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Marc Morgenstern talks negotiating, The Grateful Dead, being a 'deal jammer'

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Contributed photo

Marc Morgenstern

Marc Morgenstern is a recovering lawyer, veteran dealmaker and experienced venture capitalist.

Among various professional titles, he's a longtime board member of the Rock & Roll Hall of Fame and the Grateful Dead-founded Rex Foundation, founder of Blue Mesa Partners, and a mentor-at-large for The House Fund, the seed venture fund of the University of California, Berkeley.

Morgenstern compiled decades of wisdom and maxims in his new book, "The Soul of the Deal," which chronicles pieces of his career and lessons learned throughout decades of work as a salesman, investor and negotiator.

The Deadhead also writes about what dealmakers could stand to learn from his favorite band.

Crain's caught up with Morgenstern to talk about his advice, his new book and what deal jammers — as he likes to call them — may stand to learn from it. Here's what he had to say.

— Jeremy Nobile

(The following conversation has been edited and condensed.)

What inspired you to write this book, "The Soul of the Deal?"

Writing and teaching has been a big part of my life. But I've never written a book. Through the years, when people would ask me about my approach to dealmaking or negotiation — lots of folks know 'Morgenstern's Maxims,' some have them hanging over their desks — a lot of people said I should write a book. But I never really had the time.

Someone said that there is an organic limit to how many people you can teach if you do it one at a time. I never thought about that because I treasure one-on-one relationships. So, I thought, if they're right, the only way to amortize all this knowledge and experience in the maxims is to write a book. So that was the immediate genesis of it.

So what is "The Soul of the Deal" about, and why might people be interested in it?

At one level, it's a pretty major learning opportunity for people in the deal ecosystem broadly, whether that's M&A or venture, which I see as intertwined: you make a venture investment for the purpose of getting out of it, and the way you get out of it is usually an M&A deal. But what it's about on another level is really the human condition. The reason why people, not spreadsheets, are the epicenter of every deal is because there are lots of things that you can read about financial ratios or metrics or the sort of hard balance sheet, financial statement part. But the focus is never on people, and it should be. Company A does not make a deal with Company B. Somebody from Company A makes a deal with somebody from Company B.

What I think is important for a dealmaker is what I call sustainable deal empathy. You have to actually think, 'I'm dealing with a human being. What do I know about them?' When some people say no, they don't mean no. When some people say, \$10 is my lower limit, what they really mean is 'I don't know, try again,' while some people may mean that literally.

So, the key to dealmaking is learning the emotional matrix of your counterparty, what their vocabulary means, what their silence means. And this book is really an attempt to explore what I think is a key to dealmaking, which is not you or your spreadsheet, but your counterparty.

What's an example of how you might apply this perspective in the dealmaking world?

From a deal perspective, you will meet people who, let's characterize their behavior as aggressive. They will push you. And if you don't push back, they will keep pushing you. If you do call them on it and push back, they will change their behavior.

If you can't be run over, they stop trying to run over you. Then they switch gears because you've identified to them who you are as a human being and what it's going to take to do this deal. Then they realize, oh, this behavior that works in many circumstances is actually counterproductive in this particular deal. With some people, a whisper is more effective than yelling, whereas some people will only hear you if you're yelling. You have to know the difference.

In your book, you write about working as a door-to-door encyclopedia salesman and looking for hints or clues on how to connect with someone as you try to steer them toward a purchase. What are some of the early lessons you learned from those experiences?

To me, selling and negotiating have about an 80% overlap. If you think about what makes somebody successful at selling, it's not just understanding the product, it's about understanding who you're selling to. You have to know your customer. So what are some of the lessons? First, if I'm not inside the house, I can't make a sale. It's simple. You make a sale by being with someone who is a buyer. And if you can't get into the same place with a counterparty, no negotiating happens and no sale happens.

You also get one chance and about a millisecond to make your first impression. And if you make that correctly, you start making a foundation of rapport and trust, and that's the first step to even getting inside the house.

Now, in terms of business negotiating, you can't make an investment sitting in your office. You have to be talking with someone and they have to know you in some fashion even in a digital world. And you should see how much you

can learn about your counterparty before you even open your mouth. You won't learn anything if your approach to negotiating or selling is talking.

One of my maxims, which is God gave you two ears and one mouth and the ratio was not an accident, sort of expresses that.

You write about the Grateful Dead in this book — which you describe in one chapter as 'America's musical venture capitalists' — and how there are lessons to be learned from them that can be applied to the world of dealmaking and negotiating. Can you talk a bit about the connections you're making there?

The Grateful Dead are 100% about creating community, bringing people together, which if you think about it is a quintessential deal skill. This concept of creating community and its importance is one aspect.

The second piece, which is parallel to encyclopedia selling, is they are a true improv jam band. In selling, I can't assume that what worked in house one may work in house two or three. You have to approach each differently. At Grateful Dead concerts, there were no rules. I would go to see their show three nights in a row in the same city, and each show would bear no resemblance to the other. One night they might play a song for two minutes. The next, they might play for 42 minutes. If you saw them at another venue the next day, the audience was different. The vibe was different. The acoustics were different. They would adapt to that audience and that venue that night. That is what any great seller or negotiator does. You adapt to the situation and the circumstances.

So it's this idea of being able to adapt and improvise that can be applied to both an entertaining band and an effective dealmaker.

And because every Dead song — the length, the shape — is not predetermined, that may be the single most important thing to learn from a deal perspective. If you heard a song one night and thought, that was great, then you hear it the next night, it's 42 minutes long, and you think, well that was great, too. It's not that the song was ever better or worse. Each was different and equally valid. And that, to me, is the real art of what I call deal jamming — instead of dealmaking — because inside any deal or venture investment there is a certain amount of stuff to happen before a deal can occur.

If parties are 400% apart on the raw economics, nothing is going to happen. That said, if you look at an M&A document, there might be, say, 50 variables inside of a deal. Some people might say they need to win all 50 of those or there is no deal. I would never say that. Maybe I'm good if I get parts 12 and 18 and 20 through 31. I'm also good if I get one, two, four, 19 and 41. But when you're done, you look at all the circumstances and say, is this a good deal or not? Is this a good song or not? So, you approach it saying, I don't know what the ultimate deal shape will be. But you could end up with 15 different deal structures or terms, all of which may be good deals, and I'd want to do them. And some I wouldn't. Sometimes you have to say that the best deal you make is the one you don't make.

Going back to the Dead, an analogy is, they might start a song and not know where it's going. They play for two minutes, look around and say, you know, this song is going no place. Let's stop this song and start the next one. There is no problem with that, just like there is no problem with stopping a deal. And that is the sort of flexibility you need to be a deal jammer. You have to always be prepared to stop in the middle.

Do you play any instruments yourself?

I play keyboard, and I played in college bands. Not surprisingly I play a lot of Dead songs, Allman Brothers, blues. I have an electric piano in my office and an electric guitar. Downstairs is a baby grand piano, African tongue drums. There are instruments every place in my house. And my wife is a vocalist. Music is an important bond in our life and our children's lives, and now we're working on our grandchildren. But I haven't played in a band for maybe 10 years at this point, and I miss it.

Do you think learning to play music, especially with other people, is a meaningful skill for dealmakers?

I do. You know, when I was in college, I had a friend who was classically trained on a string instrument, nationally recognized. He asked if I could teach him to play blues and improv stuff. I would say, here's a way to think about it. He'd start and in total frustration stop because, he said, he was playing a wrong note. I'd say there are no wrong notes. But he'd say, well, when I play the first two notes, I know in my head what the third note should be. And that is a real limit.

One of my maxims is: structure unexamined is scripture. And that is what he ran into. He knew classical so well and that this kind of bar is followed by this kind of bar. He couldn't break out of that. So instead of being helpful boundaries, it was a wall that was caving in on him.

Music and math and finance have a lot of commonalities. And you do see the trap of, what (Jerry) Garcia called the familiarity auto trap, where it's normal to fall into patterns — patterns that worked and so we repeat the behavior. What you try to always do with music or anything else is force yourself to be uncomfortable. You want to know, especially in the deal world, what the norm is because it's important to know what the normal rules are. But you also have to know that they're just guidance. Picasso commented that you have to learn the rules like a pro so you can break them like an artist.

Any final thoughts?

I think the world — the corporate finance and business worlds are a subset of that — desperately needs to be learning to listen like musicians and not lawyers. I am a recovering lawyer, and I did manage a law firm. So that is obviously no disrespect to lawyers. But the point is, lawyers are trained to advocate fiercely for a single position. When they are listening, they tend to be listening to rebut what a person is saying, to distinguish what the person is saying from the position they want. That is what you do in a courtroom, but that is not how you do a deal and that is not how you have a civilized society.

Learn to listen like a jam band musician who is focusing on the other person's hands, what the other person is saying or playing. Try to listen to what is being said for the purpose of finding commonality in what is occurring. I think the world could use a very big dose of listening like a jam band musician, not like a lawyer.