

## GOOD JUDGMENT

by Jim Freund  
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The idea to write this piece came while I was enduring the daily headlines last Spring about Anthony Wiener's self-destructive folly. And then about Strauss-Kahn . . . And being reminded of John Edwards. . . . And the list goes on.

Most of these guys are intelligent in the IQ sense, they've experienced success, they're often articulate – even, in some cases, charismatic. But what they all lack – in addition, of course, to a firm ethical grounding – is good judgment.

So this got me thinking about judgment – a subject I've written on and lectured to lawyers and negotiators over the years. I always considered good judgment to be a crucial arrow in an attorney's quiver of professional attributes, and prided myself on my own (notwithstanding an occasional lapse – but at least never in the Twittering department).

Now, at this senior juncture of my life, I'd like to explore with you the quality of good judgment beyond its applicability to lawyers, to address the question of why otherwise intelligent people often exhibit such poor judgment, and to offer a few tips that might improve your decision-making.

I'm sorry to disappoint those of a prurient nature, but I'm not going to spend much time on the Wieners of the world. I don't see what useful information can be derived from examining people who aren't dissuaded from their self-destructive actions by the high risk of exposure and resultant severe political damage.

The New York Times (June 12, "Naked Came the Hubris") ascribed these lapses in part to politics, which "self-selects for people with risk-taking behavior and a high degree of self-regard;" after all, it "takes an enormous amount of self-confidence" to put your name on a ballot and have people vote you up or down. Political strategist Chris Lehane was quoted as saying, "That type of personality and that sense of confidence in your own decisions allows them to make reckless decisions. It's the Icarus phenomenon: you think you have wings and you can fly up to the sun and down to the water. Sometimes you got burned, and then you sink." Or, as former Clinton advisor Doug Sosnik put it, another reason politicians stray is "because they can."

It's also likely that a lot of these dumb transgressions stem from deep-seated psychological and personality factors that differ from case to case – subjects on which I don't feel qualified to comment. No, what interests me are the much less dramatic instances, involving those of us who aren't out philandering and don't have deep-seated psychological problems – why do *we* sometimes exercise unsound judgment?

In the course of writing this essay, I mentioned its premise to a friend, who encouraged me to read a book called “Blunder – Why Smart People Make Bad Decisions” by Zachary Shore (Bloomsburg 2008). It’s an excellent study of how so-called “cognition traps” can flummox even the brightest decision-makers. The traps include a variety of rigid ways of approaching and solving problems – inflexible mind-sets formed from faulty reasoning, based on preconceived notions and preset patterns of thought. Using numerous historical examples, often involving nations and well-known companies or individuals, Shore demonstrates how those who oversimplify complex situations into mental sound bites and insist on absolute certainty tend to blunder, while those who challenge the prevailing view – who employ empathy, imagination, and mental flexibility – are more likely to succeed. For those interested in the subject matter, I recommend the book highly; and I’ve included a brief description of Shore’s seven cognition traps in an appendix to this essay.

### Decision-Making

Much of judgment comes down to decision-making – decisions as to charting a course of action, or whether to seize an opportunity, or how to resolve a problem. So, let’s start by examining the anatomy of a relatively simple decision (taken from my book *Advise and Invent*) in order to extract some useful guides in approaching the process.

Imagine you’re a pro football fan on a Sunday during the season. Unfortunately, however, you’re spending the day at the office, working on a project that’s due on Monday. You don’t have much time to spare, but you feel deserving of one brief pigskin interlude during the afternoon; and there just happens to be a bar near the office featuring widescreen television. So, you grant yourself a dispensation to watch one quarter of the game – that’s all the time you’ll be able to carve out. And the question is, which quarter do you select? The first? The last? Which one?

The initial step here is to decide what criteria to employ in arriving at your decision. In this case, it seems to me the key criterion is, what do you enjoy most in watching a football game? Is it the isolated thrilling play that turns you on? Or the strategy of the two-minute drill at the end of a half? Does being in attendance at the point when the eventual outcome is determined have the most significance? Or are you stimulated by the opening moments, watching the two teams try to develop their game plans and probe for weakness? And conversely, what aspects of the game could you most easily pass up?

Without criteria, it’s difficult to make a decision. You may not always articulate them, but they’re present all the time. And, with an unfamiliar type of decision (like this one), it’s a good idea to spell them out, so you’re in a position to assign priorities to considerations that may compete with each other.

For an individual decision like this one, it’s *your* criteria that are important – not what anyone else in the world might think. I contrast this with the situation where you’re

acting as an agent (such as a lawyer) for a principal (such as a client), and the decision is one that the principal has to make – you’re just giving him advice. There, you need to submerge your personal instincts and try to develop criteria that are vital to the principal. This is especially true where risks are involved in the possible outcome – remember, it’s the principal’s risk-taking profile, not yours, that’s crucial.

The next step toward making the decision is to apply your knowledge of the general subject matter – here, football – to the task at hand. For example, you’re aware that the fourth quarter can definitely be the most exciting of all – and, in fact, most of the memorable moments in the sport have occurred in the fourth quarter, when time is running out and everything is on the line. On the other hand, if the game is a blowout – if one team has built up a commanding lead heading into the final fifteen minutes – then it can be the duller quarter of all, with substitute players going through the motions, and the television announcers searching for interesting things to say.

Or assume that, in assessing your personal criteria, you realize that you find a passing offense more exciting than a ground game. You should then ask yourself, based on your experience, when are you likely to get more passing relative to running? Well, in the second half, one team is often playing catch-up ball and has turned to passing as the quickest means of regaining equilibrium. Conversely, if the ground game is more up your alley, the first half is likelier to showcase each team’s premier runners.

Generalized information of this sort forms an important backdrop to most decisions. That’s why – at least in theory – you ought to be able to make better decisions as your experience level builds. You find yourself drawing inferences based on recurring behavior patterns, making analogies to past instances you’ve encountered, and so on – with the added effect of increasing your level of self-assurance.

After sorting through these considerations commonly applicable to football games (i.e., your *general knowledge*), the next step is to apply your knowledge of the two particular teams playing today (i.e., the *decision-specific information*). Do they appear to be evenly matched? If so, that fourth quarter may be tough to top. Do one or both of them have passing games? – in which case, the second or fourth quarter would probably feature at least one of the quarterbacks doing what he does best. If it’s a crucial contest to determine which team will go to the playoffs, then it’s tough to pass up the fourth quarter, since the outcome is so determinative. The specific facts of the matter are often the crucial raw material for making a decision.

Now you’re ready to extrapolate from these criteria and considerations to come to a reasoned judgment. Often, in the real world, it amounts to a variation on the risk-reward analysis. For example, in the football decision, the fourth quarter clearly holds the greatest potential rewards, provided the game is close and particularly (though not exclusively) when the outcome of the game has real significance. But it also carries with it the greatest risk – a lop-sided score, where the players and the fans have lost interest in what’s happening. The third quarter is less risky and usually quite interesting, though it

may not be determinative – and you would hate having to return to the office with 15 minutes of playing time left, and a close score.

So, how do you make the ultimate decision? Well, it's a matter of pulling all these strands together, attaching weight to various factors, peering deeply into your own psyche, and hoping that enough signs point in one direction to clearly mark the solution. When that's not the case, and the decision is a close one, then some more specialized methods come into play.

For instance, on a personal basis, here's a technique I sometimes revert to. I ask myself which decision *not* made could subject me to the worst second-guessing (in this case, from myself!) down the road. And on that basis, the fourth quarter is the clear winner. I would feel terrible, having opted for one of the first three quarters, if the game turned out to be nip and tuck, with the lead switching three times in the final quarter and the winning touchdown scored in the last twelve seconds. Whereas, missing a few great plays in the earlier quarters doesn't produce quite the same kind of masochistic hindsight (and I'll probably be able to pick up replays on the late-night game highlights).

The real test comes when, having opted for the final quarter, you arrive at the bar at 3:15 p.m., hear the announcer report a 42-10 score, watch the third-string quarterback fumble the snap from center – and you're still able to tell yourself that you made the right decision! It's just that the right decision doesn't always produce the optimum outcome. . . .

### To Err is Human

Let's face it – there will be times when you know you've erred. What do you do then? Here's some good advice from a man named Hugh White:

“When you make a mistake, don't look back at it long. Take the reason of the thing into your mind, and then look forward. Mistakes are lessons of wisdom. The past cannot be changed. The future is yet in your power.”

I also like what Zachary Shore had to say on the subject in his book, “Blunder”:

“[A]dmitting errors and correcting them is not a sign of weakness; it is a clear sign of strength. It demonstrates that the person who erred is honest, responsible, and wise.”

The popular notion is that wisdom simply comes with age and experience, but Shore feels that we only grow wiser by hard mental work – taking the time and trouble to watch out for rigid thinking and to avoid cognition traps. Sometimes, this requires us to change our minds. But, far from being “flip-floppers” (as they're often called), those who permit themselves to learn – who understand that their thinking can evolve as new

information become available – are the ones most likely to succeed. All of which makes me think of that marvelous quote from Ralph Waldo Emerson:

“A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines. With consistency a great soul has simply nothing to do . . . . Speak what you think now in hard words and tomorrow speak what tomorrow thinks in hard words again, though it contradicts everything you said today.”

### The Appreciation of Significance

In trying to isolate the quality of good judgment in those who have it, I keep coming back to one characteristic they all share in common – the appreciation of significance, the ability to sort out what is material from what is minor or irrelevant.

I’m convinced that most faulty decisions occur because the decision-maker allows himself to be unduly influenced by a factor that doesn’t deserve nearly so much weight – or alternatively, that the true importance of some other factor (a proper regard for which would have tilted the decision in the right direction) escapes his glance entirely. You don’t make sound decisions by running down a checklist of relevant factors and striking an arithmetic balance of the pros and cons. Rather, in order to arrive at practical solutions to difficult problems, you have to attribute varying *weights* to those factors in terms of their relative significance.

Here’s a situation to illustrate the point (taken from the story “Father’s Day” in my book *Smell Test*). You’re driving a rented car, a real gas-guzzler, on a deserted road in the California desert. You haven’t seen another car in an hour. You look at the dashboard and realize there’s very little gas in the tank. You think, but you’re not sure, that you have about one gallon left. There’s a gas station down the road that you think (but don’t know for sure) is about ten miles away.

You’ve been told, but don’t know for sure, that in this car you get your best mileage driving at 30 miles per hour – roughly 12 miles to a gallon. So, if you’re correct about there being one gallon left and about the station being 10 miles away, you would make it there at 30 mph. But you’ve also been told (although you don’t know for sure) that if you drive at the more normal 60 mph, the car gets only eight miles a gallon – in which case (assuming the station is ten miles away and you have one gallon left), you’d run out of gas two miles before reaching the station.

You think, but don’t know for sure, that the gas station closes at 6:00 p.m. You’re not wearing a watch, so you glance at the (pre-digital age) car clock (which may, but may not, be on time) and see that it reads 5:45. So, if the clock is accurate and your information on the closing hour is correct, you’ve got 15 minutes to get there.

You do the math. At 30 miles per hour, you can cover the ten miles in 20 minutes. At 60 miles per hour, you can do it in 10 minutes. So, if you drive at 60, you’ll get there

before the station closes – *if* you get there before running out of gas, which may not happen. If you drive at 30, your chances of making it all the way are better, but the station may be closed by the time you finally arrive.

You don't have a map or a cell phone. And, as we've seen – and as is the case with many decisions you're called upon to make – you're not certain about a number of important factors: is the station ten miles away; do you have a full gallon of gas (or more, or less); does the station close at six; is the car clock accurate; and are the mileage estimates at different speeds correct?

So there you are. You need enough gas to get the car to the station and enough time to get it there before the station closes. There are two ways you can blow it – running out of gas or running out of time – and what you do that's good for one purpose is bad for the other. The only decision you have to make is what speed to drive at, but it's a crucial decision – and unfortunately, most of the key inputs are a little iffy.

This may seem fanciful to you, but over the years I found myself faced with a number of important professional decisions that had quite similar characteristics – and where a client was depending on my counsel as to how to proceed. There always seemed to be a number of competing considerations, few of which were totally certain, and often an almost palpable foreboding that choosing unwisely could lead to dire results.

This is where it's crucial to appreciate significance – to ascribe different weights to the various factors and be influenced by those that qualify as most important. Conversely, you have to avoid being unduly swayed by a factor of lesser consequence, while making sure you grasp the true substance of a key factor that might otherwise have escaped your glance.

Let's try this out on our gas-guzzling car. Say you give maximum weight to the presumed disparity in gas mileage at different speeds. You're not willing to go all the way down to 30 mph, because you're still worried about the 6:00 pm closing time; but a quick calculation shows that by going 45 mph – half-way between the 30 and 60 – the car would presumably get 10 miles on your remaining gallon, which you can cover in 15 minutes and just make it before the 6:00 pm closing. So 45 mph is the speed you choose.

Much to your dismay, it turns out your basic assumption about the disparity in mileage was overstated – you just do a little better mileage-wise at speeds slower than 60 mph. At 45 mph, the mileage only increases from 8 to 9, so the car wheezes to a halt one mile away from the station. As you break out a blanket to keep yourself warm in the desert's cool night air while awaiting aid, you realize you gave too much weight to a factor that was probably more fable than fact. Perhaps you should have been more suspicious, having received that information from a tipsy redneck who occupied the adjacent counter stool at an earlier diner stop . . . .

Here's a different example, where you fail to give enough weight to a key factor. You presume the car clock is accurate, which leaves you 15 minutes to get to the pump,

so (based on the 10 mile distance) you decide to go a little over 45 mph. This time, however, although your mileage estimate holds up, when you arrive at the station on your final fumes, the big clock in the window reads 6:05, and everyone has skedaddled. Your car clock, it turns out, is a crucial five minutes slow. And then you remember a key fact – that earlier in the day, when the news “at the top of the hour” came on the radio, you happened to notice that the car clock read 3:55. It was, you have to admit, a pretty strong tip-off; and if you’d recalled it at the time of making the decision, you would probably have sped at 60 mph or more, hoping against hope there was more than a gallon in the tank.

### Go/no go vs. Way-to-go

In my book *Lawyering*, I distinguished between “go/no go” situations (whether to proceed with a voluntary course of action, such as making an acquisition) and “way to go” decisions (where the client has decided to take a particular step, and the issue is how best to go about it). Because go/no go often involves a business decision, I advised lawyers to be helpful there (analyzing considerations and such) but avoid taking a strong stand. By contrast, once the client has decided to act, the way-to-go is right up the lawyer’s alley, and his or her advice – including advice that transcends purely legal matters – can be crucial.

When it’s *your own* decision to make, this distinction is less vivid but still useful. In that go/no go situation, for instance, you’re measuring action against inaction. With a negative decision (refraining from taking the action), you often can’t tell how things would have worked out if you’d gone ahead. So a decision not to proceed is less likely to produce second-guessing than an affirmative decision that turns out badly. (I’m not suggesting that this should be a critical element in your decision, but it is a fact of life.)

In contrast to a way-to-go decision (where action has to be taken, even if none of the choices are appealing), in a go/no-go case you might well decide *not* to take the action if the scales tip only slightly in favor of proceeding. To generalize the point, you might create a personal presumption against taking a voluntary action that appears to be only slightly more desirable than inaction – at least in cases involving substantial risks and where other options are likely to become available.

Business people often discuss way-to-go matters (such as comparing two possible courses of action) in terms of the so-called risk/reward ratio. When the risks of both course A and course B are the same but the rewards favor A, or when the rewards are the same but there’s more risk with B – or in the infrequent case where both the greater reward and lesser risk point to A – it’s easy to opt for A. The difficult questions arise when A holds the greater reward but also entails the greater risk, while B couples the lesser reward with the lesser risk. The issue then becomes whether A’s incremental reward justifies the added risk.

Unfortunately, there’s no magic formula in applying the risk/reward ratio. It’s not only that most of the decisions in this area involve very fact-specific situations – it’s also

that the risk-taking profiles of the decision-makers can vary greatly. One thing that's constant, though – you need to gather as much information on the subject as possible, since it's easy to tip the balance. You might discover there's a hidden tax involved, so that the reward isn't as much as you'd thought (and thus not worth the risk); or conversely, you may find out that the applicable risk has been overplayed (making the reward worth going for).

When you're facing a problem, and no workable resolution is readily apparent – neither path A nor path B appear fruitful – try to be creative before forcing yourself to choose between them. Perhaps by sifting through the details, you'll discover a desirable Path C that hasn't occurred to you yet (or seems blocked by some impediment you must sidestep in order to make the resolution feasible). The trick here is to find the crucial missing ingredient – the novel idea or fresh way of looking at things, the impediment-buster – that breaks through and solves the problem.

I grappled with an aspect of this several decades ago in a piece called “Eating and Having Cake” (in my *Legal-Ease* book). People are always posing matched pairs of alternatives for us to elect between – the pernicious “either/or” syndrome. My premise was that this often presents us with a false universe. There may well be a third better option, not readily apparent; or perhaps you can incorporate a little of each (the stick *and* the carrot).

The concept had been triggered for me one day in a deli, when I ordered a ham and cheese sandwich. “On rye or pumpernickel?” asked the counterwoman. Both loaves looked delicious, and I had a yearning for each. But with people waiting in line behind me, I had to make a quick choice.

Or did I? I guess I could have ordered two ham and cheese sandwiches, one on each type of bread – but that smacked of gluttony. One ham sandwich on rye and one cheese sandwich on pumpernickel was still too heavy on the carbohydrates. My solution was better – “I'll take one slice of rye and one slice of pumpernickel, please.” The resulting sandwich was delicious.

### Going with Your Gut

Getting back to my point that the appreciation of significance is at the heart of decision-making, I'm convinced that one of the most important factors in any situation is your first reaction to it. Unless your instincts are really off-base, that initial response has to deserve a lot of weight. The question is, though, how much? And conversely, how many times do we abandon our initial instinct, allowing ourselves to be overwhelmed by those fearful (or fanciful, or rationalized, or slanted) second thoughts? The decision of whether to “go with your gut” has wide applicability in everyday life.

Restaurants offer a classic example of visceral vs. secondary response. In those first few moments of menu-scanning, at least one item usually strikes a responsive chord – you can literally taste it. Many people, however, don't stop there. They converse with

their companions over what sounds promising; they're influenced by vivid descriptions of daily specials (which often sound better than the actual product tastes, especially when the waiter has a charming continental accent); they adjust their own selection to the tastes of a mate, particularly if some sharing is likely; and so on. As a result, they often end up ordering something other than the first spontaneous choice, to their probable detriment.

That example spotlights the critical role the views of *others* play in those second thoughts – as compared with the intuitive reaction, which I envision as springing from the unconscious mind. Speaking of the views of others, here are three choice thoughts on the subject that I've garnered from friends:

- A key factor to assess is how well you've fared in the past while depending on that first instinct. If your track record is bad, then prudence dictates that you ride with those sober second thoughts.
- While you're in a learning process, you should probably avoid trusting your instincts. Conversely, your instincts are sharper when the subject matter is right up your alley.
- How you feel about your decision *after the fact* may be more important than whether your decision proved right or wrong. Some people feel better when they trust their instincts; otherwise, they open themselves up to too much personal second-guessing. When you go with your instincts, it's easier to say to yourself you did the best you could.

On a related front, when the matter you're evaluating is whether to become involved in a complex business undertaking that holds the promise of generating substantial profits, you need to use the equivalent of what we lawyers call a "smell test." There are lots of agile minds around, and an endless variety of ways to shape facts and justify actions. But if, cutting through everything else, what's been proposed is (in effect) paying a bribe, or duping the public, or something else of dubious propriety, then it doesn't pass the smell test – and you shouldn't get involved.

This is true, by the way, even if each individual element of the scheme, taken separately, passes muster. Peer through that elaborate methodology and reflect on the whole package: what does it all mean? If your nose twitches, then basic changes are required, introducing elements of fairness and arm's length dealing before proceeding. The smell test is a necessary adjunct to going with your gut.

### Pitfalls and Inferences

I've written elsewhere (especially in *Advise and Invent*) about what can go wrong in decision-making, and how to avoid some of the pitfalls, such as:

- When you don't really know what you want,

- If you've loaded the issue by the way you've framed the question,
- Where your views are distorted by considerations of bias or self-interest, and
- When (others being involved) you arrive at an erroneous judgment through the deadly virus of "groupthink."

I'm not going to re-examine these topics here, but if you're interested, I'll send you copies of those essays.

I do want to say a few words about the role that inference plays. On many difficult issues that come to our attention, we're not in possession of all the facts. Yet we often have to act, or refrain from acting, right then – fully aware that we don't have all the information we'd like to have. To fill in the cracks of our knowledge, we often turn to drawing inferences.

The ability to draw reasoned inferences is an important skill to possess, and if it were lacking, we wouldn't be as capable as we are. But – and this is point – we have to be careful not to award them too much weight. Here's the dictionary definition of *inference*: "The process of arriving at some conclusion which, though it is not logically derivable from the assumed premises, possesses some degree of probability relative to the premises." Note the words "some degree of probability" – that's all an inference is entitled to, and when we grant it more, we do so at our peril. As for that first cousin of inference – the analogy – well, it can also be useful; but the operative facts always differ from your own to some degree, so you can't place undue reliance on the similarities.

### Anticipating and Deferring Decisions

In exercising judgment, some advance planning can be helpful– both in terms of simplifying the decisions and reducing the necessity to make difficult calls. Putting it the other way, we sometimes render decisions more difficult because we neglect to anticipate and prepare for what is clearly on the horizon.

So, my advice is to get in the habit of asking yourself these questions: What significant decisions will I have to make in the near future? What inputs will I want to have at decision-making time? What actions can I take now to insure I'll have them then?

One aspect of this is deciding whom you might need to consult – either to get their approval or for substantive guidance. Go to them early, or at least make sure that they'll be available when the time comes.

In terms of guidance, some people fail to seek out to an obvious mentor – usually because they're unconsciously afraid he might advise them to do something they'll find uncomfortable. Don't let yourself fall into this trap. Hear what the wise counselor has to

say – whichever way it cuts – and then make *your own* decision as to how to proceed. (But speaking of cutting, don't ask the barber if you need a haircut. . . .)

If you anticipate properly, you may spot a situation developing where, unless current evasive action is taken, you're likely to be faced with one of those Scylla/Charybdis decisions – caught between a rock and a hard place, facing several undesirable options. Perhaps you can prevent this from happening by taking some prompt action to avoid the morass – even when the action itself is somewhat unpalatable.

That's anticipation – now how about deferral? Sometimes the wisest course is to duck a decision that's premature and better postponed. Let's say a meeting is taking place at which a difficult decision could be made – perhaps it's even on the agenda to be made – but it's not necessary to do so at that time. The decision involved carries risks in all directions; you're not yet in possession of all the information you'd like to have; and other events are likely to occur in the near future that may have an important bearing on which way to go. Here, the path of prudence might dictate deferring the decision, rather than forcing the issue through to a conclusion on the spot.

But remember, the concomitant of deferring a decision is *not* inaction. You are still going to make the decision, but at a more propitious moment. You may even decide to take some preliminary controlled action at the meeting – making sure to leave yourself with sufficient freedom of action to move one way or the other, keyed to the forthcoming information and the intervening event.

### Negotiating

As a negotiator you're called upon to make many difficult judgments:

- Should I stick on this point or fold?
- On another issue, can I press ahead, or am I better off easing up?
- What can I swap for what?
- Should I open the bidding or wait for the other side to take the lead?

And so on. Loads of tough decisions, calling for lots of good judgment.

For me, good judgment in negotiating often comes down to keeping things in balance. As discussed in my book *Smart Negotiating*, the key to effective negotiating lies in striking a functional balance between what you do to gain an advantage at your counterpart's expense and what you do to do move the two of you closer to an eventual compromise.

If all your efforts are directed at getting an edge on your adversary, the danger is that you'll come on too strong. Unless the leverage is completely skewed in your favor, this can cause irreparable harm, up to and including loss of the deal. On the other hand, if you don't push a little – if you never strive for advantages or stake out positions that invite rebuttal – then you're unlikely to attain what's within your reach. By seeking to avoid conflict, you simply whet your counterpart's appetite, inviting a flock of bold positions that can prove costly to satisfy.

So stay in balance, à la Ecclesiastes. Recognize that there's a time to go for the jugular and a time to relax the grip, a time to stand firm and a time to yield gracefully, a time to wrap things up and a time to keep them dangling. This doesn't mean, however, that the balance between what you do for yourself and what you do for "the deal" always has to be fifty-fifty. Leverage and other factors dictate where to draw any particular line. Still, even when you're totally in the driver's seat – or deep behind the eight ball – you should attempt to strike a balance, albeit one that doesn't ignore the realities.

A good example of this principle is the need to balance perseverance, on the one hand, with perspective on the other.

Good negotiators are patient, exercising a healthy dose of self-control. Sprinkle in some difficulties or obstacles to overcome, and the patient effort becomes "perseverance." When it takes on a more activist role, we have "persistence." At some point, however, this "tenacity" becomes relentless and translates into "obstinacy" and "intransigence." I find that perseverance with a dash of persistence strikes the most effective balance.

Perseverance may be the plainest of virtues, but don't underestimate it. When bargaining sessions drag on into the wee hours, points are often conceded that wouldn't have been if the parties had been fresh. Those with the stamina to persist frequently come out on top.

So, perseverance is a virtue – but the failure to temper it with perspective cuts down on your effectiveness. You're not going to prevail on all the issues that arise in a negotiation, so save yourself for the significant ones. Let your counterpart take home a few trophies, especially on issues that aren't that important to you or where the point he's making is unassailable. Don't become mired in the pursuit of trivia, generating bad feelings that make it harder to obtain concessions or reach compromises in those areas that count. As Benjamin Disraeli put it, "Next to knowing when to seize an advantage, the most important thing in life is to know when to forego an advantage."

And this applies even when you're in a very strong position. By all means, communicate your strength in unequivocal terms – but do it quietly, letting it speak for

itself. There's no need to be confrontational. It's when you're overbearing, or make your counterpart look bad, that the other side takes retaliatory actions that are not in its rational best interest. But you want the other side to act rationally, recognize the imbalance and bow to it – without having to grovel. So, express rationale for the positions you adopt, hear your adversary out, and don't insist on winning everything.

If you're negotiating the resolution of a dispute, you must face the fact that the resolution will not consist of unconditional surrender on the other side's part. To resolve a dispute without resort to litigation requires settlement, which means that a compromise must be struck. In mediating a dispute, I often say to the party with the stronger case: "It's your willingness to move at least a little that will enable me to get the other side to move a lot."

How about when you're holding a weak hand? Well, it's not necessary to show your weakness – to display your avid desire, for instance, or let your perspiring brow telegraph your anxiety. The other guy isn't entitled to see the inner workings of your mind.

And try to do something about your weakness – eliminate the deadline that's pressuring you if it's purely artificial; generate some competition if none exists. Keep up a bold front – but don't misrepresent things to the other side (as by inventing a fictitious "other bidder" out of whole cloth).

When you're weak, you have to aim at limited objectives – the kind that are potentially achievable. You're not going to win on the strictly arbitrary issues. Most of what you can achieve lies in either invoking conventional practice in your favor or making arguments for your positions that are much more persuasive than those of your adversary.

And remember, when you're weak, don't come on in a shrill, hectoring style or try to throw your weight around. After all, you're trying to appeal to reason – and maybe even a spark of human kindness. On the other hand, don't feel you have to make any apologies for what you're doing, since the quiet self-assurance of an unassailable position is about all you're got going for you.

Finally, even if you're feeling behind the eight-ball, always probe the other side for signs of vulnerability. Don't underestimate your adversary's potential problems – even if you don't know about them yet. Those problems are your opportunities.

\* \* \*

So that's my current take on good judgment. I hope you'll find it helpful and that it will get you thinking – the next time you find yourself faced with one of these quandaries – about how best to reach a wise decision. And at the very least, keep in mind Henny Youngman's words of caution: "If you're going to do something tonight that you'll be sorry for tomorrow morning, sleep late."



## APPENDIX

### A Brief Summary of “Cognition Traps”

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The seven “cognition traps” that Zachary Shore singles out in his book, “Blunder – Why Smart People Make Bad Decisions” (referred to on p. \_\_\_ of my essay) are as follows:

1. Exposure Anxiety – The Fear of Being Seen as Weak.

This is, in Shore’s view, a “perennial plague” upon those in positions of strength. It entices people to overcompensate by using excessive force (which can backfire) when moderate force would be more effective. Examples cited include the Israeli response to Hezbollah in 2006 and Cleon’s speech to the Athenians in 427 B.C. (urging no mercy to the defeated Mytilenians).

2. Causefusion – Confusing the Causes of Complex Events.

We often overlook important links in the causal chain of events – sometimes we even think the consequence is the cause. All this leads to what Shore terms “monocausal myopia.” Examples cited include the origins of World War I and the simplistic “tear down this wall” explanation for the end of the Cold War.

3. Flatview – Seeing the World in One Dimension.

This addresses a rigid perspective that constricts our imagination to a single dimension – thinking in a binary mode (seeing people as either good or evil, viewing underlying events as either positive or negative, categorizing others as either with us or against us). In a world in which most problems have shades of gray, this leads to simplistic solutions and, in Shore’s view, is a “prescription for blunders.” It stems from a lack of imagination (which would let us perceive the world in multiple dimensions) and of empathy (which would allow us to feel what others might be feeling). Examples cited include the CIA overthrow of Mossadegh in Iran and the American wartime failure to grasp what made the Vietnamese unique.

4. Cure-allism – Believing that One Size Really Fits All.

This trap involves how much power we cede to prototypes through our habit of persistent stereotyping. We take something that has worked well in one case and apply it to a seemingly similar case where the theory fails – we’ve lumped it into a category where it doesn’t belong. Our mindless adherence to theories prevents us from seeing specificity and distinctions within categories.

Examples include the “Asian Tigers” financial crisis in 1997-8 and the privatization of some U.S. prisons.

5. Infomania – The Obsessive Relationship to Information.

This one aims at some people who hoard data out of a paranoid sense that if others knew it, they would use it against the hoarder. Shore claims it’s a hallmark of dictatorship, citing the example of Saddam Hussein, whose troops might have performed far better if there had been a freer flow of information between units. It also includes what Shore calls “infovoiding” – a mistaken belief that avoiding information can help achieve goals, citing as an example the Spanish and Mayans in the 16<sup>th</sup> century.

6. Mirror Imaging – Thinking the Other Side Thinks Like Us.

This trap is, of course, the thesis of “Men are From Mars, Women are From Venus,” leading to all sorts of misunderstandings between the sexes. But it can also occur on larger scales, such as with the French at Dien Bien Phu in 1953 – the French planners, having assumed the Vietminh would fight the way the French did, overlooked the capacity of the Vietminh leadership to find low-tech solutions to military problems. As for the flip side, Robert Burns said it best:

“O would some Power the gift to give us  
To see ourselves as others see us!  
It would from many a blunder free us . . . .”

7. Static Cling – Refusing to Accept a Changing World.

This involves the longing for things to remain as they have always been – a longing which Shore believes keeps people from prosperity, peace and success. He cites the case of Georgia Governor Lester Maddox, who couldn’t face the New South and new America that was emerging all around him. (Shore contrasts the case of Lou Gerstner taking over the helm of IBM and discovering its greatest weakness after decades of success and market domination – that its employees had developed a self-destructive sense of static cling, a refusal to adapt to the newly competitive computer industry, to acknowledge that conditions had dramatically changed. Gerstner achieved success at IBM through introducing a bold series of changes.)

\* \* \*

Shore’s book includes a chapter, the premise of which is that *all* of the cognition traps were part of the story in the Iraq quagmire of the past decade.