

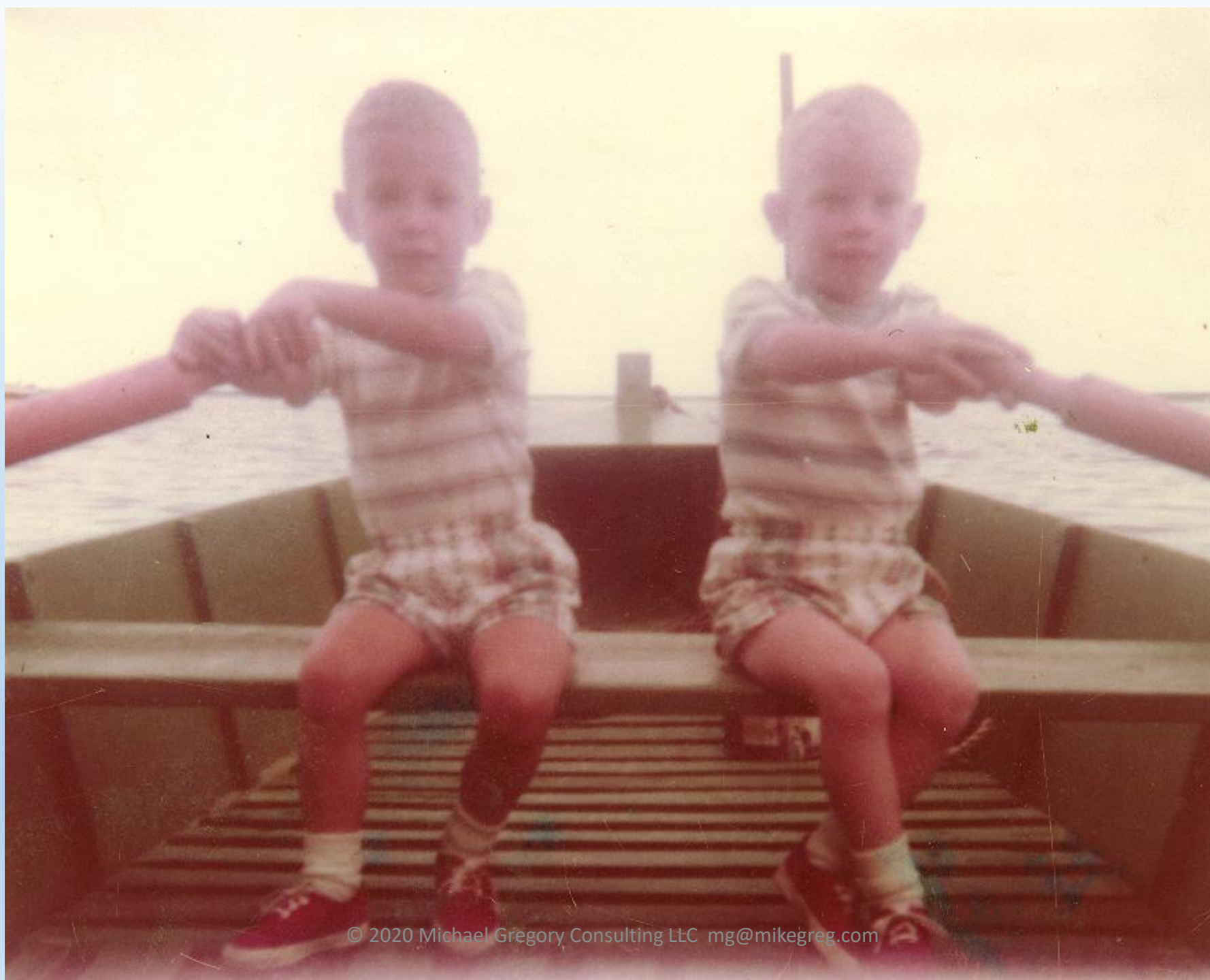


# How to Avoid and What to do if Audited by the IRS



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

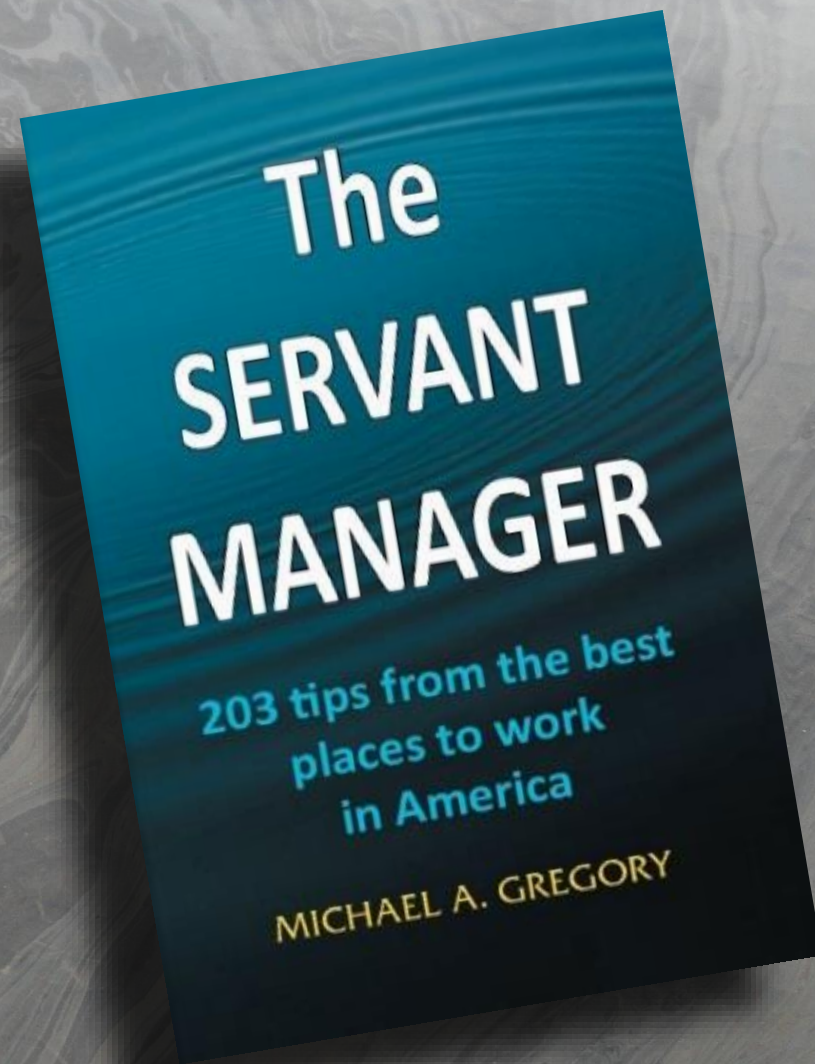
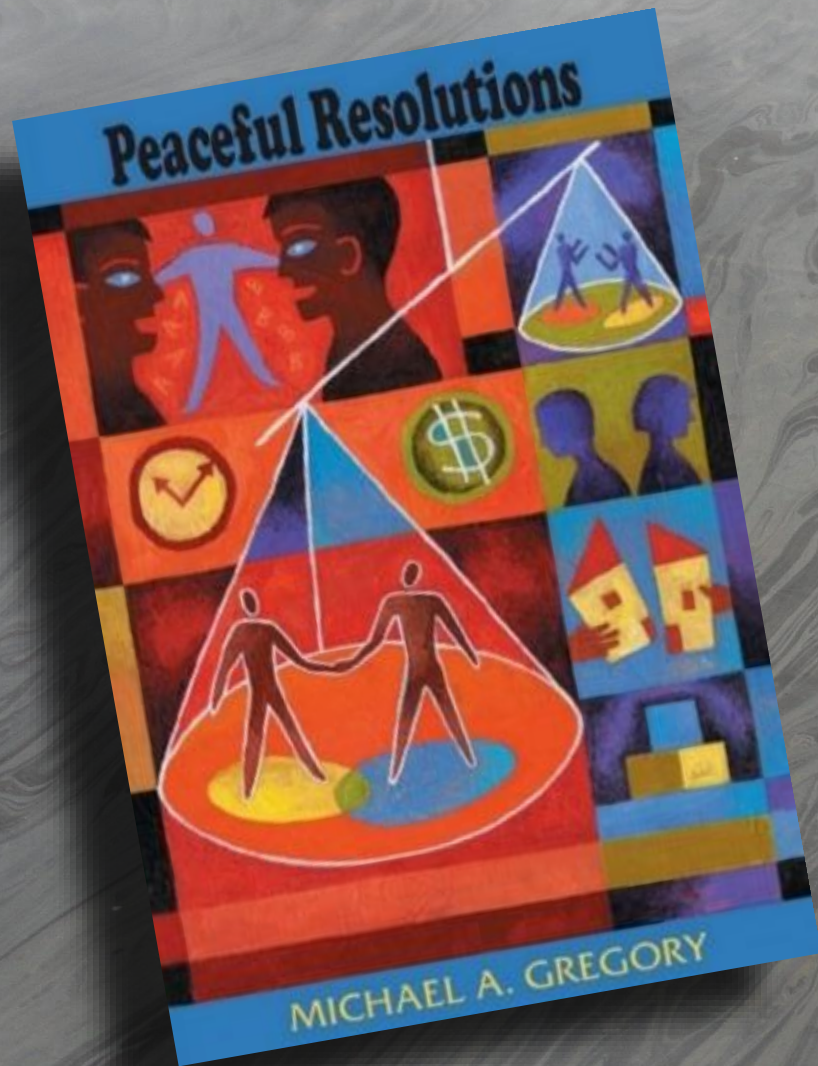
- You will learn some key concepts from **neuroscience**
- **Two examples** are provided to set the tone
- You will take away information on the **IRS** with an **emphasis** on **exam**
- You will be able to share information on the **IRS** from **Examination, Appeals and Litigation**
- **Tips to help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

# BUSINESS VALUATIONS and the IRS

*Five Books in One*



**MICHAEL A. GREGORY**



STEVEN SAMBLIS & DEBBIE ROSEMONT

# HAB1T

FOR A THRIVING HOME OFFICE



Working From Home  
Can Save The Planet!

**KILLER HABITS OF THE HAPPIEST ACHIEVING  
HOME-BASED BUSINESS PEOPLE ON THE PLANET**

# HAB1T

**100 HABITS  
FROM THE HAPPIEST  
ACHIEVERS ON THE PLANET**



Created & Compiled by  
**STEVEN SAMBLIS**

AUTOMATE YOUR PATHWAY TO HAPPINESS  
**1 HABIT AT A TIME**



**THE  
COLLABORATION  
EFFECT**

Overcoming  
Your  
Conflicts

MICHAEL A. 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 Valuators 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<sup>®</sup>

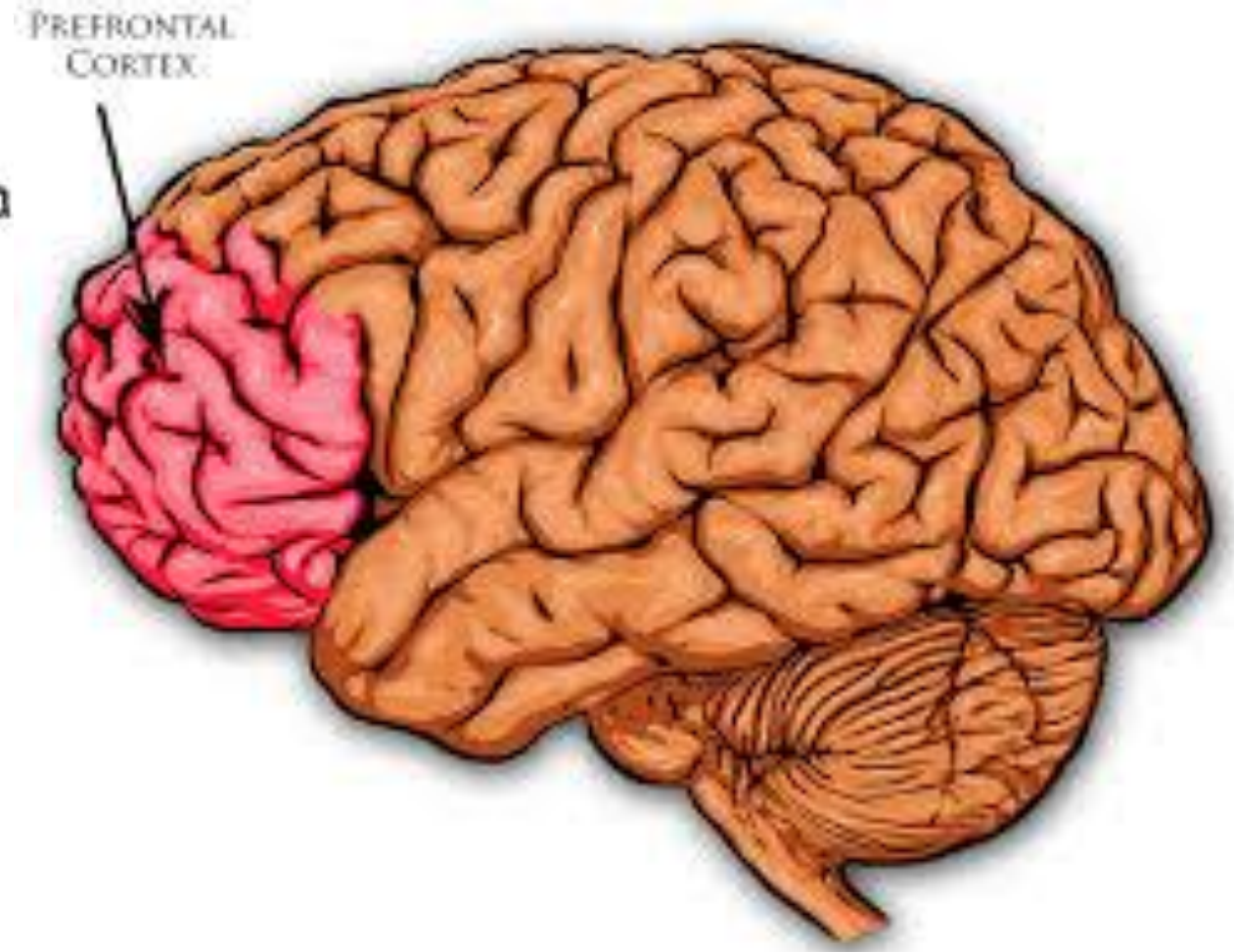
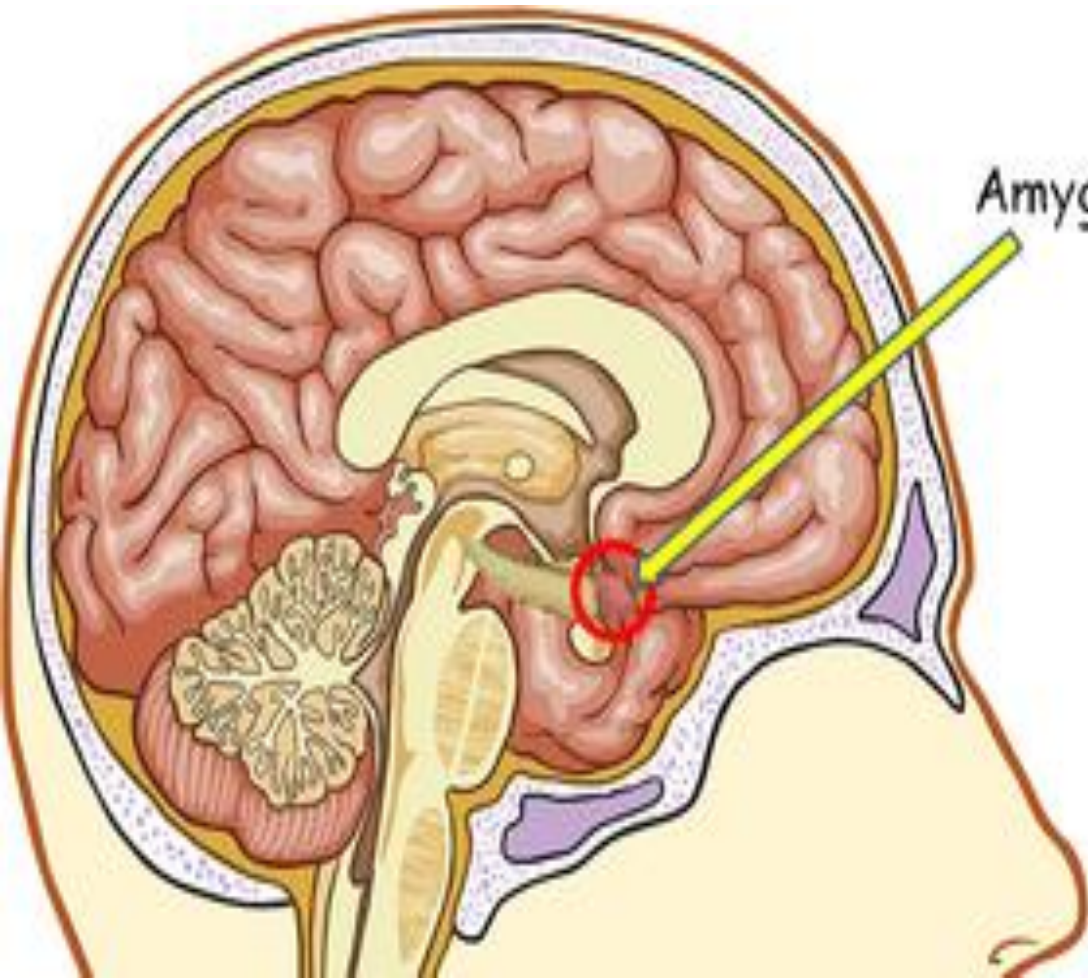
Enhancing Relationships, Resources & Revenues

# 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 頼

Trust

trust

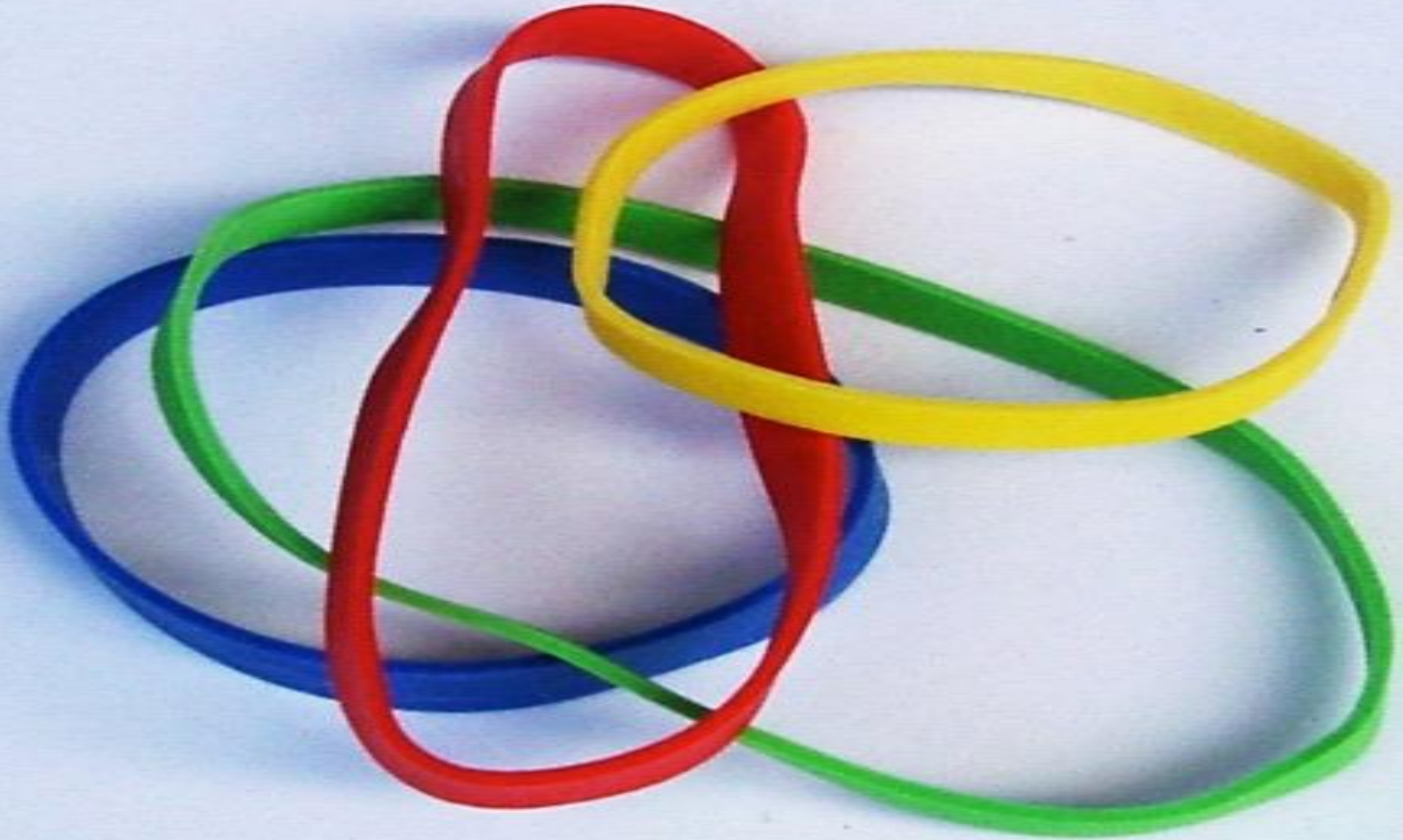


# Escalation





# Neuroplasticity – Ability to Change

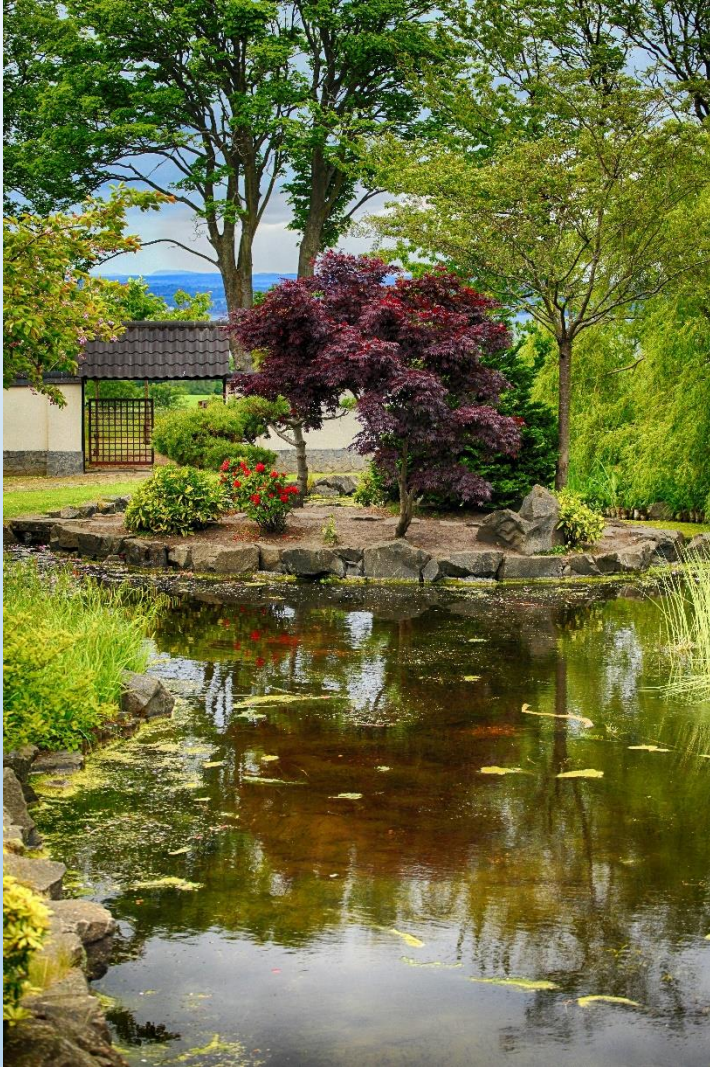


# Emotions Priorities Impacts









# **CENTER OURSELVES FIRST**

# Communication



# Listening Actively





# Listening Actively



- Paraphrase
- Summarize
- Ask open ended questions
- Empathize
  
- Do not provide solutions

# Conversational Intelligence

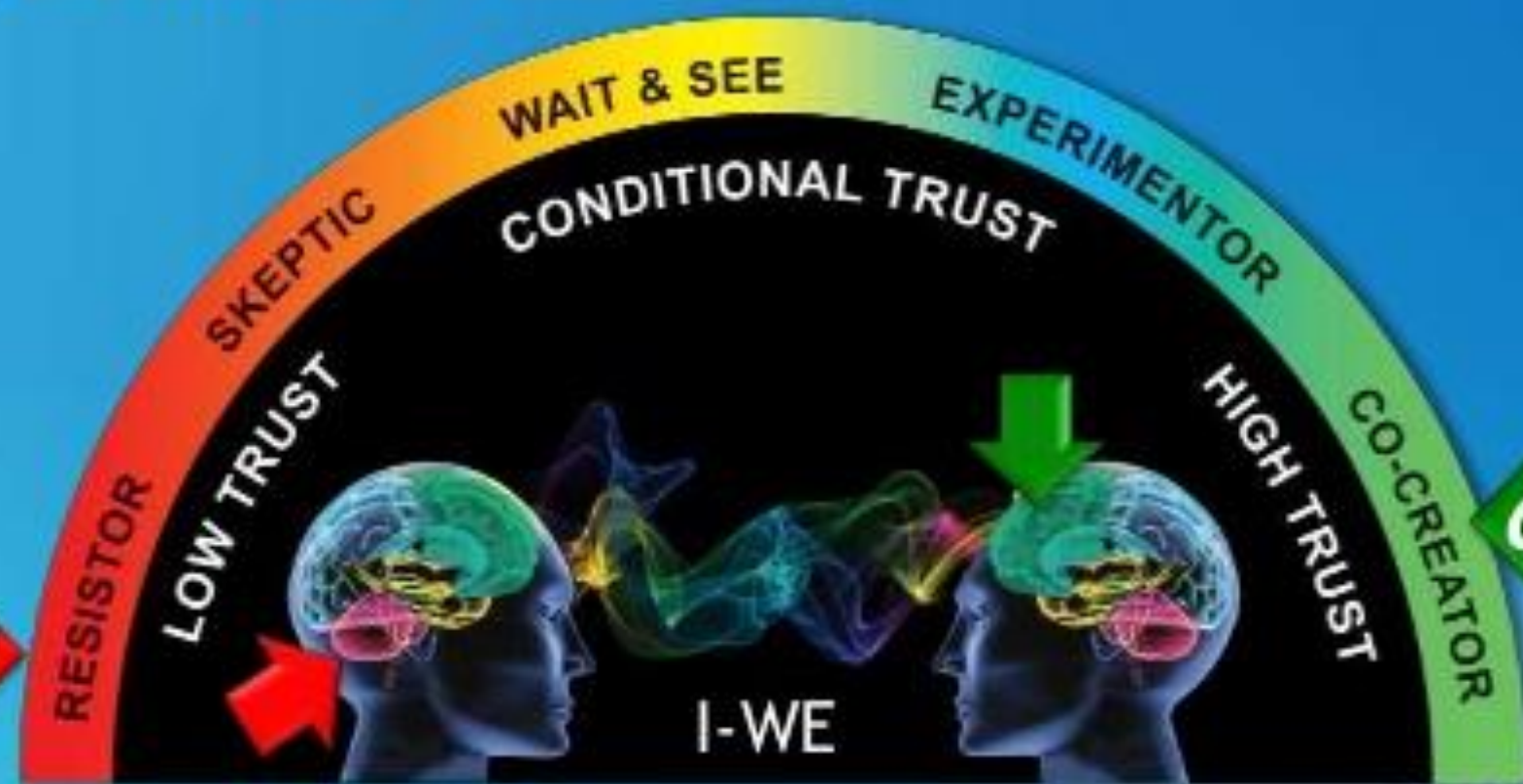
## Dashboard™

*Making the Invisible Visible!*

PROTECT

Fight  
Flight  
Freeze  
Appease  
Distrust

**Cortisol**



Territorial Instincts

Vital Instincts

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

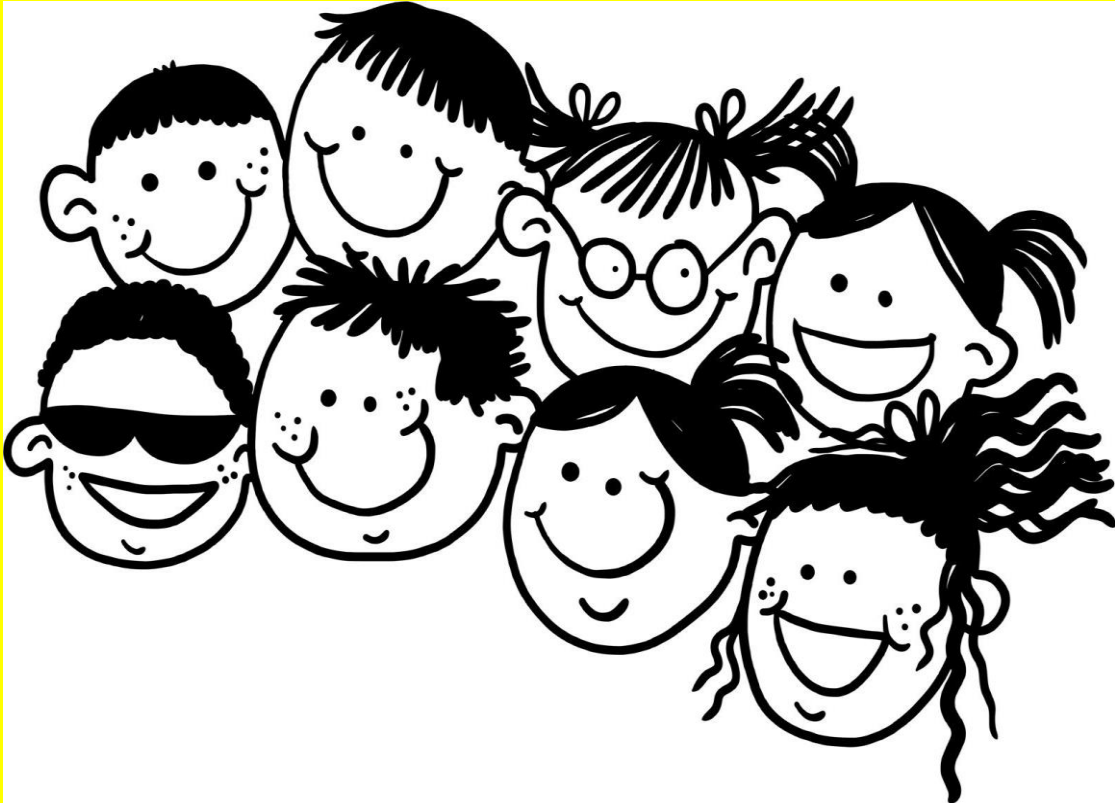
Understand Their Feelings  
Feel their Pain  
Take Actions to Address  
Pain

# 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*

# The Collaboration Effect®

## Overcoming Your Conflicts

Michael A. Gregory

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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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# 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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