



Mediation and Negotiation

Tactics for Group and Personal Survival
in a Contentious World

Presented by KJPS Howe
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“We start from the very beginning – it is a very good place to start” – **The Sound of Music**

Why are we here?

- To START to gain knowledge about the art of principled negotiation
- TO START to learn whether we are an **effective** leader
- To START to understand why we sometimes **fail**
- TO START to appreciate our partners in the process of finding a solution.
- To START to know ourselves and our capabilities

Nothing will make you an expert overnight – “Poker for Dummies”

What we will NOT do:

With apologies

This hour long discussion will
NOT make you an expert at
mediation and negotiation

Everything is negotiable. Whether or not the negotiation is easy is another thing.
~Carrie Fisher

What is Negotiation?

- What we do in everyday life...

What does a negotiator
want?

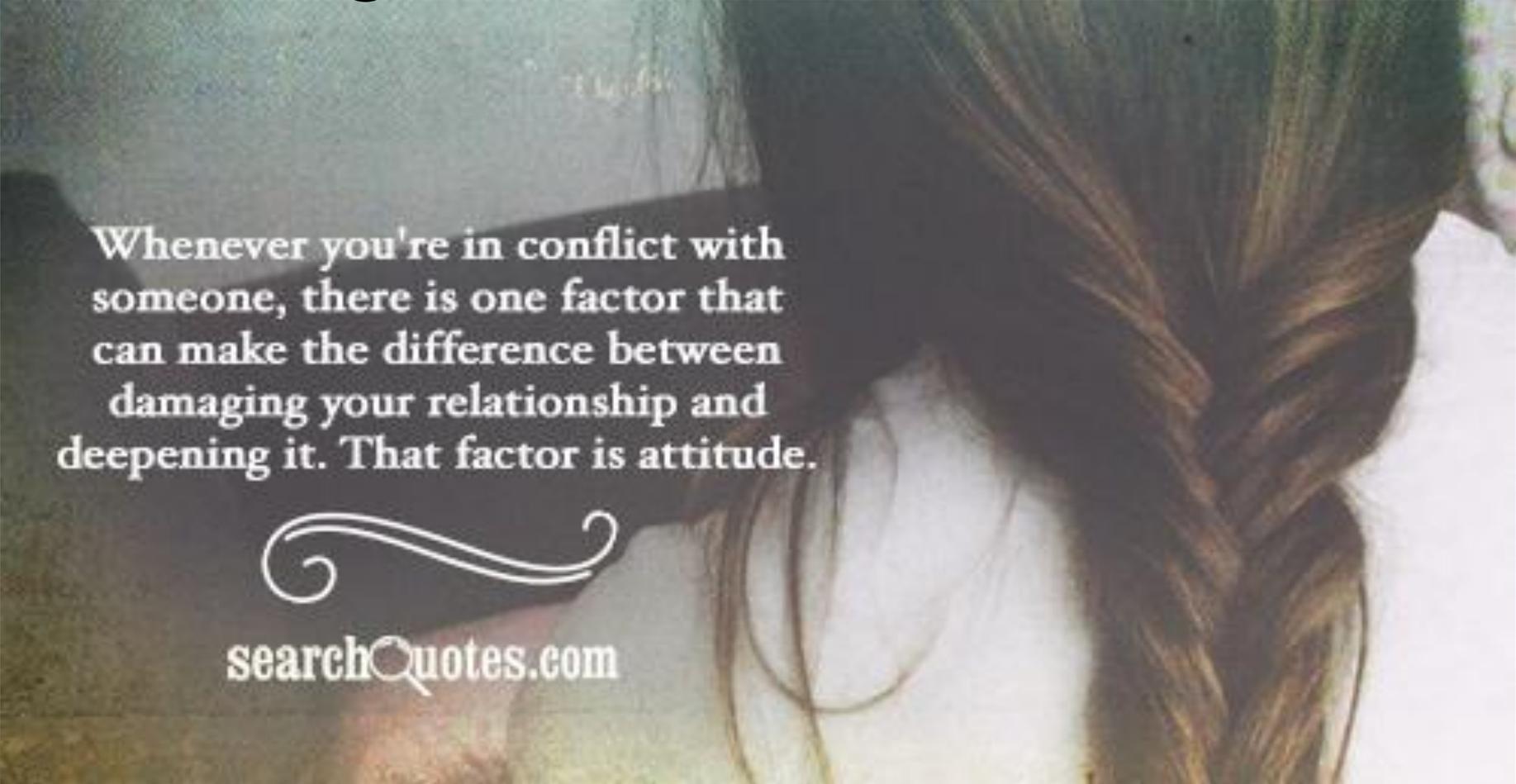
Negotiators have two interests:

~the substance being discussed

AND

~the relationship between they
and the other negotiator

Mediation = Relationship Building



Whenever you're in conflict with someone, there is one factor that can make the difference between damaging your relationship and deepening it. That factor is attitude.


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"People are the problem"

– Douglas Adams

three basic People Problems

- Differences of perception among the parties
- Emotions
- Communication

Overcoming

Differences of perception among the parties

- Crucial for both sides to understand the other's viewpoint
 - A negotiator should work to ensure all parties try to put themselves in the other's place.
- DO NOT assume that their worst **fears** will become the actions of the other party.
- DO NOT blame the other for the problem.
- DO make proposals which would be appealing to the other side.
- DO involve the parties in the process,
 - They shall become more likely to become supportive of the outcome

EMOTIONS

- People SHALL react with fear or anger when they feel their interests are threatened.
- ALWAYS acknowledge emotions and try to understand their source.
- DO acknowledge that certain emotions are present (even when you don't see those feelings as being “reasonable”)
- DO NOT Dismiss others' feelings as unreasonable
- DO allow the other side to express their emotions.
- DO NOT react emotionally to emotional outbursts.
- DO express symbolic gestures such as apologies or an expression of sympathy to help defuse strong emotions.

**If you do not remain
(relatively) calm during all
stages of negotiation and
mediation...**

...you shall fail



Why do we argue?

Issues in how we communicate

Generational differences

Cultural differences

Different languages

Different gestures

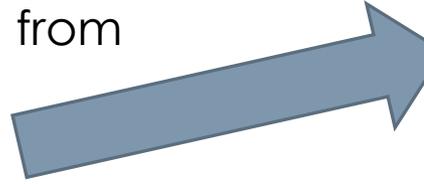
Electronic inhibitions - - - - what else?

When conversations turn from routine to crucial, we're often ALREADY in trouble.

That's because emotions don't exactly prepare us to converse effectively.

And – argument is a form of negotiation – just not an effective form.

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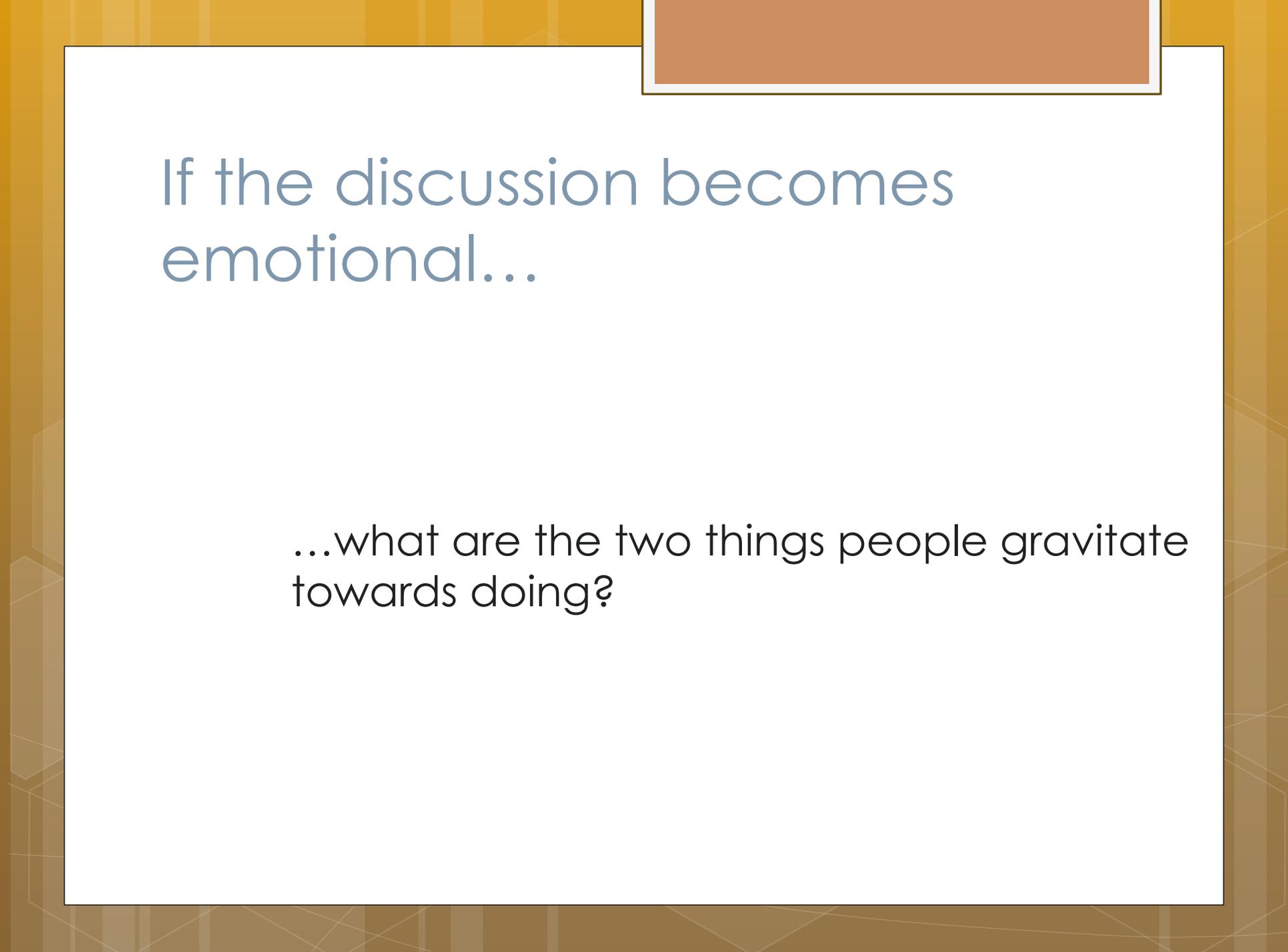
Who is the only person in the argument we can influence once the discussion turns emotional?

“If wishes were thrushes, beggars would eat birds.” - William Camden 1605

“THEY are WRONG!”

- ***We wish we could “fix them.”***
- ***We wish they would “see things right.”***



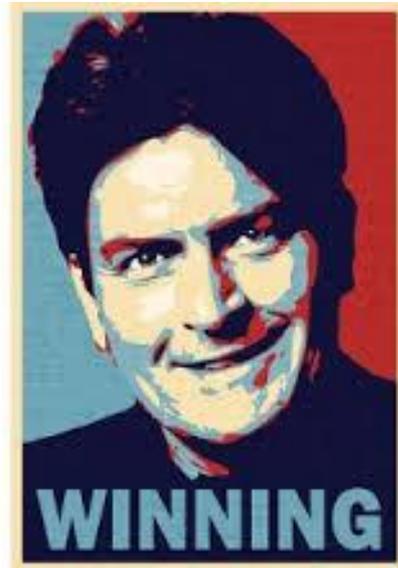


If the discussion becomes
emotional...

...what are the two things people gravitate
towards doing?

It is better to conquer yourself than to win a thousand battles.
Then the victory is yours. It cannot be taken from you, not by
angels or by demons, heaven or hell - Buddha

WIN!



Nietzsche was a dick – but in this instance he was correct



But thus do I counsel you, my friends: distrust all
in whom the impulse to punish is powerful!

(Friedrich Nietzsche)

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Punish

The relationship tends to become entangled in the problem*



Breakdowns in Communication

- Grandstanding for constituencies.
- Planning their responses.
- Misunderstandings occur.

Overcoming

Breakdowns in Communication

(continued)

○ Active listening:

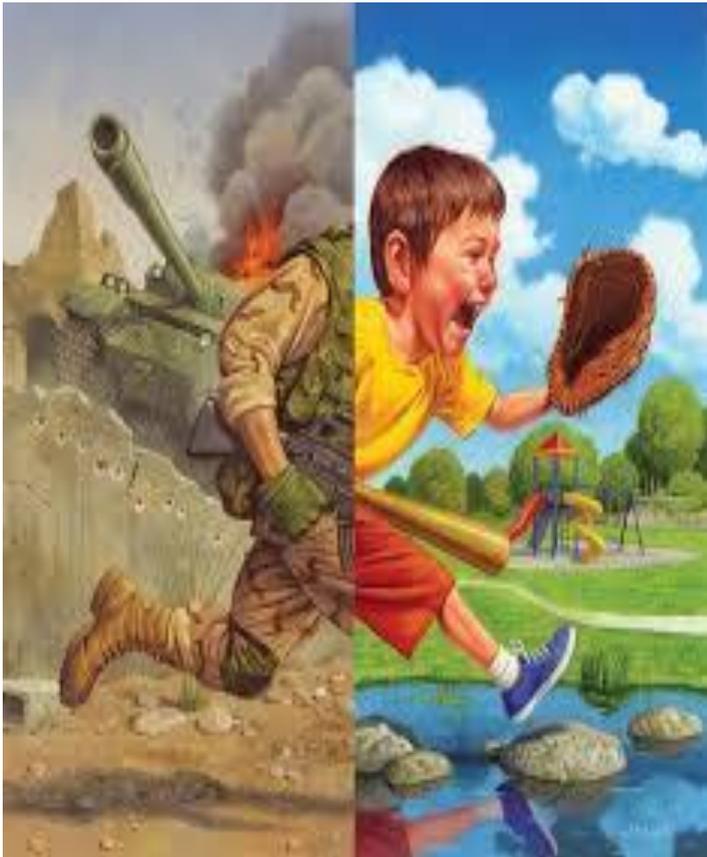
- Listeners **MUST Give** the speaker their full attention.
- Listeners **SHOULD** occasionally **summarize** the speaker's points to confirm understanding.

NOTE: Understanding the other's case does not mean agreeing with it.

- Speakers **MUST** direct their speech toward the other parties.
- Speakers **MUST** keep focused on what they are trying to communicate.
- Each side should **avoid blaming or attacking** the other.
- Each Side should **speak about themselves.**

Crucial Conversations

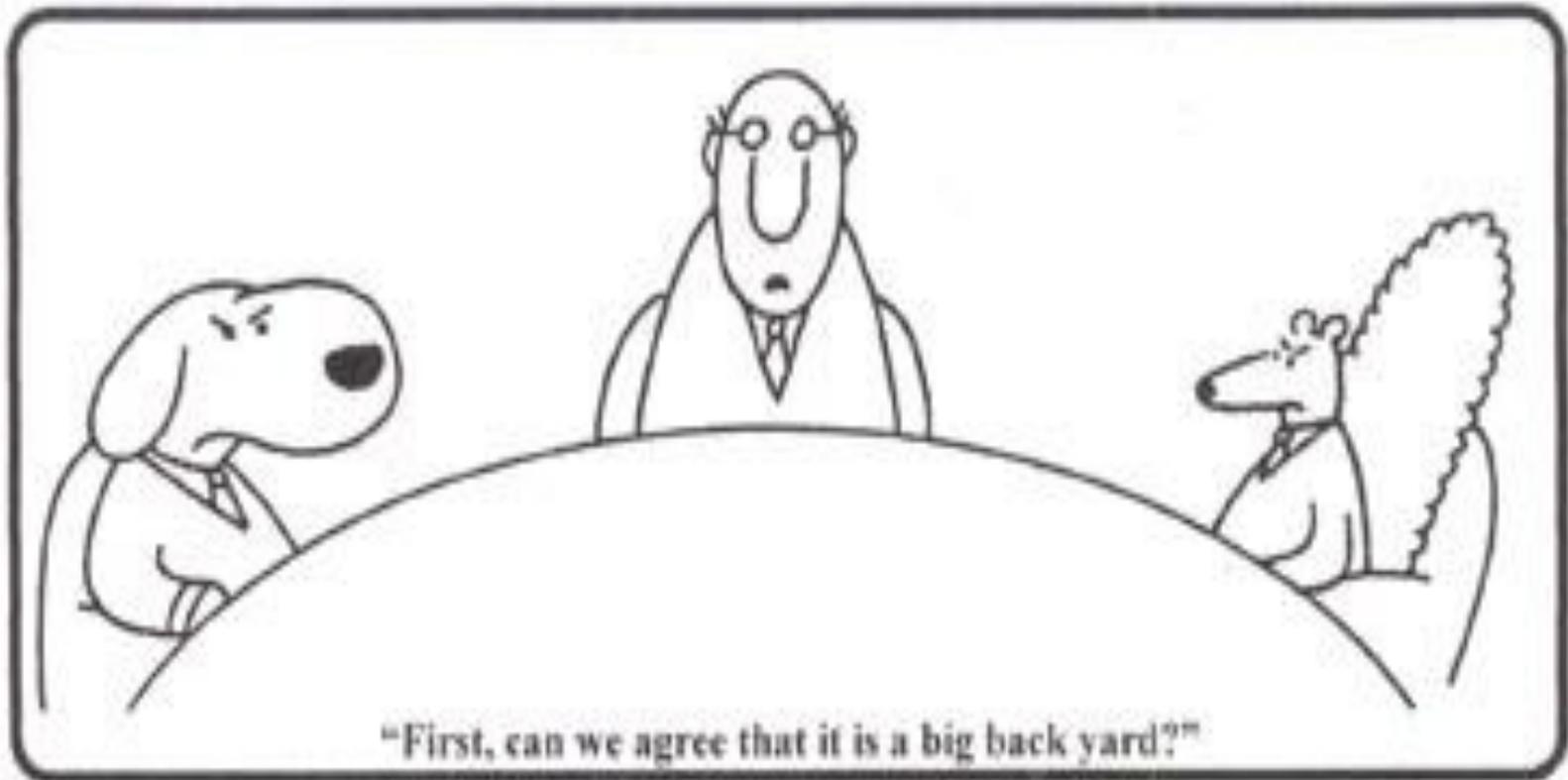
How do they do it?



- People who are skilled at dialogue do their best to make it safe for everyone to add their meaning to the shared pool—even ideas that at first glance appear controversial, wrong, or at odds with their own beliefs.
- Now, obviously, they don't agree with every idea; they simply do their best to ensure that all ideas find their way into the open.

Crucial Conversations

They first find common ground

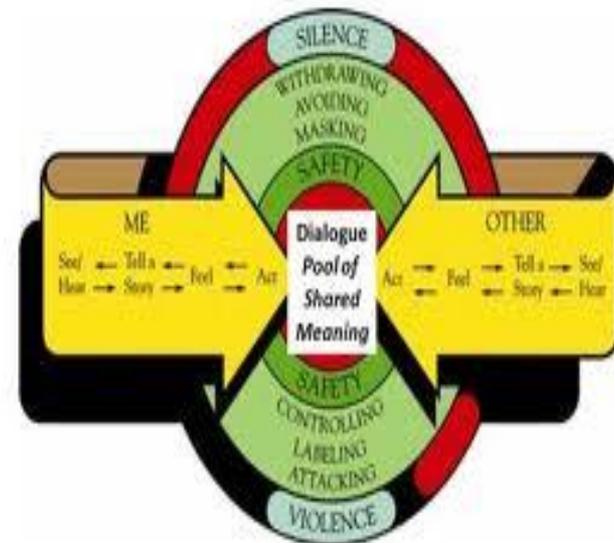


Pool of Shared Meaning

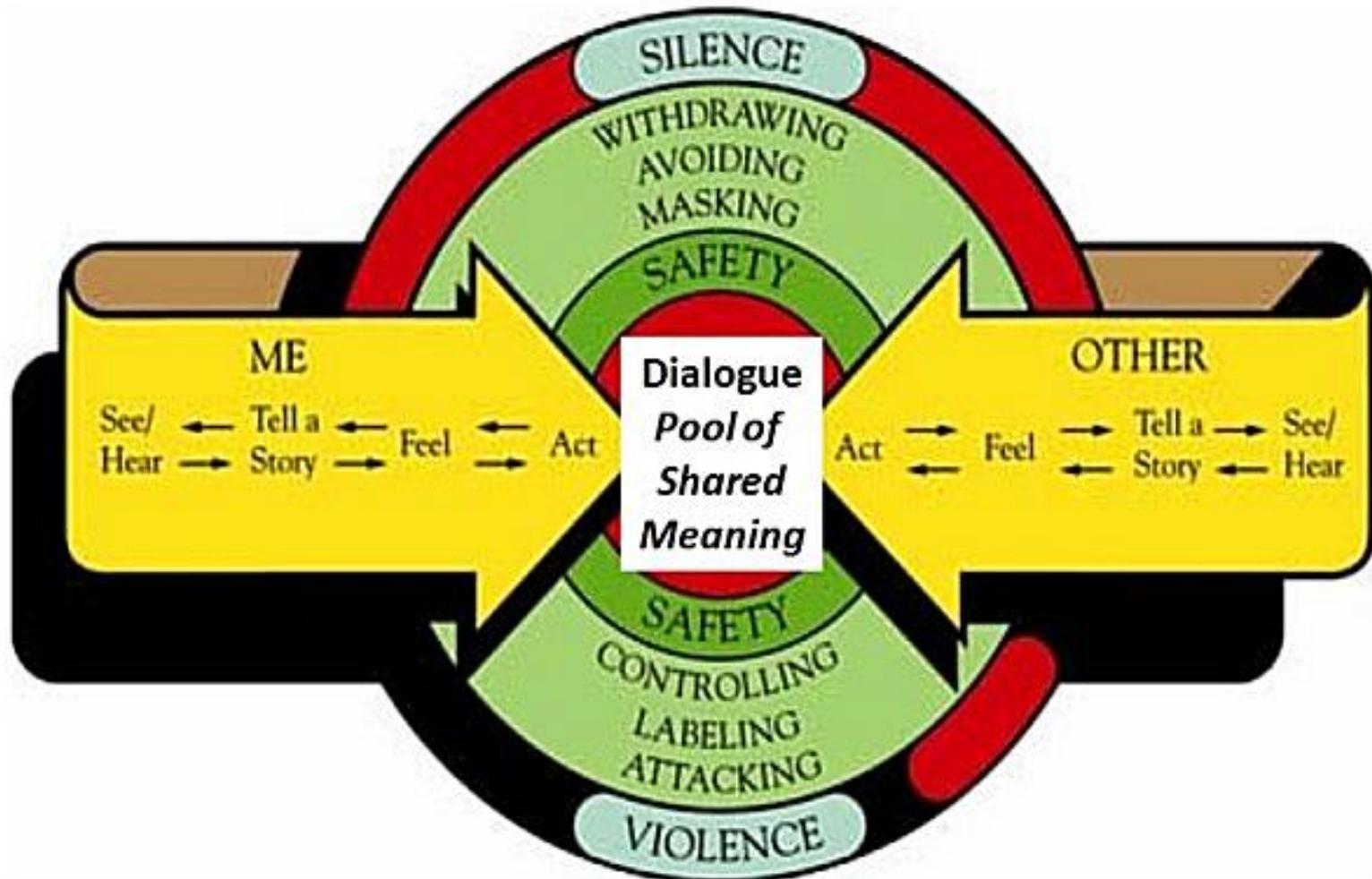


Labels? We don't need no stinkin' labels! We need leaders!

- When people feel safe to share their thoughts without holding back, then they can gather information. The pool of information allows people to become informed. The people start to share meaning and purpose and actual intent.



Crucial Conversations



Strategically aiming
toward success

Strategy

Strategy

plan or method

achieve a goal or s

organizational acti

Positional Bargaining?

What is Positional Bargaining?

- Each side takes a position and argues for it.
- Concessions are made to reach a compromise

Sometimes an agreement is made – sometimes not – but, this often fails the test of 3 for Principled Negotiation



Three Criteria of Principled Negotiation

- First: Shared search for objective criteria.
- Second: Each party must keep an open mind
- Third: Negotiators must never give in to pressure, threats, or bribes

Positional Bargaining?

“Positions”?

What is wrong with

- Positions are often derived from the other party's stance – versus – needs of constituents
- Positions are easy to entrench in – and to not move from.
- Positions are politically stable – but seldom allow positive engagement for all parties.

**Therefore - Positions often provide
“unwise outcomes”**

Positional Bargaining?

Secondary Positional Bargaining

Choosing how to handle a
mediation/negotiation....

Hard – or – soft....

When faced with two options, consider choosing the third.

Hard & Soft

How do YOU approach a difficult negotiation?

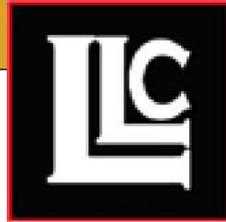
- Do you want people to **get along**?
- Do you consider the other folks “**adversaries**”?
- What are your **priorities**?
- What is the **objective** in a negotiation?

Positional Bargaining?

Which
Game
Should You
Play?

Answer:
Change the game
Negotiate on the
merits

Problem		Solution
Soft	Hard	<p><u>Principled:</u> Participants are “problem-solvers”.</p> <p>The goal is a “wise outcome” reached efficiently and amicably.</p>
<p>Participants are friends.</p> <p>The goal is “agreement.”</p>	<p>Participants are adversaries.</p> <p>The goal is “victory.”</p>	
<p>Make concessions to cultivate the relationship.</p> <p>Be soft on people and the problem.</p> <p>Trust others.</p>	<p>Demand concessions as a condition of the relationship.</p> <p>Be hard on the problem and the people.</p> <p>Distrust others.</p>	<p><u>Separate the people from the problem:</u> Be soft on the people, hard on the problem.</p> <p>Proceed independent of trust.</p>
<p>Change your position easily.</p> <p>Make offers.</p> <p>Disclose your “Bottom Line.”</p>	<p>Dig into your position.</p> <p>Make threats.</p> <p>Mislead as to your “Bottom Line.”</p>	<p><u>Focus on Interests, not on positions</u> Explore interests.</p> <p>Avoid having a “Bottom Line”</p>
<p>Accept one-sided losses to reach an agreement.</p> <p>Search for the single answer: The one “they” will accept.</p>	<p>Demand one-sided gains as the price of agreement.</p> <p>Search for the single answer: the one “you” will accept.</p>	<p><u>Invent Options for Mutual Gain</u></p> <p>Develop multiple options to choose from, decide later.</p>
<p>Insist on agreement.</p> <p>Try to avoid a contest of wills.</p> <p>Yield to pressure.</p>	<p>Insist on your position.</p> <p>Try to win a contest of wills.</p> <p>Create pressure.</p>	<p><u>Insist on using objective criteria</u></p> <p>Try to reach a result based on standards independent of will.</p> <p>Reason and be open to reason; yield to principle, not pressure.</p>



So in negotiation -

- Be fair to oneself
- Be fair to the parties involved
- Be fair to the issues involved
- Be objective even when your interests are involved

(this is not saying: “be selfless”)

- **People:** Separate the people from the problem.
- **Interests:** Focus on interests, not positions.
- **Options:** Invent multiple options looking for mutual gains before deciding what to do.
- **Criteria:** Insist that the result be based on some objective standard.



The four propositions of principled negotiation are relevant

from the time you **begin** to think about negotiating until the time either an agreement is reached or you decide to **break off** the effort...

use them well.

The greatest aspiration of any person is the ability to levee peace where it is absent.

Why Mediate?

- You were asked?
- You were placed in a position to assist?
- You love control of a volatile situation?
- Because it is your duty?
- Because it is what you do?
- Because no one else is qualified?

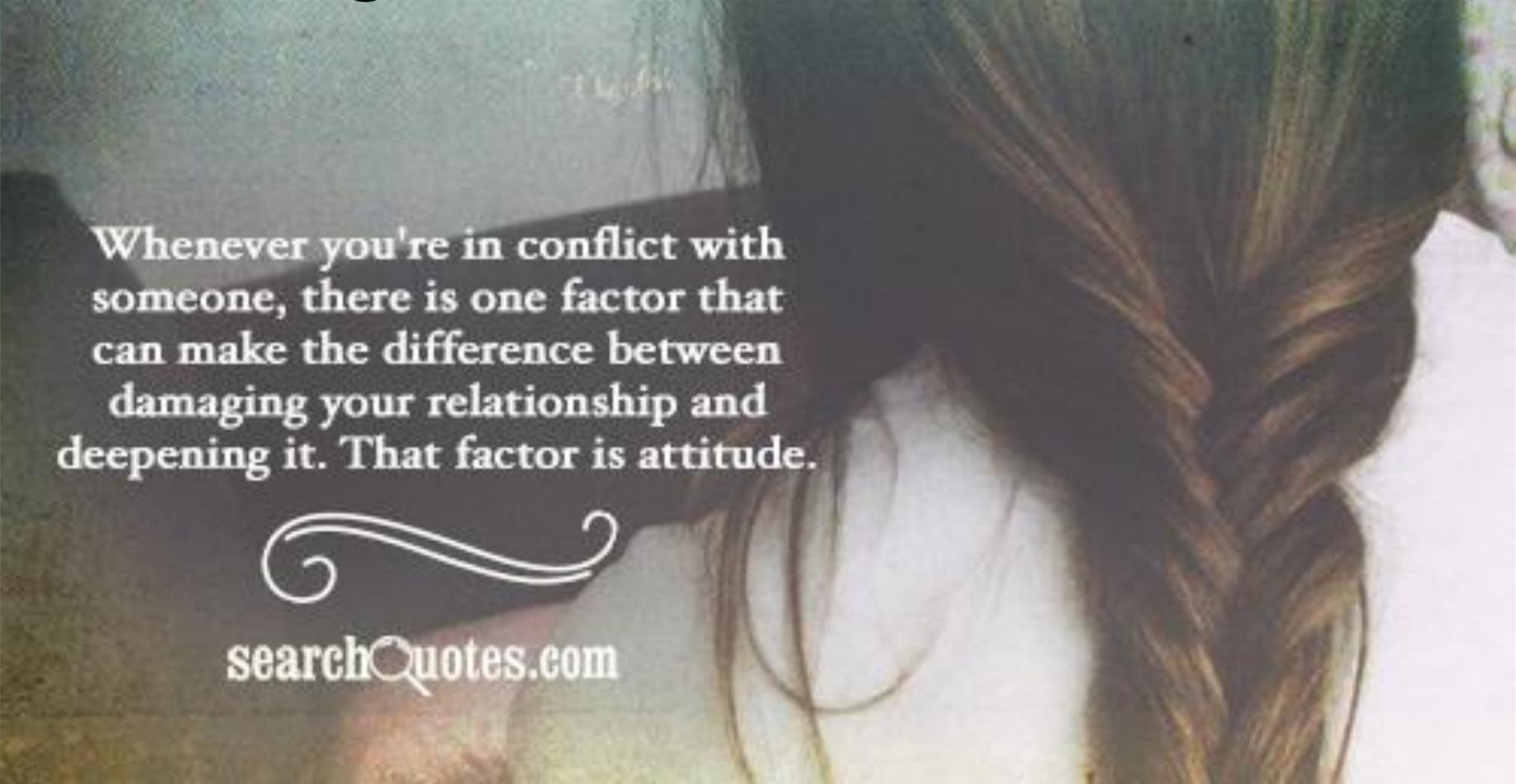
“Hey – can you tell me how to get to Carnegie Hall?”

“Yes I can, son – Practice – practice – practice!” - - Abbott and Costello

What you will do if you want to be good

- ✓ Read (study)
- ✓ Practice
- ✓ Study people’s motivations
- ✓ Talk with people about their experiences
- ✓ Keep your emotions in check and be genuine

Mediation = Relationship Building



Whenever you're in conflict with someone, there is one factor that can make the difference between damaging your relationship and deepening it. That factor is attitude.


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Thank you for
your time and attention

References

(for those of you who simply could not get enough!)

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