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Dealt A Weak Hand? Bluff or Fold?

Imagine you own a business that created three million copies of marketing materials to promote a new mail campaign. At the last minute, your legal department gives you bad news: You have not cleared the rights for the main photograph to be used in the materials, and the owner of the photography studio could charge up to \$3.0 million to grant the rights. It looks like the studio holds all the cards. What negotiation strategy could you use to turn this around in your favor?

Harvard Business School professors David A. Lax and James K. Sebenius offer a real-life solution taken from history. In 1912, Theodore Roosevelt's presidential campaign used a photograph of the candidate on three million pamphlets to be distributed during an upcoming tour. Campaign workers later discovered that they did not secure the rights to reproduce the picture from the photography studio that owned them. Using the pamphlets without permission could bring an expensive lawsuit and tarnish the candidate. If they tried to negotiate the rights, the studio could demand up to \$3.0 million.

George Perkins, the campaign manager, had another plan. He sent a telegram to the studio owner stating: "We are planning to distribute millions of pamphlets with Roosevelt's picture on the cover. It will be great publicity for the studio whose photograph we use. How much will you pay us to use yours? Respond immediately." The studio quickly replied: "We've never done this before, but under the circumstances we'd be pleased to offer you \$250."

Perkins' message might be construed as misleading, because it implied that the photo had not yet been printed. However, the story offers some negotiating lessons:

It's not always just about the money: Perkins considered his counterpart's interests. In this case, the interest for good publicity was more important than haggling over money.

Don't overlook the other side's BATNA (best alternative to a negotiated agreement): Perkins correctly anticipated that the photo studio would not want to pass up a great promotional opportunity.

Reframe the issue: Perkins did not offer to meet and engage in joint problem solving over the rights issue. Instead, he sent a telegram requesting a quick decision. By framing his offer as a valuable, limited commodity, the other side did not hesitate to agree.