

# IGNITE

## ELEMENTALS 7:

### NEGOTIATE THE DEAL

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**WARNING!** Real estate agents who violate The Telephone Consumer Protection Act (TCPA) and the National Do Not Call Registry face potentially catastrophic legal damages. Do NOT use or leave artificial or prerecorded messages, and check the National Registry and your internal registry before you dial.

# Table of Contents

Compliance: Do Not Call .....3

Brainstom Negotiation Issues .....4

Common Points of Negotiation .....5

Negotiation Tips .....6

Overview: 3 P’s Approach to Negotiation.....7

3 P’s Approach: Prepare- Learn .....8

3 P’s Approach: Prepare- Do.....9

3 P’s Approach: Present- Learn .....10

3 P’s Approach: Position- Learn.....11

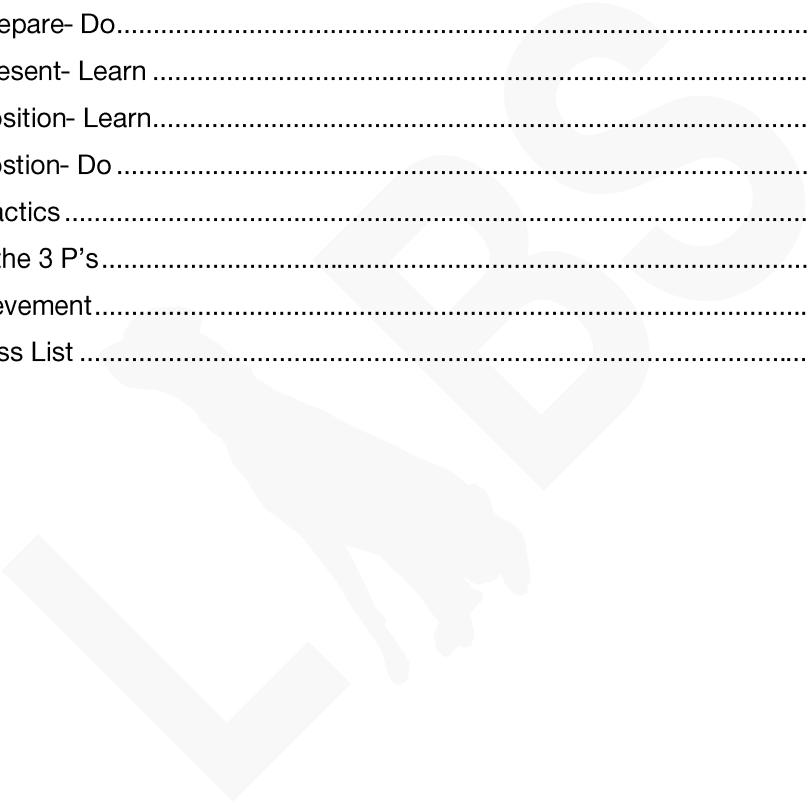
3 P’s Approach: Postion- Do .....12

Analyze Counter Tactics .....13

Real Play: Employ the 3 P’s.....14

Turn Aha’s to Achievement.....15

Create Your Success List .....16



# Compliance: Do Not Call

## RULE

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Under federal law, sellers and telemarketers (including real estate agents) are prohibited from calling consumers listed on the Federal Trade Commission's Do Not Call Registry.

① **Subscribe to the Registry**

The registry is hosted on a dedicated website. Your Market Center should subscribe to the Registry and provide you with login credentials. Note that it is a violation of federal law to make ANY telemarketing calls without access to the registry.

① **Update Your Call List Regularly**

Delete all numbers in the registry from your list at least every 31 days.

① **Know the State and Federal Laws**

Know that, in addition to federal laws, many states also have laws governing telemarketing. Make sure you are familiar and compliant with your state's laws.

① **Check Before You Call**

Before making a call, check to see if the consumer is on the Registry. If the consumer is on the Registry, do not call!

① **Honor Consumers' Requests**

Never call a consumer if the consumer requests to be placed on your personal (or your Market Center's) do not call list. All consumer do-not-call requests must be placed on a list and honored permanently, unless the consumer subsequently consents to be called.

## EXCEPTIONS

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There are some instances in which you may call a consumer on the Registry.

✓ **Inquiry Exception**

The rules permit calls to a consumer following all inquiry for three months after the inquiry or until the consumer requests to be placed on the telemarketer's do not call list (whichever is sooner).

✓ **Established Business Relationship Exception**

The rules permit calls to existing customers – those people with whom you've done business in the past 18 months – unless the customer requests to be placed on the telemarketer's do not call list.

✓ **Written Permission Exception**

The rules permit calls to a consumer on the Registry if the consumer has given you written permission to call.

**Warning!** The Telephone Consumer Protection Act (TCPA), which includes the National Do Not Call Registry, imposes strict limits on how real estate agents make calls, send text messages and/or leave voicemails. The law requires that you check all Do Not Call registries before calling or texting, and honor requests to be placed on all Do Not Call lists. The law also may require callers to meet certain consent requirements before making a call or sending a text message using an autodialer or using or a prerecorded/artificial voice. Agents must follow this law or face stiff penalties and/or potentially catastrophic legal damages for violations. Contact your attorney to determine if your practices conform to the TCPA.

# Activity: Brainstorm Negotiation Issues

**Instructions:** Use the space below to keep track of your brainstorming.

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# Common Points of Negotiation

## Price and Terms

During the negotiation process, price and terms are common points of negotiation.

**Price** While the sales price is the primary factor in negotiations, it is not necessarily the bottom line. In a situation where a seller receives multiple offers at the same price, it is the terms of those offers, in addition to the buyer’s financial position, that will determine which one wins.

|   |  |
|---|--|
| <p><b>Terms</b> The terms of an offer may be financial, time-based, or both. When the buyer and seller can’t agree on a sales price, the following five offer terms come into play.</p> | <p><b>Closing costs:</b></p> <p>Traditionally paid by the buyer, closing costs are in addition to the purchase price. Securing the cash to pay these expenses can be difficult for some, especially for first-time home buyers; therefore, the seller may be asked to pay a portion of the closing costs. When you represent a seller, make your client aware that it’s common for buyers to ask them to pay for part of the closing costs and what their options are.</p> |
|   | <p><b>Closing date:</b></p> <p>When the seller has a very specific time frame for moving, the buyer has the upper hand and can leverage this by being more flexible with the closing date and less flexible with the offer price.</p>  |
|   | <p><b>Conveyances:</b></p> <p>While conveyances are defined by a locality’s Board of Realtors, the general rule of thumb is that attached fixtures stay with the home and non-realty items (personal property) go with the seller. In negotiations, a buyer may request that certain personal property items stay with the home, such as furniture, window treatments, or a refrigerator.</p>  |
|   | <p><b>Earnest money and option fee:</b></p> <p>It’s in the seller’s best interest for the buyer to put as much into escrow as possible as soon as possible. While a locality’s Board of Realtors has a standard practice for when earnest money (and option fee, where applicable) is deposited, the amount is often negotiated.</p>   |
|   | <p><b>Repairs:</b></p> <p>Most offers are contingent on the outcome of the home inspection and necessary repairs. Depending on the complexity of the repairs, buyers may ask the seller to make the repairs prior to closing (subject to a follow-up inspection), deduct the repair costs from the sales price, or pay a lump sum at closing to cover the costs.</p>   |

# Negotiation Tips

Tips to help you master negotiation

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**Instructions:** Read the list of negotiation tips then complete the activity below.

1. Above all else, **be professional**.
2. Remember your **goal- a signed contract**. This is what you're driving toward, and it's what both agents and their clients have in mind.
3. Control what you say to anyone involved in the transaction. If you create anxiety in your client or other parties, you're reducing their leverage in negotiations.
4. Continually **refer to motivation**. Remind your client why they want to buy or sell and help them reevaluate their request if they are becoming unreasonable.
5. Don't reveal too much. **Listen more than talk**. Keep your client's motivation close to your chest.
6. **Don't be attached to the outcome**. You can't get everything you and your clients want all the time. Don't let it affect your mindset if a deal doesn't go through or if your client doesn't act on your recommendation. Find a different win for your client.

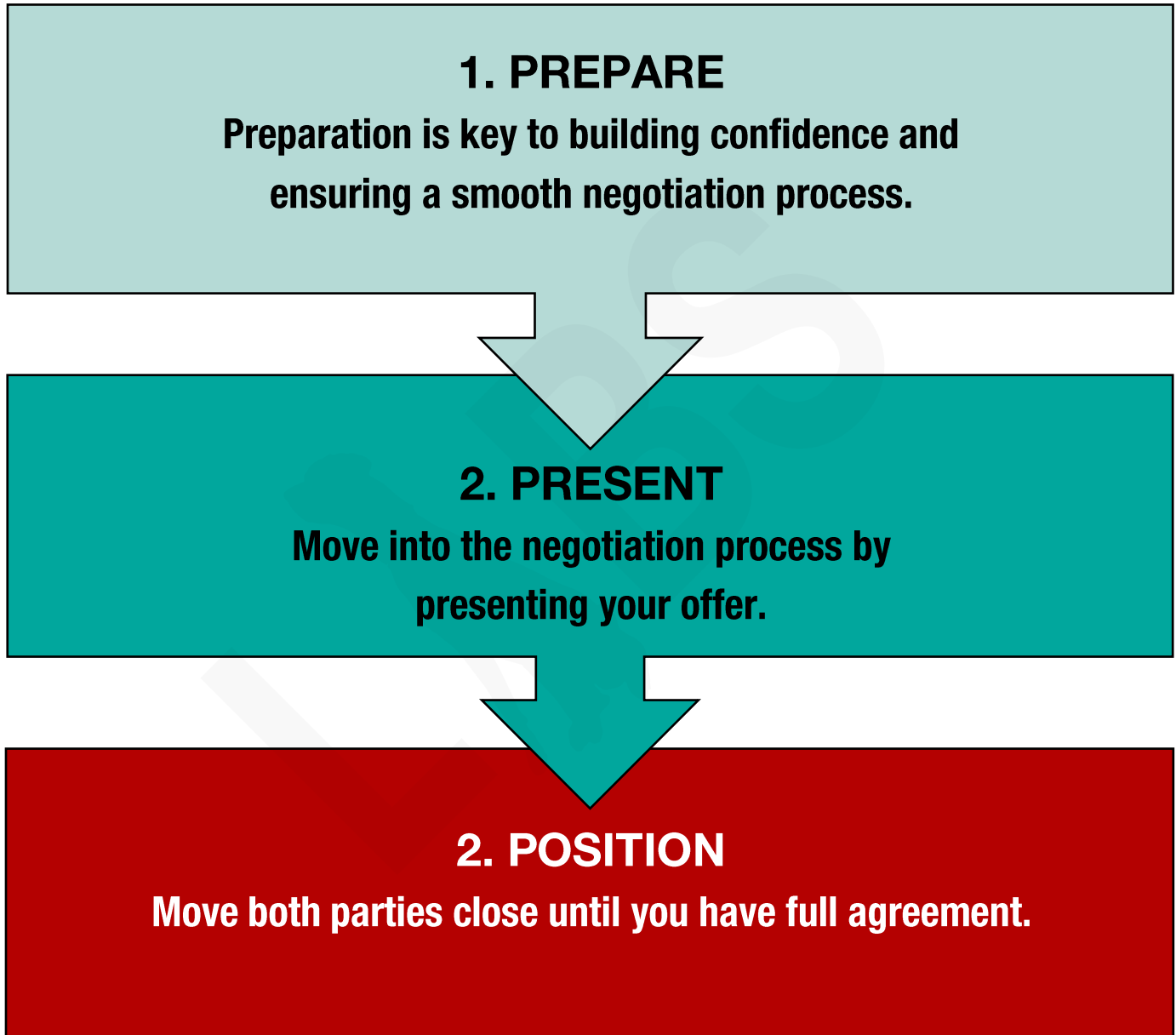
**ACTIVITY:** Revisit the common points of negotiation. Pick one of the points and write it below:

\_\_\_\_\_

Next, brainstorm and record all the possible ways you could respond to the common point of negotiation you selected.

# Overview: 3 P's Approach to Negotiation

Prepare, Present, Position





## 3 P's Approach: Prepare

Learn

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- **Know your goal.** Have a clear goal of reaching a win-win agreement in which both the buyer and seller are satisfied with the outcome of the negotiation. Remind your client of their motivation for moving or buying the house, and that when the contract closes, they'll be able to move on with their lives.
- **Know your client.** Make sure you fully understand your client's goals. Learn the areas in which they are willing to negotiate and where they will stand firm.
- **Think ahead.** Anticipate what the other party wants out of the negotiation. Write down how you think they may counter the offer and how you plan to handle it.
- **Set clear expectations.** Prior to meeting with the other party, set clear and realistic expectations with your client. Then, under-promise and over-deliver. Stress the importance of moving quickly to create a sense of urgency. Part of setting clear expectations with your client is being clear that win-lose agreements are likely to be rejected by the other side. To set yourself up for success, make it win-win.
- **Be informed.** Before making an offer or counteroffer, it's good practice to speak with two other agents. Ask open-ended questions and use active listening to find out as much as you can about the other party and their agent. This helps you know with whom you are negotiating, on what points you will negotiate, and where you and your client have leverage.
- **Obey the laws.** Every state and locality have their own set of laws that regulates zoning, mortgage qualification, and other real estate matters. Stay current on your local regulations and stay out of court!
- **Know the documents inside and out.** Become familiar with your local Board of Realtors' governing forms. Take the time needed to understand the form templates and what belongs in each field.

# 3 P's Approach: Prepare

Do

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## Instructions:

1. Read the scenario below.
2. Circle or underline the key areas in which you need more information or certainty before you could confidently negotiate on your client's behalf.
3. Write three specific questions you would ask your client in the space provided below.

## Scenario

You are representing a single buyer. Your client is renting her present property. Like any first-time buyer, she is looking to you to guide her through the process. The asking price for the home she really loves is \$175,000. The house appears to have evidence of a roof leak, is listed "as is," and is correctly priced. Your client would like to keep her payments as low as possible since she still has a number of student loans to pay off. She wants to write an offer for \$155,000. There has been quite a bit of activity on the listing.

## Clarifying Questions to Ask the Client

- 1.
- 2.
- 3.
- 4.

## Aha's

- 1.
- 2.
- 3.
- 4.

# 3 P's Approach: Present

Learn

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Move into the negotiation process by presenting your current offer to the co-op agent and listening to the response.

- **Pay attention to verbal and/or non-verbal cues.** While it is not always possible or practical to make your presentation in person, a face-to-face meeting allows you to analyze body language and facial expressions. Present your offer, listen for verbal cues or look for non-verbal cues.
- **Keep quiet once you present an offer.** Sometimes, letting the other person do most of the talking is the most powerful negotiation technique because of what they will reveal.
- **Listen carefully to what is important to the other party.**
- **Stay calm and relaxed.** Either party may have a strong emotional reaction to the price or other terms of the offer. Be a calming influence until they are able to see the situation rationally again. Remember—you are there as a representative for your client. Keep your emotions out of it.
- **Focus on the customer's needs.** Isolate the objections of both sides and offer solutions that will satisfy the other party while still meeting your client's core needs.
- **Give your offer the best chance.** Be confident and committed to your offer as you present it. Avoid indicating to the other side if you believe it is a less-than-great offer for them.

## 3 P's Approach: Position

Learn

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Positioning is moving both parties closer to each other until you have full agreement.

- **Acknowledge and affirm the common ground**—where the buyer and seller agree and are at the same position. Then, identify which positions may be easily adjusted and which are set in stone.
- **Ask “what” and “how” questions** to better understand the other party’s values and why certain things are important to them.
- **Positioning is a process** and sometimes requires you to come back to the negotiating table more than once. Sometimes several counteroffers will be necessary to negotiate an acceptance.
- **Know when to walk away.** Sometimes the other side may refuse to give your client the win they need despite your efforts. Knowing when and how to walk away can not only save your client from a win-lose deal, but it can sometimes jolt an unreasonable party into a concession for fear of losing the deal. The key is to walk away without burning bridges.

## 3 P's Approach: Position

Do

### Instructions:

1. Choose a partner and select who will play the part of the buyer agent and who will play the part of the listing agent.
2. Review your role below.
3. Using what you have learned in the course and using the supporting materials, take 1-2 minutes to prepare for a negotiation.
4. Present your case to your partner and practice positioning. Go back and forth 2 times with the goal of a win-win agreement.

### Scenario

The property has 4 bedrooms, 3.5 baths, and is listed at \$350,000 in a well-established neighborhood. The house requires new carpeting throughout the first floor and a new garage door opener. Three offers have been made, but all were below the asking price.

| <b>Buyer Agent Role</b>  | <b>Listing Agent Role</b>  |
|--|--|
| <p>Your buyers are making an offer of \$340,000 for the house. They have been preapproved. The buyers would like to close in the shortest time possible since they are moving from out of state and need a home for their family. Since they are leaving their appliances in their current home, the buyers would also like all of the appliances to be included</p> | <p>Your sellers have raised their family in the house you are selling and have many friends and family in the area. Since their children are now grown, they no longer need the amount of space their current home provides and have purchased a home in Florida. They would like to give all appliances to their daughter, who has just gone through a divorce. They will not be moving until they have sold their current house, and although they would like to get to Florida as soon as possible, they are ready to stand their ground regarding the price.</p> |

# Analyze Counter Tactics

Do

In negotiating, your clients and/or agents may use certain methods or “tactics” to manipulate the negotiation.

Because these tactics are generally predictable, you can learn to quickly and accurately identify them when they are being used on you. Additionally, you can respond with the appropriate “counter tactic” with a high probability of accurately predicting how your response will be taken.

Following are three of the most common tactics used in negotiations. With a partner, brainstorm counter topics to stop the tactic.

| <b>Tactic</b>                | <b>Action</b>   | <b>Counter Tactic</b> |
|------------------------------|---|-----------------------|
| <b>Nibbling</b>              | Once your client has agreed upon one major concession, the other party will start “nibbling” for additional smaller concessions.  |                       |
| <b>Hot Potato</b>            | The other party tries to pass a problem onto you. For example, the co-op agent tries to pass all closing costs to your client because their client “can’t afford them.”   |                       |
| <b>Good Guy/<br/>Bad Guy</b> | Two people working together (e.g., a husband and wife) will take on opposing roles—one appears friendly and considerate while the other behaves in a difficult or aggressive manner. Think of the typical car salesperson (good guy) who says his manager (bad guy) won’t let him reduce the price any further. |                       |

# Real Play: Employ the 3 P's

Put it All Together

**Instructions:**

1. Choose a new partner. and select who will play the part of the buyer agent and who will play the part of the listing agent.
2. Review your role below.
3. Using what you have learned in the course and using the supporting materials, take 1-2 minutes to prepare for negotiating a counteroffer.
4. Present your case to your partner and practice positioning. Go back and forth 2 times with the goal of a win-win agreement.

| <b>Buyer Agent Role</b>  | <b>Listing Agent Role</b>  |
|--|--|
| <p>Your client has found the house they love and it's in the neighborhood they want. It is at the top of their price range and does need some work updating the kitchen and master bathroom. Your client makes an offer on the property and the seller's agent says, "I must warn you that we have gotten several offers, and your offer is pretty low."</p> | <p>Your sellers need to move within 45 days due to a job transfer. You feel that you have priced the house competitively. You are aware the house needs updating, but the sellers don't see the need because the house was just fine for them. There have been multiple offers (the other offers are still standing, but the timing may not work for the seller) and the latest offer is lower than the asking price. You have let the buyer's agent know, "I must warn you that we have gotten several offers, and your offer is pretty low."</p> |

**Note to Prepare for the Counteroffer:**

# Turn Aha's to Achievement



How has your **thinking** changed?



What do you **feel** differently about? What was meaningful for you today?



How will your behaviors be different going forward? What **actions** will you take?



What **tools**, models, or systems will you use? How will they make you accountable?

