



# A Better Way to Broker™

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Why Americans don't trust brokers, how the industry has changed, and **how to find a broker who actually advocates for your bottom line.**

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## Introduction

Every three years, Bill faces the same task with dread: As CFO, one of his responsibilities includes negotiating a lease renewal for office space. Every year, as he enters the world of commercial real estate, he feels like he's "walking through the valley of death."

Every dollar saved on the lease goes straight to his company's bottom line, yet no one seems to care about this besides Bill. The landlord's interests are clearly his own—the more space, the higher the price, the longer the term, the better. The tenant representative Bill hired has his own incentives, too. His commission is calculated as a percentage of the value of the lease—again, the more space, the higher the price, the longer the term, the better. So, it's hard to believe that the tenant representative broker Bill hired has his best interest at heart.

And every year... Bill finds that he's the one managing negotiations, not his broker. The broker shows Bill various expensive properties with long-term leases unsuited to Bill's stated objectives (did he listen at all?). Bill feels certain they could get a five-year lease with a few months of free rent, but his broker continues to show him ten-year leases with no free rent. Bill shakes his head in frustration, asking, "Why can't I get a termination option if I'm willing to pay a fee for it?"

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So Bill ends up being the one who spends hours calculating office sizes to see if he can get away with less space, a job clearly not in the interest of those getting paid. Negotiations always go poorly. He asks for termination options, only to be told, "There's no give on the other side." He wonders if his broker ever tried to fight for what he wanted. His concerns go unanswered, time runs out, and he's signing a lease with the sinking feeling that his broker was overpaid.

The story above is based on actual experience. In companies across the USA, mid-level and senior executives, CFOs, and real estate managers have reached a breaking point from their encounters with commercial real estate brokers.

It's not simply a case of poor service, lack of communication, or limited experience—though these are all factors.

**The commercial real estate market is in the midst of a shakedown. Amid falling property values, office property distress, and the collapse of the real estate capital markets, there's an increased awareness of the serious misalignment of interests between the client and the broker. This breakdown in the client-broker relationship leads many leaders to ask "Is there a better way to broker?"**

## The Dismal Descent of the Traditional Commercial Real Estate Broker

For decades, public opinion polls like the Harris Interactive poll have asked the American public which occupations they consider to be of "very great prestige" and "hardly any prestige at all."

Real estate agents and brokers have consistently placed near or at the bottom of the list, scoring lower than bankers, stockbrokers, lawyers, and, in at least one instance, even used car salesmen and politicians. While some professions, such as professional athletes, have risen and fallen in popularity, Americans continue to show disdain for their real estate brokers.

In order to dig deeper into what's behind such overwhelming unpopularity, we set up a focus group with senior executives in the real estate department at one of the largest financial institutions in the United States. These executives have commercial real estate giants such as CBRE, JLL and Cushman and Wakefield working for them in offices around the world. The format allowed us to ask open-ended questions about today's commercial brokers' positive and negative attributes. The conversation quickly led to a litany of complaints and frustrations:

- The overwhelming response was that there simply weren't enough good brokers available, particularly ones with the drive and skills to do what is required for today's complex negotiations.

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- Most of the executives in the group agreed that brokers generally don't listen, and worse, don't even ask questions in the first place.
- They believed that most brokers seemed unwilling or unable to exert the effort necessary to negotiate the best deal for their clients.
- They complained that brokers don't put enough time into their accounts, that they can't come up with creative solutions to solve problems, and that most don't take their profession seriously.
- One executive went so far as to say, "you could probably fit all the good brokers in the US on the head of a pin."

Keep in mind, these executives aren't anti-broker. Having an attractive and convenient marketplace is one of the easiest and most cost-effective ways to retain workers and increase productivity. According to a survey by Gensler, the prominent corporate architecture firm, half of all employees say they would work an extra hour per day if they had a better workplace. Working with the right broker can literally help companies win and keep talent—not just prop up the bottom line.

But many executives—and people in general—no longer trust in the value being delivered by a broker, and we certainly don't believe that the broker is advocating for our cause. It is easy to see why there is so much interest in the Realtor's settlement. The headlines feed the very animosity that many people have about the profession for years.

### So How Did We Get Here?

To understand what led to this breakdown in trust, we need to review quickly what has happened in the commercial real estate industry over the past 25 years.

## The Commercial Real Estate Industry Comes of Age

For decades, commercial real estate in the U.S. has been a localized industry with a number of smaller, independent players. It's been dominated mostly by entrepreneurs or "rugged individuals" who are comfortable with risk and driven by instinct. These traditional brokers keep many balls in the air and accept that many will get dropped. They see the brokerage business as a numbers game with the trick being getting the assignment and get to the closing table as quickly as possible.

These rugged individuals thrived for years on their ability to find and trade market information like available properties and comparable sales. And they guarded their access to this kind of information like mother bears. Just ask a tradition-

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al broker what value he adds, and he'll reply, "Oh, I know the market." As a result, most brokers carved out lucrative careers just because they were able to access, hoard, hide, and even trade information they rarely shared with others in their own offices.

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## Loss of the Broker's Information Autocracy

All of that changed with the institutionalization of the brokerage industry. By 2020, real estate had become a \$10 trillion industry made up of both commercially backed securities and real estate investment trusts (REITS). As a result, there was

a massive demand for high-quality market information.

Many benefited from this shift, including CoStar.com, which gobbled up all of its competitors offering market information. Municipalities and title companies began selling specific property, zoning, and market information to the public and information vendors.

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The broker's old-school hold on information was blown apart.



## Where's the Value?

Today's brokers are being forced to establish their value in other ways. They are no longer the only ones with specific information. Their protected access to even the most basic market information doesn't give them any clear advantage.

Meanwhile, lenders and other investors are more selective about project financing and more demanding on potential returns on investment than they were in the past.

Ironically, most brokers are ill-equipped and not particularly motivated to shift their attention to how to provide new value, share deep insight, provide valuable analysis and interpretation, or even proper presentation and communication. Suddenly, being

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a broker is very hard work. Competition is fierce, and the pressure to close deals quickly and get on with the next deal is greater than ever. When you are a broker working at a publicly traded company, your alliance is towards your employer, not your client.

The margins of brokerage businesses are getting tighter, and the value of their services is being challenged. As Harvard professor Arthur Segal observes, "Over the last decade or so, the real estate business has become increasingly institutionalized, securitized, and professionalized. Unfortunately, there's no doubt that more and better information means it will be harder to be the alpha in the market. You have to dig deeper and work harder. It also means the day-to-day business may be less fun."

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*—Arthur Segal, Harvard Professor*

## Follow the Money. Misaligned Interests Equals Loss of Trust

At a time when the broker's traditional value is being undermined, another serious crack has appeared in the client-broker relationship: The way brokers are paid simply doesn't encourage them to keep your best interests in mind.

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Let's return to our story about Bill. Bill needs to remember three things about today's commission structure for lease transactions.

1. **With commercial lease transactions, commissions are calculated as a percentage of the rent due under the lease.** The commission is paid by the landlord and usually in increments: half upon lease execution and half upon tenant occupancy. Generally speaking in the markets the author operates, it's calculated as a percentage of the lease value and ranges between 4 and 6 percent. For example, if you sign a five-year lease for 20,000 square feet at an annual rate of \$20 per square foot per year, **the 4 percent commission is \$80,000\*\***.

So it's easy to see why both a landlord and a broker would advocate for more space at a higher price and with a longer lease term. The higher the rent and the longer the term, the higher the

commission. But while that's great for the property owner and the broker, it's usually contrary to the tenant's interest. The difference between a three- and a five-year deal may be 50 percent of the fee. Free-rent results in a lower fee, and a termination option results in a 50 percent fee reduction in many cases.

2. **With the traditional commission structure, it takes the broker just as much time to help you lease 50,000 square feet for five years as it does to lease 3,000 square feet for one year.** This means a broker who is focused only on the commission has no incentive to do smaller deals, particularly if the commission is being split with another broker.
3. **Finally—and most importantly—commissions are paid only if a lease is successfully executed.** The faster a lease is signed, the faster the broker gets paid. Repeat: The faster a lease is signed, the faster the broker gets paid.

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## The Emperor Has No Clothes

The traditional commission structure is also a problem when selling a property.

The authors of Freakonomics explored commission structures in detail. And though they're careful not to claim that all brokers operate with their self-interests ahead of their clients, their example of how the current fee structure for brokers works raises an obvious question: "What does motivate a broker to complete a deal in your interest instead of theirs?"

**Consider this:** A commercial real estate broker is asked to sell your property valued at \$1 million. Within a couple of days, he approaches you with what he describes as the perfect deal and pressures you to sign because of the "dismal market."

The price being offered is \$50,000 less than the asking price. With the commission rate at 6 percent, this represents a loss of \$47,000 for you. But for a broker focused on his fee, spending more time and

**But for a broker focused on his fee, spending more time and effort to get a higher price just doesn't seem worth the effort or the risk.**

effort to get a higher price just doesn't seem worth the effort or the risk. The 6 percent commission (or the difference of \$3,000 between offered and asking prices) gets split two or perhaps even three ways. At most, he might get an extra \$3,000 for what could be months of work, only to be fired at the end of the listing agreement.

We all expect to pay for a professional service. But we all enter the agreement, understanding that results determine the final outcome.

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## It Gets Worse

As if these issues aren't enough, other factors have caused the brokerage industry to slip to its dismal rankings in many executives' perceptions:

### **Absence of formal training**

There are brokers out there (like the ones mentioned earlier who can "fit on the head of a pin") who provide stellar services despite their limited formal

training. However, you simply cannot predict the quality of a service based on someone's license. The training a broker receives through accreditation groups like SIOR and CCIM simply isn't enough. You need another way to determine if the broker you're dealing with has the depth of knowledge, passion, and experience to develop creative solutions and demonstrate full accountability for your satisfaction.

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### **The complexity of today's deals**

Today's deals are increasingly complex and require various tools for proper analysis and due diligence. And mastering the nuances of the landlord-lender relationship and most of today's necessary technology has an impressively steep learning curve. This

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reality requires a whole new set of skills that traditional brokers don't bring to the table.

### **Team player versus lone ranger**

Relationship management and working with others as a team are more important today than ever. Brokers need superb people skills to build relationships, manage difficult negotiations, and cultivate networks across a range of constituencies, including third-party service providers, public officials, and boards of directors.

Unfortunately, most brokers continue to operate as "lone ranger" salespersons, pushing their own advice. Given the accepted commission-based fee structure, the threat of outside competition is enough to make most brokers very uncooperative when it comes to working in any kind of team environment.

### **Knowledge versus Wisdom**

Access to information is one thing; knowing what to do with it and applying it toward your best interest is another issue.

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You depend on your broker to be the all-encompassing wise advisor. Today's complex deals require trusted resources, additional consultants, and professionals like project managers and architects to fill any gaps—and maybe even a broker from another geographical market.

But traditional brokers are highly suspicious of any resource outside their own companies. They actively resist referring transactions to other firms outside their own geographical markets even when they don't have the resources in those markets. Competition between large firms is intense. One broker we talked to was told never to refer a deal outside her own company—even if no local commercial real estate broker was available.

### **Sell at any cost**

In order to deliver value to clients, brokers must actually listen to their clients and create customized strategies for each of their goals. But traditional brokers simply don't take the time to do this. Digging deep to find out what you really want is seen as a delay in closing the deal.

And with many brokers still tied to the idea that inside knowledge and instinct gives them a "father knows best" advantage, it's a small wonder that a common complaint is they simply don't listen.

### **Lack of processes**

Whether you're selling, buying, or leasing, putting together a proper deal involves literally hundreds of steps. In most instances, a broker hands you an engagement document, and sometimes a market survey or analysis. You'll rarely get more than this.

There are no processes to organize information or help you gain clarity about the best option. So you never feel confident that every detail is being covered and progress is being made on your deal.

### **Aversion to negotiation**

You may rely on your broker to negotiate on your behalf, but few have ever been trained in negotiations. Strategically managing a project through difficult issues, putting together a win/win solution, consulting with other experts, bringing in additional resources—these steps require skill sets not commonly found in people with strong negotiation skills.

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And, as we mentioned before, a typical broker just wants to close the deal and get paid.

One broker we spoke with used the following analogy: "Real estate deals are like a closing window. Wait too long, and the window of opportunity will be shut. Time will kill a deal time and time again."

If a tenant representative is "negotiating" a lease on your behalf, the broker may actually be discouraging options like subleases and termination terms. Subleases result in far lower commissions. And with termination options, many landlords will not pay a full fee until the termination date passes.

## Due diligence

If brokers make more money on the size and number of deals they close, why spend time on the pesky details of due diligence? The traditional broker has a real aversion to providing proper due diligence, especially for more complicated transactions.

Unfortunately, these days, when billions of dollars of foreclosed properties are available, everyone expects to find distressed assets well below replacement costs. These are exactly the type of assets where a great broker doing proper due diligence can shine.

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## So What Can You Do?

You want a trusted advocate at your side who is highly skilled in his or her craft, able to communicate, and able to provide accountability at every step of your transaction. You expect your broker to work hard to develop a deal and come up with a creative solution so your project is a success. And you want all negotiations of price and terms to be done with your best interests in mind.

The brokerage industry may be bleak right now. But there are outstanding brokers out there...if you know how to spot them.

Here are nine tips you can follow to find a better broker:

- 1. Test to see if the broker's interests are aligned with yours by asking The R-Factor Question.\***

The single biggest problem with the client-broker relationship is the compensation structure—it's not in the broker's best interest financially to get the client the best deal. To test whether a firm's goals are aligned with yours, how seriously it takes its role, and whether you want to move forward in the relationship, ask this question:

"If we were having this discussion one year from today, and you were looking back over those three years, what has to have happened in your life, both personally and professionally, for you to feel happy with your progress?"

The R-Factor Question tests whether a firm's goals are aligned with yours, how seriously it takes its role and whether or not you want to move forward in the relationship.

If the broker doesn't repeat your objectives back to you, or if you don't get a satisfactory response, you're probably not speaking with someone who'll be the extreme advocate you deserve.

- 2. Ensure the broker is driven by sound experience and processes, not instinct.**

A good process results in confidence at every stage of the transaction. You can see exactly what needs to happen and how you're going to get there.

Ask for samples of the deliverables, like financial derivations and market reports the firm used

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with other clients that would be similar to what you can expect to receive. Ask for a lease or purchase and sale negotiation checklist. The broker should be able to show you detailed due diligence checklists.

**3. Demand teamwork, not solo performances.**

If the brokerage firm proposes a team, ask for a list of responsibilities and each person's specific expertise. Ask how they select brokers who are out of their market. Do they ever refer to a deal outside of their network? If not, why not? You want the best resources in the market, even if they are the competition's brokers, architects, engineers, or project managers—not just the resources within one company or a limited network.

**4. Ask how the firm measures results.**

What kind of indicators does it use, and what are the most wanted results and critical success factors when working with a client?

You want to make sure the brokers clearly understand and respect your objectives and have a plan for reaching each one of them. How are they going to help you determine how much space you require? What are their most important selection criteria? And how will they find and negotiate for the space that best meets your needs?

**5. Look for evidence that the brokers appreciate the details.**

Do they see details and getting things right as something that gets in the way, or as an indispensable step that must be done regardless of the time it takes?

Pose a question such as, "How can you help us reduce facility expenses?" and evaluate their answers. Ask how they are going to give you confidence that your specific key issues will be satisfied.

**6. Determine if they're skilled negotiators.**

Find out what sort of training they've had in negotiation. How do they prepare for negotiation,

what tools and techniques do they use, and for what results? Ask for an example of how their negotiating resulted in a win during a particularly challenging deal.

**7. Get proof that they're willing to listen.**

The number one complaint people have about their brokers is that they don't listen. A great way to find out how well a brokerage firm listens is to ask if it surveys its clients. If so, how often and what were the results?

After the interview, assess the time they took with you and how respectful they were of your time, your objectives, and your agenda. This is an indication of how they'll work with you in the future.

**8. Probe the team's experience using specific questions.**

Are they highly trained and experienced professionals, capable of leading a project through to completion? Ask them questions such as, "What do your best clients say about your strengths?"

Today's transactions involve specific skills for managing and solving multifaceted real estate problems. What training do they receive outside of the typical networks (e.g., CCIM and SIOR)? Ask for examples where they've learned from their mistakes. Find out what they've negotiated that is similar to the kind and size of deal you're about to take on.

**9. Determine if the brokerage firm is willing to set its fee based on performance, not commission.**

A brokerage firm committed to delivering value should embrace the idea that performance be tied to results.

They should be able to talk openly about the fact that their compensation structure isn't aligned with your best interests, and discuss it without becoming defensive. If they don't bring it up, ask how they get compensated. Be clear you don't believe the commission structure aligns with

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your interests. Tell them you expect some portion of their fee to be put at risk until you've met your objectives at the end of the transaction.

National brokerage firms reserve this mechanism for their large clients, so why not for the smaller ones? Companies with large portfolios have objectives (both quantifiable and soft) that

a broker must meet to get paid the full fee. For example, if you want the broker to call you back right away, prepare for negotiations, or establish creative solutions to meet your objective of reducing facility costs, and then base the fee on that. For an example of this mechanism, go to: <http://tiny.cc/cardinalpartnersresources>.

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## Managing Your Broker

Once you've hired a brokerage firm, you should continually evaluate the firm's performance by doing the following:

### **Keep updated every step of the way.**

Let there be no mystery about your role and that of your broker. Review each process and discuss how each step is going to be managed. If the firm doesn't follow its own process, you should be concerned. Ask for regular reports in a format that you prefer (e.g., in person, calls, e-mails). This forces strategic activity, creative thought, and transparency during a challenging assignment.

### **Don't settle for a solo performance.**

You'll get better advice when your broker teams up with others that have complementary skill sets. Your broker needs to be willing to share the commission

with others who can help you get to where you need to be. If your broker is acting like a tenant representative, he or she should provide resources for your needs assessment, budgeting, market research, negotiations, and even move management. If the broker is helping you with a sale, he or she needs to have analysts with narrowly defined roles.

### **Have your questions answered and your objectives understood.**

Ask for periodic progress reports on what the broker is doing to move you toward your objectives, whether you're looking for flexible lease terms, expansion options, lower occupancy rates, a sale within a certain time period, etc.

### **Get the information you need to make a confident decision.**

Insist that you get the detailed programming documents, analysis, and updates you need so you can pass confidence on to your stakeholders. Are you getting wisdom from market reports, impact studies, and economic analysis, or just a lot of information and data? Was due diligence followed? After the deal closed, did you get exactly what you expected with no surprises?

### **Demand integrity**

Remind your broker that you value only "pure" advice. Your broker is your broker. This means that your

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## Make sure your broker **advocates on your behalf**, particularly if acting in a tenant representative broker role.

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broker places your interests before his or her own. Brokers have a duty to give you the care promised during the courting phase.

Make sure your broker advocates on your behalf, particularly if acting in a tenant representative broker role. Remember that this broker's actions are the first impressions with a new landlord that you may have for 5 to 10 years.

### **Insist on follow-up and evaluation**

Did the broker make time after the deal closes for a post-project debriefing session?

And one last thing: Evaluate the broker's performance against the fee structure agreed upon. When the deal closed and you reviewed the results, were your expectations met?

### **A Better Way to Broker**

The good news is that a few key players in the industry are actually redefining what it means to be a broker by demanding a higher level of expertise, offering processes, and even increasing account-

ability. They're questioning the traditional commission-based fee structure, hiring differently, and choosing a process-driven approach.

Because the fact is, brokers must change if they want to remain successful.

In 2003, a leading executive search firm partnered with the National Association of Industrial and Office Properties to examine leadership and skill requirements in today's real estate sector. The report advis-

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es real estate leaders to bring a broader set of skills to the table. They placed the "ability to listen" and the ability to "build trust" at the top of the list of key skills needed as a means toward "living with integrity."

"Future requirements for success," say the report's authors, "rely on the ability of future real estate leaders to communicate relentlessly, listen carefully, genuinely tolerate failure as a learning experience, build on people's desires to make a positive difference and maintain a commitment to innovation, creativity, and continuous development."

**Future requirements for success," say the report's authors, "rely on the ability of future real estate leaders to communicate relentlessly, listen carefully, genuinely tolerate failure as a learning experience, build on people's desires to make a positive difference and maintain a commitment to innovation, creativity, and continuous development."**

## Conclusion

The point is, you don't have to settle for a rugged individual who's a good space finder. And you shouldn't.

Selecting the location for your office or facility affects your business strategy. Choosing the wrong broker means loss of control, status, and confidentiality. Signing a long-term lease that ties you into more space than you need with no termination options directly affects your bottom line over the length of that term. The list goes on.

The stakes are just too high to be placed in the hands of a salesperson, let alone a salesperson who you don't believe is looking out for your best interests.

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**Above all, you want a broker that puts your interests first, an extreme advocate for your cause who is willing to take accountability to a new level and put his or her commission on the line to prove it.**

Today's commercial real estate broker must bring a broader set of skills to the table, including active listening, interpreting, analyzing, managing relationships and resources, negotiating with skill, project management, and trust-building. A good broker must also offer comprehensive processes for selecting a suitable site that you can justify to all stakeholders and constituents, and leave everyone confident of a predictable outcome. Due diligence must be conducted at all costs. This isn't a wish list—it's a must-have requirement.

Above all, you want a broker that puts your interests first, an extreme advocate for your cause who is willing to take accountability to a new level and put his or her commission on the line to prove it.

This isn't just about finding better brokers. It's about building a better business model that benefits us all.

**And by the way, if you're looking for a brokerage firm that does its due diligence, collaborates with stakeholders, brokers, and partners, and carefully follows the steps outlined above, well... reach out to us.**

**We just might know a firm...**



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