

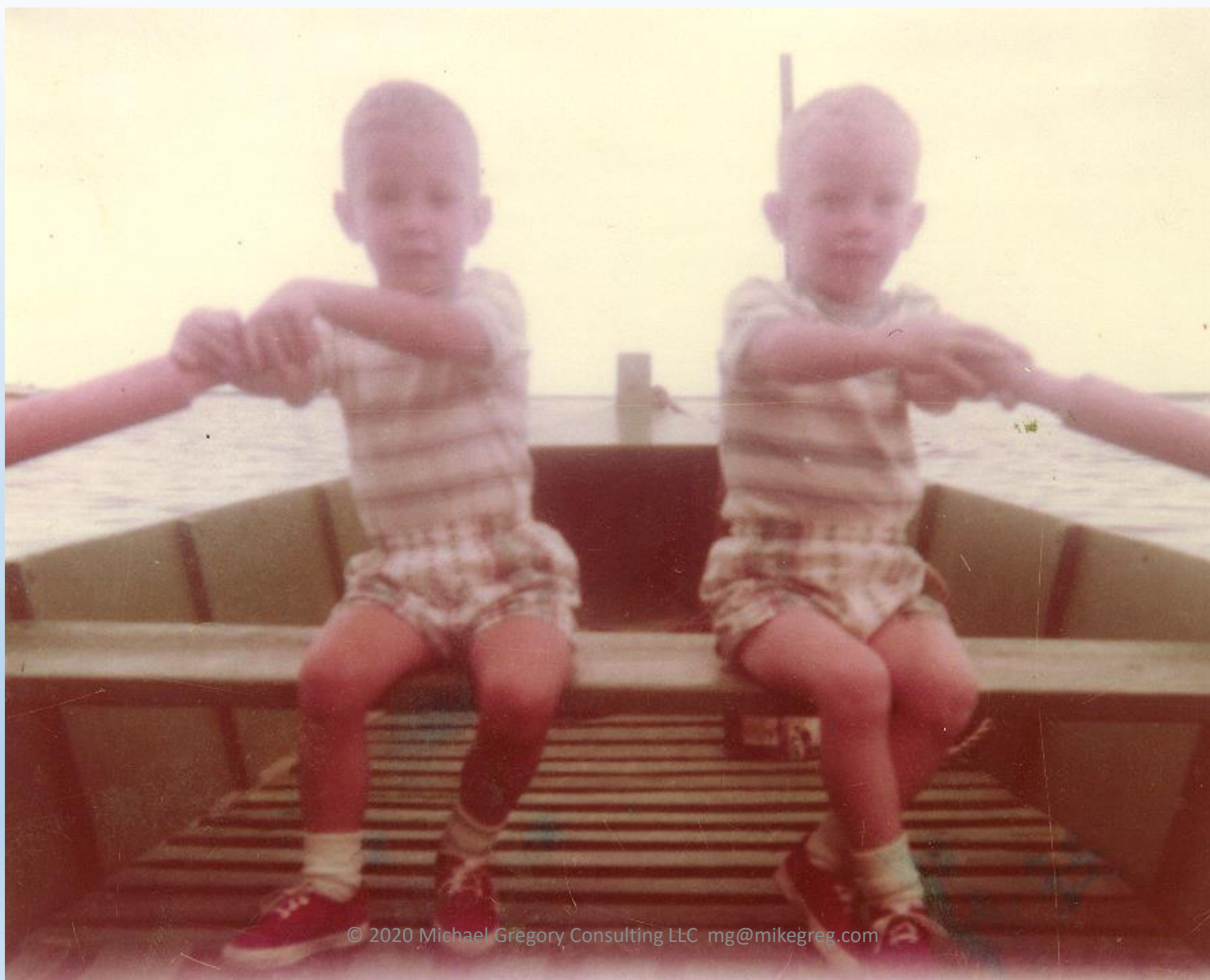


How to Avoid and What to do if Audited by the IRS



Presented by Michael Gregory





Disclaimer

- The opinions presented here are those of Michael Gregory. **Michael Gregory does not represent the IRS.** Any opinions presented in this seminar are those of the author and do not represent an official position of his current or previous employers. This **material is offered for educational purposes only.** The author and his employer expressly disclaim any liability, including incidental or consequential damages, arising from the use of this material or any errors or omissions that may be contained in it.

Introduction

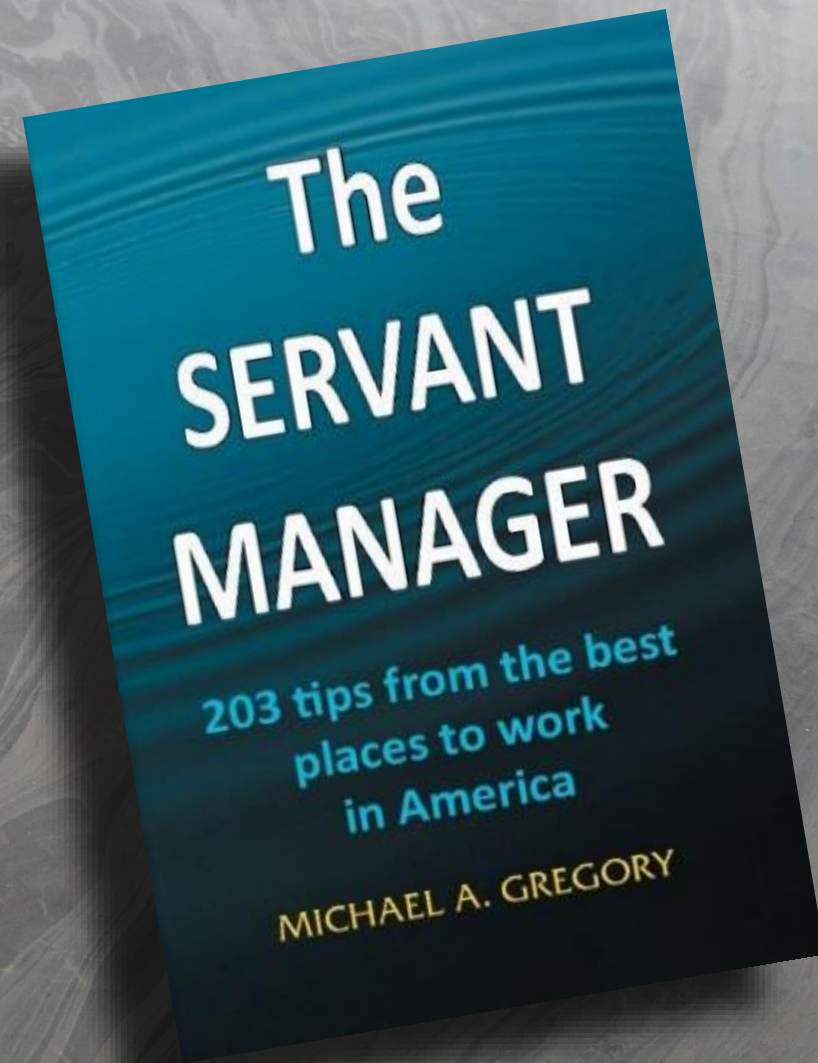
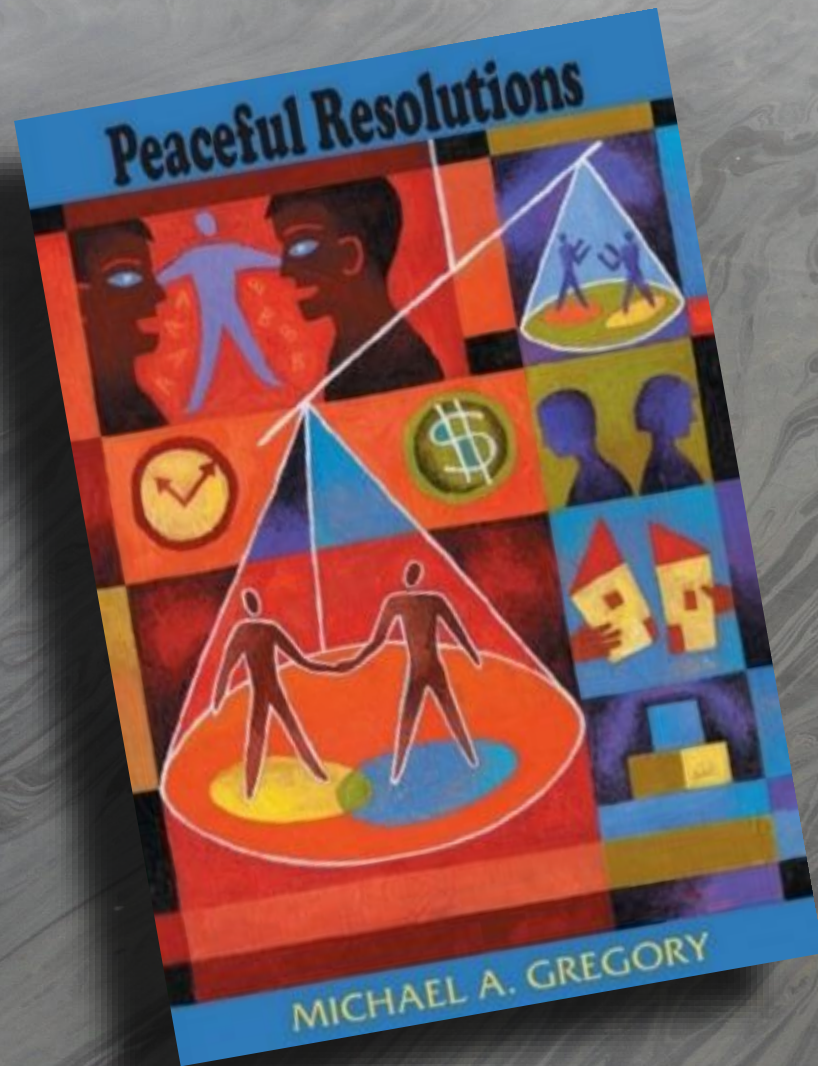
- You will learn some key concepts from **neuroscience**
- **Two examples** are provided to set the tone
- You will take away information on the **IRS** with an **emphasis** on **exam**
- You will be able to share information on the **IRS** from **Examination, Appeals and Litigation**
- Tips to **help resolve any conflict and negotiate winning solutions** with the IRS or others

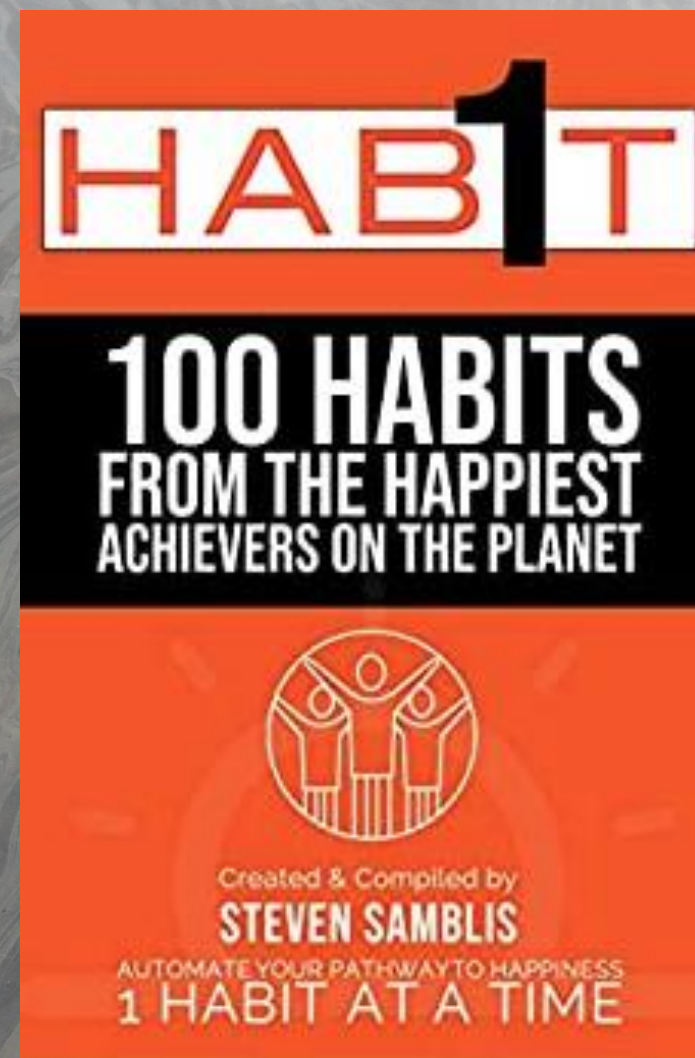
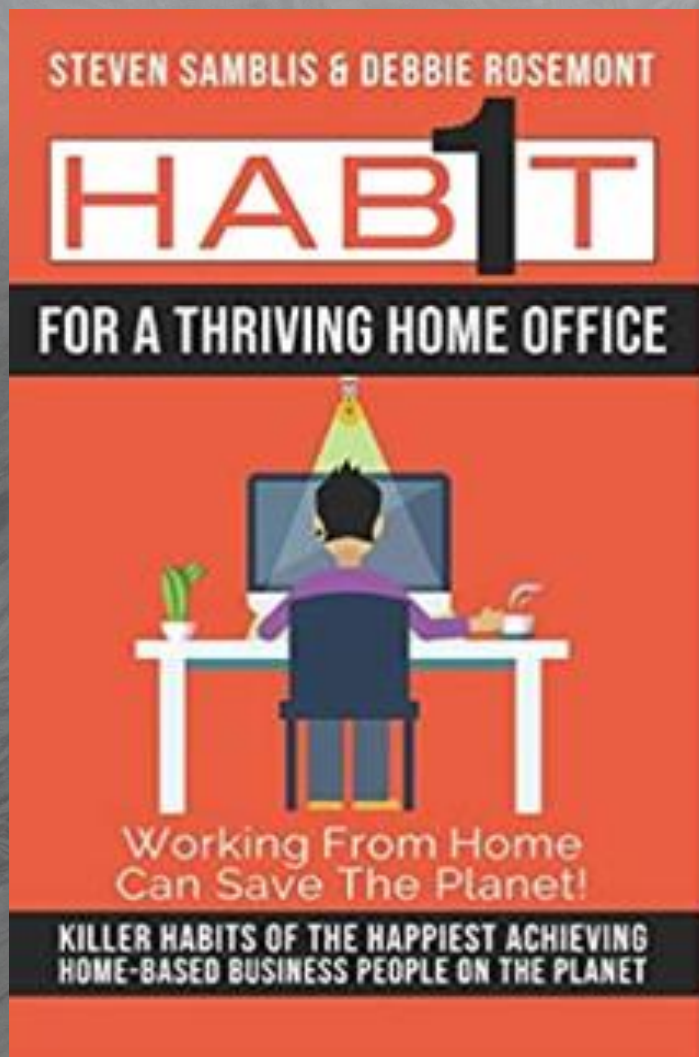
BUSINESS VALUATIONS and the IRS

Five Books in One



MICHAEL A. GREGORY





THE COLLABORATION EFFECT

Overcoming
Your
Conflicts

MICHAEL GREGORY



Shed Light On Relationships, the IRS and Neuroscience

Two Real World Examination Examples to Set the Tone



- **Discount for Lack of Marketability 10% IRS and 30%)**
 - Relationship, Listening, Education, Negotiation
 - Don't Underestimate **Neuroscience**
 - Prepare, Prepare, **Prepare** and Relationships
- **Filing** for Multimillion Dollar Estates
 - How to Prepare **Administratively**
 - How to Prepare **Technically**

Introduction

- 1. What the IRS is intending to do in 2021 and beyond**
- 2. What are the implications?**
- 3. What should you do?**

What the IRS Intends to Do

- **Quality Audit**
- **Quantity of Returns**
- **Taxpayer Bill of Rights Publication 1**

Where to File Estate and Gift Tax Returns

- Form 706 (Estate) and Form 709 (Gift)
- *Effective January 1, 2019*
- Department of the Treasury
Internal Revenue Service Center
Kansas City, MO 64999
- If submitting Form 709 by private delivery service, mail to:
- Internal Revenue Service
333 W. Pershing Rd
Kansas City, MO 64108

Historical Perspective of E&G Filings and Audits

Category	Year	Year	Year	Year
	Totals	% Audited	Totals	% Audited
	2017	2018	2018	2019
< \$ 5 Mil	21,223	2.7%	19,035	2.0%
\$5M<x<\$10M	8,324	12.6%	8,837	9.2%
>\$10 Mil	4,143	31.0%	4,975	21.7%
Estate Totals	33,690	8.6%	32,847	6.9%
Gift Totals	242,246	0.9%	244,770	0.8%

Classification of Estate and Gift Tax Returns



- **National Classification Process**
- **Local Classification Process**

Who are you most likely to interact with on an Estate/Gift Tax Audit Situation?

- **Estate and Gift (E&G)Tax Attorneys** in the Small Business and Self Employed Division (SBSE)
- **Business Valuers in Engineering** in the Large Business and International Division (LB&I)

Role of the IRS Examiner

- **Independent**
- **Owns the Case**
- **May or May Not Want Assistance from Valuation Specialist**

Role of the Valuation Specialist

- **Consultant**, not a decision maker
- **Taxpayer may request** their involvement, but **not guaranteed**
- If involved, can provide **informal consultation, formal consultation, limited scope examination or full examination**

How Are Business Valuation Cases Selected for Examination?

- **Discounts**
- **Income Approach**
- **Market Approach**
- **Cost Approach**
- **Reconciliation**
- **Assumptions and Limiting Conditions**

Who is the Decision Maker on an Estate or Gift Tax Examination

- **Estate and Gift Tax Attorney** has the ability to decide the case
- **Estate and Gift Tax Attorney Manager** is the ultimate decision maker

LB&I has an Informal Mediation Process – SBSE Uses This Too

- Specialists, Engineers, and Valuers Trained in Mediation
- Model – **FIFI** – Facts Issues Feelings and Interests

Working E &G Cases at the Examination Level

- **SBSE Examination Case with a Business Valuation Issue-Information Document Requests –LB&I Directive on Information Document Requests 2014 now in the IRM 4.46.4.6.1 and Exhibit IRM 4.46.4-1**
- **SBSE Examination Case with a Business Valuation Issue and Step Process**
 - **Valuer and Estate Tax Attorney (ETA)**
 - **ETA and ETA Manger**
 - **ETA Manager**

Ideas to Assist you in the Appeals Process

- **Prior to the Appeals Conference, Summarize Major Issues on One Page & Follow Up with the Appeals Officer After Your Meeting**
- **Always be Professional**
- **Be There to Help/Educate the Appeals Officer**
- **Offer to do Computations**

Real World Examples at the Appeals Level

- Taxpayer with Qualified Appraisal and **IRS with No Valuation**
- Taxpayer with a Qualified Appraisal and **IRS with An Opinion of Value**
- Taxpayer with a Qualified Appraisal and **IRS with a Qualified Appraisal**
 - Internal Appraisal by IRS Valuer
 - Outside Fee Appraiser

Litigation Setting

- **U.S. Tax Court**
 - Special rules
 - 90% choose this option
 - Years for a determination
 - IRS attorneys
- **Pay the tax and file a claim**
 - **U.S. District Court or U.S. Court of Federal Claims**
 - 10% choose these options
 - Timely closure
 - U.S. Department of Justice Attorneys

Litigation Setting

- **Quick Overview U.S. Tax Court Process**
 - Prepare a Report for the Judge
 - Understand Roles of Attorney and Appraiser
 - Write a New Report Consistent with Rule 702
 - Understand Timing with Litigation
- **Quick Process Check with U.S. Tax Court**
 - Overloaded and Overworked
 - A Very High Percentage Settle but You Never Know
 - Let Go to Bite Harder
 - Issue Resolution Still Works

How to Resolve Conflict and Negotiate Winning Solutions

Tips to help resolve any conflict and negotiate winning solutions with the IRS or others



The Collaboration Effect[®]

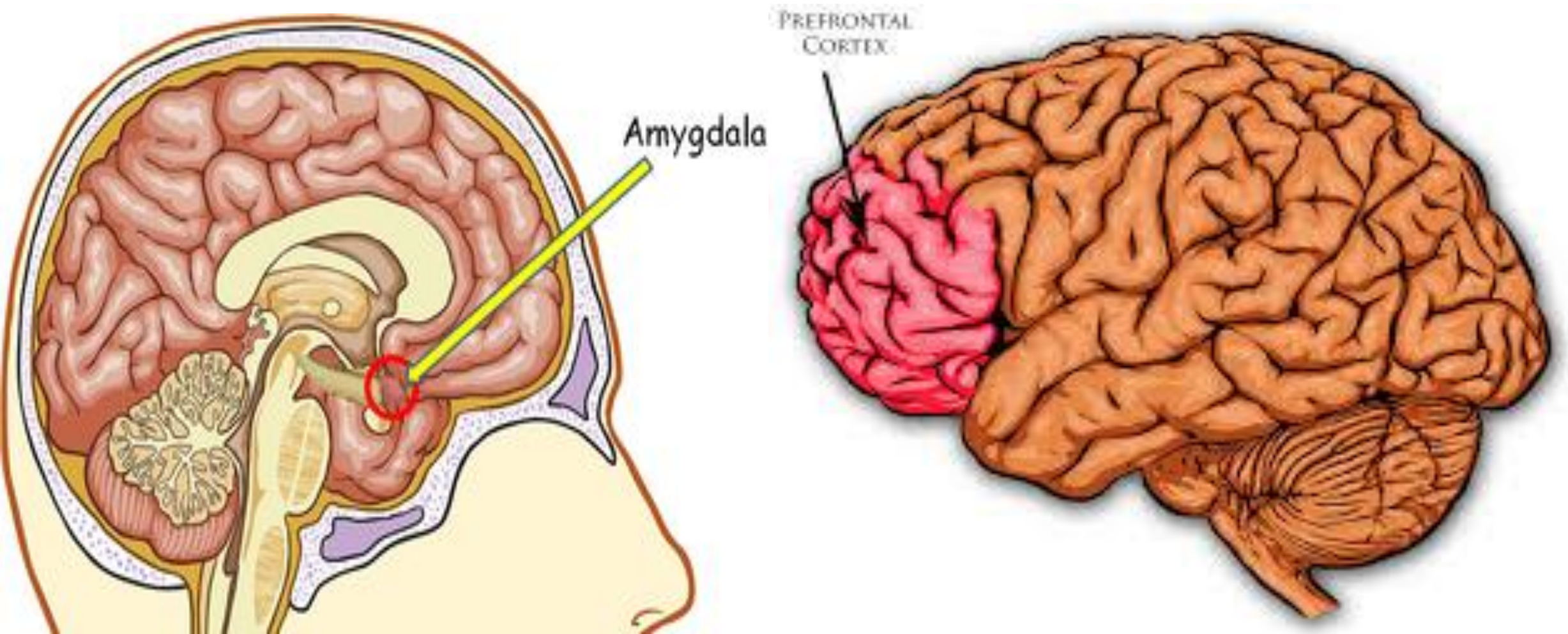
Enhancing Relationships, Resources & Revenues

Thanks, Neuroscience!



- **Ericka Garms**, PhD U of MN and Her Team, Neuroscientist
- **John B. Molidor**, PhD Assoc. Dean MSU Medical School
- **Rick Hanson**, PhD Psychologist, Greater Good U of CA Berkeley
- **Terry Wu**, PhD Vanderbilt, Neuroscientist

Amygdala & Prefrontal Cortex



信賴

Trust

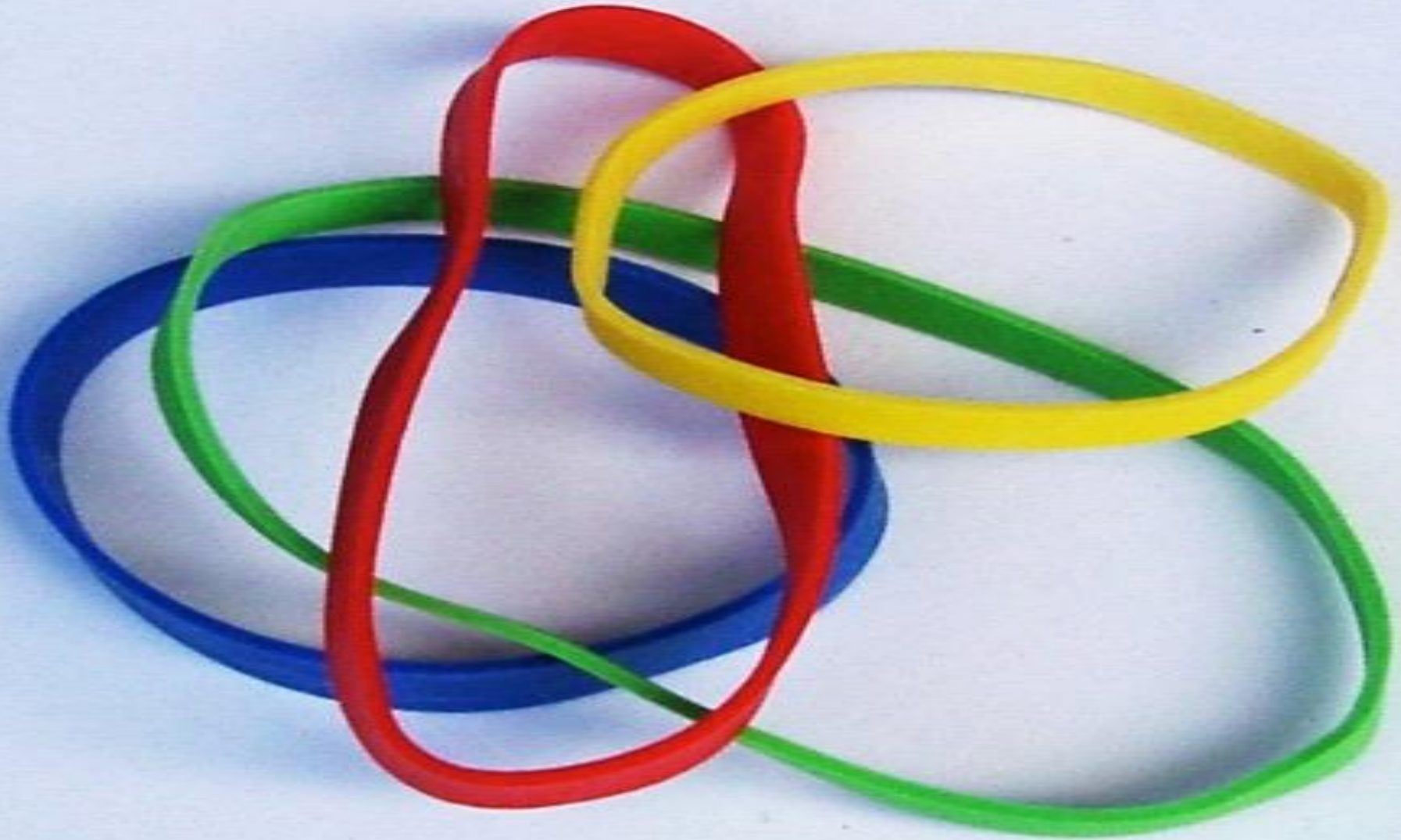
trust



Escalation



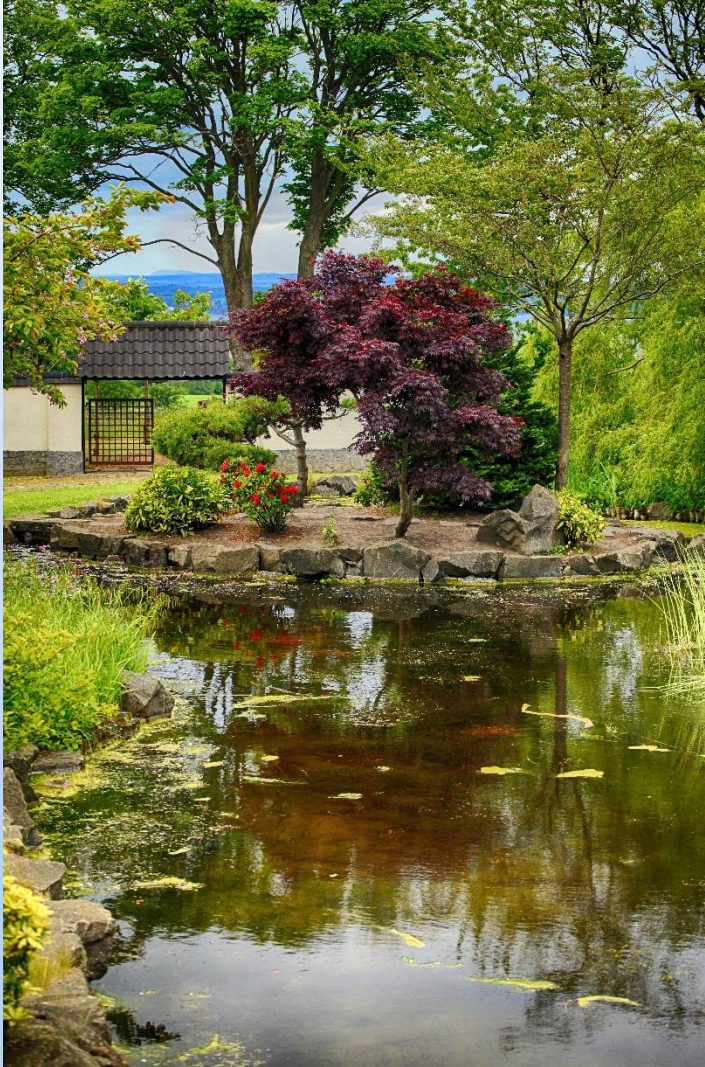
Neuroplasticity – Ability to Change



Emotions Priorities Impacts







CENTER OURSELVES FIRST

Communication



Listening Actively



Listening Actively



- Paraphrase
- Summarize
- Ask open ended questions
- Empathize

- Do not provide solutions

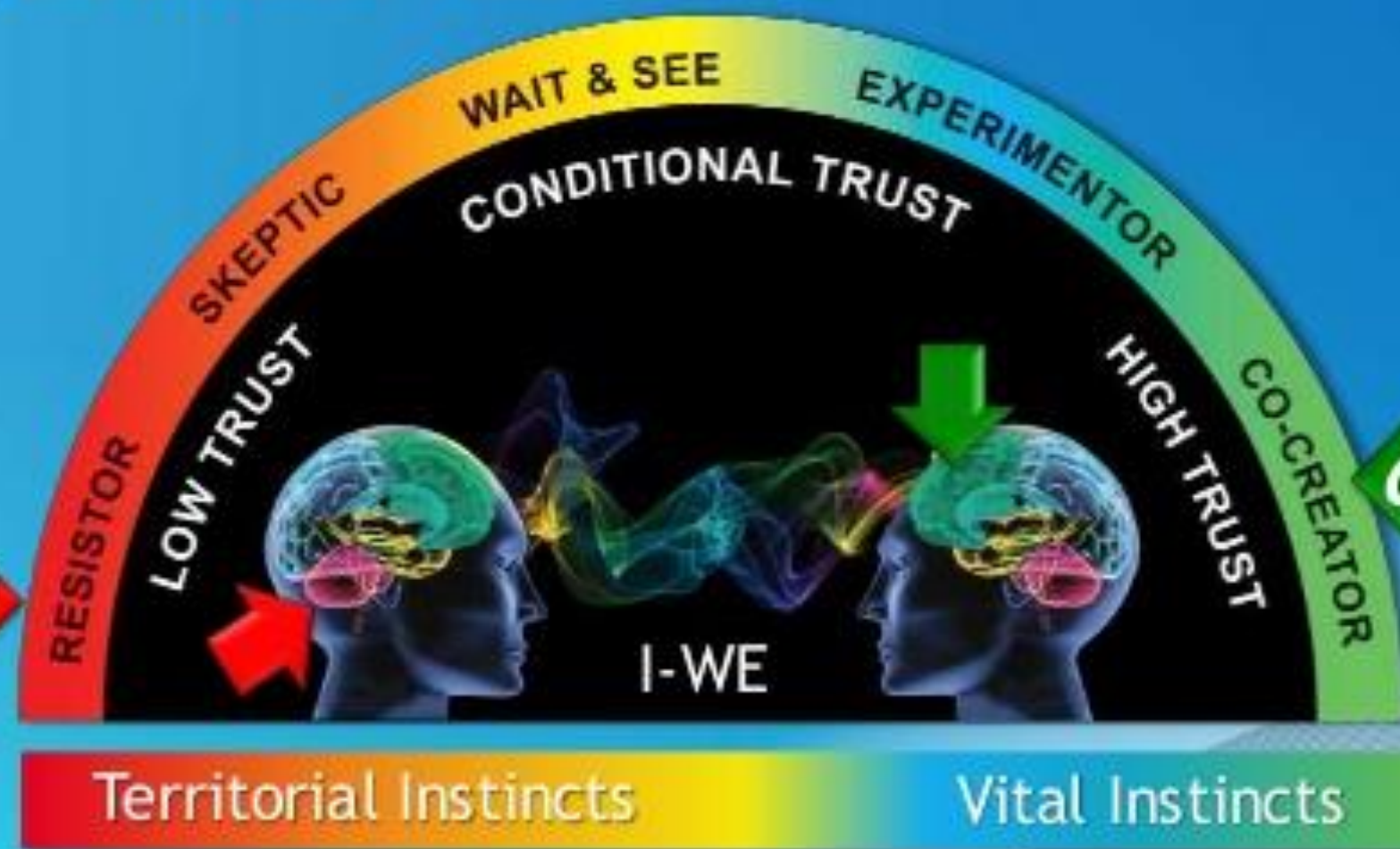
Conversational Intelligence Dashboard™

Making the Invisible Visible!

PROTECT

Fight
Flight
Freeze
Appease
Distrust

Cortisol



PARTNER

Wisdom
Innovation
Strategy
Empathy

Oxytocin

Foresight
Insight
Trust

Listen to Connect

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Negotiation

Connecting Relationships

Listening Actively

Educating Judiciously

Leads to Building Bridges and Negotiating Closure

Ways to Support Others

Lead with Compassion

Listen with Empathy

Compassion
Prefrontal Cortex

Calm
Confident
Competent

Empathy
Cerebral Cortex

Understand Their Feelings
Feel their Pain
Take Actions to Address Pain

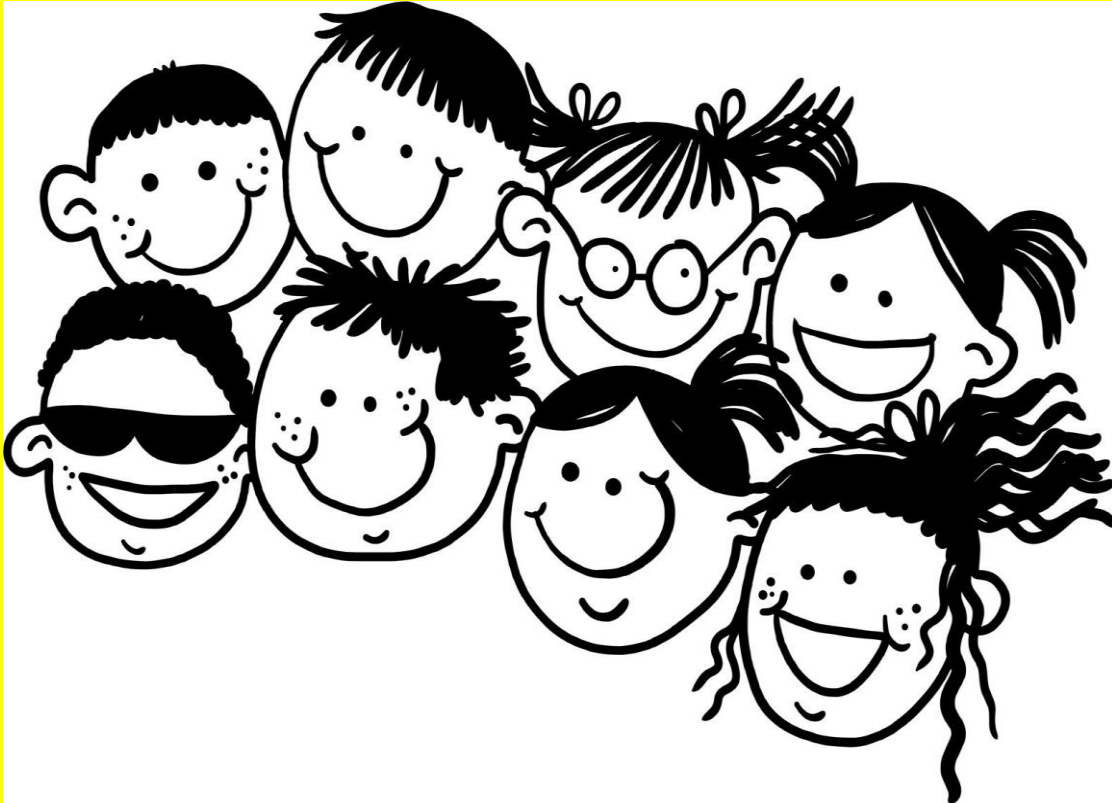
Three Part Process to Get What You Want



- You have to **decide what you want**
- You have to **ask for it**
- You have to **give three reasons why this is beneficial for them**

- **THEN be quiet AND LISTEN**

Yale University's Most Popular Class – Happiness - Neuroscience



- Gratitude 5 minutes a day
- Label negative feelings
- Make that decision good enough
- Appropriate touch with others
- Meditation 10 minutes daily

Please Ask Your Questions?

Michael Gregory
651-633-5311
mg@mikegreg.com



Helpful Questions for Collaboration

Connecting Relationships

- ♦ What have you been thinking about?
- ♦ What is your story?
- ♦ What was the highlight of your week?
- ♦ Tell me about yourself/your business
- ♦ What are you working on lately?
- ♦ What is your passion?

Listening Actively

- ♦ What would you like to have happen?
- ♦ What worries/concerns do you have?
- ♦ What would it take for you to feel satisfied?
- ♦ What have we not covered that you would like me to know?
- ♦ What can I do to help you?
- ♦ Are there any other concerns or problems?

People versus Problems

- ♦ Be tough on the problem and gentle on the people
- ♦ Acknowledge your emotions and theirs without blame
- ♦ Treat others as they would like to be treated

Positions versus Interests

- ♦ Positions polarize – interests integrate
- ♦ Behind every entrenched position is at least one interest
- ♦ Interests hold the seeds to a solution

Resources for Collaboration

- ♦ *Peaceful Resolutions: A 60-Step Illustrated Guide to Conflict Resolution*
- ♦ *The Servant Manager: 203 Tips from the Best Places to Work in America*

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The Collaboration Effect

Build bridges to a common purpose by:

Connecting Relationships

Search social media
Network with others
Discover common interests

Listening Actively

Listen with 100% attention
Ask open-ended questions
Check for understanding

Educating Judiciously

Comment honestly and concretely
Stand ready in spirit of helpfulness
Demonstrate expertise humbly

Ten Steps to Interest-Based Solutions

1. **Define** the problem or issue and take on only one problem/issue at a time
2. **Listen** to understand the emotion and facts associated with the issue
3. **Identify** and clarify interests
4. **Generate** options
5. **Determine** the impacts of options
6. **Evaluate** the impacts of the options
7. **Select** a solution
8. **Consider** implementing the solution or return to an earlier step
9. **Consider** testing the solution before implementing the solution
10. **Consider** BATNA and WATNA if no solution can be found

Key Terms for Collaboration

Issues – Problems to be solved

Positions – Demands/statements of what someone says they will or will not do; one party's solution

Interests – Underlying needs, concerns, hopes, fears

Options – Possible - often creative - pieces of an agreement. Options are not commitments

Standards – Customary, objective, and widely-accepted criteria for handling similar situations

BATNA – Best Alternative to a Negotiated Agreement: One way to satisfy your interests if the negotiation fails

WATNA – Worst Alternative to a Negotiated Agreement: The worst possible outcome if negotiation fails

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Leads to Building Bridges and Negotiating Closure

Important Offer



- **Send Me Your Email Address and I'll Send You**
 - Newsletter
 - De-escalation Handout
 - Negotiation Handout
 - Connect with you on LinkedIn
 - IRM on Information Document Requests
 - IRS Publication 1: Your Rights as a Taxpayer
- Don't want Newsletter – NO TIPS



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