

HOW TO PLAY YOUR HAND: LESSONS FOR NEGOTIATORS FROM POKER

The Saltman Center for Conflict Resolution at the UNLV William S. Boyd School of Law hosted this in-depth panel discussion on November 5, 2010. The event sought to address the topic of conflict resolution and negotiation strategies by taking an intimate look at the high-stakes sport of professional poker. The panel featured internationally acclaimed poker players Annie Duke and her brother, Howard Lederer; UCLA professor Russell Korobkin; and leading Las Vegas gaming executive Jack Binion. The following transcript reflects the speakers' discussion.

Note: The *UNLV Gaming Law Journal* Editorial Board has preserved the form of the original transcript with minor revisions to punctuation, grammar and sentence structure.

TRANSCRIPT

John Valery White: Welcome, everyone. I am John White, Dean of the William S. Boyd School of Law. Law school is fundamentally about teaching mechanisms of conflict resolution. It's fitting that the Saltman Center for Conflict Resolution has served as our central connection to the general public in communicating the different aspects of conflict resolution and techniques for conflict resolution.

But within the ambit of the conflict resolution world is the important skill of negotiation, which we teach, and we emphasize because it's important for lawyers to know and have. This panel brings together one of our key skills [negotiation] that we teach and one of the important games that makes Las Vegas extremely popular: poker. Those two have interesting and important overlaps that we hope to explore.

This event is sponsored by the *Las Vegas Review-Journal*, by the Poker Player's Alliance, by Gaming Today, by Lucky's Race & Sports Book, and of course by the Saltman Center for Conflict Resolution.

Our moderator today is a relatively young guy, since he and I are the same age. He is the proprietor of Brandywine Gaming, and has a long history in the sporting world – especially noteworthy is his status as the youngest race announcer in the country. In addition to that, he is an attorney previously working at the Skadden Arps firm, and a friend of the law school: Joseph Asher.

Joseph Asher: John, thanks for that warm welcome. We have got such a great panel of people here and it's going to be really interesting. This is a phenomenal group of highly intelligent, articulate people who are going to talk about poker, negotiation, and the intersection and overlap between the two. So I will introduce them to you, and then we will get started. We have a number of topics to go over, and I think you are going to find this very, very interesting.

Howard Lederer is known as “The Professor” for his analytical style. Howard is one of the most successful and popular professional poker players in the world, with two World Series of Poker bracelets, two World Poker Tour titles to his credit, and six million dollars in career tournament earnings. Howard’s first game was chess. He honed his poker skills playing at the Mayfair Club in New York City back in the 1980s and has developed various businesses around his poker skills. I think you’ll really enjoy what he has to say.

Annie Duke is one of the most charismatic poker figures in the world. She is a World Series of Poker bracelet winner and recently won the National Heads Up Poker tournament, earning a \$500,000 prize in that one tournament alone. She learned the game from her brother, or so I am told. She originally intended to become a teacher but developed her poker game and has gone on to earn more than four million in tournament play alone. And as poker fans know, that’s just tournament play; that doesn’t include cash game winnings. She is also an author. Annie is also a reality TV star with her friend, Joan Rivers, on the *Celebrity Apprentice* [laughter], and a mother of four. We are excited that she is here with us this evening.

Jack Binion is probably one of the most well known figures in the gaming business, and we are very fortunate and appreciative that he took the time to be with us this evening. Jack developed Binion’s Horseshoe into a Las Vegas icon after taking over from his father, Benny Binion. Jack hosted the very first World Series of Poker at Binion’s in 1970 and that series of tournaments has grown into the most prestigious in the world. The main event will play its final table starting tomorrow.

After developing and operating the Horseshoe casinos in Louisiana, Mississippi, Illinois, and Indiana, Jack sold Horseshoe Gaming to Harrah’s for over a billion dollars. Not only is Jack a tremendous casino operator, but he is also a very skilled poker player, which makes him the perfect person to help illustrate our topics tonight both from the business and the poker side.

And last, but certainly not least, is Russ Korobkin, Professor of Law and the Director of the Negotiation and Conflict Resolution program at UCLA Law School. He has also taught here at UNLV. Russell is the author of “*Negotiation Theory and Strategy*” and more than fifty journal articles on the subjects of negotiation, contracts, and other areas of law, business, and human behavior. He is also a poker player and certainly understands the relationship between these two areas.

There are a few thank-yous before we get into the substance of the program. There is a fair bit of work that goes into putting something like this on. First, and foremost, Mike and Sonja Saltman, who are the Saltmans behind the Saltman Center for Conflict Resolution and tremendous supporters of the UNLV Boyd School of Law. In addition to that, Christine Smith, Elaina Bhattacharyya, Catherine Bacos, Ray Patterson, Sandra Rodriguez, all of our student ushers who are helping out this evening, Don Castle, Nevada Colwell, who has the coolest name of the evening, and all the folks here at Cox Pavilion that have done a lot. And my colleague Dan Shapiro has really done a tremendous job in putting together the topics that we are going to be speaking about this evening.

There are six topics in total. You'll see and hear that there is a lot of overlap between them as we have all been speaking about. The topics are: 1) Going First; 2) Hand Strength and Leverage; 3) Money Management; 4) Knowing Your Comfort Level, which was Howard's most recent addition and so we are really looking forward to that one; 5) Emotion; and then the last one is really a topic and a session all to itself: Bluffing, Lying and Deception.

A good way to start off, because we are talking about poker and negotiation, is to discuss and understand the relationship between the two. I am going to ask Russell to start and give us his thoughts.

Russell Korobkin: Negotiation is an interactive communication process where two or more people are trying to allocate some kind of scarce resource, and by that definition poker definitely fits into the definition of negotiation. So, one way to think about this panel is that poker is an example of negotiation, but it is of course a particular type of negotiation. It is highly structured and different from more usual negotiation situations in some important ways.

Here is the way I like to think about the comparison; in poker, let's say there are two people that are playing a hand and they are trying to convince each other to concede the pot. So they are engaged in a process of betting, raising, and re-raising through different rounds of the hand in order to try to reach agreement on who is going to capture the pot. If they fail to reach an agreement—because in negotiation, of course, you usually have the possibility of reaching an agreement and the possibility of an impasse—they pursue their alternative. In poker, both players have the same alternative—proceeding to a showdown—in which case the pot is allocated according to a particular procedure; that is, according to who has the best five-card poker hand.

Although I like to think of poker as a particular kind of negotiation, there are a couple of important differences. One important difference between a typical negotiation and a “poker” negotiation is that in a typical negotiation, whatever the cooperative surplus is, whatever the value that is at stake, usually can be divided between the negotiators. In poker, it's all or nothing. Setting aside the rare case in which two players have exactly the same hand, one player wins the entire pot. You can't agree to divide the pot in a particular way like you can in a standard negotiation.

The other odd thing about poker from a negotiation point of view is that the value that you are trying to divide is being created over the course of the negotiation by the players putting chips or money into the pot. In the more typical negotiation situation, the value is there before the negotiators come together to negotiate, and then they are trying to allocate that value at that time.

Because of the similarities and the differences between poker and the typical negotiation, I think there are a lot of things that we can learn about negotiation generally by understanding poker. At the same time (and we will talk about this over the course of the panel), because of the peculiarities or idiosyncrasies about poker as a form of negotiation, there are some lessons of poker that negotiators might not want to learn, or might be detrimental to negotiation success generally. I think we will try to talk about both sides of that comparison.

I. GOING FIRST

Asher: The first topic was actually the last topic, but then we realized it didn't make much sense to be last because it's called "going first." So, we figured it is a much better to start it at the beginning. It is typical in negotiation to know who goes first and who does not go first. Jack, I think you have a pretty interesting perspective on this from your distinguished business career that really highlights the issue.

Jack Binion: In Tunica County, Mississippi, there was a large, old family that had some farmland that was now going to become casino land; they had had this land since 1836. I found out later that the family got together and said, "Listen, let's ask \$5 million for this property." The others said, "You're just going to turn them off, they just won't go for that, but we'll try it, ok." So they go in, and fortunately for them the casino company started first, and the casino company says, "Listen, we've thought this over, and our bottom line is \$20 million." Well, the one guy that could get his breath said, "Let us get up and talk about it." So, to make a long story short, they sold it for \$25 million. I think that's an illustration that being able to go last is maybe better most of the time. Now, there are points to going first, but I think that is a good illustration of not going first.

Asher: Annie or Howard, do you maybe want to jump in?

Howard Lederer: Certainly, in my opinion, poker is the world's greatest game. It was actually the game that was used to invent game theory. John von Neumann back, I believe it was in the thirties, used a simplified game of poker, to invent just one of the great areas of mathematics, and it spawned many Nobel prizes actually. When he was asked many years later about why he used poker to invent this great area of mathematics—why didn't he use chess—he actually said, "Well I couldn't use chess, chess isn't a game."

I actually agree with him in terms of what he meant. It's not a game in the game theory sense; it is a game that has perfect information. Of course in life and in negotiation, we want to have perfect information before we make any type of decision, but we don't. So, I think what you get when you play poker, you get this playing field where you get to practice making difficult, pressured decisions under conditions of uncertainty. We don't know exactly what our opponent has. Maybe more important than knowing what our opponent has, we don't know the strategy that our opponent is using. Even if you know what your opponent has you have to know what they're going to do with what they have if you're going to make the "perfect" poker decision. Because of that, because you can't know what your opponent has; you can only have a good idea, and you can never know what their strategy is. There are no perfect poker plays.

Because of that, going first is a real problem. If you have to go first in a round of betting, that is just that much less information that you have. You have to act before you know anything, certainly about your opponent's strategy, and that is going to hurt your chances of figuring out your opponent's cards. When you go second your opponent not only has, through their action, given you some sense of at least the simple [issue], are they strong or are they weak, but you have some idea of your opponent's strategy. They have already

used one of their options to execute their strategy before you had to. It is a tremendous advantage, and you have to be aware. Regardless, the good news is that you know what your position will be before you really enter the hand. So you get choices, you get to actually choose the hands where you are going to get to act second, and you play those hands more often than when you are going to have to act first.

Annie Duke: One of the great lessons that I think we can learn from poker in terms of this informational issue is that, if we understand that this is a game, that poker is a game where you are making decisions with incomplete information, where we are under conditions of uncertainty, which is the same thing you do with a negotiation, you do not necessarily know your opponent's position or what their bottom line is, or what cards they are holding, then we should set our number one goal to be able to act in a situation where we have more certainty. We know that when we get to go second, we are always going to be in a position of more certainty. The way that we can counteract this problem when we are going first is to make sure that we have certainty at least about our hand.

One of the things that I try to tell people, and this is true in regular negotiation as well, is that if you're going to go first, you have to have a lot of information in advance. You either have to have done quite a bit of research about your opposing party in the negotiation, or in the case of poker, you can choose to play hands that have a lot of clarity in and of themselves.

So, if you get involved with a hand, for example, a seven of hearts and a six of hearts, this hand is a hand that doesn't have a lot of clarity. Even if you were to make one of the better hands that you could make, which would be a flush, you still do not have what's called the very best hand, because there is a lot of flushes that are better than your hand, and you are in a situation of uncertainty. You would prefer to have that when the other person will go first.

But if you enter the pot first and have something like aces, now you do not need to know as much about what your opponent is holding because your hand contains clarity in and of itself. When you are choosing to go first, you should be in a clear position for yourself and that is true outside of the poker table.

One of the things I try to tell players is "Don't get your ego involved," because a lot of people think, "Well, I'm such a good player, I can play from any position," and what I try to tell them is "at least please try to be as smart as my children are. I have two very young girls, and I like to set very low bars, so could you at least try to be as smart as my seven-year-old?"

My youngest is now eight, but when she was seven, I actually witnessed an argument happen. My seven-year-old daughter's friend said to her, "Do you like Hannah Montana?" and my daughter said, "I don't know, do you?" So then the other girl said, "I asked you first. And, there was a little argument that happened and they came running to me and I was supposed to arbitrate about who had to make the first offer in this negotiation about Hannah Montana.

So what happened was that what my seven-year-old understood was that there was a lot of social equity in the answer, and if the other girl did like Hannah Montana and she said "No," then that was a problem. If the other girl did not like Hannah Montana and she said, "Yes," it was a problem. Therefore, fifty percent of the time she was going to answer poorly. I said, "If my seven-year-old understands this, you probably should too." And what my seven-year-

old also would have understood was that if she happened to see that the other girl was wearing a Hannah Montana T-shirt at the time, she would have had a lot more clarity about the situation, she could have easily said, "I like Hannah Montana." We sort of see this across every aspect when we pull it away from the poker table. Just be smarter than my small child, who I think is brilliant, but she's still seven.

Lederer: There is a point in terms of the going first and that is, in poker, you can affect that situation, so there are very often situations where there is a very reasonable play where you can either decide to extend the hand, maybe just call with a pretty good hand, maybe you are going to induce a bluff; there are a lot of reasons to play a little more passively. But you also are now creating more decision points in the hand by doing that and sometimes with that same type of hand maybe a very reasonable decision would be to move all-in and put that decision on your opponent.

When you are out of position¹ you should be much more willing to move towards the "move all-in" variation as long as it is a reasonable variation. Once all your chips are in the middle of the pot you do not have to make any more decisions; you don't have to go first anymore. Your opponent is going to have to make the last decision of the hand, which is an advantage of itself. But there are no more rounds of betting; there are no more decisions where you have to go first. And certainly when you go second in a poker hand and again you are presented with that, ". . .ok maybe I should just call, maybe I should raise and move all-in," you should tend towards calling because you will have that much more information the next time you have to make the decision on the next round.

Duke: It creates optionality for yourself. One of things that we need to do in poker is we need to decide at the point that I make my decision, I have to decide about what my decision might look like on the next card, and then what my decision might look like on the next card after that. The big advantage to being in position is that you have to decide right away. You can say, "well, you know what, I am just going to call, and then I am going to see what my opponent does, and then depending on what my opponent does, then I have a variety of options that I can do in response."

When you are out of position the minute that you choose to make the call, you have to have already decided what your next street² is going to be and that just puts a lot more pressure on your decisions. And one thing that I really like to point out to people is this is a problem whether you have the best hand or whether you are bluffing, because when we have a bluff, it is harder to execute out of position. Because it's easier to bluff when someone is playing into you³ because you get a lot more feel for if they are weak. You get a lot less expensive opportunities to bluff. When you are in position, you can often bluff for

¹ The term "out of position" refers to be first to act, or alternatively to not be last to act, on any particular hand. POKER DICTIONARY, <http://www.flopturnriver.com/poker-dictionary/out-of-position-oop.php> (last visited Oct. 18, 2011).

² The term "street" refers to a round of betting in poker, usually occurring as the result of a card(s) being dealt. *Id.*

³ The term "playing into you" is a poker term that is similar to the term "betting into you." See *infra* note 8.

just a bet. So when you are out of position, you generally have to bluff for a raise, which is exponentially greater. It is not just twice as much because you are actually raising the size of the pot so it is very often three to four times as much money.

You have to have a higher percentage of times that you are correct in the decision to bluff in order to be profitable. People have a really easy time understanding that problem, but the opposite problem is a little harder for them, which is when you have the best hand, it is very often the case that it's more difficult to cash the best hand.

I think that Jack's story speaks so beautifully to this with the casino having come in first. If you have the best hand, it's much easier to extract the appropriate amount of money from your opponent when they have to come in first. The casino cost themselves \$20 million by having to go first and they clearly had the best hand. This was a family that wanted to sell, they were willing to sell cheap, and the casino was the one with the money to buy; but because they had to go first they did not cash that situation properly. Had they been able to go second they would have been able to extract much more value out of that negotiation than they actually did. And that's true if you flopped⁴ a set of aces, if you have the very best hand it is easier to get money when people can make mistakes into you, as opposed to when you are first, you have to induce them to make mistakes, and that is just much harder to execute.

Korobkin: Let me try to generalize these points and add a couple more of my own. In negotiation, as in poker, the advantage of going second or letting someone else go first is, as Jack's story and Annie's and Howard's analysis has demonstrated, you have more information available to you when you are going second. When you go first, you have to put something out there without having as much information about what cards the other person is holding. And in negotiation, I would think about the comparison to the cards that a player is holding in poker as being the other person's reservation price; that is, if we are talking about a simple sale of an asset, the most that the other person will pay or the minimum that he will accept to make a deal.

If I am the seller of land for a casino, by waiting and not going first, I let the casino reveal information about its reservation price that I did not have. If I, as the landowners, were to act first, not having the information in this case, I probably would have made an offer that is way low, and I would have left money on the table. You can also have the reverse problem. If you make a demand or an offer that is way too high because you do not have information about the other party's reservation price, you can make them angry. They might think that you are not negotiating in good faith or you are violating social norms in some way. Thus, the landowners would be hesitant to come in and ask for \$50 million for the land because they would be afraid of offending the

⁴ In Texas Hold'em, each player has two cards dealt to them, and then share five community cards. These five community cards, however, do not all get dealt at the same time. There are rounds of betting at certain intervals during the deal. After the first two cards are dealt to each player, there is a round of betting. Then, three of the five community cards are dealt at one time on the board. This is what's known as the "flop" - the first three cards being dealt on the board. The fourth card is called the "turn", and the final, fifth card is known as the "river". POKER DICTIONARY, *supra* note 1.

casino. By going second, you obtain more information before acting, which can reduce the likelihood of creating problems by making an offer that is either too aggressive or too modest.

But in negotiation theory, there are couple points on the other side as well—there are a couple reasons why going first can be an advantage. First, you can set the other side's expectation of what your reservation price is a little bit more easily by going first. For example, if I am the casino in Jack's example, and I know that the landowners do not have a very good idea of what my reservation price is, if I were to act first and made a very, very low offer, then that might convince the landowner that my reservation price was actually very low—perhaps lower than what they would have thought if they did not have the information conveyed by my offer. So, by going first, I might affect the other party's view of their reservation price.

I also have the possibility of affecting their view of reservation price by doing what psychologists call, "setting an anchor." Let's say I walk in and say, "we have done our analysis, and we would not be able to pay more than \$1 million for your property." Psychologists have demonstrated that by putting that number \$1 million out there, the person on the other side of the negotiation will have more mental access to facts and information that would suggest that \$1 million might be a reasonable price for them to accept. If the landowners are not really sure about their reservation price—they would like to get \$5 million, but they don't really know what a fair price would be – my \$1 million offer will facilitate any mental access to arguments and facts that suggest \$1 million is a fair price. So on one hand, if I go first, I am at an information disadvantage, but I have got a couple of advantages to counteract that.

Lederer: There are situations, particularly when you are bluffing, when going first is a good thing. But certainly when you are in a bluffing situation, sometimes your bluff can be taken away. There are certainly a number of pots—it is rarer than the typical situation when being in position helps you—that have been won or lost by the fact that the person got to the bluff first.

Duke: On the anchoring note, there is one place where you can, in a sense, anchor hands in poker. That is when you get to the river of a hand. But remember now, there are no more cards, there is no more negotiation going on, and you have a hand where you are very unsure about what the status of your hand is. You know that it may very well be good, that if you were to check it, and the other person were to bet, you would call. But you do not know if it is the best hand, so you cannot really stand to face a huge bet. You might do what is called a blocking bet or defensive bet, which is to anchor the bet very low, to make an extra small bet knowing that it might be read by your opponent as strength. It is difficult for them to raise you unless they really have a big hand, and now, you get out of the hand cheaper and you force them to call an amount that is smaller.

But there is a reputational issue that gets involved with that, which is if someone spots that pattern over the course of the long run, they are actually going to take advantage of that. So, I would say that in the anchoring as well: if you go in and anchor a negotiation low, you better be prepared to stay low. Because if you go in and you anchor it at a million and you are willing to pay twenty million, that reputation will get out and the next time you try to go

anchor low, people are just going to think, “Well, I am going to offer back twenty million,” and the anchor is not going to work well.

Binion: I have another story. Years ago, it got down to three people left in the World Series of Poker: Tom McEvoy, Rod Pete, and Doyle Brunson. Doyle had the most money. This goes back to managing expectations and setting the tempo of the game. Board comes nine, rag, rag⁵—a non-dangerous looking hand. Doyle moved in on them [McEvoy and Pete]. Unfortunately, one of them, I can’t remember, I think it was Rod Pete, had two nines in the hole. So Doyle just ran right into a wall. Now, what was Doyle trying to do? The odds were that this [poker strategy] was going to work, but what he was doing, he was intimating these guys from the start, for down the road. He wanted them to know that every time they get into the pot, every time they put in a dollar, that Doyle was going to be a lion and take it away from them. In fact, he was intimidating them. And he just happened to run into the hand that killed him. And that’s why Doyle did not win that year. Tom McEvoy did.

Duke: And, that’s the problem with going first, which is he had to lay such a big price in order to execute that intimidation.

Binion: Well, the big thing is this, he was setting the tempo and sometimes, in labor negotiations, the laborer always comes in and in effect, goes first. The other thing is that you are managing expectations and you are kind of setting the tempo of what you want to do. Now, do you have your choice when you go second? Yes, but sometimes there is something to be said about going first.

Korobkin: You want to make sure that, if you are going first, you have very good information. You want to first go in a negotiating situation in which you have a pretty good idea of the other party’s reservation price. You might not know it exactly, but you have a fair bit of information. If you are in a situation where you do not know anything about the other party’s reservation price, you almost always do not want to make the first offer. But when you have some information and you can narrow it down a little bit, then the advantages that can come with going first can outweigh the disadvantages.

Asher: Well, then, this leads into the next topic, which we should go right into: hand strength and leverage. And obviously there is a lot to talk about here, but Russ, you have an anecdote that I think illustrates it first to start off, involving a labor negotiation, as Jack alluded to.

II. HAND STRENGTH AND LEVERAGE

Korobkin: Context matters more than anything concerning who has leverage in a particular hand of poker or in a particular negotiation. That is, over time, playing against Jack, Annie, or Howard, I am going to get wiped out in poker, but in any one hand, if I have a pair of aces I am a heavy favorite. You can’t assume in either poker or negotiation that fixed facts are going to determine who has leverage in a particular case.

⁵ The term “rag” is a poker term that refers to a card of low value. The term is usually applied to community cards, but can also refer to starting hands, mostly commonly those including an Ace. *Id.*

If a big casino is negotiating with an organization representing its maids over what the hourly pay rate is going to be, who has the most leverage in that negotiation? The answer, I think, is, “it depends.” In negotiation, the main source of leverage is the quality of your outside alternative—what you are going to do if you don’t reach an agreement in this case? So if unemployment is high and there are a lot of people who want jobs as maids, then the casino is going to have a lot of leverage. If unemployment is low and the casino is having trouble getting enough maids, then the maids are going to have a lot of leverage, relatively speaking. You have to consider context before you make assumptions about who has the leverage in a particular situation.

Asher: Annie, do you have a thought on “in context” and “leverage being contextual” that you want to share?

Duke: Yes, I think one of the places you see this the most is in how the board lays. As in terms of what the explosion of possibilities for what the other person’s hand may look like given the next card. So you can have a hand such as two nines where another nine lands on the board, and the board is something like ace of spades, nine of diamonds, and three of hearts. Now this is a hand where it is very easy to define the set of possibilities for what the other person is holding. They could have three aces, which is the only hand that beats you. Then they could have three threes, some sort of ace in their hand, an ace and a nine, or ace and three, but it is a very narrow set of possibilities for what the other person might have. And the next card is unlikely to change that set of possibilities very much. There just isn’t much that can happen to the board that is very interesting.

But if you have the same set of nines, and now the board is a ten of spades, nine of spades, four of hearts, with that ten and nine of spades, where those cards are extremely related to one another, now you have a situation where half the deck can actually very much change the possibilities for what the other person might be holding. So, while the best hand they can have right now is three tens, that is the only hand that can beat you, and all the others you beat. If any spade comes out, they could have a flush. If the straight cards come out they could have made a straight. If a ten hits, they could make a better full house than you. There is [are] quite a bit of troublesome things that can happen to the board that actually changes the way you play.

If you were to flop a set of nines in the case where the board is not dangerous, for example, you would play in a way where you would want to extend the hand in some way or you would want to cause the other person to make a very bad move against you. So if you were heads up⁶ when someone bet into you,⁷ you would have a tendency just to call, to allow them to extend the hand and to give them opportunities to give you more money. If you were out of position, you would probably never go for a check-raise. In fact, if you were going

⁶ The term “heads up” is a poker term that refers to playing against one other player. The term can either be used for 1-on-1 poker games, or for hands where everyone folds except two players who are now playing against each other. *Id.*

⁷ A “bet into you” is a poker term that refers to betting against someone, especially if they are likely to have a powerful hand. HOLDDEMTIGHT.COM, <http://holdemtight.com/pgs/dc/Dic/-b-.htm> (last visited Oct. 18, 2011).

against a particularly aggressive opponent, you would bet out⁸ to induce them to raise you or to at least to just call you trying to bluff you, which a lot of very good players do against the right kind of opponent, but you are really looking for extension here.

In the second case, however, if someone were to bet into you, you would raise in order to disconnect the decision process on the next card because you realize that this might be a very troublesome card for you. If you were out of position, now you would have a tendency to really check-raise on that hand and just get done with that hand right then. This shows that your leverage in this hand changes based on contextual issues.

Lederer: There is a very underrated issue here; it is a mistake to just think about that decision on the 10-9-4 board where there are two spades just in terms of “what are the chances that my opponent beats me?” But it is also very important to understand [what happens] if your opponent has a strong hand that you have beat. Let’s say your opponent has a pair of queens. You want to get the chips in the middle of the pot quickly because when the seven of spades hits, all of a sudden the player with the two queens can come up with a lot of reasons to think, “Wow, maybe I’m beat,” and they might fold. Therefore, slow-playing those dangerous flops can cost you the pot, but also can cost you a very big pot against a strong hand that you have beat, because all the sudden the scare card comes on the turn and they slow way down.

Duke: On the flip side of that, it can also give your opponent opportunities to bluff you off the best hand, and the problem for you is, you might be the best reader of your opponent, and not know that they are not strong because they may not know they are bluffing.⁹ So if they have a hand like two aces, for example, with the ace of spades, if you get all the money in on the flop, clearly those aces are going to fold. You are going to get a lot of money from them; it is going to be very good for you.

But if you allow, say, the deuce of spades to come off on the turn, that person might move in very confidently thinking, “well I have two aces, plus I have the ace of spades, so they can’t have the nut flush¹⁰ and even if I am wrong they could make a spade,” and now you have someone who is sitting there extremely confident. You look at them thinking, “that is a really confident move in,” you throw your three nines in the muck, and you just made a pot mistake.

So it is not just that you might kill action from a really good hand that might have given you money on the flop, but also that you might get bluffed off by a hand that does not even know they are bluffing. It is a horrible situation when you get these contextual problems. You just want to make that move

⁸ A “bet out” is a poker term that refers to being the first in a round to put money in the pot. *Id.*

⁹ A “bluff” is a bet or raise made by a player when they believe their hand is weaker than their opponent’s, and is unlikely to become stronger (thus distinguishing a bluff from a semi-bluff). The bluff is a bet made with the sole purpose of causing better hands to fold. POKER DICTIONARY, *supra* note 1.

¹⁰ In poker, the term “nut flush” means the player has the best possible flush. If a player has you have a “nut flush”, no other player at the table who also has a flush can possibly beat you in the hand. See POKER-KING.COM, <http://www.poker-king.com/dictionary/nut-flush/> (last visited Oct. 18, 2011).

right away, which reduces your strength in the hand because you have to show your hand earlier.

Lederer: Right, and you certainly do not want to overplay. Talking further on this topic, you want to use leverage; you do not want to overplay your hand. In general, when you are playing, let's say, no-limit hold'em, you are betting around the size of the pot, maybe two-thirds the size of the pot. You are doing that because, when you are bluffing, or you have a strong hand, you get to test your bluffs without committing a huge portion of your chips. And the reason a bluff—where you are not betting a lot—can work is because there may be more rounds to go.

So, assume that the board is ace-9-3, and your opponent is sitting there with a pair of jacks. There is a pretty good chance that your jacks are good there when you are facing a small bet; but the problem is, the board is unlikely to change and there are two more rounds of betting. You are not just calling that small bet. Let's say there is \$200 in the pot and your opponent has just bet \$125, not that hard. But it is not the \$125 you are looking at. You are looking at \$125 on that call, and on the next street it is going to be \$250, and on the last street it is going to be \$500, now you add that up and that's real leverage; but it also gives you the opportunity to test your bluffs.

Instead of just pushing all your chips in, you are kind of making this \$125 bluff, and you are threatening your opponent with further bluffs, but you do not necessarily have to. If it is a game of imperfect information, where you are trying to figure out your opponent's strategy, what a wonderful way: you test the waters with a leveraged bluff, and once your opponent has shown you a willingness to call, maybe you pull back and save the rest of the bluff for another hand.

Asher: The next topic we have is one that this touches on, and there is a lot of overlap in this: money management. I know, Annie, you were very passionate about this earlier and the importance of managing your money properly, having limits in advance; perhaps you could speak a little bit about that. There is also an obvious corollary to the business perspective, as well, that we will talk about.

III. MONEY MANAGEMENT

Duke: One of the things that Jack and Howard and I are very intimate with, in terms of this concept, is that we have seen many, many people come through poker who were really, really, really good poker players who have gone broke and we never see them again. The reason why they go broke is because they are not good money managers. The fact is that if you have no money to churn, you cannot earn; it is just as simple as that, that you have some sort of edge on the game. An excellent poker player is going to be somewhere around five percent, if they are really good. If you are churning your money through at a five-percent earn rate, you are going to make all the money in the world as long as you have money to turn.

The problem is that we understand that when we make decisions, that poker is a game of very rational decision-making, and when we are feeling very emotional, we cannot make rational decisions and there is a psycho-physiologi-

cal reason for that. The area of the brain that is responsible for rational thinking, which is the front part of your brain, the frontal lobe, cannot turn on at the same time as the area of your brain which is responsible for emotions, which is the limbic system. When the limbic system is lit up, the frontal lobe shuts down. When the frontal lobe is lit up, the limbic system shuts down. So these two things can't light up at the same time.

So one of the things that I always recommend to people is that given that you know that negotiations can be extremely emotional, particularly things like labor negotiations, where people start bringing in ideas like respect and so on so forth, they are personalizing what's going on in the negotiation; the emotions can start to run very high. When emotions run very high, decisions won't be very good. So I always tell people that you should liken this to drunk driving. That if we know that we are drunk we are going to make a very poor decision about whether we are in a state where we can drive, so there are things that you can do in order to avert that: which is mainly to make your decisions in advance of ever having a drink. Either give your keys to somebody or set a designated driver. What you recognize is that "I am of right mind now" and I am thinking rationally now, so I better make my decisions now because later I will not actually be of right mind.

We should do this at the poker table, and do it in terms of two things. One is a time limit on our play, and one is a loss limit on our play. Loss limits are saying, "When I go into a game, I am only going to risk a certain percentage of my bankroll in the game," and that percentage should be what your edge is in general. If I have a five-percent edge on the game that I am playing, I would risk five percent of my bankroll and not go any further, because right now I am thinking rationally. But I know that when I'm losing there is going to be a couple of things that are going to be really bad. The first is that I am going to be a very poor judge of why I am losing. I am going to tend to attribute it to luck, because when we are losing we tend to socialize¹¹ our results. And I'm going to say, "Oh, these people are really bad and I've just been unlucky," when that might not be the case. Also I know that other players are going to be treating me in a way that they are going to be putting a lot of big decisions on me because they are not going to believe me when I am playing bad and think I am unlucky, and so it's working on my table image; so they are going to tend to be more aggressive against me.

Lederer: Also, they are winning. In general, your chips are in their stack.

Duke: So they are playing better; they are playing better because they are unemotional.

Lederer: They are happy.

Duke: They are happy. What I say is that, if you go in saying you know you can only lose this amount and that is what you have set rationally, then you can stop yourself from continuing in the game. When you are not thinking rationally, you are not playing well, and the other players are going to be playing better than you and coming after you.

¹¹ Socialize means: (1) to make social; (2) to adapt to social needs or uses; (3) to organize group participation in. MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/socialize> (last visited Oct. 18, 2011).

The other thing to recognize is that you should set time limits to a negotiation whenever you can because when you are tired, you also are not thinking rationally. In poker, if you are playing online, and you are sitting in front of an LED screen, my recommendation is no more than six hours because that is very tiring. In live poker, it would depend on you as an individual, but between six and eight hours. That stops you from playing when you are tired, and it stops you from playing when you've been playing a long time.

Lederer: Also, I think that winning players tend to be very consistent. Over the course of hundreds of hours you may play every year, you may win quite a bit. And you kind of see that result, "Wow, I've won a lot of money as a poker player over the years." But that winning comes from very small edges. And players tend to overestimate how much better they are than their opponents.

Yes, you have tremendous evidence that you are better. You are a winning poker player, but your edge each day, each decision is very small. So, being a little tired or, being at your loss limit—that can wipe out your edge altogether. I think that people definitely overestimate their edge. Because they think "Oh I'm just a little tired. I still have an edge. I can beat these players." Yeah, you can beat them when you're fresh, and you're not losing a lot.

Duke: And I think that one of the reasons why players overestimate their edge, actually, is that if you buy into a game for a thousand dollars, and your average win for the night is, let's say, two hundred dollars, all of the sudden you are like, "Wow, I'm twenty-percent better than the game." But what you don't realize is that you didn't win two hundred dollars on a thousand. You might have turned \$10,000 through that game, which would be more likely, and then your edge is actually two percent—which by the way—for an average winning player is going to be about what their edge is. They are looking at that, and they're saying, "Wow, I am so much better than the game. I earned twenty percent on my money." Because they don't understand they did not earn twenty percent on \$1,000; they earned two-percent on \$10,000.

So, it makes it very difficult for you to make good decisions. Recognizing a small edge and then setting loss limits and avoiding emotional decision-making is going to allow you to be playing at your edge, because that edge can slip away super-fast.

Asher: Jack, talk about, the negotiation from the business side: resources and the finite nature of resources that you have to deal with in money management. So resources in negotiation are typically finite. What role does that play in negotiating your deals?

Binion: Well, naturally, it does play a big part. In poker, you have to play the hand by yourself; you have to make all the decisions by yourself. In negotiations, you might be the world's greatest negotiator on buying cars and selling cars, but there is something out there that you negotiate that you do not know anything about. The same way with poker players; a lot of poker players play hold'em real well. However, they cannot play high-low spread at all.

But one of the things that you can do is go get good advice, and go get somebody to help you. I think it's important to get people that can help you.

Korobkin: Let me just approach this broad topic from a slightly different angle because I think there is a great point here from poker for negotiators. The

first question about money management that you have to deal with in poker, and it's covered at the very beginning of every poker book, is the question of whether to put your money in a hand or not; whether to enter the hand or to sit the hand out. Good poker players make a very careful cost-benefit analysis; they only put money in the pot if it has a positive expected value. They know they are not going to win every time, but they want their decision to have a positive expected value over the long run.

My sense is that most negotiators do not think about the decision of whether to get involved in a negotiation in the same careful way, and they should. Most negotiators generally assume, "There's no harm in negotiating. I can always walk away without a deal. I'm not losing my chips like I am in poker if I put my money in the pot." But, in fact, that's not really true.

There are several ways that, by getting involved in a negotiation, you can lose. And you have to compare the expected winnings, the expected benefit of getting involved in a negotiation to these expected costs.

One of these is transaction costs. It can be very expensive to do the work necessary to prepare yourself and participate in a complicated negotiation.

The second is potential reputational cost. Just by negotiating, even if you do not reach a deal, there could be reputational costs. The typical example here that everyone is familiar with is that governments tend to say, "We don't negotiate with terrorists." Even if you do not reach a deal with the terrorists, you incur reputational costs. If you are an employee, entering into negotiations with your employer's competitor, if that information gets back to your employer, might cause you to incur a reputational cost even if you do not reach a deal.

The final cost to keep in mind is the fact that your alternative to reaching a deal might get worse while you are negotiating. Imagining that a local car dealer advertises one car at a super low price, and there is another dealer across town who says, "We'll beat any advertised offer," if you drive across town to try to get a little better deal, while you are doing that, the car that is being offered at a great price nearby might get sold.

So, these are three types of costs that you need to consider and compare to the potential value of negotiating in order to do the type of expected value analysis of whether to negotiate in the way that poker players do when they are deciding whether to enter a hand.

Lederer: Actually, one of the great things about poker is that it teaches you to think about expected value; you are being forced over and over again, and you are doing it hundreds and hundreds of times a night. You are just practicing this process of using your gut and your experience and just what you know about your opponent. You are taking all this stuff in to assign some percentage to a potential outcome, and you are assigning other percentages to other outcomes—there could be multiple outcomes in any hand. Then, you are assessing what those outcomes will cost you or benefit you; then you are adding up all of that, and you're coming up with an expected value.

You start thinking in terms of expected value. And in fact, Jack has a great story up there with the guy trying to buy the casino, where he feels like there was a terrible expected value analysis by someone who was in the middle of a negotiation.

Binion: I went up to Illinois and there were two casinos up there that were for sale. Another casino company had been negotiating on it and it came pretty much [close] to a price, but the casino trimmed it down \$20 million. This was about a \$600 million deal, and the casino company held out for this \$20 million. Now these casinos were real “birds nests on the ground.” There was a lot of value in them—at least \$150 to \$250 million of value left over. I undercut the casino company, and I ended up with the casinos. So for \$20 million—trying to save that \$20 million—the casino company basically was laying seven or eight to one that the seller had to go for this—terrible odds. So there is a case of overplaying your hand, and it cost the casino company.

Lederer: And there are lots of guys who will go through life having made that poor decision and it worked out. Because even if it was eighty percent to work out, that means that eighty percent of the time this casino owner would have actually saved \$20 million and be patting himself on the back going, “Wow, that was a great \$20 million I saved.” When actually, the expected value to extend the decision was a negative expectation, because there was a twenty percent chance he was going to lose the \$200 million in value.

Duke: I also wanted to bring up one thing about another danger of entering into a negotiation before you decide whether it’s plus equity or not and just saying there is no harm in negotiating, because you see this in poker all the time. Once a player gets involved in a hand they become very protective of whatever resources they might have in the hand, and they are likely to continue the hand in situations where the math is bad in order to protect their resources. So, if you do enter into a negotiation because you think there is no harm in getting into a negotiation, you do risk wanting to protect your time and resources that you have put into the negotiation and try to come to a conclusion in order to justify what you have done. I think you are actually more likely to end up with a bad result out of a negotiation that you haven’t thought very hard about in advance.

Korobkin: So in poker, sometimes the best thing to do is not to play. And in negotiation, it is important if you do get into the negotiation to remember that sometimes the best outcome is an impasse. If you can keep that in mind, then you can minimize this problem of putting too much emphasis on your sunk costs. But that always is a risk, absolutely, whenever you get into a negotiation.

Lederer: And actually, in poker there are reputational issues. If you are the type of person that says, “Well, I will just get involved in this hand because it is cheap, and I can just fold,” you can get the reputation of someone who can get pushed around, so every time you fold you are sending a message to your opponents that you are someone that folds, and there is a cost to that.

So sometimes you have to make some very marginal plays; maybe even sometimes you make decisions where if you really added up the pure costs of the call versus the fold, actually you should fold, and when you add in the reputational costs of being someone who is known as a folder or someone who can get pushed around, you actually need to send the message, “No, I am not that person, I call.” You can’t just look at it as, “I will just dabble around a lot.”

Duke: It can create a cascade of relatively poor decisions.

IV. KNOWING YOUR COMFORT LEVEL

Asher: Let's move on to the next topic: knowing your comfort level. A number of years ago, there was a big stakes poker game in Las Vegas over a period of time involving a wealthy Texas banker, Andy Beal, who played against a number of professionals, one of which was Howard. Howard, could you maybe talk about the comfort level that you and the other players had coming into it, and how you counteracted that as this game went on?

Lederer: The player in question, Andy Beal, was a very wealthy banker and a brilliant guy. He is the owner of Beal Bank, and he has just done a lot of amazing things. He is probably worth \$4 or \$5 billion. Now he played the whole real estate business, but he started completely divesting of real estate, I believe, starting in 2004. He owned, I think, ninety-eight percent of his bank. In 2004, he started saying to his board, "we need to get out of real estate, and we need to stop having anything to do with these securities, because they're all going to go bad." He has talked about how much pressure he got from his board. He is the guy who owns the entire bank, and it took incredible fortitude on his part to even be able to execute this strategy of actually being completely out of real estate by the time everything blew up. Of course, by the time it did, he was all in cash.

He came to Las Vegas, and decided that he wanted to take on the world's best poker players. He was a pretty good poker player. He had played with us a little bit; he had a little success but, I think, overall he was a loser. I think he decided he could break us down. He wasn't going to be able to create a full game at high enough stakes, but he felt like if he allowed us to pool our resources that he could play at such a high level that we would get out of our comfort level. We started playing \$50,000-100,000 limit hold 'em, so the average hand was in the \$500,000 to \$1 million range, and this was certainly much higher than any of us had ever played. But, I think he made a miscalculation.

He was playing against the best players in the world in heads-up battles. It would be him against one of us. This is what we have been doing our entire lives. Sometimes we do play out of our comfort level; it's not recommended, but we have gotten pretty good at it. We are also very good at getting into different comfort levels—you start off out of your comfort level, and you get comfortable really quickly with it—and I think that certainly happened with us. I think on the other hand, he never found his comfort level.

Yes, he was comfortable with the stakes that he was playing, but he was playing poker against the best poker players in the world. Even if he's comfortable playing poker against his buddies, there is no chance he's going to be comfortable in a situation where he lacks confidence.

So when you are confident in what you are doing, you are comfortable with the level at which you are doing it. You are tapping into neuro-pathways that have been well worn—you are good at this. Your brain is functioning well. It makes these good decisions. These are well-worn pathways. As soon as you get out of your comfort level, I am actually of the belief that, it is almost like a temporary "brain damage" that kicks in. These decision processes that have come so naturally to you throughout your poker career literally become physically impossible. As Annie mentioned, your limbic system is getting in

the way of your frontal cortex. You aren't able to make these decisions physically, and you see it all the time. And I believe Beal was in that position, not because of the money, but because he was in a situation where he was not comfortable, and I don't think he ever really got comfortable with that game.

Asher: Is there a business and negotiation corollary to that, where you are negotiating in an unfriendly or unknown environment? Is there a business corollary to that same point of being in an uncomfortable negotiation or uncomfortable situation?

Korobkin: Well, I think there are two things that can happen in that situation. One is the point Howard made: when you are not in your comfort zone, you might not be making careful, rational calculations that maximize your expected value. You might be making poor decisions. Another problem is that you might be behaving in a very risk-averse way. You might demand much higher odds of winning before you are willing to put your money into the pot. Or in negotiation, you might demand a much higher expected payout before you are willing to enter into a deal.

The first of the two problems is the same in negotiation as it is in poker: you don't want to be in a situation where your rational cognition is being overwhelmed and you find that you are not able to function properly. You are unable to determine your reservation value and evaluate what response you can make to an offer by the other side that will have the highest expected value.

The fact that you might behave in a more risk-averse way is deadly in poker, because you need that small advantage Howard and Annie were talking about. If you have a fifty-two percent chance at the hand on even money, you need to get your money into the pot if you are going to be a good poker player. In negotiation, I think, the consequences of being risk-averse are probably less serious. You usually are not in a situation where you are playing hand after hand after hand, and the difference between winning and losing is taking advantage of very small statistical advantages. Most negotiators can be a little more risk-averse. You will pass up some potentially positive expected value deals. But you will still live to negotiate another day, in a way that you won't in poker, because your stack is going to be depleted very quickly if you are not really sharp with your expected values.

Lederer: Yes, but actually, that is where it gets interesting. I agree with you, that there are businesses and business people and lawyers that get very good at certain types of negotiations, and that is because they are in their comfort zone. They're used to it and they're willing to say, "Nope, I'm gonna pass on this situation; I'll do this situation instead."

I think where people have a really hard time—and it happens in poker where you are at the final table at a main event, it is your once-in-a-lifetime—where you have been building a business your whole life, and now you are making the big cash-out negotiation. There is no other negotiation. With the pressure, you are out of your comfort zone. You are not negotiating for a good price from a venter who is delivering napkins and tablecloths to you. You may be very good at that type of negotiation: getting a good deal working with the right person. But now you're selling the whole business. It's your big life's negotiation all in this one situation. Certainly there are situations—particularly in poker tournaments where you have to deal with that—that come up and

sometimes you really cannot help it. You need to try and learn to function well even when you are out of your comfort zone.

Duke: Just as an example, speaking about the Andy Beal situation, one of the things that the players did who were playing Beal heads up, they said “a single one of us can’t come up with enough money to make sure we are in our comfort zone playing against this guy. But if we all pool our money together, then at least moneywise, no individual will feel like this is going to be life-changing if we lose.”

You see situations all the time in poker where someone will look at a game and say “Wow, this game looks really good, but it’s like three levels above what I normally play, but I see that this guy who usually plays in my little game is over there drunk losing in this big game, so I’m willing to put forty percent of my bankroll on the table in order to play in this game.” Well now, that person’s under a tremendous amount of bankroll pressure. They know that if they go broke, they’re going to destroy their bankroll. And what will happen is that they will make these extremely conservative decisions, so over time, they might not go broke because they are not just spewing their money on the table, but they might not actually be acting at a positive earn.

I have been in business negotiations where I can see the same thing, and generally it tends to be where you are negotiating for assets that you really need as a business. If you are negotiating for assets that you desperately need as a business, you are going to tend to be out of your comfort level because you essentially have your whole bankroll on the table; you feel like your business really needs this.

I was actually just involved in a negotiation where, in a startup I am doing now, we really needed an asset to operate our business. So what I did as a strategy, since they put me in as the lead negotiator, was I set up a lease option first on this asset, where we could lease this asset for a couple of years. And then we went in and negotiated about what the larger scale of the deal might be, and it allowed me quite a bit of comfort in that negotiation because I set myself up where my whole bankroll was not on the table; I knew I could have access to that asset while I was negotiating for a more thorough ownership kind of line on what that asset was.

You can do things like that going into a business where you can say “this is an asset that I really need; I know it is going to put me out of my comfort level, let me figure out how I can make sure I am not negotiating from a point of being scared,” which is really what I think negotiating out of your comfort level causes you to do.

Asher: Annie, the next topic that we have is one that we will just spend a few minutes on because the last one is bluffing, lying and deception, where there is so much material. But with respect to emotion, we had a conversation earlier about emotion and sexism and how you deal with that in your play, and who winds up being emotional at the table.

V. EMOTION

Duke: I happen to work in a business that is very male-oriented. To give you an idea, since I started playing in the World Series of Poker, the first time I

entered in the main event it was 1994. Three percent of that field was women. And, believe it or not, in 2010, three percent of the field was women. What that means is that, when I'm sitting at a table, it's a very unusual circumstance that there might be another woman at the table.

Now, poker has become much more mainstream now. But, when I first started playing, particularly because I was playing in Montana, which is, as far as I can tell, the home of the Marlboro Man, the men there tended to be even more macho than the normal poker player. What I found was that players were having extremely emotional reactions to me that were just kind of built into the way men from that area were socialized.

What I would see from a lot of women is that they would sort of go on attack mode and start behaving emotionally right back to the person, whereas I was always very calm about it, because what I realized is that if these people are so deeply and emotionally embedded into my presence at the table, they are probably not thinking well. I may have had an advantage knowing how the brain works from my time in graduate school when I was once a scientist.

But I took a very unemotional reaction to it, and I just said, "Well, if they are going to be acting emotionally, that is probably to my advantage," and I always kept in mind what my goal to the game was: for me to be making the best decisions in relation to my opponents. And any emotional reaction to the way that someone might have been treating me at the table would have been extremely counter-productive.

VI. BLUFFING, LYING, AND DECEPTION

Asher: The next topic is Bluffing, Lying, and Deception. In business and in poker, the rules probably are slightly different about lying, but I assume there is an area in poker where lying is generally not ok.

Binion: If I misrepresent that I am going to sell you a gold mine and I guarantee you it is full of gold, and it doesn't have any gold in it at all, then that is lying, but there are remedies for that.

The one thing that both sides don't have, and which you're perfectly willing to lie about: your bottom line. Only I know what my bottom line is; only he knows what his bottom line is. So you can call it. You're saying, "My bottom line is five." And maybe it's twenty. That is perfectly ethical and permissible.

Duke: Yeah. I want to make a distinction between lying and bluffing, because I get asked this all the time. "What's it like to lie all the time?" people say to me. And I say to them, "Actually I'm not. I don't lie hardly ever, and it is one of the biggest offenses in my household if my children lie, because when you sit down at a poker table, there are rules to the game. And part of the rule is that you don't have to show your cards."

Now, the way you show your cards to your opponents is by the way that you bet. What I tell people is that, "Your chips are your language. You are not actually speaking to people like you are in negotiation." You are using your chips to say, "This is what I think my hand is worth." And then the other person says, "That is too much; I fold." Or they say, "No, I think my hand is worth the same amount," or they say, "Oh, I think my hand is worth more than that." That is what you are doing with your chips: you are discussing with the

other person through the use of your chips and what each of you values your hand at.

When you sit down at the table you have agreed to the rule that you are trying to keep your hand hidden. So, I actually get a little bit offended when people equate bluffing with lying. Lying is misrepresenting the facts in a way that is malicious. Bluffing is a different thing: it is saying within the construct of this game, "I am allowed to keep my hand as hidden as possible while we have a conversation where we are trying to come to an agreement."

Lederer: There is a place where you actually do lie at the poker table and it is part of the game and totally acceptable. That is because within the rules of the game, when you make a bet and you have now successfully negotiated that your opponent will fold, your opponent has no right to see your cards. That's the key- that's the essence of the game. And if your opponent asks you what you had, it is your obligation to lie to them.

Duke: I think that there are two really interesting things you can learn from bluffing in the game. The first has to do with when it is appropriate to bluff, and the second has to do with how you execute a bluff properly, which are two totally separate issues and I think people kind of conflate them.

When you are thinking about when it is appropriate to bluff it, really has to do with understanding the texture of the game that you are in and who your opponents are. People will say to me, "In these games where everybody just calls everything, isn't it no fun because you're not playing poker?" And I say, "You're making a mistake about equating bluffing with poker." Being a good poker player, and I think in negotiations, people try to bluff too often because they think, "Oh, in order to be a good negotiator, I must be deceptive and I must bluff."

But it is not always appropriate to do so. It is really just a tool that you use in your negotiations. What I tell people is this: Bluffing has two bits of value and we can divide it very clearly. There is the present equity in the bluff, which is "If I make this bluff, will I actually put money in my stack?" That is because you get something at a lower price than you were willing to pay, which is obviously locking equity up or whatever it might be. In poker, that would be, "If I execute the bluff, will the pot actually go into my stack?" and there is some percentage chance that will happen when you execute the bluff, but then there is the reputational issue.

For example, in a negotiation, I offer low but then they go a little bit higher and I agree to that. You are protecting your reputation when you get caught because then people know that your first offer is not always your best, it is not the highest that you are willing to go, and that is extremely important for you to let people know that. In poker, if you get caught, they know that when you bet you're not always having the best hand.

So what I tell people is, "if those two things do not exist, then you should not be bluffing." If you're in a game where, if you bet, there is no possibility, given the lay of your opponents, that the pot will ever go into your stack. Then you ask the follow-up question of, "Well, if it doesn't go into my stack, am I going to teach my opponents what is valuable to me in the future about the way I behave in these situations?" And the answer is no, because when these opponents call you, they might as well have blindfolds on.

People say to me, “Wow, I folded every hand for an hour and then I raised and I still got five callers.” Those people aren’t paying attention to your actions. They are not paying attention to your reputation, so it would be silly to bluff in that situation. I think there is [are] similar cases that come up in business where that’s also true where your opponents are going to go as high as they want or where you’re forming a partnership where you want to have a long term reputation of actually not bluffing. You want to have a long-term reputation of honesty with those people. You really need to think about not just “I want to be a good negotiator”—which I equate with going in low—but more “what is the nature of my relationship with the people I am negotiating with, and is this an appropriate tool to apply at this moment?”

Korobkin: There are a lot of really interesting issues here. Let me just make a point about tactics. Here is a place where I think that there is an important distinction between negotiation and poker. The fundamental theorem of poker, as it has been called, is that you always want the other person to believe that you have what you do not have. So if you have a strong hand, you want him to think you are weak; if you have a weak hand, you want him to think you are strong.

In negotiations, generally, if you are weak, you want your opponent to think you are strong, because then he is likely to make concessions and you will get more of the cooperative surplus of the deal. However, when you are strong, you also want your opponent to think you’re strong. You do not want him to think you are weak, because if he thinks you are weak, that’s an invitation to not make any concessions and instead demand more and more and more.

Here is one place where the idiosyncratic structure of poker really makes a difference in tactics. In poker, if your opponent thinks you are weak, that will cause him to bet and put money in the pot, which you can then win. There is no common analog to this aspect of poker in negotiation. Usually, there is no benefit to your opponent thinking that you are weak. The “strong when weak, weak when strong” goal that you see often in poker does not apply to negotiation; you almost always want the person to think you are strong. There are exceptions, but they are quite unusual situations. For example, if the other person is providing services to you in hopes that you will enter into a deal with them later, you might want them to think that you are weak—meaning that you really need these services and you will pay a lot for them—so that they will give you these things before you enter into a deal.

One other important tactical difference is that, because poker is a completely zero-sum game, you are battling over the pot and there is no way to create more value than what is in the pot. If I get the chips, Jack doesn’t get the chips; if Jack gets them, I don’t get them. In negotiation, there are often a lot of ways to add value to the transaction that makes everyone better off, hence the term “win-win” negotiation. To the extent that you are not transparent, capitalizing on those opportunities is more difficult. This isn’t a problem in poker, because the interaction is completely zero-sum.

Asher: It is a fascinating topic and one that we could go on and on and on about. Russell, you had one ethical point that you wanted to bring up?

Korobkin: Yes, I just want to talk for a second about whether it is ethical in negotiations to deceive your opponent, whether you want to call it a bluff or

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you want to call it a lie. There is a lot of disagreement between scholars and commentators on the morality of this. And one of the reasons that there's disagreement is the point that Howard raised. In poker, everybody knows the rules. It is not outside of the rules to bluff.

Concerning what is legal and what is not legal you can, generally speaking, divide the world into two types of situations. It is legal—whether it's immoral or unethical is a different question—to lie or deceive about what your reservation price is – how much you are willing to pay or accept – and how much you like your alternative to reaching a deal.

It is definitely legal just like in poker, to deceive by bluffing about the strength of your hand. It's not legal to lie in a negotiation about the subject matter of the negotiation. If I tried to sell you my car, I can tell you I could never take less than \$10,000, even though I'm willing to take \$5,000. I cannot tell you that the car has never been in an accident and never needed repairs if it practically lives in the shop.

The legal rules governing negotiations are actually quite similar to the rules of poker. Although we usually think that, in poker, anything goes in terms of deception, this is not really true. If you understand the “subject matter” of the negotiation in poker as being pot, rather than what is in your hand, it becomes clear that a player cannot lie about the “subject matter” of the negotiations in poker. For example, you cannot say, “I call your fifty dollar bet,” and throw only thirty dollars in the pot. That is against the rules of poker. So, there is probably not as much difference in the deception analysis between poker and negotiation as it often might seem.

