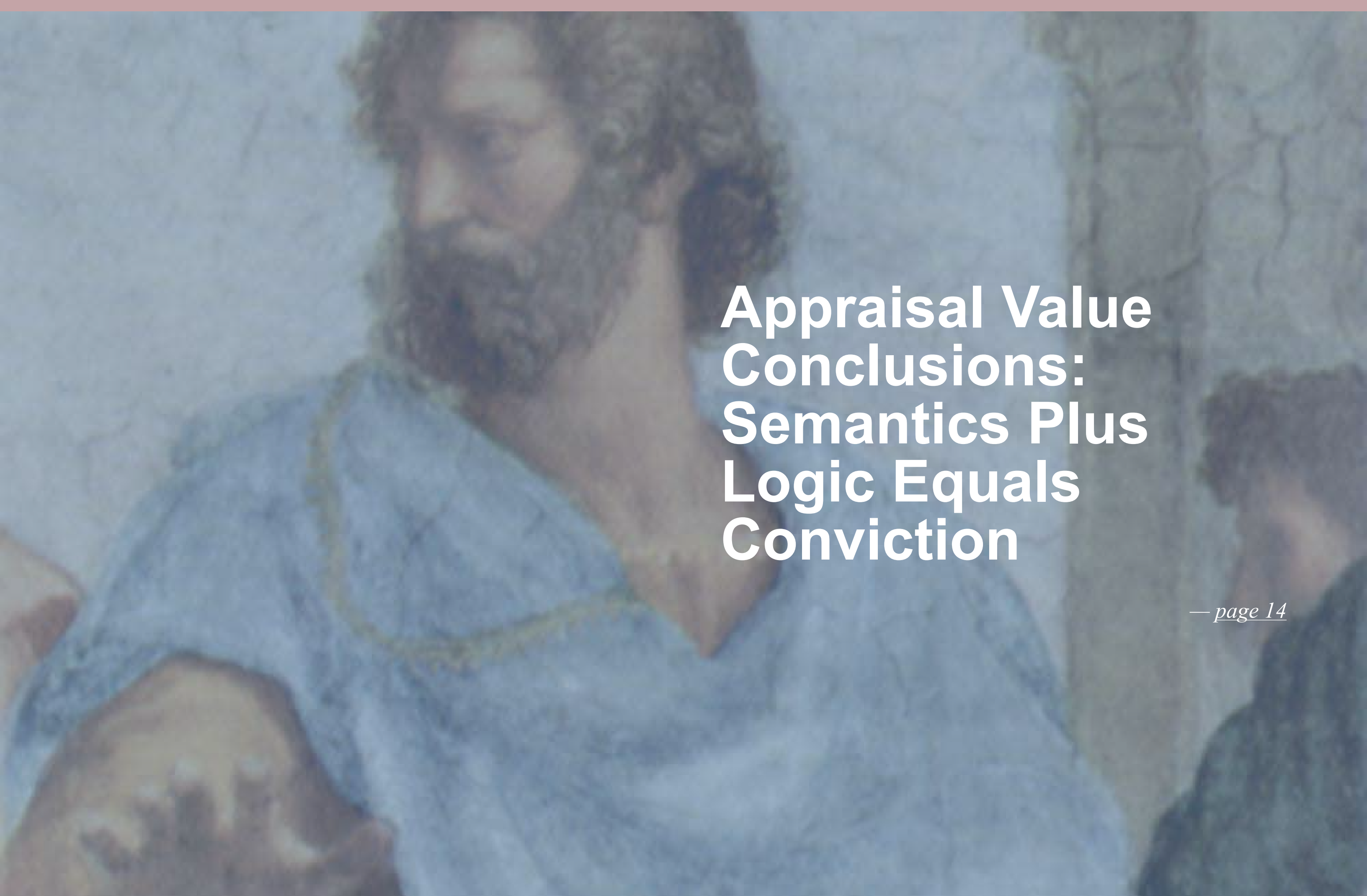
Volume 5, Issue 4, Spring 2022

ARM E-Journal™

ASA Providing Value Worldwide™

OFFICIAL PUBLICATION

ASA Appraisal Review & Management Discipline



Appraisal Value Conclusions: Semantics Plus Logic Equals Conviction

Spotlighting Review Report Writing and Appraisal Management

This month we have articles from a broad range of well-known ASA members. Key topics this month are review report writing and appraisal management.

Richard J. Conti, ASA, ARM,
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Review appraisers of every discipline must be schooled in semantics and logic in order to evaluate appraisal report value conclusions. Many appraisers who are experts in their fields do not have a background in either.

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Global ARM
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Jack Young

Jack Young, ASA, ARM, CPA, ARM Publication Chair, ASA 2021 Appraiser of the Year

ARM
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Reviewer
Raymond Rath, ASA, CEIV, IA, ARM

Reviewer
Charlie Dixon, ASA, ARM

Produced By:
ASA
2121 Cooperative Way
Suite 210
Herndon, VA 20171
(800) 272-8258
asainfo@appraisers.org

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Spreading the Word

Greetings, ARM members!

ARM Outreach

As we move into 2022, working groups created at the conference begin their efforts to provide outreach in two important areas: membership and the legal community. ARM's growth depends on increased and continued demand for appraisal review. This demand is a two-way street: appraisers who can benefit from the business opportunities available from review assignments and the users, such as attorneys and CPAs, whose practice will benefit from working with appraisal reviewers.

If you're interested in supporting ARM by contributing to either of these outreach areas, let us know! We'll put you in touch with your ARM colleagues in the groups. The opportunity to work with a group of seasoned professionals from all disciplines is one of the great benefits of ARM membership. You can also contribute to ARM's growth by encouraging your ASA colleagues and your appraisal colleagues from other organizations to get a Four-ARM credential through the ASA! We want to see the ARM discipline numbers continue our recent growth trend!

ARM Quarterly Meetings

All ARM members are invited to attend the Committee's quarterly meetings. We meet on the second Wednesday of the first month of each Quarter. The meeting following this newsletter is scheduled for Wednesday, April 13, at 7:00 am PST (10:00 am EST). For information on how to attend, please contact Joe Noselli at jnoselli@appraisers.org or (703) 733-2125.

2022 International Conference

Terri Lastovka has done a great job as the ARM conference committee chairperson and will be handing off that responsibility to Cameron Tipton. Cameron, who is president of the Houston ASA chapter, is co-founder of Flight Level Partners, specializing in aircraft appraisals. Cameron will be organizing ARM's contributions to the *2022 ASA International Conference*. If you're interested in working with Cameron on the program or have suggestions about topics, speakers, or other aspects of the conference, you can email our new conference committee chairperson at cameron@flightlevel.com.

2022 Election

The ARM Committee approved nominations for the 2022 election, to be held at the end of this fiscal year. Watch this space for more information.

J. Mark Penny, FASA, IA, ARM, ARM Discipline Chair

Meet Your ARM Committee

1. J. Mark Penny, FASA, IA, ARM
Chair

2. Matt Kaufman, ASA, ARM
Vice Chair

3. Terri Lastovka, CPA, JD, ASA, ARM
Secretary/Treasurer
ASA Conference Committee

4. Jack Young ASA, ARM, CPA
Immediate Past Chair
ARM Publication Chair
ARM Board of Examiners Reviewer

5. Melanie Modica, ASA, ARM, CFLC
Member at Large
ARM Education Chair
ARM Board of Examiners Reviewer
ARM Publication Reviewer
2020 ASA Woman Appraiser of the Year

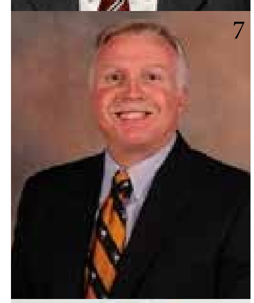
6. Raymond Rath, FASA, CEIV, IA, ARM
Member at Large
ARM Board of Examiners Vice Chair
ARM Publication Reviewer

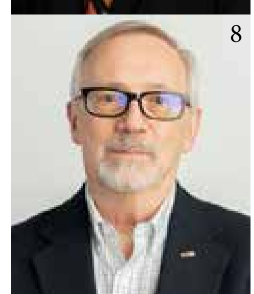
7. Travis Avant, ASA, ARM, IRWA
Member at Large

8. Barry Shea, ASA, IFA, ARM
Member at Large
Secretary, International Ethics Standards Coalition

9. Cameron R. Tipton, ASA, ARM
Member at Large

10. Charlie Dixon, ASA, ARM
ARM Board of Examiners Reviewer
ARM Publication Reviewer
AQB Certified *USPAP* Instructor





New Year—New Offerings

Something wonderful is about to happen!

2022 Schedule

The ASA is about to launch the new website. All new course offerings will be made available to you when the new site is launched. It's going to be wonderful.

- AR201: Appraisal Review & Management—Overview & Development
- AR202: NEW! Appraisal Review & Management—Litigation Services
- AR203: NEW! Appraisal Review & Management—Managing Multifaceted Assignments
- AR204: Appraisal Review & Management—Application & Report Writing

The New ARM . . . it's Got Legs!

The Appraisal Review & Management Committee is now offering all four POV courses to members and prospective members, to accredit with all new "FourARM". This new program is achieved by completing AR201, AR202, AR203, and AR204, all with exams and one final review report.

The two-course accreditation is still available to ASAs who would like to accomplish an additional accreditation of ARM by taking the AR201 and AR204 courses only (201 is the pre-requisite for 204), with exams and a review report.

Non-ASA professionals are also still able to achieve the ARM Certificate of Completion by successfully participating in the AR201 and AR204 courses (with exams and a draft review report).

And…anyone wanting to complete reaccreditation hours in fun, interesting, and energetic courses can take any ARM Principles of Valuation classes any time!

NEW! AR202: Litigation Services

This class was offered in April and May of this year and was a huge success! AR202 is written for appraisers, lending professionals, CPAs, auditors and tax assessors, appraisal review professionals in the insurance industry, the IRS, and everyone interested in learning more about litigation and review services.

This course provides litigation support education for any kind of valuation work. Because appraisers are obligated to follow specific, ethical standards of USPAP and appraisal organizations, this class addresses how those considerations apply in the legal system.

Regardless of the difference in valuation training and ethical regulations, or the specifics of a particular situation, the mechanics of being a litigation support professional remains generally the same. This curriculum assumes that all participants have a working knowledge of appraisal review practice and are experienced in report writing.

NEW! AR203: Managing Multifaceted Assignments

Focused on managing a variety of multifaceted appraisal assignments, AR203 will apply methodology for coordinating, supervising, and directing groups of professionals. Complex assignments require a lead professional for planning oversight, various directives, multiple perspectives, and considerations.

Course content includes ethics, competency, assessments, scopes of work, contracts, certifications, and case studies for organizing professionals in multiple appraisal disciplines, and multiple specialties within a discipline.

This course will demonstrate common practices and standards of care when managing a team of appraisers, appraisal reviewers, or a combination of professionals in assignments of various capacities. Participants will conclude the class with information and tools for understanding the proper and professional coordination of a team on assignments that include multifaceted components.

Plan now for YOUR new ARM designation!

Past Event Recordings

ASA events feature presentations from nationally recognized speakers and leaders in the profession and cover a wide range of topics, including appraisal review and management topics suitable for appraisers from all disciplines.

Learn the latest legal and ethical perils, how to pass an audit and stay out of trouble, as well as valuable tips on how to build your ARM practice, grow your online presence, getting more business, and many others.

Reviewing these individual sessions is also a great way to earn ASA CE credit. A complete listing of available ARM sessions is available online or by contacting education@appraisers.org.

Recorded offerings are eligible for ASA CE credit, however members should maintain a CE Credit Form as evidence of continuing education hours completed every five (5) years, in the event submission is required.

NEW! Special Pricing Discounts for Government Employees

Government employees seeking to take ASA ARM Principle of Valuation (POV) courses (AR201, AR202, AR203 and AR204) may now take advantage of new 50% off discount pricing. Qualified individuals may contact ASA at (800) 272-8258 or asainfo@appraisers.org for more details.

Discounts are also available for state government agencies seeking to train groups of employees. Virtual or onsite training options are available. For more information contact ASA at (800) 272-8258 or asainfo@appraisers.org.

Melanie Modica

Melanie Modica, ASA, ARM, CFLC, ARM Education Subcommittee Chair

PS. Have an idea for an ARM themed educational topic suitable for an ASA chapter to present? Contact ASA's Chapter and Government Relations Specialist, Justin Kane at (703) 733-2118 or jkane@appraisers.org.

Earn Yours Today

ASA offers a special Certificate of Completion Program for non-member appraisers and non-appraisers (lawyers, bankers, CPAs) interested in learning more about appraisal review as they are exposed to review appraisals in their daily work. Get started on this two-course program today!

Get started today!
For more information visit www.appraisers.org/ARM,
or contact asainfo@appraisers.org or (800) 272-8258.

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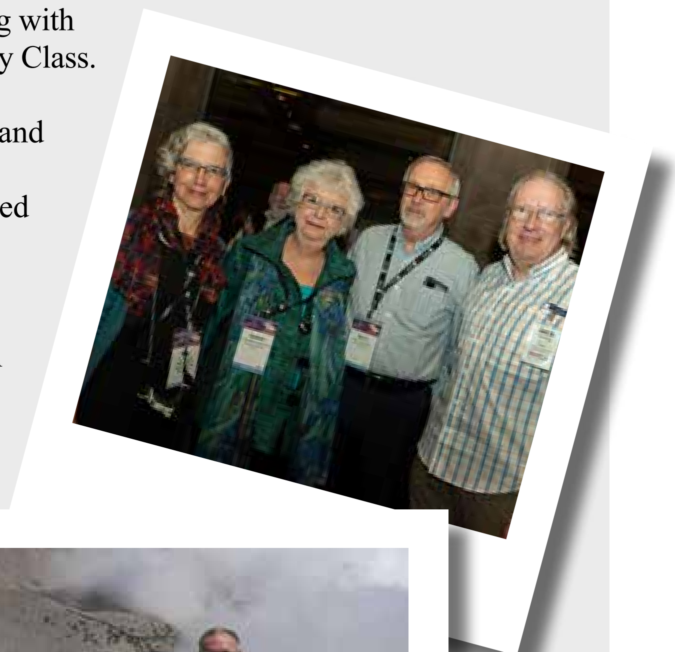
Jo Crescent, ASA

Welcome Our Latest ASA ARM Member

Jo is the first ARM applicant under the updated POV courses and accreditation pathway to be approved as an Accredited Senior Appraiser by ASA.

She is part owner and operations manager of *NorCal Valuation Inc.* and has been an ASA member since 2011. In October 2016, she completed her first appraisal review training with the Appraisal Institute's General Review Theory Class.



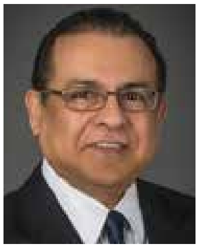
She specializes in providing appraisal editing and review services to clients and ASA appraisers, mostly with the MTS discipline; she has worked within that discipline for over 10 years and completed 3 MTS POV classes.

Jo was developmental editor of the 4th edition of *Valuing Machinery and Equipment: The Fundamentals of Appraising Machinery and Technical Assets* and edits other ASA publications, including the *ARM E-Journal*.

She enjoys reading, hiking and backpacking, live music, and relaxing.

Connect with Jo today!

Faisel Hoodbhoy, ASA, ARM



Faisel Hoodbhoy is ASA accredited in the Business Valuation discipline and in Appraisal Review and Management (ARM). He is a Chartered Business Valuator (CBV) from the CBV Institute in Canada, a Chartered Professional Accountant in Canada (CPA, CA), and a Fellow member of the Institute of Chartered Accountants in England & Wales (FCA) and designated as a Corporate Finance specialist holding a CF qualification.

Time in Toronto, Dubai, and Saudi

Currently a Managing Director at Rosehood Global Financial, Faisel oversees the areas of Valuation and Financial Advisory Services (FAS) in Toronto, Canada. Prior to this, Faisel was Middle East Regional Partner of Deloitte LLP based in the Dubai International Financial Center (DIFC), head of Deloitte ME Financial Advisory Services (FAS), and recently Director of Valuation Services at Deloitte Canada. He has 30+ years of professional experience in North America, Middle East, and the UK. He has worked for Global Big 4 Firms (including Andersen and EY in Middle East), leading investment banks, private equity firms, Saudi venture capital and valuation advisory boutiques. He led significant deals at NASDAQ Dubai and other professional work and was actively involved in introducing and promoting the International Financial Reporting Standards (IFRS) and International Valuation Standards (IVS) in the Gulf.

Global ARM

As an accredited ARM member, Faisel appreciates the opportunity to discuss appraisal practice methodology and international practice cultures with other ASA appraisers. In particular, he is interested in discussions about cross border work with multi-disciplined experts, which is now not only possible, but practical across the globe in the context of performing, for example, purchase price allocation assignments.

Music and Guitar Collections

Faisel has passion for guitars. Gibson Custom Les Paul R8 R9 and Fender vintage are his favorite collections. At ICD Dubai Orchestra, he was involved with the production of the musical "Frontierless Brotherhood" and played guitar at World Trade Centre, Dubai.

Other hobbies include playing squash, tennis and cricket and international travel and cultures across the world.

Connect with Faisel today!

VFLS has Hit a Perfect Storm

The Valuation Forensic Litigation Support Services (VLFS) profession is facing unprecedented demand, shrinking talent pools and increased competition from adjacent roles. This must-read news was recently spotlighted by John Borrowman. Bottom line, appraisers who are educated, credentialed and belong to a professional organization like ASA are poised for growth.

ASA provides the crucial tools professionals need to stay on top, the key question to consider is are you fully leveraging these?

Networking

ASA offers a variety of networking tools including events, online search tools, and social media. ASA's national and local chapter events provide dedicated networking opportunities to help you build professional contacts from all appraisal specialties. ASA's Find An Appraiser online search tool, and soon to be released online Membership Directory, help you quickly and easily locate fellow professionals for client referrals or multi-faceted assignments. ASA's Twitter, Facebook, and LinkedIn social media accounts provide convenient online options to stay in touch. ASA also provides tailored social media accounts for personal property, gems & jewelry, and rising stars professionals.

Career Resources

Looking to take your career to the next level? ASA's Job Bank provides access to the latest available jobs in the profession, as well as career coaching, resume writing, reference testing, and a learning center.

Technical Advice

Put the experience and expertise of thousands of members to work for you. With just a click away, ASA's discipline-centric listservs provide a forum for members to pose technical questions or solicit insight into valuation or client related challenges. Access and opt in links are included each discipline's monthly newsletter and can be managed online via ASA's website in each member's communication preferences after login.

Mentoring

ASA mentors help candidates navigate the credentialing process through their advice, motivation and encouragement. Candidates can simply contact ASA and request to be paired with a dedicated member mentor from their discipline.

Navigate with ARM

As members or aspiring appraisers work towards taking advantage of new opportunities being presented in a changing VLFS profession, ASA is here to provide the necessary support programs, products, and services. The ARM designation helps tremendously in navigating through this perfect storm.

Johnnie White

Johnnie White, MBA, CAE, CMP, CEO/EVP

AR201:
Appraisal Review and Management Overview

AR201 is an introductory course focused on providing an in depth understanding of the Uniform Standards of Professional Appraisal Practice (USPAP) that govern the profession of appraisal review. This course will compare, contrast and interpret real property, personal property and business valuation review practices, case illustrations and standards. The course covers narrative appraisal report writing as an argument (including a recommended review report paradigm) and will also generate discussion on review report examples. Participants will explore the scope of work for a review assignment to include credible assignment results and reviewer competency and ethics. Other accepted appraisal standards are also presented and discussed. The conclusion of this overview course and examination will prepare reviewers with the necessary content for moving to the next POV review class.

> Classes forming now, call (800) 272-8258 to reserve your space.

AR202:
Litigation Services

AR202 is written for appraisers, lending professionals, CPAs, auditors and tax assessors, appraisal review professionals in the insurance industry, the IRS, and everyone interested in learning more about litigation and review services. This course provides litigation support education for any kind of valuation work. Because appraisers are obligated to follow specific, ethical standards of USPAP and appraisal organizations, this class addresses how those considerations apply in the legal system. Regardless of the difference in valuation training and ethical regulations, or the specifics of a particular situation, the mechanics of being a litigation support professional remains generally the same. This curriculum assumes that all participants have a working knowledge of appraisal review practice and are experienced in report writing.

> Classes forming now, call (800) 272-8258 to reserve your space.

Better Manage Client’s Risk Through Appraisal Review

Nobody understands the value and risks of your client’s assets better than ASA. Which is why more appraisers, assessors, CPAs, bankers, attorneys, departments of governments or other users of appraisal services are turning to ASA for appraisal review support. ASA offers three pathways to mastering this critical differentiator. From a comprehensive credentialing or specialty designation program for practitioners to a certificate of completion program for allied professionals, ASA offers the advanced training, credentialing and membership opportunities you need now!

Get started today!

For more information visit www.appraisers.org/ARM,

or contact asainfo@appraisers.org or (800) 272-8258.

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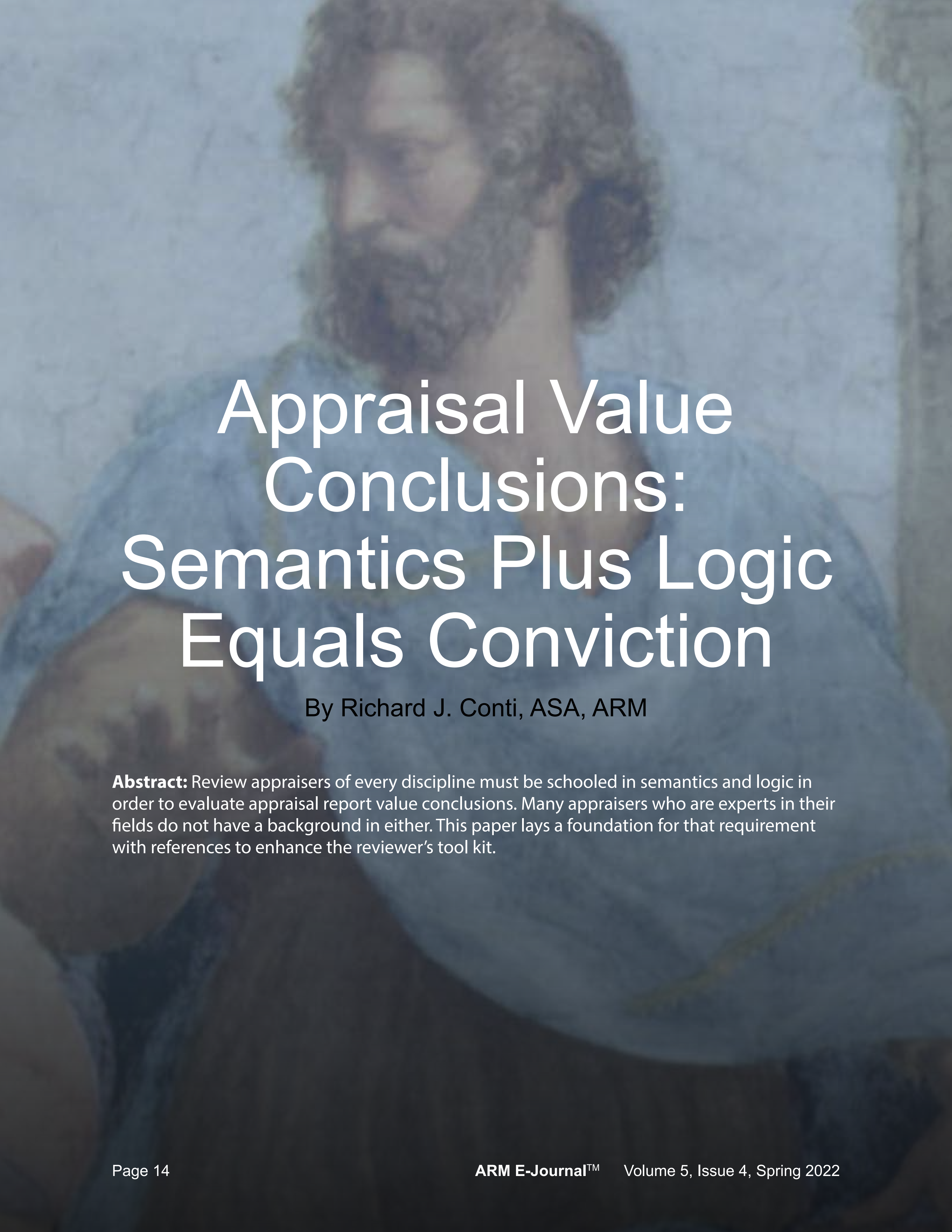
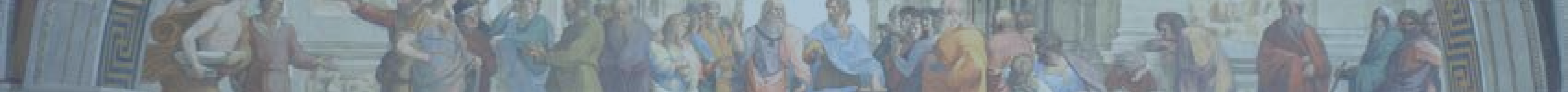


Appraisal Value Conclusions: Semantics Plus Logic Equals Conviction

By Richard J. Conti, ASA, ARM

Abstract: Review appraisers of every discipline must be schooled in semantics and logic in order to evaluate appraisal report value conclusions. Many appraisers who are experts in their fields do not have a background in either. This paper lays a foundation for that requirement with references to enhance the reviewer's tool kit.



Reviewing Credibility

USPAP states that there is no absolute measure of credible assignment results.[1] Appraisal reviewers are on their own, "walking a tightrope without a net," relying on their own skill and experience to get the job done. The scope of work and the quality of the data certainly come into question, but it is the reconciliation and conclusion where the reviewer can take a position to support or refute the appraisal value conclusion.

Appraisal arguments are the backbone of what we, as appraisers, do. Clients hire us to get our opinion of value and we give it to them. Sometimes the intended user can accept the data as the argument and the conclusion is little more than a single sentence. However, it is much, much more common that in order for the intended user to absorb the data, it needs to be interpreted and linked into pages of an assignment result. It is these assignments that are the subject of this paper.

To paraphrase an 18th century French nobleman named Joubert, if drawing is speaking to the eye and talking is painting to the ear and writing is sculpting to the mind, then an appraisal conclusion is a work of art. A narrative appraisal report is an opinion of value in which all other things being equal, the appraiser who possesses a greater skill in semantics and reasoning convinces us, the judge, or jury.

Judges' written decisions on the cases they have heard are arguments much like narrative appraisal reports. In a 2015 trial of *Duka v. U.S. Securities & Exchange Commission*, Honorable US District Judge Richard M. Berman was questioned by a television news reporter on the time he was taking to write a decision on the trial; he states:" The writing is what matters, these (decisions) don't write easily, it will be ready depending on (when) the writing comes out right." Not a complete painting for the ear but he got his point across.

Before the time of Joubert, in the 12th century, freshmen college students were immersed in logic largely from Aristotle's 27 main reasonings. By the time of Joubert such lessons were most important to the success of a gentleman. Aristotle became central to the practice of law and Judge Berman is well versed in both subjects of logic and semantics. There are several popular modern texts on semantics[2] and you do not need a college textbook to brush up on the subject. The same is true of logic with many books,[3] guides, games, and even

[1] Appraisal Standards Board. Uniform Standard of Appraisal Practice 2020-2021. Washington DC. The Appraisal Foundation, 2019 (extended through December 31, 2022. Frequently Asked Questions #170 page 260.

[2] Straight and Crooked Thinking, ISBN-13 9781444117189, Thouless, Robert, 1930 reprinted 2011

[3] How to Win Every Argument, The Use and Abuse of Logic, ISBN-13 978-0-8264-9006-3, Pirie, Madsen. 2006

playing cards available on the subject. Many appraisers may have studied semantics and logic in their formal education years. This work urges them to review their studies, take a closer look as a seasoned professional, and relearn how to incorporate semantics and logic as reasoning into their narrative appraisal report conclusions.

Appraisers typically work on a deadline and unlike a judge, have a short time to get the report out of the office. The appraiser organizes an outline of facts based on the intended use and scope of work that follow a concept and arrives at a value they believe is credible. But credibility is relative, not absolute, and what may seem credible to the appraiser may not appear so to a reviewer. We get close to our assignments; we arrive at values every week and understand the nuances of the process. However, just because the appraiser believes in the value, it does not make the value credible.

This is the most frequent error committed in our profession. We believe in every appraisal we write because we know the facts and the process. We have years of experience in finding places to obtain the facts and monitoring the market. We have acquired letters after our names giving us credibility. We have intense and specific knowledge of the subject we are appraising. If such an appraiser were to state a value why would anyone doubt it? Years ago, this was enough to conclude an assignment, settle a dispute, win a case in court, but not today.

Reconciling Data

The scenario described above is a trap. It has happened to the best of appraisers. Avoiding this trap takes vigilance because there are more forces pushing an appraiser into the trap than keeping them out of it. Regardless of the intended use, the scope of work, or the approach to value, in the end, the appraiser must reconcile the quantity and quality of data and present it in a manner that is understandable to the intended user. We do this by exposing the data as groups of relevance to the approaches to value. We develop a scope of work with the methods and techniques commonly used, then relate their meaning to the assignment. USPAP calls it a Reconciliation.[4] How we construct a reconciliation— how to construct a logical argument using words with meaning— separates reports that can be defended and are bullet-proof from those that lack credibility.

Valuation reconciliation is formed by several singular datapoints or by data derived by comparison and contrast to get to a datapoint, and typically a reconciliation contains both. *Single concepts* are concrete data and individual facts. *Abstract concepts* are information formed by comparison and contrast to one another to form data. To provide the opportunity for the user to understand the appraisal process, these single or abstract concepts should be defined in relationship with the essential attributes (see following lists). Data is thus linked by attributes to the reconciliation and builds an argument for the valuation conclusion."

Essential Attributes in Specific Disciplines

This example of the datapoints and essential attributes in **real estate** comes from the Appraisal Institute:[5]

1. Ownership
2. Measurements

[4] Standards Rules 1-6 (Real Estate), 5-7 (Mass Appraisal), 7-6 (Personal Property) and 9-5 (Business Appraisal)

[5] The Appraisal of Real Estate, fifteenth edition, Appraisal Institute, 875 N. Michigan Ave, Suite 2400, Chicago IL, 60611-1980

3. Condition
4. Improvements
5. Neighborhood
6. Highest and best use
7. Approach to value

And there are others, but in the above it is easy to see singular and abstract concepts and understand that each has essential attributes, readily identified by the professional appraiser.

This example of the datapoints and essential attributes in **mass appraisal** comes from the International Association of Assessing Officials:[6]

1. Classification
2. Grade
3. Depreciation
4. Improvements
5. Measurements
6. Replacement cost
7. Land

This example of the datapoints and essential attributes in **personal property** comes from Lammon:[7]

1. Type of object
2. Measurements
3. Materials and techniques
4. Inscriptions or markings
5. Date or period
6. Maker
7. Subject
8. Title
9. Distinguishing features

This example of the datapoints and essential attributes in **business appraisal** comes from Babcock:[8]

1. Single lump sum of money considered as payable or expended in a particular point in time
2. Right to receive future benefits beginning at that particular time point
    a. Whole property in accordance with the benefits of ownership
    b. Investment and non-investment properties
    c. Marketable and non-marketable properties
    d. Hybrid properties
        i. Farm
        ii. Church
        iii. Title insurance company
    e. Owner occupied real estate or whole investment property
3. Highest and best use
4. Approach to value

Appraisers in each of the appraisal disciplines utilize similar concepts that are nonetheless very diverse as far as the data that accrues to them. In any discipline, these concepts are formed either by several singular datapoints or by data derived by comparison and contrast and are used to get to the value conclusion.

Appraisal Fallacy Traps

Appraisers have written fatal subjectivist fallacies and logical fallacies in their reconciliations.

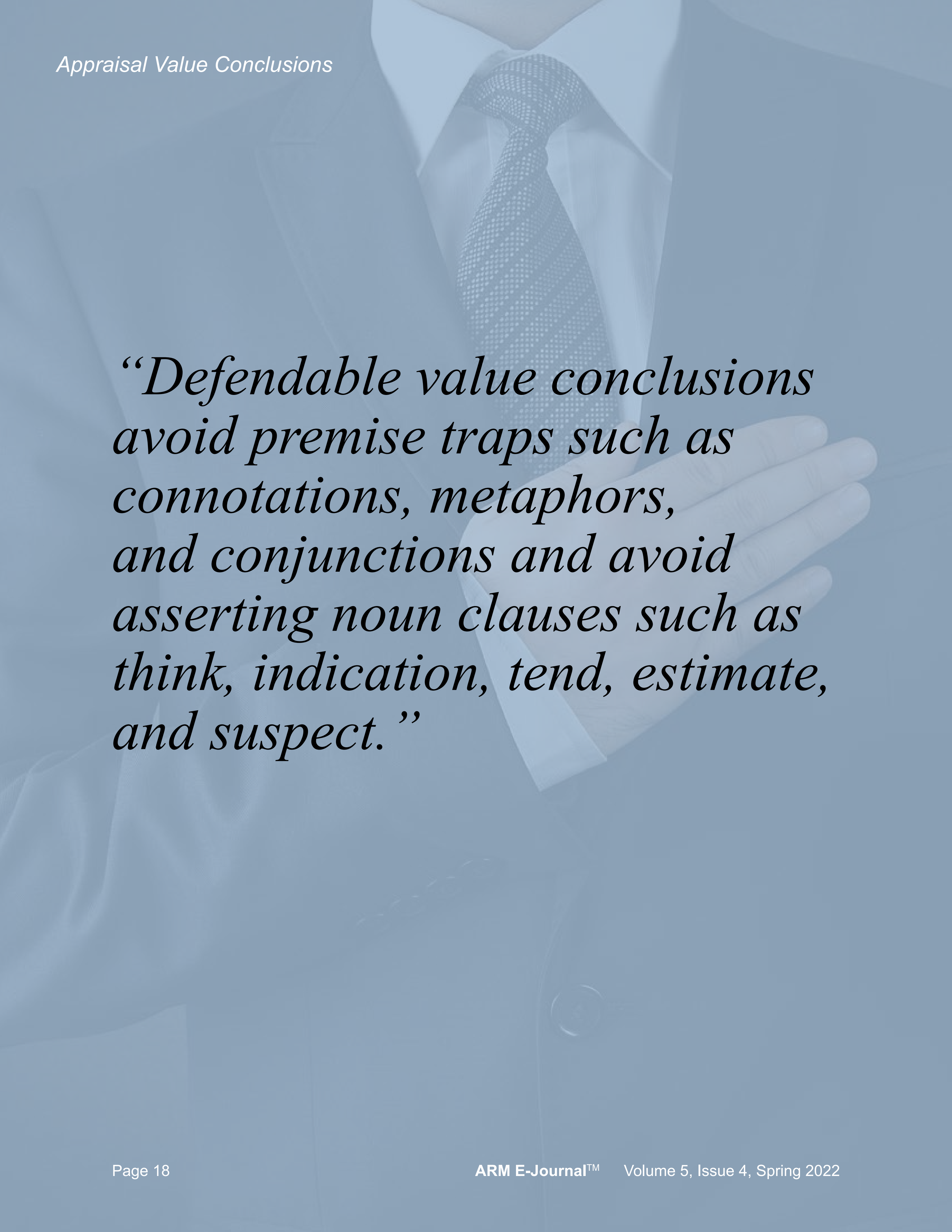
Subjectivist fallacies are the belief or desire of the appraiser placed as evidence of a true premise. There are three main subjectivist fallacies:

1. Appeal to the <u>Majority</u>: *the appraiser*

[6] Property Assessment Valuation, IAAO, 314 W. 10th Street, Kansas City, MO 64105-1616, 2010

[7] Lammon, Dwight., Evaluating your Collection. The Fourteen Points of Connoisseurship, Winterthur Museum

[8] Babcock, Henry A., Appraisal Principles and Procedures, American Society of Appraisers



“Defendable value conclusions avoid premise traps such as connotations, metaphors, and conjunctions and avoid asserting noun clauses such as think, indication, tend, estimate, and suspect.”

states a large number of people believe it, thus a premise is true.

2. Appeal to Emotion: *the appraiser is writing for a reader who wants to believe it is true, or fears that it is true and has no reason to believe it is false.*
   a. Appeal to Envy: *the appraiser used field equipment to measure*
   b. Appeal to Fear: *the appraiser used market rather than cost due to appreciation*
   c. Appeal to Hatred: *the appraiser dislikes the bank lending criteria*
   d. Appeal to Pity: *the appraiser acknowledges the client went bankrupt*
   e. Appeal to Pride: t*he appraiser spent 63 hours developing this 428-page report*
3. Appeal to Force: *the appraiser persuades through threats (impending lawsuit)*

All of the above are traps appraisers have walked into without knowing. The appraiser writing about an abstraction can avoid an appeal to majority, emotion, or force by isolating the actions motivated by the fallacy (buying patterns, market changes) and the circumstances that arouse the fallacy (available cash, rarity, greed).

Appraisers have also written *logical fallacies, which were* famously promulgated by Aristotle. A logical fallacy creates a flaw in an argument which, as a result, cannot be proven true. There is no room for these fallacies in a reconciliation. It will take some dedication for the appraiser to isolate logical fallacies which they have written but a lawyer or a reviewer will spot them instantly in their gut. The University of Texas[9] lists 146 entries in their Master List of Logical Fallacies; reviewers should focus on these seven:

1. Circular argument
2. Post hoc
3. False alternative
4. Appeal to ignorance
5. Non sequitur
   a. Division
   b. Straw man
6. Appeal to authority
7. Ad hominem

In writing reconciliations, appraisers are focused on assembling the research, market conditions, and comparative qualities thus it is easy to fall into a logical trap, it happens without looking. Reviewers need to know what they are to identify them.

Reviewing a Reconciliation Premise and Conclusion

The best beginnings imply or entail the conclusion, giving a hint where the appraiser is going in the argument for a valuation conclusion. The appraiser should lay down a premise that is central to the concept: i.e., the concept comes from the datapoints. If there are singular datapoints, start with them as they are a concrete foundation. The truth of any or all of the premises guarantees the truth of the conclusion. Two or more premises are equivalent if they imply each other. The reviewer should keep three things in mind:

1. A premise which can be true or false is contingent.
2. If it is impossible for a premise to be true it is contradictory.
3. True premises, even contingent but not contradictory, are satisfiable.

Following the premises, the appraiser should develop the argument using relative and restrictive clauses. *Relative clauses*

[9] http://utminers.utep.edu/omwilliamson/engl1311/fallacies.htm

relate one clause to a particular word in another clause, usually with a relative pronoun. Appraisers do this when linking value characteristics of comparative sales, markets, condition, and cash flow because it paints a broad picture. Here is an example: "The work was produced in 1985. It is dated in the lower left corner with the artist signature. Isometric analysis of the paint indicates the paint substrate was produced by Dow Chemical between 1971 and 1990. The artist died in 1986." *Restrictive clauses* limit the reference to the term and brings the reader into focus, typically heading towards the appraiser's conclusion. Here is an example: "This item was mass produced and the comparable sales, *which are identical to the subject*, represent a range of values with a median and mode close to our value conclusion."

Defendable value conclusions avoid premise traps such as connotations, metaphors, and conjunctions and avoid *asserting noun clauses* such as think, indication, tend, estimate, and suspect. Bullet proof appraisal reports use *non-asserting noun clauses* such as knows, acknowledges, proves, demonstrates, and realizes.

Simple arguments start with some assertion (premises) justifying a thesis (conclusion). Extended arguments can contain several arguments; a list of several premises followed by several conclusions. In either case the appraiser is taking the reviewer from what we know (premises) to what we did not know (conclusion). Appraisers love deductive arguments where the premises are intended to provide total support for the conclusion because the premises are either/or and based on what we already know. Such is not always the case and appraisals are sometimes forced into *inductive arguments* where the premises are only supposed to provide some support for the conclusion. In any reconciliation, however, the appraiser is seeking a value conclusion beyond a reasonable doubt with true premises and no logical failure and this is where the reviewer can take a position to support or refute the appraisal value conclusion.

Conclusion

In conclusion, regardless of discipline, the reviewing appraiser familiar with the appraisal subject, intended user, semantics, and logic can convincingly evaluate the report to a third party. To form an argument on the credibility of the report under review, a reviewer custom designs a "road map" for that appraisal report.

As a side note, every appraiser can benefit from a review of their own reconciliations. To quote Wentworth Dillon, the fourth Earl of Roscommon, Ireland (c.1630-1685): "Those things which now seem frivolous and slight, will be of serious consequence to you, when they have made you ridiculous."

About the Author

Richard J. Conti, ASA, ARM, owner and principal appraiser at Conti Appraisal Service, is an accredited personal property appraiser and Chief Assessor at City of Taunton, MA. He has presented extensively to appraisal professionals, attorneys, and the general public, and served as president of ASA's Boston Chapter.

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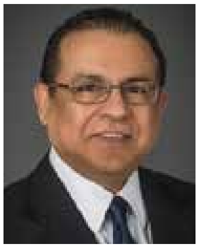
Global ARM

By Faisel Hoodbhoy, ASA, CBV, CPA Canada, FCA, CF

Abstract: This article presents an overview of the benefits of an ARM accreditation in the global appraisal practice, along with brief comparisons of USPAP and IVS in the areas of Competency and Scope of Work.



IRAC & CRAC

Methodology taught in ARM classes provides invaluable structure for producing understandable reviews that comply with the IVS standards in the Gulf and for performing limited critique reports in Canada as a Chartered Business Valuator (CBV) in compliance with CBV Institute Practice Standard 410. In particular, the development paradigm of IRAC (Issue, Rule, Analysis, Conclusion and the reporting paradigm of CRAC (Conclusion, Rule, Analysis, Conclusion) make possible the production of appraisal reviews in compliance with different valuation requirements in global settings.

International Community

ARM classes increasingly include the participation of international professionals in multi-discipline areas such as personal property, real property, business valuation, machinery & technical specialist. The lively learning environment of the classes allows and encourages appraisers of different continents and practice cultures to contribute and learn from each other's professional experience, a unique experience in the appraisal profession. These interactions additionally support professional networking and relationship building and encourage productive discussions. In particular, ARM professionals are in strong positions to explore and develop cross-border work with multi-disciplined experts, which is now not only possible, but practical across the globe in the context of performing, for example, purchase price allocation assignments.

IVS & USPAP

From a global perspective, it's important that the ARM classes cover reviews of reports that are in compliance with both USPAP and IVS, as well as encouraging discussion of other standards such as CBV. In discussions regarding how such reports are best organized, classes highlight areas where there are subtle differences between appraisal standards. For example, some such areas of comparing and contrasting are:

- Competency–under IVS, the valuator is expected to have the technical skills, experience and knowledge at the start of assignment, whereas USPAP allows competency to be acquired prior to completion of assignment, and
- Scope of Work–under IVS, it should be established and agreed between the parties prior to the valuer beginning the work and a written scope of work should be prepared. IVS 101 also requires that any changes to the scope of work must be communicated before the assignment is completed and the report is issued. In comparison, under the CBV standard 410, a Limited Critique Report, by definition, is limited in scope and is therefore a report that does not itself contain a valuation conclusion or any conclusion of a financial nature.

Conclusion

An ARM accreditation benefits appraisal professionals in global appraisal practice, not only by providing instruction and understanding of methodology that provides invaluable structure for producing understandable reviews that comply with a variety of international standards, but also by providing a network of global appraisal professionals with whom to collaborate in cross-border work, which is now not only possible, but practical across the globe.

About the Author

Faisel Hoodbhoy, ASA, CBV, CPA Canada, FCA, CF, is currently a Managing Director at Rosehood Global Financial, Faisel oversees the areas of Valuation and Financial Advisory Services (FAS) in Toronto, Canada. Previously, Faisel was Middle East Regional Partner of Deloitte LLP based in the Dubai International Financial Center (DIFC), head of Deloitte ME Financial Advisory Services (FAS), and recently Director of Valuation Services at Deloitte Canada. He has 30+ years of professional experience in North America, Middle East, and the UK. He has worked for Global Big 4 Firms (including Andersen and EY in Middle East), leading investment banks, private equity firms, Saudi venture capital and valuation advisory boutiques. He led significant deals at NASDAQ Dubai and was actively involved in introducing and promoting the International Financial Reporting Standards (IFRS) and International Valuation Standards (IVS) in the Gulf.

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Collaboration of Valuation Disciplines: Assets of Jamaican Government-Owned Sugar Cane Industry

By Franklin D. Reid, ASA

Abstract: This article, previously published in ASA's M&E journal, discusses the process of building a team and creating a process to bid and successfully complete a multifaceted valuation of all government-owned assets of the Jamaican sugar industry–the largest public sector valuation exercise conducted in Jamaica.

The Proposal

In April 2006, selected valuation companies from the USA, Canada, India, and Jamaica were invited to submit proposals for the valuation of all government-owned assets of the Jamaican sugar industry: five sugar refineries, including two rum distilleries, and the corresponding lands and supporting facilities. The original Request for Proposal restricted participation of Jamaican valuation companies, stating in part (emphasis added):

> Respondents are expected to be highly qualified and experienced firms with extensive practical knowledge of the comparative value of the assets of sugar cane estates. As such, *it is expected that the lead firms will be internationally based.* However, local Jamaican firms may collaborate with international firms for the assignment. International firms would also find it useful to associate with local firms in the conduct of the assignment.[1]

Following objections by some Jamaican appraisal firms, the clause was "modified" for proposals to be accepted from Jamaican firms and proposals were duly submitted. Without explanation, however, the *Request for Proposal* was withdrawn, and all proposals returned. Within months, a revised *Request for Proposal*, not restricted to any particular valuation company or country, requested proposals to be submitted by December 15, 2006. Valuation companies from the USA, Canada, and Jamaica submitted their proposals.

The language of the initial Request for Proposal indicated significant inclination of the government toward overseas valuation companies; while the terms of the second request were more open, the discovery that all the other originally short-listed local companies had teamed up as support appraisers with two major overseas appraising companies made the likelihood of a local firm landing the job seem overwhelmingly unlikely.

How did our Jamaican joint venture team—led by an MTS ASA—win this complex and prestigious assignment? We submitted a proposal that featured a deeply researched and comprehensive scope of work, a team of well qualified and experienced professionals, and our understanding of Jamaica and the country's sugar industry.

The Jamaican Sugar Industry

Sugar came to Jamaica in 1509, imported from Haiti under Spanish colonialism; after the British took control of the island in 1655 and established the plantation system, the island became the major producer and leading exporter of sugar in the world. While

[1] Request for Proposal - Consultancy in respect of Jamaica's Privatisation Programme

significant changes have occurred in the industry during the over 500 years of sugar production, in 2006, sugar cane remained the country's most important crop and was the second largest employer of labour. In 2008, the industry employed 38,000 persons directly during cropping season and 28,000 persons out of crop. An estimated 200,000 persons (about 7.5% of the population of 2.7 million) derived some income directly or indirectly from the industry. Sugar cane was grown in almost every parish, the total of 40,000 hectares comprising 40% of the land under permanent agriculture.

Moreover, beyond its contribution to GDP and its annual foreign exchange earnings, Jamaica's rural economy, social stability, and urban security depend on the existence of a viable sugar cane industry. In the rural "sugar central towns", for example, the growing of sugar cane and its processing into sugar is often the only economic activity. In the out-of-crop period for these communities, the accepted way of life is through credit, which is expected to be paid up during cropping season.

By 1943, however, the number of factories had dropped from 140 to 27 and the reduction continued, due in part to labour costs following the labour revolt in 1938. Many sugar farmers replanted banana, which were less labour intensive and offered a higher return per acre. As some estate owners retired, died, or otherwise left the

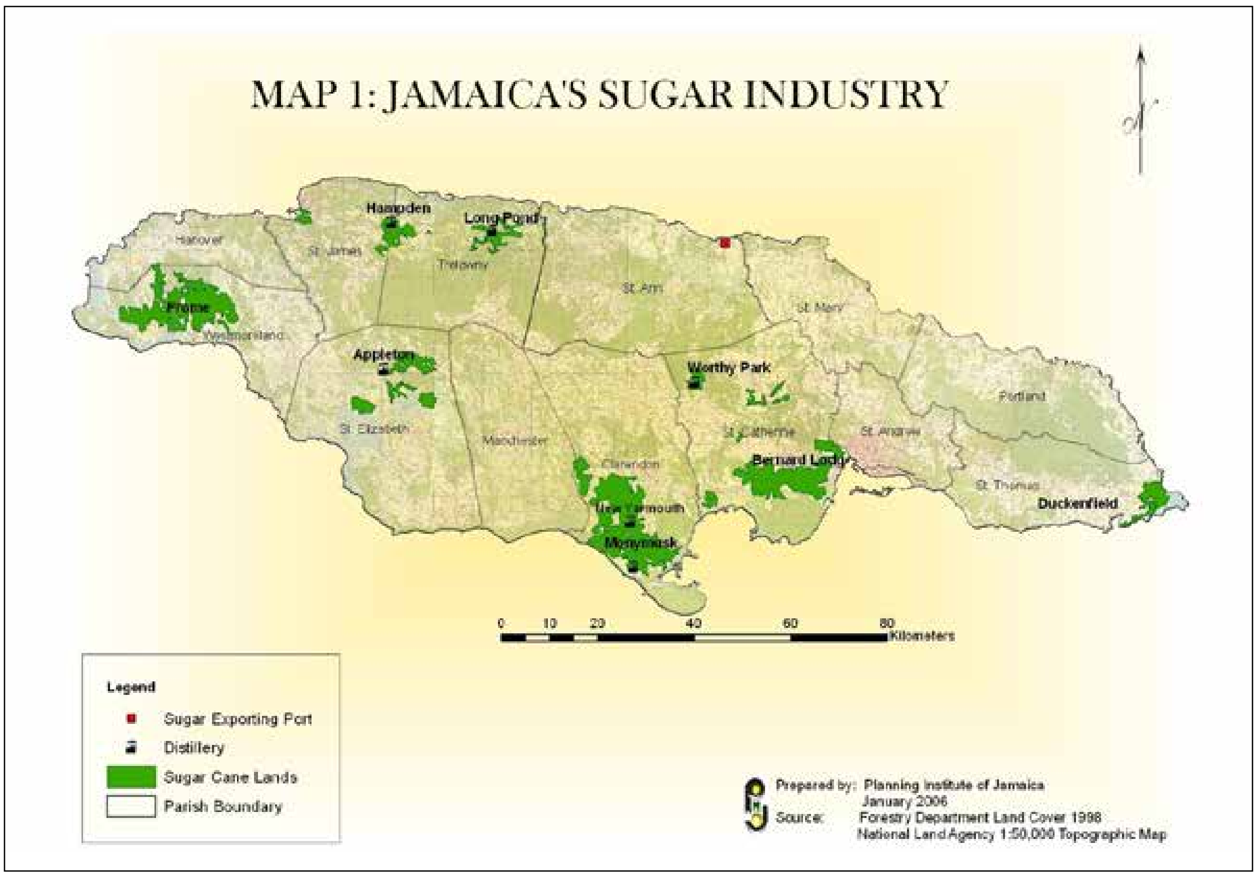


Figure 1: Map of Jamaica's Sugar Industry

Figure 2: Historical Frome Sugar Factory Built 1938

Figure 3: Western Gantry at Monymusk Sugar Factory

sugar business, the younger generation moved out of cane.

By 1968, only 18 factories remained, and in the late 1970s, after a period of sugar industry closures and consolidations, the government nationalized the industry. Nationalization did not slow or halt the industry decline; so in 2006, the decision was made to reprivatize all government-owned assets of the Jamaican sugar industry, at that time managed by the Sugar Company of Jamaica Limited (SCJ).

Assembling a Team

While the proposal details the many and varied qualifications, accomplishments, and experience of all team members, this article will briefly state a few pertinent details in introducing each member.

Complex assignments require ingenuity and experience. The complexity of this assignment and the vastness of the anticipated scope of work, compounded by the restrictive 12-week time frame proposed for completion, demanded a major collaborative. The initial scope of work suggested at least five categories: lands and buildings; crops and livestock; intangibles; machinery and equipment (M&E) factory assets; and M&E support assets. Our collaborative started with two appraisers who had previously worked together for this client, both of whose companies had been on the original appraisal short-list.

Franklin Reid—principal appraiser of Delano Reid & Associates Limited (DRAL), the country's leading machinery and equipment appraisal firm—would coordinate the assignment and lead the MTS team. At that time in the English-speaking Caribbean, Reid was the first and only accredited senior appraiser of the American Society of Appraisers, one of the world's most prestigious appraisal organizations.

Mark Harris, CCRA, founder and principal appraiser of Property Consultants Limited (PCL), would lead the real property team. Harris, the leading commercial real estate appraiser in Jamaica, had acquired the greatest wealth of nation-wide actual-sales information for the widest variety of properties.
We understood from the beginning that the assignment demanded highly qualified, deeply experienced appraisers, preferably with a connection to Jamaica. These select

"The close collaboration between the different valuation disciplines regarding approach to value paralleled the overall collaborative nature of this assignment process."

appraisers would need to work in close collaboration and be available during the specified time. And we needed their commitment to develop the proposal.

Professional Connections

Reid's professional connections provided the other two team leaders. Jamaican-born Harvel Gray, MAI, ASA, CCE, was at that time a Special Magistrate for the Miami-Dade and Broward County Property Tax Appeal Boards but had served the Jamaican government for many years as an engineer, culminating as Director of Engineering with the Ministry of Agriculture from 1982 to 1987. While at the Ministry he had appraised two sugar factories, and as a private engineering consultant, he worked extensively with some of the sugar factories in Jamaica. Reid and Gray had worked together as engineers in Jamaica. Gray was uniquely qualified to appraise intangibles as well as factory M&E.

Although Len Hutchinson, a Bachelor of Science in Agronomy and Agricultural Economics with whom Reid had worked on a previous agricultural assignment, was not a trained appraiser, his vast experience in the sugar cane industry had equipped him to direct the appraisals of crop and livestock. Hutchinson had conducted extensive evaluations of local sugar industries in both Florida and the Dominican Republic and had worked with a resident World Bank consultant to conduct a management audit of Jamaica's sugar industry.

Each of these principal professionals would lead one or more of the project teams: lands and buildings; crops and livestock; intangibles; M&E factory assets; and M&E support assets. Team leaders were authorized to recruit specialists as necessary.

Project Team Details

While some details of asset assignment within five project teams would adjust during later phases of the assignment as the scope of work was clarified and adjusted during meetings with the client, the initial conceptualization remained intact.

Team 1

Harris would lead the appraisal of the category of farmlands and buildings, including sugar cane and non-sugar cane lands, housing for staff members and other workers, and other support housing including schools and clinics. For increased efficiency, the buildings and lands associated with the factories would ultimately be included in this category.

David Thwaites, who held a variety of agricultural degrees with an emphasis on Rural Valuations, joined the real property team as a Professional Member of the Royal Institution of Chartered Surveyors (RICS) and an Associate Member of the Appraisal Institute. Norris Marston joined later.

Team 2

Hutchinson would lead the appraisal of biological assets, including sugar cane crops, other crops and farm products, livestock, pastures, and other improvement enterprises. He would be supported by agricultural professionals, including Marvel Gray, a physical planner with over 30 years working experience.

Team 3

H. Gray would lead the appraisal of intangible assets. He would receive direct interaction from Len Hutchinson with respect to the guaranteed sugar market and the pending changes with respect to future sugar prices. The existence and possibility of other forms of intangible assets would also be examined.

Teams 4 and 5: M&E

The wide, varied, and critical area of M&E valuations would fall to H. Gray and Reid, who would engage in direct interaction to coordinate and consult.

Team 4: Manufacturing Facilities

Gray would lead the appraisal of the complete manufacturing facilities for sugar processing, including the 4 rum distillation facilities. Although manufacturing facilities were initially considered to include the real property within the perimeter of the factory site and the buildings within this perimeter, these assets were later assigned to Team 1. Team 4 assets included all processing equipment, such as core equipment, scales, cranes, sugar cane milling equipment, vacuum pans and condensers, evaporators, power generators, boilers, and heat transfer systems. Inventory assets were added when the client later specified these be included in the appraisal. For greater efficiency this category was later adjusted to include all M&E contained within the factory compound workshops: machine, garage, electrical, laboratory workshops, etc.

Ashley Beckford, a stalwart in sugar processing plant engineering and consulting since 1965, was recruited immediately. Beckford and Gray had previously collaborated in several sugar factory projects. Ramon Stewart and Lenny Marshall would be added to the team after the proposal submission.

Team 5: Support M&E

Reid would lead the appraisal of support machinery and equipment. No asset listing whatsoever had been provided for this critical category of assets, which included all the items of rolling stock, all water production and distribution systems, irrigation systems, electrical transmission and distribution systems, and administrative systems—including office and household furniture and equipment—as well as all items of machinery and equipment outside of the factory compound, fixed or portable, factory related or otherwise.

This team would also provide a detailed inventory and valuation of all office and household furniture and equipment and computer hardware per the client's additional request.

In addition to direct interaction with H. Gray regarding manufacturing facilities, Reid would also work with Harris regarding assets within the farmlands and buildings category. Other professionals added to this team after the proposal submission would be Errol Kelly, Cary Reid, Juwayne Whittaker, and staff at Auto Assessors & Associates Ltd.

Project Organization and Administration

Given the magnitude of the project and the limited time for completion, competent organization and administration would play a significant role in the project's success. A project administration secretariat would therefore be established in DRAL's office. We further understood that oversight would be critical to ensure quality control and uniformity in the final presentation. To that end, H. Gray's participation was expanded to include overall quality control, ensuring that the final product met all the requirements of international standards and practices of the several international institutions in which he and the other professionals hold membership.

Final Report Organization

Ongoing dialogue with the client confirming the vastness of the deliverables redirected our original intention of providing a single comprehensive valuation report. Instead, we focused on separate reports from each team for each of the five sugar estates and the SCJ head office. Team leaders would sign the certification statement for reports produced by their teams.

In addition, each team leader would submit an Executive Summary tying together the reports for their five sugar estates. A final and comprehensive Executive Summary—including a cover letter and a certification statement which would be signed by all the team leaders—would tie together the reports of all the teams.

To ensure report conformity and ease of consolidating information, we developed a reporting guide for each of the teams, tailored to the specific asset classes as appropriate. Click here to see a sample reporting guide. Separate certification statements, per USPAP, would be signed by each team leader; later in the process, we would determine whether support appraisers would sign certifications or instead be named in the certification statement as having made a significant contribution.

Proposal Scope of Work

Our straightforward approach to creating the proposal was one with which any appraiser will be familiar. Any proposal hinges upon the scope of work required to effectively complete the proposed assignment: the amount and type of information to be researched and the various analyses to be applied, including such considerations as:

- the degree to which the various assets would be inspected and/or identified
- the anticipated extent of research into physical or economic factors that could affect the assets
- the anticipated extent of data research that would be necessary
- the type and extent of analyses that would be applied to arrive at opinions and/or conclusions

To develop a proposed scope of work, we thoroughly considered the client's needs from their request for proposal document, conducted a reconnaissance tour of one of the sugar estates, and engaged in extensive dialogue with select factory and field personnel.

Our carefully composed scope of work, our detailed discussions of the qualifications of our team members, and our explanation of our understanding of the history and national significance of the industry combined to create the winning proposal.

With a structure for the collaboration of different valuation disciplines in place, we were confident of successfully completing the largest public sector valuation exercise ever conducted in Jamaica.

A Multitude of Meetings

On September 19, 2007, the National Contracts Commission (NCC) confirmed approval of the proposal of DRAL. Over the next three months, the proposal moved through approval by the Cabinet and by the client, the Development Bank of Jamaica Limited (DBJL), with final approval formally granted on November 14, 2007. Our team had already mobilized, cognizant that as the privatization process had begun, there would be very little lead time to commencement once final approval was granted. True to form, the client proposed that the commencement date be December 03, 2007: The valuation exercise was to be completed in 90 days, a period inclusive of 26 Saturdays and Sundays combined, 4 public holidays, and a day for national elections. This inopportune scheduling created additional challenges for the task at hand, but we were prepared.

Two and a half hectic weeks of meetings between the final approval and the commencement date moved the project along. While meetings with external parties provided clarity and direction, our intra-team meetings secured the imperative of fluid and efficient assignment arrangements and communication. Refinement of asset groups, research direction, and categories of appraisal practice, as mentioned earlier in the Project Team Details section, ensured that assets were not omitted or duplicated. This streamlining supported the ultimate needs of the client; speed and accuracy were essential given that the more elaborate process of the privatization of the sugar cane industry had already begun.

Asset Data Collection

Critical meetings with SCJ and representatives from the different sugar estates established on-site contacts and finalized logistics of asset identification—who would provide all the critical information such as listings of assets from all the sugar estates showing those assets to be privatized and those not being privatized? Our team was encouraged by the obvious commitment of all involved parties to support the successful and timely completion of the assignment.

Scope of Work

Meetings with the client and interested parties such as the Ministry of Agriculture clarified other important considerations. The effective valuation date would be January 02, 2008; the report submission deadline would be March 03, 2008; the appraisal would assume continued use of the facilities for their current purpose. Extensive discussion, clarification, and negotiation developed a detailed and comprehensive Scope of Work, summarized here:

1. identification of the physical assets to be privatized at each of the government-owned sugar estates
2. development of a list of all the physical assets to be privatized
3. determination of the fair market value of the physical assets in the international market

Fixed versus Physical Assets

While we had interpreted the term assets in the original proposed scope of work as fixed assets, the client clarified the term as physical assets. Scope of work expanded to include inventory assets, spares, and stock. While the client was not interested in intangible assets, we felt that at least three areas of intangible value could increase the value of the entity—European Union Preferential Sugar Market Access, Carbon Credit Market, and United States Ethanol Market Proposed Access under the Caribbean Basin Initiative. We therefore determined to include the possibility of valuing these intangible assets, cognizant that a significant amount of support information would be required from SCJ, the managers of the operations.

Inspection and Inventory

In our race to satisfy the restrictive delivery deadline, each phase of the project had to be tightly scheduled and punctually completed. We allocated six weeks for inventory/asset verification to be (substantially) completed by all teams and for all five estates, painfully aware that this period included Jamaica's most sacred period, encompassing the Christmas and Boxing Day holidays, when very little official business of any kind gets done.

With the consent of the client and the SCJ, we scheduled all estate visitation/inspections December 3–22 and December 31–January 12. We would productively use the holiday week for inter/intra team meetings, evaluation of progress, review, and feedback.

Pre-inspection Preparation

Prior to visitation, all five teams prepared their listings of preliminary data requirements. While some of the preliminary requirements of the teams were similar, many were specific to a particular team. Required information would be sourced from the client and other interested/related parties as well as third-party organizations or businesses. We developed customized forms to collect the required data and distributed them to our sources. Click here to see a sample customized data form.

As appropriate, team members also addressed on-site inspection logistics provided by the estates such as the provision/knowledge of all areas access, safety clothing requirements, normal and acceptable working hours for estate inspections, and availability of suitable accommodation at some estates.

As meticulous as we were in considering the anticipated requirements, we recognized that additions could occur as the inventory process evolved.

Preliminary Data Requirements for Support M&E

As an example, this list was compiled by Team 5, Support M&E:

- inventory and layout of water production, transmission, distribution, and irrigation systems
- inventory and layout of company owned electrical transmission and distribution systems
- inventory, location, and yield info of wells (well log) and pumping systems
- confirmation of administrative office furniture and equipment to be privatized
- listing of furniture and equipment to be privatized inside company houses
- inventory and configuration of personal computers to be privatized
- listing of all items of rolling stock
- listing of irrigation systems for all estates
- machinery and equipment replacement and maintenance records

Inventory and Inspection

Inspections and inventories at the five sugar estates would include four categories of physical assets, allocated amongst the project teams:

- lands and buildings
- factory machinery and equipment and inventory assets
- support machinery and equipment
- crops and livestock

We efficiently met our self-scheduled deadline of January 11 for substantial completion of data acquisition, and by February 8 this phase was completed, including follow-up and re-check visits. By then the overlapping data classification and analysis phase had commenced.

Classification and Analysis

Engaged and respectful discussions in ongoing inter-team meetings supported the challenging and critical phase of classification and analysis. This process, used earlier to reach consensus regarding the likely best approaches to value most appropriate for the different categories of physical assets, continued as we collaborated in the actual classification and analysis phase. Collaborative consensus ensured uniformity and consistency in presentation, and importantly, that there would be no omissions or duplications of assets.

Consideration of Approaches to Value

During inter-team meetings involving appraisers of different valuation disciplines, we were struck by the similarity each of the teams and team members brought to the discussion of approaches to value. The three commonly used approaches—sales comparison, cost, and income—were all considered and discussed at length. Each team examined the appropriateness of their use for the different categories of assets and respective asset types. The close collaboration between the different valuation disciplines regarding approach to value paralleled the overall collaborative nature of this assignment process.

Lands and Buildings

While we expected the real property inspection and inventory to be relatively straightforward, we encountered a number of surprising discoveries for both lands and buildings during the data acquisition phase.

Lands

Determining the total area of land proved challenging, as was verifying the existence and the ownership of some lands under appraisement. Title deeds alone proved inadequate.

Ultimately, for the purposes of the valuation, we relied on information provided by the SCJ which was verified against information obtained from the National Land Agency and the DBJL.

Lands were valued with the sales comparison approach and classified as:

- cane lands: in production, fallow, or abandoned
- coconut groves
- other: leased, woodlands/watersheds/hills, housing compounds, factory lands, and so on

Buildings

Building inventories carried by the estates did not corroborate with the findings on ground, as many residential buildings that were either informally occupied or unoccupied were oftentimes omitted from the listings provided.

Buildings were valued with the cost approach and classified as:

- factory compound
- residential
- other

Factory Assets

In the more than half-century since the sugar factories were built, modern technology has updated the operating efficiency of sugar factories around the world, resulting in improved operational cost per unit of production. One of the significant factors of lower production cost has been reduced labour cost due to automation and processing technology. Because the sugar factories under appraisement did not benefit significantly from these industry advancements, the factories were considered to have suffered from functional obsolescence. We inspected the relevant items of factory assets to identify their property characteristics, considered the relevant factors that impacted functional obsolescence, and came to an opinion of the quantum of functional obsolescence to be applied.

Factory M&E and inventory assets were valued with the cost approach and classified as:

- cane handling
- cane preparation system
- milling
- boilers/steam generation
- juice weighing
- liming, heating, etc.
- evaporation, crystallization, curing, and handling
- vacuum pans and condensers
- power generation, electrical
- control and instrumentation
- sugar and molasses handling and storage
- pumps and factory water services
- factory maintenance service shop equipment
- laboratory equipment
- rum distilling
- inventory assets

Support M&E

For several reasons, inventory and inspection of this category of assets proved most challenging.

Many items were rolling stock and other portable items, scattered across the vast acreage of the sugar cane farms and other lands.

Fixed assets in the categories of water production and distribution systems, power transmission and distribution systems, and the irrigation systems, presented their own challenges: many systems, such as the wells and the over tens of thousands of feet of pipeline as well as cables supplying the centre pivot irrigation systems were underground and not visible.

In addition, many of the support M&E assets had exceeded their normal useful lives, requiring a great reliance on information from assigned company personnel with respect to historical performance and current condition status for such assets.

For the valuation of the support M&E assets, both the cost approach and the sales comparison approach were employed.

Support M&E were valued using cost or sales comparison approach, as appropriate for specified assets. Items were classified into seven broad areas with several sub-areas:

- trucks and tractors: motor cars, pick-ups and heavy trucks, farm tractors, harvesters and cane loaders, crawlers, front end/backhoe loaders, and so on
- trailers and carts: hi-tipping trailers, side

dump trailers, cane trailers, farm and other trailers
- farm implements: farm implements, field weigh stations
- water production and distribution systems: deep wells, deep well pumpsets, relift pumpsets, pipeline
- irrigation systems: travelling sprinkler systems, centre pivot systems, drip systems
- power transmission and distribution systems: primary distribution lines, secondary lines, transformers, security lighting
- administrative support systems: office furniture and equipment, personal computer hardware, household furniture and equipment

Biological Assets

Sugarcane was the predominant asset in this category. While cattle and a few other crops added minimal value overall, the primary focus of the biological asset category was on sugarcane, a perennial crop with a one-year harvest cycle. Sugar estates in Jamaica grow several varieties of cane, generally developed by the Sugar Industry Research Institute (SIRI) and bred for their suitability to Jamaican conditions.

The first planting of sugarcane, usually from seedlings called cane seed, is referred to as the plant cane. Following on its harvesting after its 1-year reaping cycle, subsequent crops are referred to as ratoon: 1st ratoon, 2nd ratoon, and so on. Harvesting of sugarcane involves carefully, manually or mechanically, completely cutting all the above-ground portion of the plant (standing cane) and leaving the at- and below-ground portion (cane root) to regrow a new crop for the next year. Among other things, the ratooning process has the positive effect of reducing cultivation costs through eliminating the high costs associated with the meticulous process of replanting.

In Jamaica, the production from an initial cane planting has oftentimes been extended to over 15 years through ratooning.

Two Value Considerations

This perennial crop, therefore, included two value considerations: the value of the standing cane and the value of the cane root. For both considerations, there was a high reliance on information and documentation from the different estates. Thanks to very good and consistent information from the parent company, SCJ, we were satisfied that the information made available was credible.

For this appraisal, we computed 6 different cycles: plant cane, 1st ratoon, 2nd ratoon, 3rd ratoon, 4th ratoon, and 5th+ ratoon. Factors having a major influence on sugar yield included age of crop, cycle of the crop, soil type, variety, type of irrigation, method of harvesting, prevailing weather, topography of land and prevailing farming practices. Crop production practices varied on the different estates and even on the different fields, with the location of the estate being a significant factor.

Significant assumptions employed in the computations included that the crop is a perennial crop with a one-year cycle; crop is reaped exactly one year after planting; crop experiences linear growth; the economic life of the crop is 7 years; there is a market for the entire crop at a known price; the entire crop will be reaped; and that a realistic return on investment is assumed.

Cost Approach for Standing Cane

The standing cane valuation method employed the cost approach by taking into account the status of the crop in the field against its readiness for reaping and a projected price at reaping less the associated harvesting costs.

Income Approach for Cane Root

The cane root valuation method employed the income approach by taking into account the value of the plant cane and ratoons left in the field after reaping which would be available for subsequent crops. This method also incorporated production costs, such as costs related to land preparation and planting, cultivation, harvesting, and general overhead.

Intangible Assets

Although assigning value to the intangible assets of the sugarcane industry was not included in the contractual deliverables, we had determined to do our best to produce and submit value indications regarding them. As expected, the requisite information provided was inadequate, insufficient, and incomplete and so our value indications were stated to be hypothetical.

Conclusions

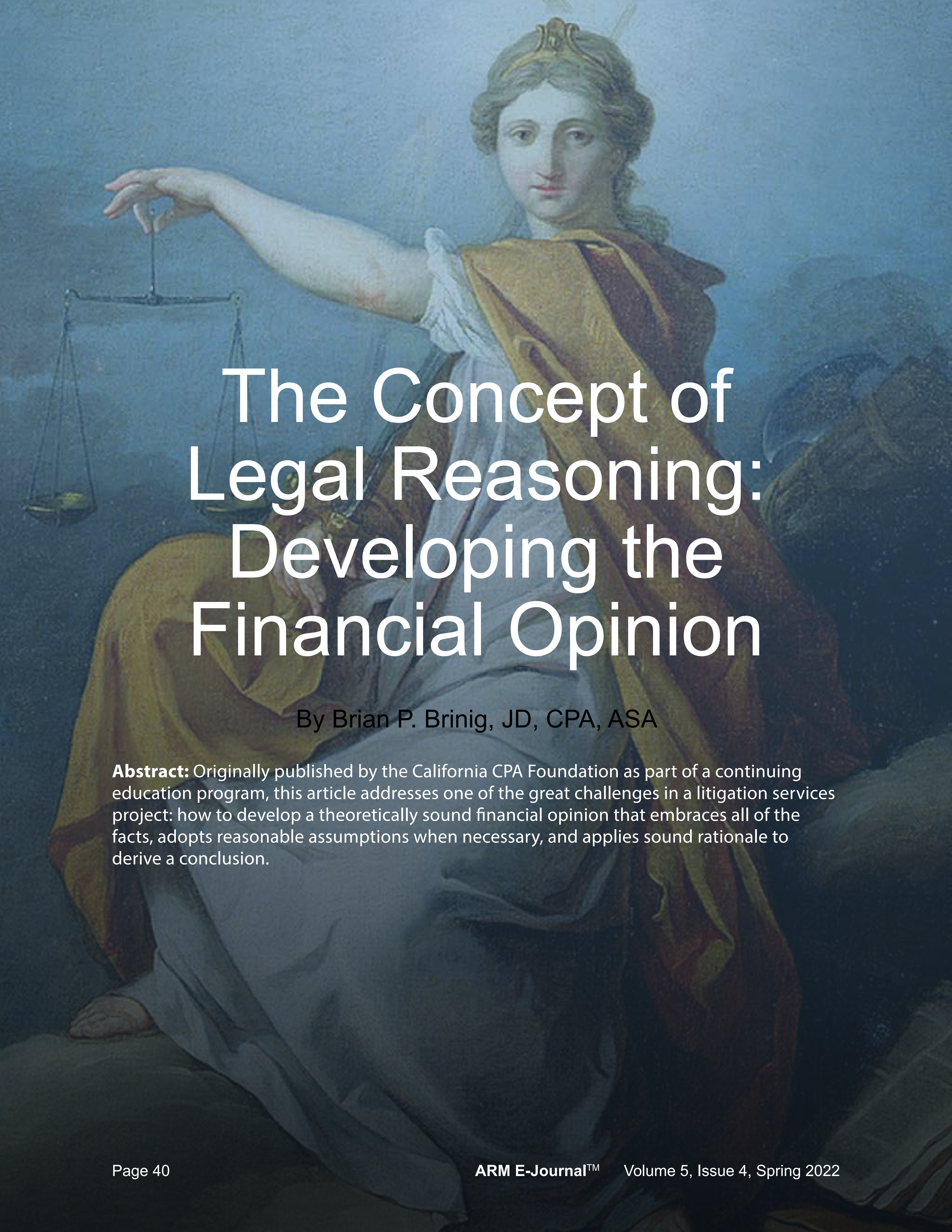
During the classification and analysis phase, there was extensive liaison between all the team leaders to ensure, among other things, uniformity and consistency in presentation and that there were no omissions or duplications. The preliminary collaborations regarding report format and organization, our discussions on approach to value, and the centrality of oversight for quality control and uniformity, facilitated the production of a compiled comprehensive valuation report, submitted and verbally presented on February 29, 2008, ahead of the March 1 deadline. The 5 team reports for the five sugar estates and the SCJ head office comprised approximately 1,700 pages, in addition to hundreds of pages of appendices. The Executive Summary integrating the vast compilation of material comprised some 50 pages.

The government-owned sugar estates were subsequently divested to the public sector by mid-2008.

As leader of this multi-faceted appraisal team for a complex assignment including the various assets classes—personal property assets, real property assets, biological assets, and intangible assets—I continue to be grateful to my teammates for the experience of working together in a seamless collaboration of valuation disciplines.

About the Author

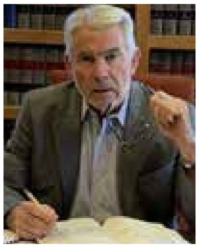
Franklin D. Reid, ASA, is the founder and principal appraiser of Delano Reid & Associates Limited, a firm of appraisers and management consultants, with offices in Kingston, Jamaica. He has been conducting machinery and equipment appraisals for public and private sectors for over 35 years. He is a licensed Professional Engineer (PE) and an Accredited Senior Appraiser (ASA) with the American Society of Appraisers, with membership of over 30 years. He has conducted appraisal assignments for clients in many countries including the USA, South Africa, China, and the Caribbean.



The Concept of Legal Reasoning: Developing the Financial Opinion

By Brian P. Brinig, JD, CPA, ASA

Abstract: Originally published by the California CPA Foundation as part of a continuing education program, this article addresses one of the great challenges in a litigation services project: how to develop a theoretically sound financial opinion that embraces all of the facts, adopts reasonable assumptions when necessary, and applies sound rationale to derive a conclusion.



Introduction

One of the great challenges in a litigation services project is to develop a theoretically sound financial opinion that embraces all of the facts, adopts reasonable assumptions when necessary, and applies sound rationale to derive a conclusion. In order to accomplish this lofty goal, a practitioner must aggressively develop and repeatedly challenge the underlying facts and theoretical concepts of the case during the analysis phase.

Advancing a financial opinion in litigation requires a blending of financial and legal theory. Neither one is sufficient to carry the day; competent practice requires knowledge of each discipline. The approach that has worked for me for over 25 years adapts the analytic metric of lawyers, the IRAC formula, and distantly applies it to financial and valuation analysis through a technique that I have termed the "FARC" methodology. The analytic approach of "FARC" assists practitioners in developing reasoned arguments and supportable conclusions that withstand the scrutiny of litigation. Also, the FARC methodology is a wonderful staff training tool because it gives junior financial analysts a template that applies to almost any situation. Like its cousin, IRAC, the FARC methodology is not the answer to all of the complexities of a litigation services practice. It is just one more tool in the arsenal of the qualified forensic accountant.

The Concept of Legal Reasoning

The concept of legal reasoning[1] is one of rule-based reasoning, designed to develop and apply substantive legal rules. The substantive rules of law state the conditions under which particular legal conclusions result. Formal logic represents such rules as "conditional propositions." A "proposition" is the descriptive content of an assertion or statement. It is capable of being either true or false and is usually expressed in ordinary language as a sentence or a clause. A "conditional" proposition has the logical form "if *p*, then *q*," where *p* and *q* stand for two constituent propositions. A legal rule states that if proposition *p* (the condition) is true, then this fact warrants that proposition *q* (the conclusion) is also true.

It is rare to be involved in the application of a rule as simple as "Failure to stop is a violation of the law." In this conditional proposition, there is one condition (failure to stop) and one conclusion (violation of law). In reality, most rule-based reasoning involves a complicated law that has a conjunction of conditions connected by "AND" and the possibility that there are defeating conditions ("UNLESS") that will negate the conclusion.

[1] Adapted from Walker, Vern R., "Discovering the Logic of Legal Reasoning," 35 Hofstra L. Rev. 1687 - 1707, Summer, 2007."

Furthermore, the underlying facts never have "values" as simple as TRUE or FALSE; they are always UNDECIDED at the outset of the matter. So, the ultimate conclusion rests on the evolving discovery of the existence of the facts, the conjunction of the many conditions of the law, and the possible existence of defeating conditions that will negate the logic of the rule.

To wade through the minefield of legal reasoning, lawyers and law students have developed the "IRAC" Formula: Issue, Rule, Analysis (or Application), Conclusion. The IRAC structure is the basic building block of legal analysis. The beauty of the analytic model is that it allows the complexities of the law to be reduced to a simple equation containing four parts:

- The **Issue**: What legal question possibly exists in this situation? (The facts of the case suggest an issue.)
- The **Rule**: What is the governing law for the issue? (The issue determines what rule is applied.)
- The **Analysis (or Application)**: Do the existing facts apply to the rule?
- The **Conclusion**: Develop a conclusion (or argument) to the question based on the application of the facts to the rule.

To apply the IRAC formula, one first identifies an issue of law based on the existing facts. When a legal issue is identified, the related rule is stated based on an existing statute or case precedent. Then, the facts are analyzed in relation to the rule to form the conclusion. If a rule requires that a certain circumstance be present in order for the rule to apply, then the absence of that circumstance helps reach the conclusion that the rule does not apply.

Proponents of the IRAC formula suggest that it is almost always a valid way – although not necessarily the only way – to organize legal analysis. Opponents of the formula say that its simplistic nature masks the series of complex interrelated steps that lawyers need to use to analyze and write about legal problems in a sophisticated manner. Regardless of the criticism, the IRAC rule is an effective analytic tool for forcing complex legal facts into a framework of logical analysis.

Developing the Financial or Valuation Opinion

A financial or valuation analysis is a blending of underlying facts, reasonable assumptions , financial theory and legal theory. The facts and assumptions of a particular case are woven through a logical financial and legal rationale in order to derive a conclusion. The proper combination of these four components (facts, assumptions, financial theory and legal theory) will yield a supportable financial analysis, one that will be defensible in a court of law.

Facts are historical or present truths. In order to connect facts to any conceptual theory (either legal or financial), it is necessary to use assumptions. Assumptions are suppositions, or the supposing of a hypothetical fact to be true. Assumptions are necessary to perform a lost earnings capacity analysis because everything that is presumed to occur after the date of the incident in question is an assumption. Recognizing that assumptions are required in the analysis, it is critically important that the assumptions used by the forensic accountant are reasonable in light of the historical facts of the case and a realistic expectation of what would have happened to the plaintiff in the "but-for" world. As a general proposition, in any economic loss or business valuation

analysis, the more uncertain that the data supporting an assumption is, the more conservative the assumption should be.

The following step-by-step process constitutes a conceptual framework for legal/financial analysis that helps to compress the vagaries of a complex factual situation into a practical financial analysis. It is helpful to analyze every step in a damages or valuation calculation by these four steps.

Facts

Consider the known facts relating to a particular step in the analysis. In the context of financial analysis, facts are known financial occurrences. Examples of facts are a plaintiff's wages, the number of hours per week he/she worked, the types of benefits he received and the date of the incident. In a valuation analysis, the facts are historical earnings, financial ratio analysis, industry trends, and comparable business studies.

Assumptions

Develop reasonable assumptions to fill in gaps or weaknesses in the facts and to connect the facts to the applicable financial and legal theories. For example, if the plaintiff's historical wage has fluctuated and there is no clear trend, consider using some reasonable average of historical earnings as the assumption for the plaintiff's earnings base in the analysis. In business valuation analysis, use assumptions to adjust historical financial statements, to connect the subject company to outside industry or comparable business studies, and to make projections about the future of the business.

Rationale

The rationale is a fundamental reason; a written statement of the underlying reasoning that links the facts and assumptions to the conclusion. Be certain there is sound logic in interpreting the facts, adopting reasonable assumptions, and that there is a reasonable connection between the facts, assumptions and conclusions that are being reached.

Conclusion

Relying on historical facts, reasonable assumptions, and sound rationale, draw a conclusion that is supportable and defensible in the face of the arguments against it.

Applying the Analytic Framework

Application of the FARC framework to every part of a financial or valuation analysis is very effective, but it quickly shows that there is no absolute way to perform these types of analyses. None of the types of analyses that forensic accountants do is "black and white." It is impossible to provide a formula to the analyst that will work to decide every factual or analytic situation. Even though there are general financial models that can be applied, the unique circumstances of each case will require the analyst to apply a flexible framework of analysis that will lead to the best conclusion.

Financial experts (and all experts, for that matter) should understand the difference between an "affirmative" and a "negative" argument. A good forensic accounting analysis is an affirmative argument – it is a positive assertion that a particular financial conclusion (typically an amount of money) is the correct answer, or the most reasonable answer, to a question. "The business is worth $500,000" or "Ms. Smith's loss of earnings is $1,200,000."

"The facts and assumptions of a particular case are woven through a logical financial and legal rationale in order to derive a conclusion."

The analysis should be supported by facts, reasonable assumptions and sound logic and arrive at a reasonable conclusion. The affirmative argument, or position, must be carefully calculated considering both the strengths and weaknesses of the underlying facts and assumptions, with the goal of reaching a reasonable conclusion. The goal of an "affirmative" calculation should be to make the analysis as supportable as is reasonably possible.

A negative argument does not contain any positive assertions, but instead is a criticism leveled at an affirmative assertion or opinion. It suggests a number of complaints regarding the affirmative assertion or opinion. Some negative arguments are meritorious, but it should be understood that it is always easier to argue negatively than to argue affirmatively. Negative arguments can be leveled at almost any part of the forensic economic analysis: the facts, the assumptions, the causal connection between the defendant's conduct and the damages, or the conclusions of the analysis. Examples of negative arguments are: "The facts that were relied on are wrong;" "There is an error in the calculation;" "The data is insufficient on which to base the conclusion reached;" and, "The investigation did not eliminate all possible reasons that could have caused the problem." A good forensic analysis will anticipate the negative arguments that will be suggested later and try to affirmatively defend against them in the main analysis. There is no question that this suggestion is easier said than done.

Conclusion

Every step of a damages or valuation analysis can be divided into the four components of facts, assumptions, rationale, and conclusion. Application of the FARC approach will result in supportable decisions throughout the entire analysis, decisions that can be explained and defended in the hostile environment of litigation. Although every step of the forensic accountant's work will be challenged, if the analysis has been developed with a thorough understanding of the underlying facts, reasonable assumptions and sound rationale, the conclusion will be intellectually supportable and will withstand any reasonable challenge.

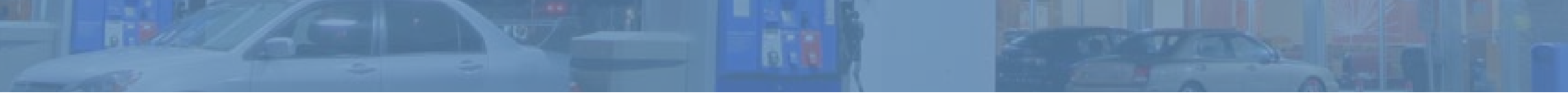
About the Author

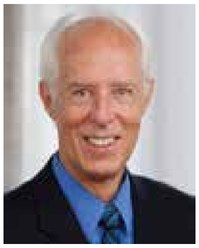
Brian P. Brinig, JD, CPA, ASA, is a CPA and attorney (non-practicing) who limits his practice to economic damages analysis, forensic accounting, and business valuation analysis. He is an Adjunct Professor at the University of San Diego School of Law and the managing principal of Brinig & Company Inc., San Diego, CA.

Inside vs Outside — Combining BV and RP Worldviews in Partnership Valuations

By Dennis A. Webb, ASA, MAI, FRICS

Abstract: Multidisciplinary valuations can be hazardous undertakings. When work from different professions is combined in a multidisciplinary assignment, as when real estate and business valuation experts work together in valuing partnership interests, even highly qualified and experienced valuers can produce appraisals that are confused, confusing, and just plain wrong. In partnership interest valuations, errors resulting from such confusion have, over many decades, degraded the public's trust. This article is intended to bridge knowledge gaps between the understanding of worldviews of the business valuation and real estate appraisal professions to help appraisers produce partnership interest valuations that are as trusted by the public as conventional business valuations and real estate appraisals.





Inside and Out

When valuing an entity, it is fairly common for the business valuer to simply enter the real estate appraiser's conclusion on the partnership's normalized balance sheet and then forge ahead with the valuation. But there is a whole shopping list of valuation elements that can look entirely different depending on whether they are viewed by the business valuer or the real estate appraiser. If these differences are not understood and accounted for, then the overall valuation can be anywhere between mildly wrong and a misleading catastrophe. Fortunately, these important elements are easy to see once you know where to look.

The fundamental difference in viewpoints is that real property markets exist "outside" the partnership, while its business operations are "inside" the partnership. The two realities might be very similar but can also be wildly different. The real estate appraiser lives in the outside, market-based world for the *real estate assets*. The business appraiser lives in the inside, personal world of p*artnership operations*, as well as the market world for the *partnership interest* being valued.

While the two realities might be similar, they can also be wildly different. Any overlap between asset analysis and partnership analysis is mostly an abyss, into which may fall key facts and important circumstances.

Net Asset Value

Most partnership interest valuations rely on net asset value (NAV) methods, which look at conditions at a single point in time and then compare that with market data for lack of control (say, public limited partnership transactions) and lack of marketability (various liquidity impairment methods). But single point models can embed assumptions about growth, future changed use, leverage, and cash flow that may have little to do with the market data. Such embedded assumptions are dangerous because they are largely unseen and cannot be easily accounted for. For example, the idea that the real estate appraisal has a single thing that is of use to the partnership's business valuer—its concluded value—is dangerously myopic.

Let's look first at ways in which an outside market view of the real estate value itself can be a poor representation of a partnership's more realistic inside value, making the NAV method either misleading or impossible. We'll also identify a number of critical variables that can be easily unhidden by using the income approach. A good multidisciplinary valuation will first recognize these variables, adjust for outside/inside differences, make them explicit in a present value model, and conclude a credible value in a transparent process. Note that the income approach, allowing as it does for explicit analysis of the critical variables, is far more likely to deliver a persuasive story of value and a credible conclusion than other methods that simply embed it all.

When Net Asset Value Stops Working

The outside market is about the entire property, presuming operation under typical market conditions by a typical market participant with typical (or no) financing. But the outside market's version of "typical" operations is almost certainly different from the actual partnership's inside operations, at least in some respects and sometimes in very important ones. It is essential to first recognize that the value being determined—in our example, a noncontrolling interest in a partnership—is required to apply *only to the interest being valued* and not to the rest of the partnership's assets. Yes, the net asset value (NAV) method does require that *all* assets and liabilities be marked to market, but this method can be misleading because a market value balance sheet can have little or no meaning for the holder of a noncontrolling interest. The method can only be useful if the property is being operated in the same manner as a typical market participant would. If it is not, then the NAV method might end up being completely useless.

Future NAV, on the other hand, is a fundamental expectation of real estate partners. They will eventually receive their pro rata share of the whole. The *ending* NAV is the important thing, and this is explicitly recognized in the income approach. Even if the partners expect to hold their real estate assets for a very long time, our valuation models must consider a future NAV where inside and outside conditions come together, typically through sale of the property. We then value the partnership as operating in the manner it is expected to for a time—regardless of whether those operations are typical for the market or not—but under market conditions at the end. This arrangement accounts for all the facts and circumstances related to the property and its operations, and best matches partner expectations. The beginning NAV may be nice for calculating discounts, but really has little to do with the value of the subject interest.

Valuing the Future

The income approach models cash flows over time and can more closely match partner expectations, even if such expectations do not match the real estate market. The basic present value analysis is illustrated by figure 11.2.

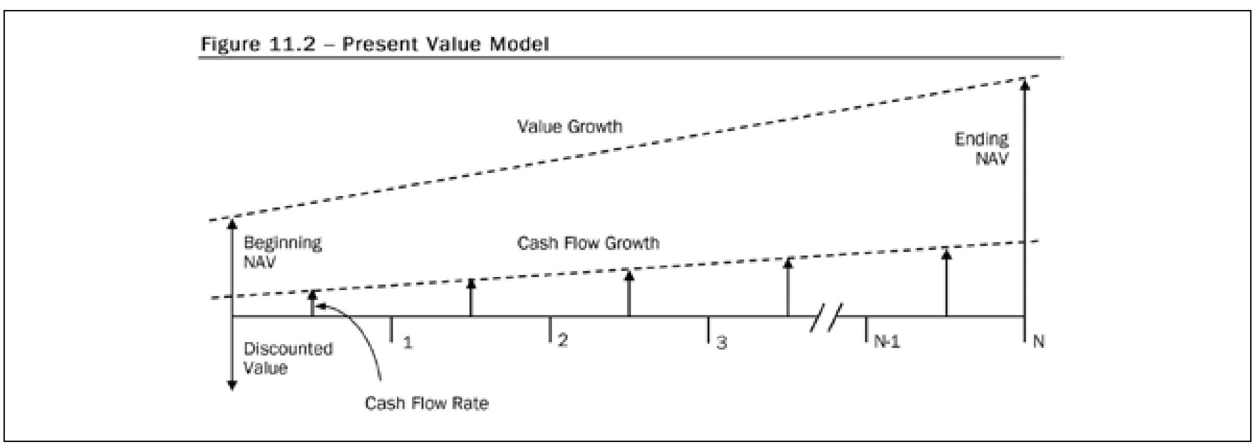


Figure 11.2: Present Value Model

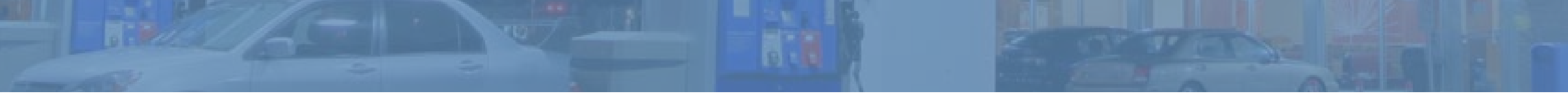


Figure 11.2 shows a constant value and cash flow growth for simplicity but is still similar to the more commonly used discounted cash flow model. Its key variables are value and value growth, cash flow rate and cash flow growth, time, and the yield rate(s) used to discount future cash flow back to the present. Growth values from the "outside" real estate appraisal need to be modified by the conditions "inside" the partnership. Some of the more important outside/inside differences are described as follows:

- Cash flow: revenues. Revenues reported in the real estate appraisal are based on current leases but adjusted to market on expiration or renewal. Inside revenues may be different based on the ability of management to increase rents, or its long-term relationships with tenants, for example.

- Cash flow: net operating income. NOI is projected in the real estate appraisal based on management by a *typical* market participant. While many line items are the same whether inside or outside (utilities or future maintenance costs, for example), others are likely to differ based on *actual* management capabilities. These include professional management fees, insurance, property taxes in some jurisdictions (California at least), and all kinds of administrative expenses.

- Cash flow: entity charges. The real estate appraiser will have selected which line items to include in the market value analysis, but there will be other line items attributable only to partnership operations. These normally include some administrative costs, salaries, entity taxes and the like. Future capital expenditures might be assumed by the real estate appraiser to be covered with an annual replacement allowance, especially if the market includes properties with similar replacement needs. But the business valuer will still need to consider any specific capital costs expected to occur during the holding period, and whether they will need to be covered by the partners or from cash flow. (Covering re-tenanting, roofing, and some other costs can be an enormous challenge for the partners and would necessitate an analysis of working capital adequacy and needed accumulations.)

- Value growth. If the current property use is the same as the appraiser's concluded highest & best use, then the real estate value growth figure may be usable. But if its use is different, then inside growth can easily be different as well, and must be adjusted for.

The effects of value growth are very often missed, which can affect the discount for lack of marketability. This second discount uses the minority-marketable value as a starting point. If value growth for the real estate was 3% annually, then a 25% discount for lack of control will increase the growth rate from 3.0% to 6.0% over a 10-year period, or from 3.0% to 9.1% over a five-year period. In either situation, the discount for lack of marketability can be hugely overstated by using the unadjusted 3.0%.

Current Value of Assets v Interests

Once we realize that the current value of the partnership's assets may have nothing to do with the current value of its noncontrolling interests, seemingly impossible valuation circumstances become just another (fairly simple) valuation problem to solve.

"...embedded assumptions are dangerous because they are largely unseen and cannot be easily accounted for."

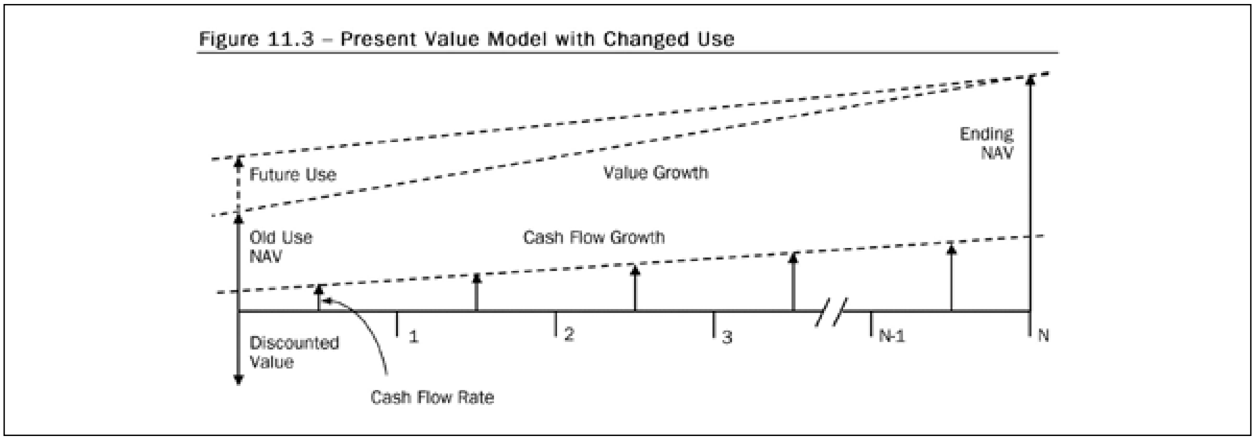


Figure 11.3: Present Value Model with Changed Use

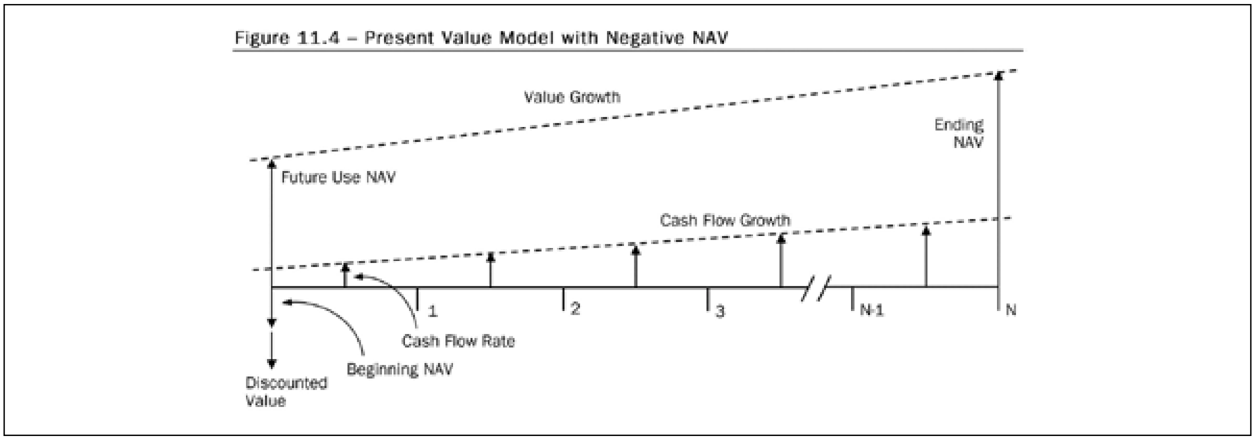


Figure 11.4: Present Value Model with Negative NAV

Highest and Best Use Mismatch

The Figure 11.3 diagram shows cash flows over time for a partnership that is operating a property whose current use does not match the real estate appraiser's highest & best use at the date of value. As an example, let's consider an older multitenant industrial park that is immediately in the path of new housing development. A typical outside market participant would scrape the site and develop it with housing. But inside the partnership, the owners are happy with the cash flow they get from the industrial units and are not interested in redevelopment (at least for now). Using the NAV method's considerably greater value could reward the subject interest-holder with a buyout value that the other partners would not realize for many years. Using the present value of NAV that is realized in the future is a far better match with the actual partnership, and results in a somewhat lower but fair buyout price.

Negative NAV

What if NAV is negative? What if, for example, the property's value has declined and is now exceeded by the partnership's liabilities? A negative beginning NAV can

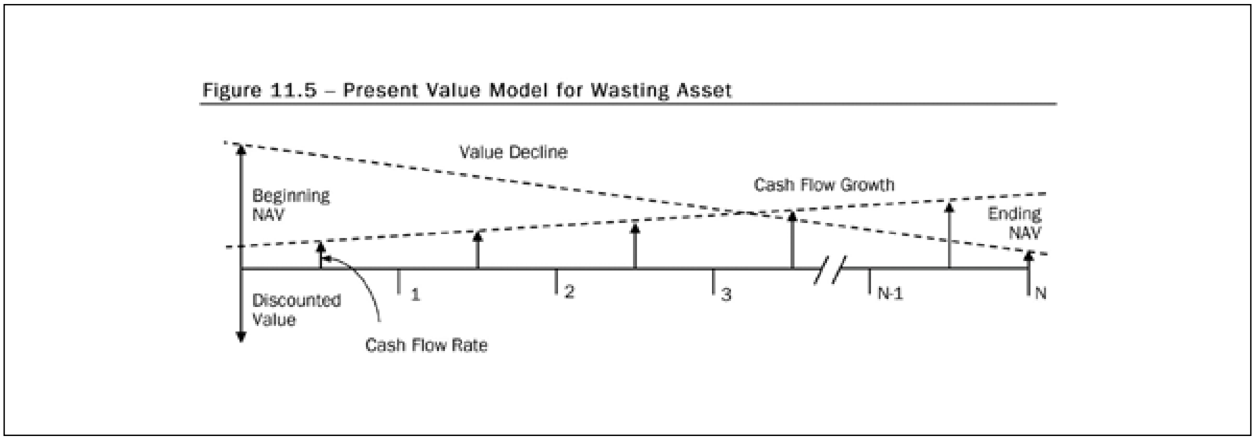


Figure 11.5: Present Value Model for Wasting Asset

still get resolved, and often does, through loan forgiveness, foreclosure or improving market conditions. The market change scenario depicted Figure 11.4 is easy to model, and closely matches one possible expectation. The NAV method cannot be used at all.

Wasting Asset

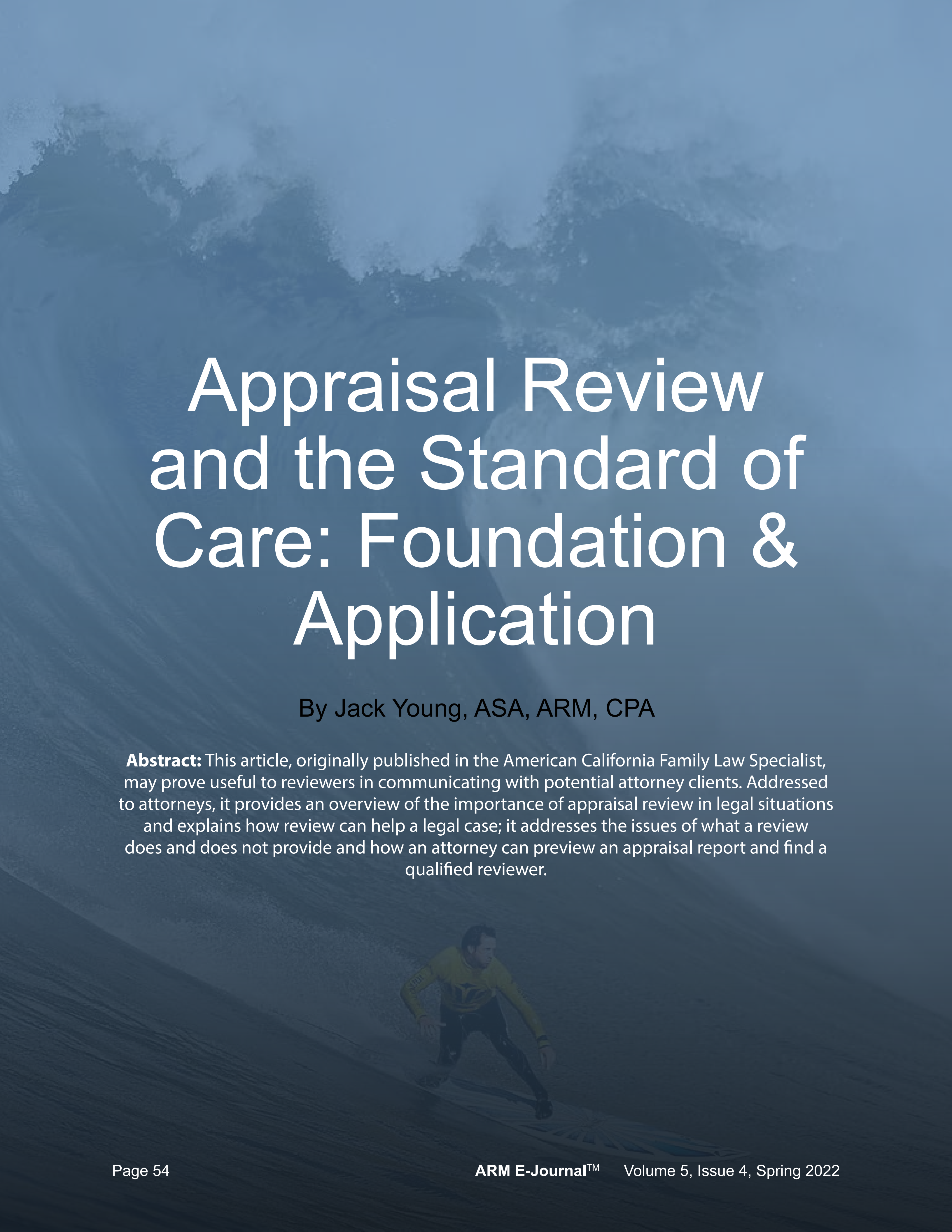
Figure 11.5 shows a wasting asset, like a leasehold interest with a fairly near-term expiration. The ground lessee operates the property and improvements during the lease term, but their use reverts to the lessor (the fee holder) at the end. At this time, the real estate leasehold interest is extinguished, bringing the real estate value on the balance sheet to zero. (There may be other assets and liabilities remaining, so there could still be a relatively small ending NAV.) The real estate appraiser will likely use this sort of model anyway, but value growth will be drastically different than it would for (say) the public limited partnerships that are used to develop a discount for lack of control, misstating the discount.

Conclusion

A useful understanding of NAV is not the only possible casualty of differences between outside and inside views. Others, including risk and growth rates, cash flows, and more should be explored and discussed by the appraisal professionals involved in a partnership valuation. Having a multidisciplinary perspective, acknowledging, and appreciating the fundamental differences between the outside and inside views, will allow real estate and business valuation appraisers to work together to create a creditable valuation report that avoids the abyss between asset analysis and partnership analysis and helps to restore public trust in such valuations.

About the Author

Dennis A. Webb, ASA, MAI, FRICS, is principal of Primus Valuations,® a specialty valuation and litigation consulting firm with offices in Los Angeles and Denver. Dennis is a business and real estate appraiser, former syndicator, and engineer. Webb's practice focuses on the business of holding and operating real estate, allocating value to special-use real estate, and business valuation. His passion is bringing understanding, clarity, collaboration, and technology to bear on valuation of hard-to-value asset interests, a niche specialty which has long proved vexing for appraisers, advisors, the courts, and property owners alike. His mission has resulted in many more than 70 articles and presentations for valuation professionals, lawyers and property owners. His most recent textbook, *Valuing Fractional Interests in Real Estate 2.0*, is at www.primusivs.com.



Appraisal Review and the Standard of Care: Foundation & Application

By Jack Young, ASA, ARM, CPA

Abstract: This article, originally published in the American California Family Law Specialist, may prove useful to reviewers in communicating with potential attorney clients. Addressed to attorneys, it provides an overview of the importance of appraisal review in legal situations and explains how review can help a legal case; it addresses the issues of what a review does and does not provide and how an attorney can preview an appraisal report and find a qualified reviewer.

Appraisal Review and the Public Trust

Credible appraisal reports must be grounded in established professional standards and provide a logical presentation of evidence that supports an unbiased and defensible opinion of value. Uniform Standards of Professional Appraisal Practice (USPAP), which sets the standard of care for the appraisal profession in the United States, defines a credible appraisal as one that meets criteria in the 5 areas of accuracy, reasonableness, relevance, adequacy and completeness. Other standards such as the AICPA Statement on Standards for Valuation Services (SSVS) for business valuation appraisals also require that these same criteria are met.

Appraisal review is, first and foremost, a standardized process that provides guidelines for assessing the overall quality of an appraisal relative to applicable standards, while concurrently addressing the degree to which that appraisal is credible, logical, and persuasive. It is a critical component of USPAP's pervasive principle: to support public trust in the appraisal profession. Much like the accounting profession, the appraisal profession is largely self-regulating, real estate being the exception. Appraisal review is an important quasi-policing method by which the appraisal profession conscientiously guides and regulates its members.

Why Review is Important

Any appraisal that disregards professional standards and fails to provide a logical presentation cannot be depended upon in a court of law or any contentious situation.

Attorneys cannot take for granted that any appraisal in a family law situation is worth the paper it's printed on, and while a trained reviewer is often the best resource, any attorney preview an appraisal report. This article provides a list of the most common appraisal report mistakes. In appraisal review courses, this list is generally discussed using examples and best practices within the overall framework of how to properly review another appraiser's work. Attorneys, however, find it handy in its own right as guidance to a superficial gauge of the credibility of an appraisal before calling for an appraisal review.

How Review Helps Your Case

Typically, parties in a case involving valuation dispute will each get an appraisal and let the court figure out the details. A better option to help focus your case on the issues that matter most is to get an appraisal review of the opposition's appraisal report rather than a separate appraisal. The "opinion of value" option is discussed later in this report. The following examples illustrate how review with an opinion of value can often be more useful than an appraisal review without an opinion:
A recent appraisal review with an opinion

of value for a family law case identified five main points where the values concluded in the review disagreed with the work under review (WUR). The appraisal review report clearly explained the methodology and analysis that supported those conclusions. This information enabled the parties to focus the argument on the key points. In the end, only two of the five issues needed in-depth discussion in court. This is a typical outcome of a well written appraisal review.

In another case, this one for an insurance loss dispute, the WUR had a number of issues as far as presentation and content. However, the opinion of value provided within the appraisal review indicated that value conclusion was spot on. This saved both sides a lot of time and fees so that they could move on to more challenging cases.

Is the Opinion of Value "Correct"?

The question of the WUR's opinion of value opens an interesting point, and one that's worth noticing. Appraisal review can be completed with or without an opinion of value. This means that while the review will certainly indicate whether or not the report itself is credible, or even that the opinion of value stated in the original report is (or is not) properly supported, a review does not generally indicate whether or not the value provided is "correct." Remember, even a broken clock is right twice a day!

If you want the reviewer's opinion about the value of the assets in the WUR, that information must be requested directly by asking for a review with an opinion of value.

In cases where the reviewer states that the opinion of value in the original report is not properly supported, and the review assignment includes providing an opinion of value, the reviewer will provide a properly supported opinion of value – either with an entirely separate appraisal report or by including the opinion of value within the appraisal review report. ***"Those items in the work under review that the reviewer concludes are credible can be extended to the reviewer's development process on the basis of an extraordinary assumption,"*** per Comment to USPAP Standard 3 (c).[1]

Regarding review with an opinion of value, a second reviewer might even be asked to review such a review. This could be appropriate in especially complex or highly contentious cases.

Start by Trusting Your Instincts

Early warnings of an appraisal's credibility deficit often appear as a vaguely defined appraisal problem: the report does not clearly and correctly describe the who, what, where, when, and why of the appraisal situation. USPAP requires that the appraisal report must be understandable to the intended user. In fact, the word "understand" appears in the recent USPAP manual over 300 times and almost always in connection with the Intended User — the who.

A reviewer friend of mine was watching surfers off Pillar Point in Northern California — home of the famous Mavericks International surf event — when a rather well-known tech mogul sat down beside him. They got to talking and when my friend said he was an appraiser the tech mogul's eyes lit up. "I've got a problem," he confessed. He'd recently received a business valuation report from a large international CPA firm and he said he couldn't understand a word of it! What did his new appraiser acquaintance think he should do? Without

[1] USPAP 2020-2021, p.28

hesitating, my friend — with the full force of USPAP behind him — suggested the mogul "call the firm, reject the report, and tell them that they need to prepare something that you can understand."

If you are unable to understand or follow the analysis in an appraisal report, that's a warning sign that a report may not be credible or defensible. Consider: If the report does not provide you or your client with enough information on how the appraiser arrived at the opinion of value, can you trust that opinion of value to be valid? Can you persuade someone else of its credibility? Can you expect a judge, insurance company, bank, or other non-business owner to decipher and trust the report?

Confusion regarding the appraisal process is a clear signal that you need to work with an accredited appraisal review specialist. An accredited appraisal reviewer will analyze how competently the appraisal addresses the appraisal problem and ascertain if the value is based on appropriate standards, evidence, research, logic, and reasonable assumptions.

What Does Appraisal Review Address?

Appraisal review generally addresses the complete report, but that's not always necessary for every situation. Sometimes only a portion of an appraisal or just one important calculation is all that needs attention. The subject of an appraisal review can be narrow and specific or quite broad: as specific as checking a discount rate, verifying the analytical methods used to value one item, verifying market rents, confirming proper choice of index used, or checking adjustments made to one comparable; or as broad as the entire report, the entire workfile, an inspection of the subject(s) of the work under review, or providing an opinion of value.

USPAP defines appraisal review quite broadly:

> *the act or process of developing an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.*[2]

USPAP further states that the subject of an appraisal review assignment may be

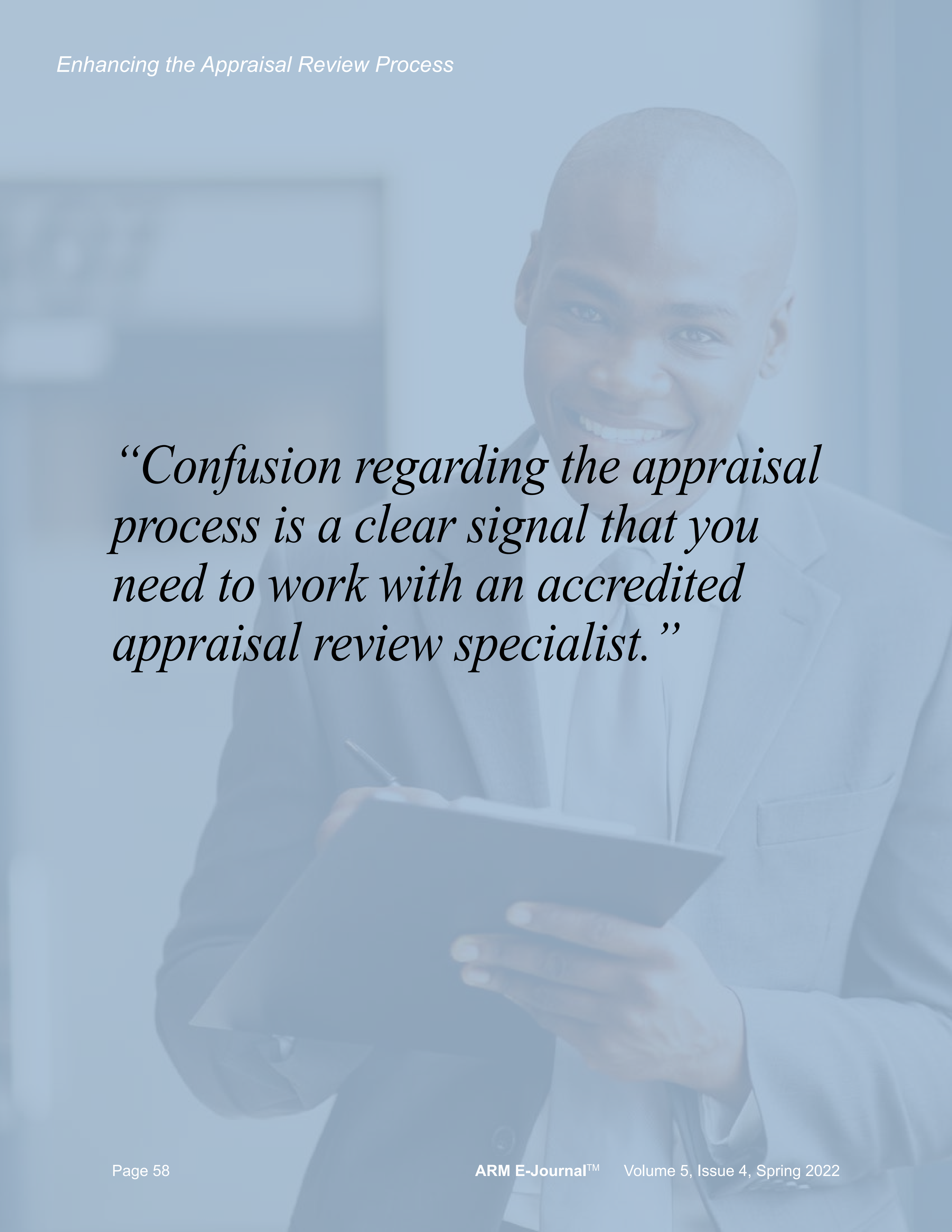
> *all or part of a report, workfile, or a combination of these" and adds that "Reviewers have broad flexibility and significant responsibility in determining the appropriate scope of work in an appraisal review assignment.*[3]

What Will You Learn from a Review?

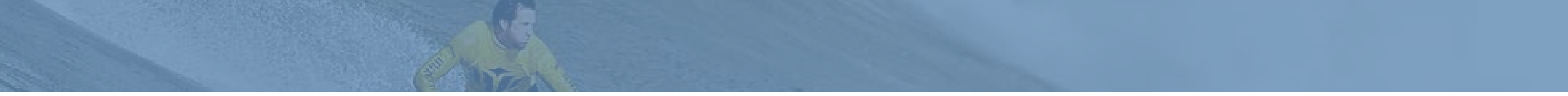
Reviewers generally begin with analyzing the original appraisal's scope of work, which should include the key elements of the appraisal problem. These key elements – the who, what, where, when, and why – are specified in the appraisal profession as the client, intended user, intended use, definition of value, relevant characteristics, effective date of value, and assignment conditions (including assumptions and hypothetical conditions). In some situations, effective date and assignment conditions can have great bearing on the report's credibility. For example, in appraising damaged or destroyed assets for insurance loss claims, the effective date of value should be previous to the loss and all assumptions

[2] USPAP 2020-2021, p. 3

[3] Ibid.



"Confusion regarding the appraisal process is a clear signal that you need to work with an accredited appraisal review specialist."



made regarding descriptions and conditions must be listed, documented, and explained.

The reviewer also analyses how the report presents and discusses the four points of investigation necessary to solve the problem or the *how*: identification of subject property *(what)*, inspection procedures, data researched, and appropriate analysis, which includes valuation methodology.

Is the Appraisal Complete, Accurate, Adequate, Relevant, and Reasonable?

The reviewer analyzes each of the key elements and each of the four points of investigation for the *qualities of completeness, accuracy, adequacy, relevance, and reasonableness.* An appraisal review report will not address appraiser competency. Instead, as appropriate, you'll learn where and how the WUR lacks support, adequate explanation, includes inappropriate analysis or methodology, or other critical areas of concern.

These same elements can be used to review workpapers in cases where the reviewer is asked to review those records. Workpapers, although rarely submitted with an appraisal report, are a critical support for any appraisal. The USPAP Record Keeping Rule clearly states that work paper files need to contain "data, information, and documentation necessary to support the appraiser's opinions and conclusions."[4] One family law case centered on a report that had vague discussion of the analytical procedures performed. A review of the workpapers revealed hardly a shred of evidence to support the value conclusion. In addition to the obvious problem of unsubstantiated values, the Record Keeping Rule, a requisite of the USPAP Ethics Rule, had not been followed.

[4] USPAP 2020-2021, p. 10

What are the Significant Critical Issues?

An appraisal review report will focus on the most significant issues — in light of the intended users' requirements — rather than making a list of minor errors. Appraisal practice is largely about matching the right analytical procedures to assignment's appraisal problem. Not surprisingly, the most significant issues addressed in appraisal review will often discuss whether the proper analytical procedures were performed and were performed properly. It's worth noting that the word "analysis" is in the current USPAP document over 700 times. The reviewer has the duty to explain in an understandable manner what was not properly done in the WUR, what should have been done, and why it matters.

Distinguishing between significant issues and minor errors is an important aspect of the reviewer's responsibility. While a preponderance of minor grammatical or calculations errors rightly disconcerts an attorney or an experienced appraiser, reviewers are concerned with the larger picture. Focusing on misspellings, for instance, when a report under review contains inadequate asset description that leads to market research errors, benefits neither the reviewer nor the intended user.

What are the Reasons for Disagreement?

The appraisal review report will discuss "reasons for disagreement" with issues identified. These reasons will be fully supported by a logical flow of facts, analysis and conclusions using an objective tone. Most, if not all, of the disagreements will be referenced to USPAP standards or other sources of appraisal standard of care.

A common error in family law cases concerns the specific definition of value required under California Family Law cases (Marriage of Cream[5]). An appraisal that depends upon any other definition of value — a surprisingly common error — can easily result in misleading appraisal results. For example, in a recent family case involving highly specialized custom-made equipment installed in a food processing facility, the WUR valued the subject assets based upon auction liquidation sales of similar items and did not consider the unique nature of the equipment, its higher cost compared to the similar item, its current use, shipping, and all installation costs needed to place the equipment into operation in a going concern enterprise. Although the analysis presented in the report may have be reasonable for the intended use of collateral lending, it clearly is not reasonable for a family law case and this inappropriate analysis resulted in greatly undervaluing the subject assets.

In the end, reviewers classify issues uncovered in the areas of completeness, accuracy, adequacy, relevance, and reasonableness as they relate to USPAP and other relevant Standards. A useful appraisal review report will carefully avoid declarations regarding whether any of the issues at hand constitute a "violation" of USPAP; such determinations are the responsibility of a trier of fact, regulatory body, or some other entity with the authority to do so.

What about Competency of the Appraiser?

An appropriate review will avoid any discussion of the competency of the appraiser who provided the report under review. That is the Court's job. Because USPAP provides guidelines for judging competency only by how the appraisal work is performed (and not the appraiser's experience, knowledge, and training), appraisal review focuses directly on the appraisal itself, leaving any conclusions about an appraiser's competency to the user of the appraisal review.

15 Most Common Appraisal Errors

These 15 most common appraisal errors are not ranked either by occurrence or severity and can be grouped into distinct categories:

Inadequate Methodology

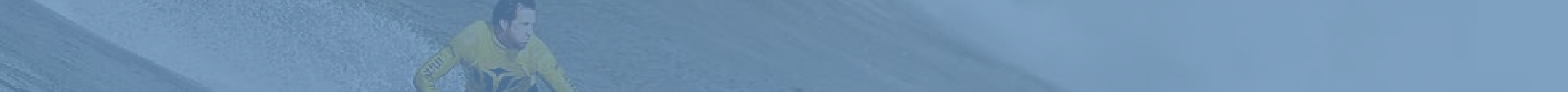
You may feel confused or frustrated if the report is vague and does not adequately explain the data or methodology used to reach a value conclusion or, as mentioned earlier, it seems to gloss over or ignore parts of the appraisal problem or analytical process. If the report fails to provide a clear understanding of why the assets are being valued in this way, the appraisal may suffer from these important methodology issues:

- Incorrect definition of value and/or relevant market
- No or inaccurate highest and best use analysis, also called current and alternative use
- Disregard of available market data with no explanation; i.e., cherry-picked market data
- Vague scope of work; failure to clearly identify the appraisal problem

Incomplete Presentation

If you can't follow how the appraiser reached the opinion of value, the report is incomplete. At the very least, the report should include enough analytical discussion to lead the intended user to the value conclusion. If at any point you feel like the report is not supported by evidence and

[5] https://law.justia.com/cases/california/court-of-appeal/4th/13/81.html



instead is saying "just trust me," that's a good reason not to. What does an incomplete presentation look like? Here are a few clues:

- Conclusory with minimal analysis; leaping to conclusion without supporting evidence
- Failure to connect the value opinion with supporting evidence: as in Kumho Tire,[6] ipsi dixit
- No support or explanation for adjustments
- Assumptions not listed

Misrepresentation of Appraiser

Errors of misrepresentation are surprisingly common. Those of an appraiser claiming membership in an organization or compliance with USPAP are among the easiest to uncover. Does the appraiser's CV include a USPAP class within the last two years? Does the organization list members on its website?

Appraiser objectivity is rightly assumed by users of appraisals and this assumed independence is a cornerstone of the public trust in the appraisal profession. The certification statement required by USPAP reassures users that this public trust is well-founded. Misrepresentation of appraiser objectivity can be as simple as entirely omitting, or not signing, the required certification statement.

- Claimed compliance with a standard such as USPAP when not compliant
- Exaggerated qualifications, including alleged membership in professionally recognized appraisal organization certification or accreditations
- Appraiser bias: i.e., value provided by seller, or dealer with who the client has had other transactions
- Lack of signed certification

[6] https://supreme.justia.com/cases/federal/us/526/137/

General Carelessness

While an appraisal review does not nitpick at the expense of critical issues, pervasive carelessness may indicate deeper problems in the development and analysis of the appraisal. Examples of such carelessness include:

- Errors in math, grammar, spelling, or punctuation
- Wrong location (Sacramento vs. West Sacramento)
- Boilerplate language that results in a report bloated with irrelevant and/or confusing content, including errors in dates and names

How to Find a Qualified Reviewer

A qualified reviewer should be competent in the area of appraisal practice pertaining to the report to be reviewed. You probably know better than to hire a real estate appraiser to review a machinery and equipment appraisal, but what you may not realize is that the appraisal profession can be as finely divided as the legal profession.

The first sorting of appraisers is into three main property types: real, personal, and intangible. *Real* is real property, and while most attorneys are aware of the division between appraising residential and commercial properties, the differences don't stop there. The residential real property appraiser who appraises urban properties in Downey CA may not be qualified to review an appraisal of a luxury oceanside home in Manhattan Beach; and commercial real property appraisers can specialize in urban strip malls, hospitality facilities, warehouses, or vineyard properties. The same is true for *personal* property appraisers, who tend to specialize not just in areas such as gems & jewelry, art & collectibles, or machinery & equipment, but in even finer distinctions, such as art deco jewelry, early Japanese art, French antique furniture, construction equipment, medical & dental equipment, aircraft, or marine vessels. Within the *intangible* property profession, appraisers may focus on valuing employee stock option plans or certain kinds of business.

It's also important to realize that not every excellent appraiser is automatically an excellent reviewer. That's why organizations such as The American Society of Appraisers (ASA) and the Appraisal Institute (AI) have dedicated review education and training. Appropriate accredited reviewers for your case can be found through the ASA listings of reviewers in all appraisal disciplines at the "find an appraiser" page: website https://www.appraisers.org/Disciplines/Appraisal-Review-Management. AI is a good resource for reviewers of real property at https://ai.appraisalinstitute.org/eweb/DynamicPage.aspx?webcode=aifaasearch

Conclusion

Attorneys can provide a great service to their clients by taking a close look at any appraisal in a family law situation or business litigation. Appraisal reports that disregard professional standards, that are confusing or fail to provide a logical train of thought should not be depended upon in any contentious situation.

An initial consultation with a professional appraisal reviewer can help you make a confident determination regarding the need for an appraisal review.

A qualified appraisal reviewer–committed to the standardized process of assessing the overall quality of an appraisal relative to applicable standards, while concurrently addressing the degree to which that appraisal is credible, logical, and persuasive–can determine the extent to which an appraisal report is credible and provide invaluable support for your case.

About the Author

Jack Young, ASA, ARM, CPA, is owner and primary appraiser at NorCal Valuation in northern California. He served as Chapter President of the Northern California Chapter of the American Society of Appraisers and as Chair of the International Appraisal Review & Management (ARM) subcommittee of the American Society of Appraisers. He currently serves the ASA internationally on the Board of Examiners and as editor of the Appraisal Review e-journal and locally as ARM Director on the Northern California Chapter Board.

When Value Matters

When it comes to valuing an asset, there is no room for error. Value matters, and so does the appraiser hired to make the value determination. An ASA's experience and education are the factors that can make all the difference. ASA understands the seriousness of the profession and has never wavered from our commitment of requiring excellence. Education, integrity, credibility and experience all factor into the Accredited Senior Appraiser (ASA) designation. You can rest assured that the ASA designation after the name of an appraiser means they have been held to the highest standard in the profession.

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