

# Bradshaw Foundation

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# Exercise Overview

- Two-party, with one party acting as a representative of a foundation and the other party acting in his own interests
- Positive bargaining zone on finances, negative bargaining zone on interests
- Most effective after students have learned to work to create integrative agreements

# Motivation for the Exercise

- Countering agreement bias
- Accessible to all levels of students
- Nonprofit focus
- Strong narratives helps students identify with their roles
- Asymmetric power between parties
- Incorporates concerns about social justice
- Compelling true story of a foundation that oversees a vast, peerless collection of Impressionist, Post-Impressionist, and early Modernist art



<http://www.barnesfriends.org/files/Barnes.html>

# Exercise Logistics

- Two parties
  - Dr. Ernie Batson, president of the Board of Trustees of the Foundation (& member of the Board of Directors of Cameron University)
  - Gov. Ted Crandall, governor of the state
- Students negotiate alone (ideally) or or in pairs
- At least an hour to prepare (double this if you have students who are less fluent in English), 40 minutes for the exercise itself
- When students don't impasse, their agreements can be complex. Build in a 15-minute break afterwards to allow time to enter in outcomes to display, or allow students to enter own outcomes into online forms that you convert to a single document (Any financial agreement? Any changes to the Board? Any changes to the collection? Anything else?)

# Key Concepts

- It's OK to impasse!
- Because money is more quantifiable than values, Batsons tend to focus on the compatible financial positions of the deal rather than on the incompatible values.
- Issues of representation and role conflict: How should Batson balance his roles here as a representative of Dr. Bradshaw, of the Board of Trustees, and of Cameron University?
- Power asymmetries: Batson's BATNA is worse than Crandall's. How does this impact the negotiation?
- Information disclosure: How can Crandall avoid disclosing information (about motivation for adding board members, about power players behind the scenes)?

# The Debrief

- Positive bargaining zone on *finances*
  - Batson's RP = \$25M
  - Crandall's RP = \$107M
- Negative bargaining zone on *interests*
  - Batson: acting on behalf of Dr. Bradshaw; minimal deviation from Indenture of Trust; Cameron University oversight
  - Crandall: re-election; relocating collection to Kallipolis; transferring significant power over the Foundation to Kallipolis society members; improving Kallipolis' reputation; helping more people see the collection

# The Debrief

	<b>Batson</b>	<b>Crandall</b>
<b>BATNA</b>	Petition County for permission to break Indenture of Trust (to sell some off-exhibit works, sell country estate and land, allow more visitors at higher fees, etc.)	Find other ways to win reelection/ help Kallipolis/cater to Kallipolis power players
<b>RP</b>	\$107M	\$25M



# The Debrief

No agreement to move any part of the Bradshaw Foundation to downtown Kallipolis should be reached unless:

A. Batson betrays the wishes of Dr. Bradshaw by allowing the governor to expand the board. This dilutes Cameron University's influence and the move of the collection. Batson's materials are clear that moving the collection would represent perhaps the biggest possible violation of the Indenture as well as Dr. Bradshaw's own desires and intentions.

B. Batson doesn't sufficiently investigate how Kallipolis' power players are involved in the transaction. Batson's materials are clear that Dr. Bradshaw cared very deeply about not letting Kallipolis' society members meddle in his Foundation, and had a particular grudge against the Starnbergs.

C. Crandall lies to Batson about the plan to move the collection downtown and/or the power players involved in the plan.

# The Debrief, cont.

- I usually open the debrief by asking students in the role of Batson whether Dr. Bradshaw would be pleased with their negotiation outcome.
- Typically, a number come up with creative agreements involving moving some or all of the art to a new museum downtown. For each agreement, ask Batson and Crandall how the agreement furthers their own interests beyond their BATNA. Ask partners who impasse why they impasse.

# What should Batson do?

- Should Batson advocate for the positions taken in the Indenture, for Dr. Bradshaw's preferences that may not be completely reflected in the Indenture, or should he just act in the best interests of the Foundation as he understands them?
- Same considerations that any agents face, but the fact that Batson has no way of communicating them with his principal in this exercise increases their salience.

# What should Batson do?

- “Why would an agent or a representative try to transform the [positions] of his or her constituents?...The agent might acquire new information that leads the agent to realize that the principal has made a miscalculation. Perhaps a key assumption on which the principal’s priorities were based is wrong.” (Susskind, 1999)
- Key assumptions of Bradshaw--institution would be sustained through bonds (no--inflation), trustees would be prudent in their management of the Foundation (no--Blanton). If Bradshaw were still alive, Batson should help him realign his positions with his interests. Since he’s not, Batson needs to do this himself.

# What should Batson do?

- *Cy pres* is a “doctrine in the law of charities whereby when it becomes impossible, impracticable, or illegal to carry out the particular purpose of the donor a scheme will be framed by a court to carry out the general intention by applying the gift to charitable purposes that are closely related or similar to the original purpose.” (Weil, 1990, p.117)

# What should Batson do?

- Resorting to BATNA is a better option for Batson! (Better to petition to, say, sell off some off-exhibit art and the country estate and leave the permanent collection displays where they are.)
- Inappropriate to let considerations about Cameron University sway judgment—the power Dr. Bradshaw gave Cameron University was not so that Cameron could use the collection as leverage.

# What should Crandall do?

- Crandall has superior resources and a better BATNA
- How does asymmetric power in this negotiation shape the negotiation as a whole? Ethical considerations?
- When parties have asymmetric power, perspective-taking is harder (Tenbrunsel, 1995)
- When parties have asymmetric power, parties have greater expectations of unethical behavior (Ibid.)
- When parties have greater expectations of unethical behavior, "defensive ethics" come into play (Tenbrunsel & Messick, 2001)

# What should Crandall do?

- How does Crandall handle information he feels it's in his best interest to withhold (purpose of putting more people on the board is to move collection downtown) or that he's not at liberty to share (identity of power players with the money)?



# The Real Story

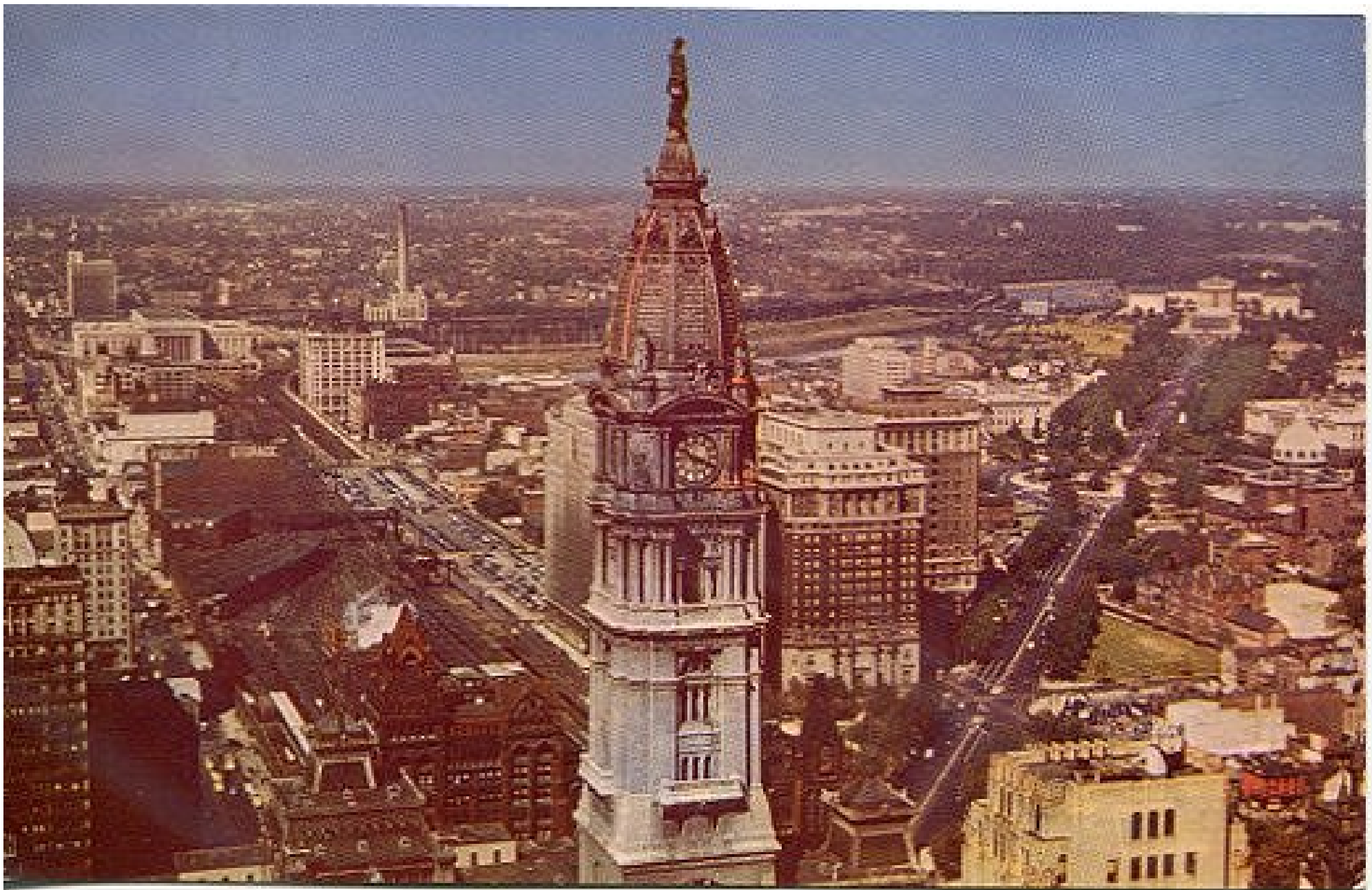


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He referred to the Kallipolis Museum of Art as a “house of artistic and intellectual prostitution”

He boasted his Foundation “would attack...the enemies of intelligence and imagination in art, whether or not those enemies are protected by financial power or social prestige.”

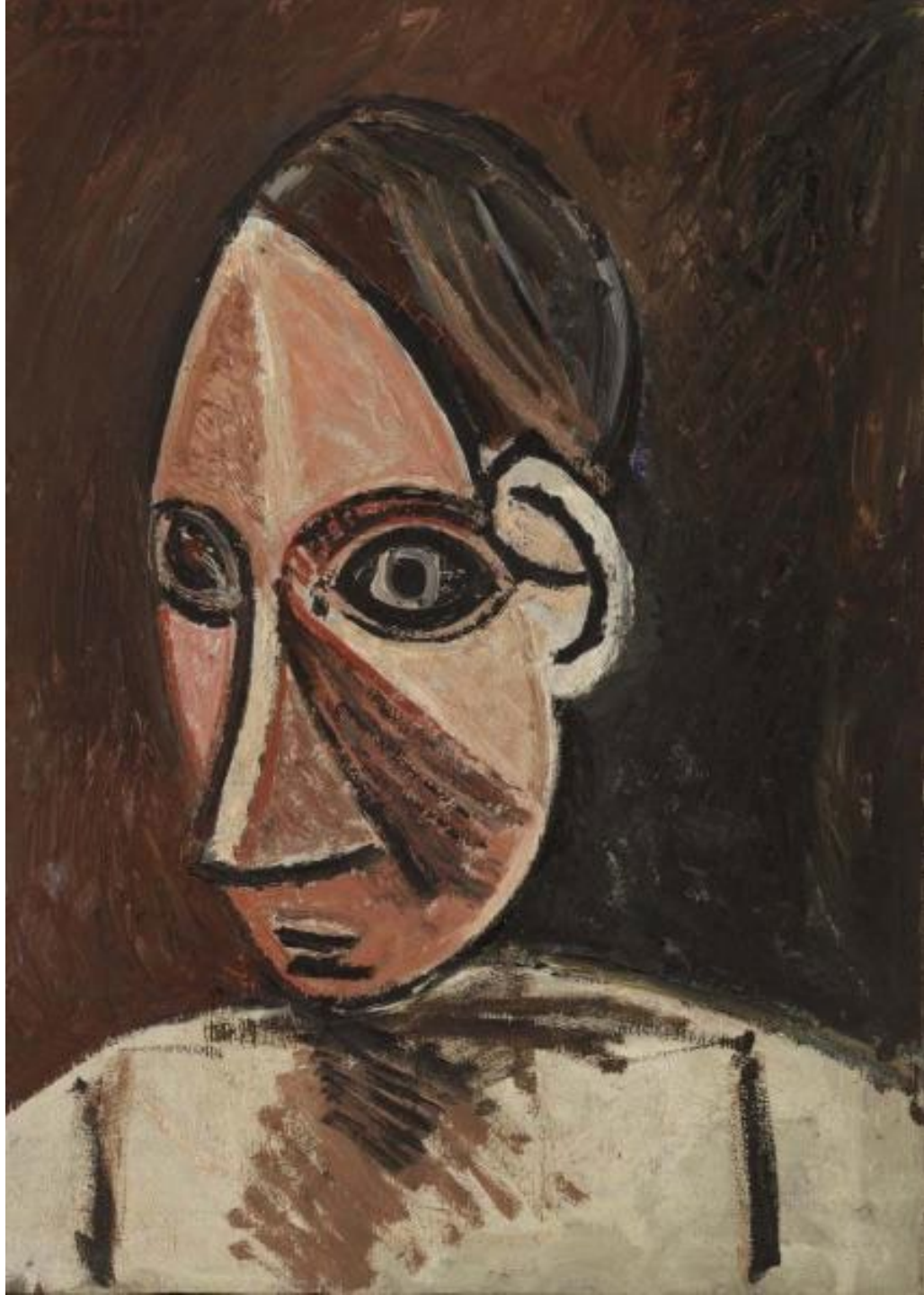




























“Dr. Ernie  
Batson”  
Dr. Bernie Watson



“Gov. Ted Crandall”  
Gov. Ed Rendel





AP/Wide World Photos

“Cameron  
University”  
Lincoln University

# “The Hughes Foundation”



“Terry Lindquist”  
Gerry Lenfest



“Charles Tannenber”  
Walter Annenberg



“Sarah Krimmel”  
Rebecca Rimel

# The Real Story:

## The Barnes Foundation

- Lincoln didn't realize it was being cut out until too late—an additional 10 seats were added to the board, voted to move to Philadelphia
- Neighbors and former students brought a lawsuit, were found to lack standing
- The public didn't discover until after lawsuit that \$107M had been hidden in state budget to move Barnes downtown...before Dr. Watson had agreed
- Foundation moved downtown, turned into a museum
- Open for just art students one day/week,

# The Real Story: The Barnes Foundation









Kimberly Camp, past President of Board of Trustees: There was a glaring omission that makes me cross. It has to do with Dr. Albert Barnes' views about African art and its place in understanding classic aesthetic elements. Dr. Barnes wrote passionately about the importance of African art to the development of European painting. We're not talking about African art and modernism. Barnes said that Europe would have died in the 15th century. He made his views apparent in the original building in Merion.



On either side of the entrance to the building were ceramic re-creations by the Enfield pottery works of African masks from the Barnes' collection. It was the only place in this country where you entered a major collection of European and American art through an African aesthetic lens. Derek Gilman assured me that African masks were being etched into the metal doors, but were not yet ready. But there was more.

Along the inside of the main gallery room in Merion, Barnes installed a frieze, with African masks every five feet. When Henri Matisse delivered La Danse, he insisted that Dr. Barnes take down the frieze because he said it distracted from his mural. Dr. Barnes refused. The design complemented the iron railings inside and outside of the Barnes gallery building that included an African mask in the center below a Grecian urn, flanked by classical scroll designs. Dr. Barnes was making an important statement. He was saying to his audience that African aesthetic belonged on the same plane, and was as important as Greek and Roman classical design. These elements are missing from the new building.





During the evening of the second gala, I asked several people why those elements were not included, but there were no good answers. It seems no one quite knew why they weren't there or why they were there in the first place. It seems no one understood they had any importance beyond decoration.

I saw the architects walking through the building, and I introduced myself. I told them I thought the building was quite wonderful but that I had a problem with the removal of the African art in the places where Barnes initially installed it. The architects nervously explained to me that the new design in the frieze below the mural was based on Kuba cloth, and that the stone patterning in the entrance hall reflecting that of kente cloth. I asked them if anybody knew that, or if there was anything in the building that would tell people that's what they were looking at. They told me there would be a brochure later. Their answers did little to calm me. Quite the reverse.



I asked them if anybody picked up on their subtle reference to African textiles. Barnes' inclusion of African art as a permanent fixture of the building was not adornment. It was not decoration. It was a unique, still controversial but very specific statement. Now gone. One of the architects told me that designing for the new building was like walking a tight rope because there were so many things they had to keep in mind and so many details they had to slavishly adhere to. I told them I understood, but they also understood when they took the commission that would be the case. That's no excuse.



# The Real Story:

## The Barnes Foundation

- As of February, 2020, 5 seats of 15 on board are held by people who are Black
- Tannenberg (Annenberg) died in 2002—he was also an art collector—while Barnes started collecting Post-Impressionist/Impressionist/Modern art in the 1910s and 1920s, Annenberg only started collecting in the 1950s, after demand from mainstream museums shot up
- Annenberg's own Indenture of Trust states gave his collection to the Metropolitan Museum of Art (in New York City) and stipulated that his works of art cannot be moved, sold, or lent.