

Negotiations: Yes or No.

I have been involved in helping negotiate a lot of contracts over the course of my career. I have assisted my agents in negotiating a variety of personal contracts; I have served on a number of contract negotiating teams at Actors' Equity. Among the questions I frequently ask myself are "What do I/we really want? What is necessary for me/us to feel okay about this contract? What problem(s) am I/are we trying to solve?"

With my personal contracts, I have sometimes felt exultant and delighted -- and sometimes crabby and bitter. By the end of most AEA contract negotiations, I may feel some delight or some bitterness but more frequently I feel exhaustion after the struggle to "get to yes," to arrive at a mutually acceptable result. ("Getting to Yes" is the title of a book of negotiating advice that limns methods and strategies of arriving at a satisfactory conclusion to the bargaining process. A key component of the "Getting to Yes" strategy is to know your BATNA – Best Alternative To a Negotiated Agreement. I'll come back to that.)

The beginning of our careers (and for many of us, most of our careers) is spent just trying to find a job. We seek/ask for/hope for the most compensation and the best possible deal, but we're not going to say "No." At some point in your career, however, you are going to come up against a job offer that is not what you want, not what you need and that doesn't solve your particular problems. You are going to say "No." It is a powerful moment. You may have second thoughts. You may have anxiety. But you have struck a blow for your self-esteem that will resound throughout the other parts of your life and the remainder of your career. It is self-validation, a validation second only perhaps to receiving your first job.

I want us as a union to feel this validation, this self-esteem. And it may mean getting to "No" – turning down work – if we decide our BATNA is better than the proposed contract. Yet, figuring out if a contract is acceptable and the best achievable is exponentially more difficult for a 50,000 person membership than for an individual. Each member has different hopes, wants and needs. What is a nice job for me might be totally unacceptable to you and vice versa.

Your AEA negotiating teams work to achieve the greatest good for the greatest number. Your staff and your elected leaders know how much you want to work. In discussions or negotiations with our employer partners, they are flexible and reasonable while remaining firm and tenacious in their commitment to the needs and well-being of the membership. To be effective, however, they need a membership that is the fist within this velvet glove, a membership that backs up their talk with action, a membership that is willing to turn down work that doesn't meet its needs and that doesn't solve its problems. It may mean that, as a union, we decide that a certain level of compensation for some particular work is not sufficient and if an employer cannot or will not pay more than that, we won't do that work for them. We walk away or we walk out. We say "No."

Walking away or walking out are well down the list of options because what we really want is an acceptable contract. (I have been known to say to my agents "But don't lose the job!", thus robbing them of the greatest weapon in their bargaining arsenal: walking away.) Part of getting to the "Yes" of an acceptable contract is saying "No" to the unacceptable and having the viable threat of an ultimate "No." This is not easy, particularly when so many of us are desperate for work and when we have a strong personal stake in the outcome.

I bring this all up because of the recent uproar surrounding the posting of casting notices for the tours of two successful Broadway musicals. The exact contract is not set for these tours but they are listed as Production Tier C and Tier D – because our rules stipulate that the casting notices should posit the lowest salary-level scenario. A number of vocal members on

the internet and social media have faulted AEA for allowing these shows to be produced on anything less than a full Production contract. In their opinion, we should have said “No.”

Our “Yes” actually dates back to 2004, when we made a calculated decision to “Tier” the Production Contract in order to prevent more shows from going out non-Equity and to win back the one-week touring market, 40% of which we had lost in the previous four years. Those efforts were successful: 90% of the one-week market is now Equity. Yet, there is considerable frustration that so many shows take advantage of the Tiers (or of the SET Agreement) and that so few go out full Production. I personally am absolutely convinced that, if we had said “No” in 2004, we would not have gained any significant number of full Production tours; the vast majority of those Tier and SET Agreement shows would be non-Equity, and we would have created the monster of a thriving, dominant non-Equity touring model.

But I am always looking for a better “Yes.” We have reached out to members and set up special meetings to explain the situation and to solicit ideas for future bargaining strategy. The current Production Contract runs until September 27, 2015. We will be negotiating the new Production Contract in the summer of 2015. Let’s see what sort of a “Yes” we can get to.