.

**When it's used:** At the presentation of the offer or counteroffer.

**What it sounds like:**

(Just before offer presentation)

*You: “Mr. Seller, I know that you said that you wanted \$1 million for your strip mall, but after running the numbers, I find that my best offer is quite a bit less. Do you still want to hear it, or is \$1 million really the bottom line?”*

OR (At the beginning of a negotiation)

*You: "Mr. Seller, my experience in that area tells me that my offer is going to be closer to the mid-teens than to the \$25,000 your asking. If I come out there, and that's the best offer I can make you, are you going to consider it or are you going to throw me off your porch?"*

**What it does:** Allows you to make offers that are very different than what the seller wants or expects without making the seller angry. Once he's agreed to hear a lower offer, he can hardly get furious about it, can he? In fact, in a powerful variation of this already-powerful technique, I've often used Asking Permission in combination with a Takeaway, like this:

*You: "Mr. Seller, I looked at your property and it's got some serious mechanical and structural issues that I wasn't expecting to see. I know you said you had to have \$60,000, but there's no way I can do that with the amount of work that house needs. In fact, I don't even think you're ready to hear what I COULD pay"*

*Seller (almost invariably): "What? What could you pay?"*

*You: "You know what, I don't want to insult you, because it's a fraction of what you want, and you seem like a really nice person."*

*Seller: "Just tell me, I won't get insulted"*

*You: "Are you SURE? You won't get mad?"*

*Seller: "YES!"*

**How it can backfire:** This isn't a surefire way of getting a seller to agree to a lower price or alternative terms—just a surefire way of getting him to agree to HEAR the offer you can make without becoming offended or insulted. And if the seller does say he doesn't want to hear the number, that's fine, too—it tells you a lot about how motivated he actually is.

### Tactic #11: "Turning Up the Pain"

**What it is:** There should be a nicer way of saying this, but there's not a shorter one. Basically, it involves restating the emotional, hot button issues that the seller has told you during your interview, and contrasting them with how things will be/how much better he'll feel when he takes your offer.

**When it's used:** Can be used throughout the negotiation, but is most often used at offer or counteroffer presentation.

#### What it sounds like:

*You: "I have an offer for you. Now let me tell you ahead of time that it's not everything you wanted price-wise, but it does include a quick closing like you wanted, and it's going to let you stop spending your Sundays working on the house and let you enjoy the Bengal's games you said you've been missing."*

**What it does:** Reminds the seller that there are things he wants other than top price/all cash etc. It also shows that you were actually listening to and are now responding to his concerns, which helps in building rapport

**How it can backfire:** If you're not a good listener, or have an Emotional Intelligence Quotient of zero, you may not be able to effectively use this technique, because you won't really hear the seller's pain even when he tells it to you. When you repeat back to him the way you think he SHOULD feel or something that was a pain-free side issue for him ("You'll be able to spend more time with that adorable little dog of yours"), you'll sound lame and phony and manipulative.

### Tactic #12: The Scarcity Close

**What it is:** Indicating that there's a shortage of something—usually time or money—that may cause your offer to be off the table if the seller doesn't make a decision quickly.

**When it's used:** ONLY when the seller seems to be in agreement with your offer, but is for some reason dragging his feet about accepting it. If there's some other reason that the seller isn't accepting your offer—like he's a scenario 3 seller that needs time for the market to tell him that he's asking too much—the exact opposite approach ("Call me anytime, I'm always in the market") is the better one.

#### What it sounds like:

*Seller: "I like the offer, but I need to think about it for awhile and call some of the other people and see what they'll give me."*

*You: "I completely understand, but try not to wait too long. I've been holding off on calling some other sellers because I wanted to make sure I had the cash to close this deal. At some point, I have to get that money out there. Will a week be long enough for you to decide?"*

**What it does:** Makes the other guy aware that you have other options and other sellers to deal with; creates a "sense of urgency".

**How it can backfire:** Sellers take this very seriously, and it's important to follow up when you use the scarcity technique and DON'T hear back from the seller. Many times, if you call back a month later, they'll say, "Oh, I haven't sold it, but you told me if I didn't get back to you

in a week, you wouldn't have the money anymore, and I couldn't get back to you in that time".

## What to Do When it's Time to ACTUALLY Negotiate

So far, we've talked about has to do with getting information and making the seller comfortable.

At some point, though, the real negotiation—the part where you name numbers and start trying to hammer out terms—must begin.

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But before you get around to making even a preliminary offer, there are 2 things that you absolutely must do:

1. **Decide what your absolute limits are in terms of price, payment, time frame, etc—in other words, what YOU need to be happy—for this particular deal.** Do this BEFORE you begin talking numbers or strategies to the seller; if you don't, it's way too easy to get so caught up in “the negotiation” that you end up agreeing to things that don't work for you. We'll discuss how to get to the numbers in the next section, but make absolutely sure you already know what those are before you open your mouth and mention a price, a monthly payment, an interest rate etc—because if you later have to reduce any of those, you'll disappoint your seller.
2. **Make sure that the seller is even open to a creative offer.** Asking his permission to make one, without telling him specifically what that might be, saves you a lot of time and wasted effort.

Remember that the “numbers” negotiation is going to take place in 3 phases: first, you'll TELL the seller what you're proposing, and answer any questions he has about it.

In this phase, it's crucial that you keep the conversation as simple and non-jargon-y (and yet accurate) as possible. Practice putting complex concepts in civilian language; like this:

Instead of saying “I'd like to buy your house subject to the existing loan with a seller-held second for the equity”

Say: “Would it work for you if I took over your payments, and paid you the other \$10,000 in monthly payments of \$200 per month for the next 50 months?

Once the seller has agreed to the basic concept, the next step is to put your offer in writing, on a purchase and sale agreement. Again, the language should be fairly simple, while still accurately reflecting the agreement; sample language for each type of deal we're covering

here is included in the appropriate chapter.

The final stage, though, generally requires that you produce (or have produced, if you're not qualified to do it) paperwork and disclosures that are more legally dense and difficult for civilian sellers to understand without help. My final negotiation tip for you is this: make sure the seller has ample time to review and ask questions about this paperwork prior to closing.

At this stage, many sellers will want to get their attorneys involved. Most of the time, these attorneys are NOT real estate experts, or if they are, their experience is limited to simple cash and conventional financing deals, and rather than try to understand the transaction and why it benefits their client, the attorney will (incorrectly) declare it "illegal" and kill your deal.

This is why every Master Transactioneer has a real estate attorney who deeply understands these strategies and the legalities behind them: both to assure that the contracts are correct and accurate and, just as importantly, to talk to seller's attorneys about them. The seller's attorney, in my experience, positively won't listen to you when you talk about why the deal isn't illegal, but they absolutely will listen to another lawyer, and be made comfortable with what you're trying to accomplish.

Enough about the squishy human part of Transactioneering; let's talk about the fun (and easier to deal with) math part.