

Pitfalls in the *negotiating process*

Daniel E. Lach, *managing director of Beaufort International LLC*, identifies the greatest threat to successful negotiations.

In conducting negotiations on the purchase and sale of any business, there are a number of issues that frequently crop up to scuttle a deal that may have been a good opportunity for both buyer and seller. In this article, we will talk about the most common reason for deal collapse; personality conflicts!

Surprised? Most readers may assume that failure to reach an agreement on price would rank as their primary concern. However, in most cases, this difficulty is merely an illustration of hard feelings that have already developed between individuals. These usually manifest themselves as immovable negotiating positions that do not encourage compromise or problem solving in getting the deal done.

How can you avoid hard feelings affecting your business discussions? First of all, remember that personality conflicts are easier to avoid than resolve. Be aware that some individuals have a tendency to be more aggressive in their negotiating tactics than others. As such, we find that in most situations it is the less aggressive party that terminates discussions, due to the "rough" treatment they perceive they are getting from their more brash counterparts.

The best tactic that is often used to minimise this danger is the use of the "good guy, bad guy" team in the negotiating process. The use of a second party to assume the role you are not comfortable with (be it "tough guy" or "smooth talker") is crucial in enabling you, the final decision maker, to step back from the heat of the negotiating process and hand off to someone better equipped to advance discussions when faced with tactics you are not comfortable with. More importantly, this also gives you a chance to take a more detached view of the deal you are in the process of negotiating.

An aggressive negotiating style is always the least preferred strategy. Primarily, it risks offending the counter

party who may not appreciate either the tone or the context in which information is conveyed. Use it at your peril and only when the other side has illustrated their determination to employ this approach as their lead strategy. If you are not comfortable in the role of the diplomat, make sure you retain a negotiating specialist that is.

“The best deals for both parties are most often struck between people who genuinely like each other rather than detest one another.”

At early stages in any negotiating process, sellers are particularly sensitive to the buyer's sincerity in wanting to do a deal at a "fair price" to both parties. Anyone being perceived as a "bargain hunter" will usually not get very far in the negotiating process. During this initial period, potential buyers should avoid being depicted as adversaries in any way. Keep your meetings small to avoid developing a "we versus they" atmosphere among decision makers.

During discussions, always remember to communicate the basis of your opinion as calmly and clearly as possible. Make sure the other side understands the rationale for your position to encourage problem solving.

In my experience, buyers often have a tendency to emphasise the problems surrounding the company they are negotiating for. They are especially concerned over not paying a premium for the business. However, it is my opinion that it is

wiser to pay a premium for a growing business that will have relatively few problems upon its divestiture than to pay a discounted price for a venture that will eat up significant management time and working capital if it is to survive. It is also easier to finance such a transaction as well!

In cases where the asking price is significantly above what the buyer is prepared to pay, the purchaser is often better placed to focus on terms and conditions than attempting to "hammer" the vendor into accepting a lower value. These terms could include insisting that the vendor accept some of the risk in financing the acquisition (i.e. lending a portion of the purchase price at a reduced interest rate), or holding back a percentage of the consideration subject to specific earnings targets being met in future.

Last minute deal breakers also have a tendency to destroy goodwill between parties. These usually take the form of "bad news" that has been buried by the vendor until the very end of the negotiating process. Such a tactic is often unwise, as it serves only to provide the counter party with a good excuse to harden their position at the last minute.

All in all, in any transaction, large or small, one rule always prevails; "The best deals for both parties are most often struck between people who genuinely like each other rather than detest each other." Make this your mantra and your chances of business success will increase significantly. In most cases, bringing in a specialised business adviser to minimise misunderstandings and identify potential issues early (before they become insurmountable) will be money well spent. Their job is to maximise your chances of getting the transaction successfully completed at a price you are prepared to pay. ■

For more information circle 40 on reader enquiry coupon.