



# Chicago Appraisal Times



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Fall 2011

## President's Letter

By Patricia H. Atwood, ASA  
President, ASA Chapter 33

## Chicago's Triple Crown 2010-11

At the ASA International Conference in Washington, D.C. last month, the Chicago Chapter celebrated a brilliant triple win.

- ASA President's Trophy for Outstanding Chapter of the Year,
- ASA award for Best Chapter Public Relations Program
- ASA award for Best Chapter Newsletter for a Chapter with over 100 Members

Chicago would not have won these awards without the substantial contributions of time, talent and imagination by three Chicago Chapter members. Our immediate Past President, **Mike St. Martin, ASA** has served as a well-respected member of the Chicago Chapter board for the past five years. During the past year he led the board in an atmosphere of friendly collaboration and fiscal discipline.

**Erin Hollis, ASA**, is the Chapter Public Relations Chair and is known to all of our Chapter members from her communications to us via email, Facebook, Twitter and Linked-In. She was recently elected a member of ASA's Business Valuation Committee and is Conference Chair for the upcoming Advanced Business Valuation Committee at the Palmer House in October.

**Lela Hersh, AM**, was Editor of the Chapter Newsletter for the past two years. Under her leadership the newsletter appeared quarterly with columns from each of the Discipline Section Leaders as well other articles and photos from all of our events. One of the nation's top experts in Contemporary Art and Photography, she teaches and travels frequently but has nevertheless given many hours to help the Chicago Chapter.

Our loyal administrator, Chris Wall, has given support well beyond her job description by helping to compile these annual applications while patiently coaching the new Chapter officers. Please join me in saying "thanks, Chris" next time you call with a question or to RSVP for an event.

## ASA Chicago Chapter Board

President	Patricia H. Atwood, ASA
Vice President	Erin Durand Hollis, ASA
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Business Valuation	Brian McCabe, ASA
Gems & Jewelry	Michael Holtzman
MTS	Michael Ackerman, ASA
Personal Property	Patricia H. Atwood, ASA
Real Property	Jeffrey T. Kirk, ASA

### Other

Membership Chair	Michael R. Crismyre, ASA
Newsletter Editor	Barton DeLacy, ASA, FRICS
Assistant Editor	Cathy Young
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# A LITTLE SOMETHING FOR EVERYONE

## ASA mans booth at ICAP Seminar

The Chicago Chapter of the American Society of Appraisers participated as an exhibitor on August 1st at the ICAP summer seminar at the Wyndham Hotel in Lisle, IL.

ICAP, the Illinois Coalition of Appraisers, represents all the major appraisal organizations in Springfield and frequently meets with the Illinois Appraisal Board and its staff. ICAP holds seminars around the state on an annual basis. While its primary focus remains the residential appraiser community, it is unique in bringing together all appraisal organizations with members in Illinois. Jim Blades, SRA, past President, regularly attends appraiser board meetings and helps monitor legislation affecting appraisers at the state level.

ICAP meets quarterly and maintains a website. Its seminars help fund its activities including token contributions to key legislators at election time. Barton DeLacy represents the ASA on ICAP.

On hand to answer questions at the ICAP seminar were four ASA Chicago Chapter members. Participants who volunteered to help were Robert H. Ross ASA, Lee Lansford ASA, Patricia H. Atwood ASA and Steven R. Thomas ASA, who also addressed the approximately 300 participants giving a short introduction to ASA on behalf of the Chicago Chapter.

Seminar topics included an update on state legislation and regulations from Brian Weaver, staff to the Illinois Appraiser Board.

## Royalty Rates Require More Scrutiny

David Jarczyk, COO of Chicago-based ktMINE, an intellectual property data and information services firm, has prepared a new course module addressing the evaluation of royalties.

A recent court case analyzing royalty rates for business valuation and transfer pricing rejects the current rule, creating a compelling argument for more stringent analysis.

Uniloc v. Microsoft sets a new precedence by rejecting the previously accepted 25% rule. Drawing guidance from this ruling, it is clear that valuation specialists will need to be as thorough as possible in performing due diligence. Accordingly, practitioners are relying even more on third-party licensing agreements to provide a solid basis for analysis, as these material contracts contain detailed royalty rate information and licensing terms, which provide some of the most defensible fact-based evidence.

However, for many practitioners, knowing where to find relevant (and un-redacted) market comparables, determining which royalty rate benchmarks are appropriate to use and understanding what additional licensing terms might affect asset value can be an arduous process.

Methods for locating and breaking down intangibles licensing information for use in business valuation studies must now be reviewed. This would include purchase price allocations, capitalized value determinations for after-tax royalties (using the relief from royalty method), and goodwill impairment analyses under SFAS 141 and 142.

## About David R. Jarczyk

David has extensive experience in performing transfer pricing services for multinational companies for tangible, services and intangible property transactions and has conducted functional, risk, comparable company and economic analyses in a variety of industries.

David also has expertise in performing business enterprise and intangible property valuations, as well as performing financial analyses and benchmarking on an individual company and industry-wide basis. He has spent more than 10 years researching licensed intangibles, which inspired David to develop the ktMINE royalty rates and records database.

David has published numerous articles including "How appraisers can 'get it right' in reasonable royalty cases," Business Valuation Update, January 2010. His speaking engagements include "Finding and Analyzing Royalty Rates for Arm's Length Pricing" which David has presented at various conferences and Finding and Analyzing Royalty Rates for Business Valuation, which he presented most recently in 2011 during a CICBV webinar event.

# A LITTLE SOMETHING FOR EVERYONE

## Machinery & Technical Specialties

### A Word on Net Proceeds

*By Michael Ackerman, ASA*

Patricia Atwood recently received an inquiry from George F. Gutierrez, ASA regarding what "Represents the Net Proceeds to the Seller Upon the sale of Machinery and Equipment; in order words what the seller costs are to sell an item". After conferring with Richard Worthen, ASA and John A Josko, ASA we have come up with the following conclusions.

There are several possible avenues to use in marketing machinery and equipment. The most often used methods are selling with the assistance of an equipment dealer or by the public auction method. The deciding factor between the two possibilities is the quantity of machinery, time frame and type of equipment involved. Smaller quantities, one or two machines, are usually best marketed by a dealer, over time. The marketing time, through an equipment dealer can extend from weeks to months, depending on the desirability of the equipment involved and existing market conditions. Large quantities, a whole department or a complete plant, are usually more conveniently sold by exposure at a public auction over a six-to-eight week window of time. The net proceeds to the seller can be affected by the available timeframe allowed to market the machinery and equipment. Marketing time should be included in an analysis of potential net proceeds in order to determine an appropriate net value for the subject equipment.

The sellers costs associated with either of these two methods are typically similar. A dealer or an auctioneer will charge the seller a commission, a percentage of the selling price, to market the equipment the seller has to sell. This commission, usually 10%, may vary slightly higher or lower depending on the potential value of the subject equipment. It is always a good idea to discuss potential selling price with the dealer or auctioneer involved to ensure that the seller and dealer or auctioneer are on the same page regarding the value of the sellers equipment.

There are usually additional marketing costs associated with either of the above selling methods. These costs should also be identified and discussed in advance. Marketing costs can vary from several hundred dollars for a single machine sold by a dealer to thousands and thousands of dollars for the contents of a larger plant. Additional costs for onsite preparation of a large plant full of equipment can, in many cases, equal the marketing costs and must be considered. These costs must also be factored into the analysis of the potential net proceeds to the seller.

The information above leads to the conclusion that the costs to the seller are always variable and will probably not be exact in each analysis. Hopefully this explanation will provide a ballpark in which to view potential net proceeds to the seller. On another note, an unknown potential Presidential candidate is being interviewed on the radio as this article is being written. He indicated that, for the first time in his career, he feels people are afraid about the financial future of the country. The recent national financial developments will have an effect on machinery and equipment values. The past few weeks have seen spotty up and down equipment values. I have heard negative stories about equipment sales and values last week. The coming weeks will provide more evidence of value changes. I will report what occurs in the next newsletter.

## Upcoming Changes in USPAP for Personal Property Appraisers

*By Patricia H. Atwood, ASA*

The Appraisal Foundation has announced revisions to the 2012-13 edition of USPAP. According to information posted on the website of the Appraisal Foundation, most of the changes to Personal Property Standards 7 and 8 will be:

*... related to the use of terminology used by Personal Property appraisers rather than Real Property appraisers.*

The new version of USPAP will be published later this fall and will become effective in January 2012.

On this topic, here are the USPAP continuing education requirements for Personal Property Appraisers from the current ASA re-accreditation brochure.

# A LITTLE SOMETHING FOR EVERYONE

*The Appraisal Foundation (TAF) requires USPAP continuing education hours for PP appraisers; therefore PP designated members must complete a 15-hour USPAP course and pass the exam every five years OR a 7-hour USPAP update course every two years for ASA reaccreditation. All USPAP courses must be taken from an Appraiser Qualifications Board (AQB)-approved instructor and the exam must be approved by TAF.*

*In addition, TAF recently approved a new PP-specific USPAP course for users of Standards 7 and 8. This new course and the standard USPAP course are both acceptable options for PP appraisers as long as they meet the aforementioned requirements. Any other PP USPAP courses will not be acceptable. The 7-hour PP-specific update course is approved and available, so this course will also be acceptable every two years.*

Updated information about ASA reaccreditation and USPAP requirements are on the ASA website. You can find a quick link to the site in the bottom right corner of Chicago Chapter's new website: [www.asachicagochapter.org](http://www.asachicagochapter.org).

## WACC Application to Estate Value Criticized

*By Brian McCabe, ASA*

Valuation experts are weighing in on a recent decision from the U.S. Tax Court in the Estate of Gallagher v. Commissioner, T.C. Memo. 2011-148 (June 28, 2011) [see <http://www.ustaxcourt.gov/InOpHistoric/GallagherEst.TCM.WPD.pdf>]. At issue is the determination of the fair market value of 3,970 membership units in Paxton Media Group, LLC ("PMG"), held in the estate of Louise Paxton Gallagher. The expert for the IRS arrived at a value of \$40,863,000 for the estate's interest while the estate's expert determined a value of \$28,200,000.

Experts for the estate and the IRS disagreed over: (1) the date of financial information relevant to a date-of-death valuation; (2) the appropriate adjustments to PMG's historical financial statements; (3) the propriety of relying on a market-based valuation approach in valuing the units; and, if appropriate, the proper manner of applying that method; (4) the application of the income approach; (5) the appropriate adjustments to PMG's enterprise value; and, (6) the proper type and size of applicable discounts.

Of importance to valuation professionals are Judge Halpern's statements regarding tax affecting and the appropriateness of the weighted average cost of capital ("WACC"). The expert for the estate did not employ one of the S-Corporation models developed by Roger Grabowski, Chris Mercer, Chris Treharne, Nancy Fannon and Dan Van Vleet. Judge Halpern faulted the estate's expert, saying "(the estate's expert) failed to explain his reasons for tax affecting PMG's earnings...Absent an argument for tax affecting PMG's projected earnings...we decline to do so. (W)e will not impose an unjustified fictitious corporate tax rate burden on PMG's future earnings." The Court also objected to the use of the WACC, noting, the WACC is an improper analytical tool to value a "small, closely held corporation with little possibility of going public."

While Judge Halpern's final conclusion of value of \$32,601,640 can be seen as a victory for the estate, the estate's expert was routinely cited for failure to adequately support his positions. This case serves as a reminder to valuation professionals to clearly explain and support their positions.



# A LITTLE SOMETHING FOR EVERYONE

## Surviving Your Appraisal Practice

By Jeffrey Kirk, ASA  
Real Property Chair

This article is especially topical, as brought out during heartfelt discussions at a recent chapter board meeting, regarding the difficulties associated with appraisal practices surviving hard times.

The following is paraphrased from “Build Positive Word-of-Mouth Advertising and Watch Your Business Grow” by NAIFA member Mark R. Evans, IFAS.

A small budget and few potential customers make word-of-mouth advertising a great way to generate positive opinions about your practice. While opinions cannot be controlled, they can be shaped so the positive outweighs the negative.

1. Get to know your client. Get to know the people and let them know how professional, kind and accommodating you can be.
2. Be kind. Even if the situation involves the borrower’s anger due to value, listen first. They will remember you were professional and courteous. (In addition to the fact that you didn’t reach their value).
3. Become the “go-to” person for answers. Let appraiser peers know that either have or can find the answers to their appraisal related questions. Be helpful to clients, potential clients, family, friends, peer appraisers, etc, all of the time.
4. Be Ethical. If you are ethical, you will eventually beat out those who survive on doing things the wrong way. You will be in control. Don’t deface or encourage bashing of others. Be better than that.
5. Create the buzz. Use social media (Facebook, LinkedIn, Twitter, etc.).
6. Create a good experience. Make them glad they chose you. It may be your timeliness, kindness, knowledge and/or your sense of humor. Give them something so good that when the word “appraiser” is mentioned, you are the one they think about

Word-of-mouth advertising is how we find out who we should go to for yard work, plumbing, car buying, good banking experiences, computer repair, etc. Why not the appraiser?



# A LITTLE SOMETHING FOR EVERYONE





# Chicago Appraisal Times



**Chicago Appraisal Times** is an online newsletter published quarterly by the Chicago Chapter of the American Society of Appraisers, an international, non-profit organization that teaches, tests, and awards designations in all appraisal disciplines, including Business Valuation, Gems and Jewelry, Machinery and Technical Specialties, Personal Property, and Real Estate.

## Chapter Contact Information

Email: [chicagoasa@sbcglobal.net](mailto:chicagoasa@sbcglobal.net)

## American Society of Appraisers HQ

Phone: (800) ASA-VALU / (800) 272-8258 (U.S. and Canada) or (703) 478-2228

American Society of Appraisers  
555 Herndon Parkway, Suite 125  
Herndon, VA 20170

Chicago Chapter Website: <http://www.asachicagochapter.org>  
ASA Website: <http://www.appraisers.org/ChicagoHome/Chicago.aspx>



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## Contact Email Addresses

Michael Ackerman, ASA	michael@pplauction.com
Patricia H. Atwood, ASA	patwood@timelyantiqueappraisals.com
Michael R. Crismyre, ASA	crismyre@comcast.net
P. Barton DeLacy, ASA	barton.delacy@cushwake.com
Jordan Donsky, ASA	jldonsky@yahoo.com
John Friedman	jwfriedman@jwfconsulting.com
Lela Hersh, AM	lelahersh@comcast.net
Erin Durand Hollis, ASA	edhollis@aol.com
Michael Holtzman	mholtzman@diamondchannel.com
Jeffrey T. Kirk, ASA	valuation@usa.com
Brian McCabe, ASA	bmccabe79@hotmail.com
Kevin Michael Zanni, ASA	kmzanni@willamette.com

The American Society of Appraisers is an international organization of appraisal professionals and others dedicated to the education, development and growth of the appraisal profession. ASA is the oldest and only major organization representing ALL disciplines of appraisal specialists, originating in 1936 and incorporating in 1952. ASA's headquarters is in the metropolitan Washington, DC area. This newsletter represents the members of the Chicago Chapter of the American Society of Appraisers.