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Winter 2016



Letter from the President

By David B. Koller, ASA

I hope everyone had an enjoyable Thanksgiving! Ready to enjoy the rest of the holiday season? The fast and furious pace of our chapter offerings have slowed, but check www.asachicagochapter.org for January-February offerings.

Our events in October and November were great successes. Attendees at Insights into the Market for African-American Art and Artifacts on Thursday, October 13, received a special behind-the-scenes tour. I hope everyone who wanted to attend the Fair Market Value Concepts: Personal Property Appraisals for Federal Tax Calculations on Friday and Saturday, October 14 and 15, were able to, as it sold out quickly. The program had many out of towners and was very well received. Kudos to Lela Hersh, ASA, and Patty Atwood, ASA on a great program. Inspector Gadgets: Knowledge is the Best Tool of the Trade on Thursday, November 17 was a sellout - a lively discussion between Jim Nutter, ASA, and Doug Tomsky, ASA. Thanks for making the event successful! We hosted a table at ICAP's first annual Networking and Job Fair on Thursday, November 10, 2016. Thanks to Dan Daitchman, ASA for volunteering.

The ASA/BVA Annual Capital Markets Panel & Luncheon is right around the corner - Thursday, January 19. Think about signing up before the end of the year to reserve your spot. We will send out additional reminders after the New Year.

Also, the Presidential Lunch and Learn Series will restart in January with a presentation by our very own gemologist, Michael Holtzman, ASA. Thanks to Jane Jacob of Jacob Fine Art for leading off the series! The luncheons will be on the last Friday of each month. There are a few slots still open. Contact me if you would like to present, have a suggestion for a presenter, or would like to have your firm host (no costs involved).

Please go to www.asachicagochapter.org for more details on these events and to keep up with our rapidly expanding offerings. My hope is there is something for everyone, so please consider putting together an event yourself. Any of the board members would be happy to mentor you in programming an event. It isn't difficult and our board members would each tell you that putting together an event is a rewarding experience.

Have a great holiday season and I hope to see you at an event soon.

David B. Koller, ASA
Chicago Chapter President

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Have ideas for chapter seminars, events, or speaker suggestions? Know someone who should be featured in an upcoming issue? Let us know!
Administrator@asachicagochapter.org

What We Have Been Up To...

September 20, 2016: ASA Golf Outing

The ASA Chicago Chapter held its annual golf outing on Tuesday, September 20 at Highland Park Country Club. The day began with breakfast in the clubhouse and a presentation by Bob Schweih, ASA from Willamette Management. Bob presented on options and “when is an option not an option,” which included examples of options that arise in the business world (called “real options”) and when they are similar to or different from financial options. There was lively discussion around this topic, as it is unique from what appraisers typically come across in their day-to-day practice. Bob also presented on real options at the Advanced BV Conference in Boca Raton, which speaks to the importance of this topic. The group then headed to the golf course where we had beautiful weather. A big thanks to Brian Faus for planning the event. Thanks to everyone that came out. We hope to see you at the outing next year!



Steve LaMantia ASA, Dan Daitchman AM, John Spude ASA, Leo Dorsey ASA, and Jim Nutter ASA



Bob Schweih ASA presents on real options

What We Have Been Up To...

September 30, 2016: Presidential Lunch and Learn

This year's first Presidential Lunch and Learn series took place September 30th in a conference room at FGМК, LLC courtesy of Jordan Donsky, ASA, who is Senior Manager, Valuation & Dispute Advisory at FGМК and past president of ASA's Chicago Chapter.

Presenting a series of challenging examples, Jane C.H. Jacob, ASA, President of Jacob Fine Art in Oak Park, entertained and educated the audience with a brilliant presentation on what an appraiser may discover during the process of conducting a damage or loss appraisal. Jacob who is founder and co-organizer of the international annual *Art Crime and Cultural Heritage: Fakes, Forgeries, and Looted and Stolen Art symposium* has 35 years of experience in the fine art profession through positions at art institutions including the Dallas Museum of Art, Worcester Art Museum, Frank Lloyd Wright Preservation Trust and Terra Museum of American Art, where she served as Deputy Director.



Jane C.H. Jacob, ASA (center right, facing away from camera) during the Lunch and Learn presentation

Advancements

Business Valuation

Maria Villanueva Hucker, ASA
Michael J. Schaeffer, ASA
Glen Birnbaum, ASA
Natasha Perssico, AM

Machinery & Technical Specialty

Carol Busch, ASA Aircraft.
Gary A. Poe, ASA
Brian Austin White, AM
Mr. James F. Arvin, ASA

Personal Property

Lela Hersh, ASA/Fine Arts
Photography Specialty

Real Property

Richard Francis Blaine deVerdier,
ASA

What We Have Been Up To...

Full House for ASA Chicago Chapter “Fair Market Value Course” October 14 - 15, 2016

On October 14 and 15, a full crowd gathered in Chicago for the program *Appraising Personal Property for Non-Cash Charitable Contributions & Estates* taught by Sandra Tropper, ASA. The sold-out class included ASA members who had travelled from Colorado, New York, Texas, Washington, Louisiana, South Carolina, North Carolina and California, as well as numerous Chicagoans.

The class was relevant to members all across the ASA spectrum– from candidate members to the senior appraisers, and from personal property to machinery and technical services appraisers. The course included an examination of the Scope of Work rule and relevant markets. Tropper also covered IRS regulations from the Code of Federal Regulations and Estates, and for Non-Cash Charitable Contributions. The second day concentrated on Tax Court Case Summations and listening to presentations by the students, who had been separated into groups to discuss various court cases.



Above: Sandra Tropper shared important insights about government regulations and preferences.

Below: The well-attended course demonstrated strong interest in understanding Fair Market Value principles and regulations..



Students remained engaged in discussions, even during the breaks.



What We Have Been Up To...

ASA Chicago Chapter Tours DuSable Museum of African American History in Hyde Park October 13, 2016

ASA is grateful to the DuSable Museum for rolling out the red carpet on October 13th for Chicago and out-of-town ASA Personal Property members. The group was welcomed by DuSable President and CEO, Perri L. Irmer, after an introduction by ASA Chicago Chapter member, Diane Dinkins Carr, who organized this event.

Personal Property appraisers are always working to keep up with market trends and to acquire more and more specialized property knowledge. The program at

the DuSable Museum of African American History was helpful in both respects. First, Patrick Albano of Aaron Galleries in Glenview presented a dealer's perspective on the market for African American art. Next, ASA members were offered a tour of the exhibition galleries and a behind-the-scenes visit to see more of the museum's legendary collection led by DuSable Curator, Leslie Guy and Registrar, Kate Swisher. After the museum visit ASA Chapter members and our DuSable guests continued lively discussions during an on-your-own lunch that followed at Cedars, a Middle Eastern restaurant in Hyde Park.



Above, Left to Right: Mary Antonakos AM, DeSable President and CEO Perri Irmer, Diane Dinkins Carr in the entry to the DuSable Museum of African American History.

Right: ASA Chicago Chapter members, visiting students from the Fair Market Value Course, and DuSable hosts enjoy Middle Eastern cuisine and a good chat at Cedars Mediterranean Restaurant.



Archibald Motley, Christmas Eve 1945, Collection of the DuSable Museum of African American History.



What We Have Been Up To...

November 10, 2016: ICAP Job Fair and Networking Event

The Illinois Coalition of Appraisal Professionals (ICAP) held a networking and job fair in downtown Chicago in November 10. Representatives from across the appraisal spectrum attended the event, with a primary focus on real estate. The ASA Chicago Chapter was a sponsor of the event, and had a booth set up to help promote the ASA to real estate appraisers who may not be familiar with ASA. Dan Daitchman, Secretary and Board Member of the ASA Chicago Chapter, represented the Chapter and help field questions about the ASA and why real estate appraisers should consider joining the organization. Also in attendance to help promote the ASA was Barton DeLacy. Barton serves as the Real Property Chair and ICAP representative for the ASA Chicago Chapter, as well as Vice President of ICAP.



Dan Daitchman, ASA at the Chicago Chapter table

November 17, 2016: Inspector Gadget: Knowledge is the Best Tool of the Trade

In the best tradition of ASA, Chapter members from all disciplines packed the room at the newly-refurbished UBS conference center on November 17th to hear a presentation from two of our colleagues. Douglas Tomsy, ASA and Jim Nutter, ASA spoke about a range of topics related to the physical inspection of property as it is performed by appraisers of Personal Property and Machinery & Technical Specialties. They enlivened their solid advice about pre-inspection preparation and onsite best practices with sometimes-humorous practical tips for unusual and difficult situations. As is often the case at ASA Chapter meetings, the audience was drawn into the discussion and contributed helpful insights as well.



Front of Room: Jim Nutter, ASA (left) and Douglas Tomsy, ASA (right) during “Inspector Gadget” program

An Earful at the IRS Public Hearing regarding the Proposed Regs under IRC 2704 Mary Warmus, CPA, ASA, MBA

For years, the IRS has sought to curtail the use of minority discounts when valuing interests in closely held family businesses for gift, estate and generation-skipping transfer tax purposes. The IRS suffered significant losses in both Tax Court and legislatively. The Treasury Department armed themselves with an administrative solution on August 2, 2016 when it issued proposed regulations (“Proposed Regs”) under the authority provided in Section 2704(b)¹ of the Internal Revenue Code. A public hearing was scheduled for December 1, 2016.

This article summarizes the high points of this public hearing that were provided by the BV Wire² and other independent sources. You might find it interesting that more than 30 speakers including valuation experts, attorneys, wealth planners, and family business owners converged on the IRS in Washington DC to fight these controversial Proposed Regs. Coupled with about 10,000 responses on the IRS website, the IRS got a full-frontal assault by practitioners and taxpayers alike. Speakers testifying at the December 1 hearing said these Proposed Regs were so broad and convoluted that they should be scrapped and rewritten. This is a quick summary of what came out in the hearing:

- **Put Rights:**
Charlotte Chyr, IRS Special Counsel stated that the IRS Proposed Regs imply NO put right where company shares must be bought back for cash equal to a minimum value within six months of exercising the right. Speakers emphasized that no such “right” exists in the real world and thus should be removed from the Proposed Regs.
- **The Three-Year Lookback Rule (“3Y LB Rule”):**
The 3 Y LB Rule would essentially nullify discounts taken for certain transfers that occurred within three years of the transferor’s death. The timing and application of the new rules was a specific concern of the speakers. According to Charlotte Chyr, the 3Y LB Rule “will not be retroactive,” and would only affect transfers made after the date the Final Regs are published.
- **Discounts:**
According Catherine Hughes, attorney-advisor at the Treasury, the Proposed Regs will not eliminate minority discounts. That said, this doesn’t mean that discounts won’t be significantly reduced given how the Proposed Regs are written.
- **The definition of Fair Market Value:**
Valuation experts like Lance Hall (FMV Opinions) questioned how the Proposed Regs have in effect changed the long-accepted definitions of fair market value, marketability, and control. For example, the Proposed Regs remove the hypothetical willing buyer and willing seller assumption from the definition of fair market value, and the notion of an arm’s-length transaction. Lance Hall’s testimony was a classic: “That’s like asking Michelangelo to paint the Sistine Chapel without the color blue.”

It is highly unlikely the IRS will finalize the Proposed Regs as written because of remarks made at the hearing, but you never know. Our profession has made its point and we can only hope that these Proposed Regs will not be promulgated into law. Now we have to just wait and see! Stay tuned!

¹ *Federal Register* on August 4. 81 Fed. Reg. 51413-51425 (Aug. 4, 2016)

² BVWire Issue #171-1 | December 7, 2016

Forensic Valuation: What is it? When Do You Need It? by Jordan Donsky | Oct 26, 2016

Forensic valuation services typically are requested when the value of a business, stock or an intangible asset (such as a patent or trademark) is at issue. A valuation expert may be engaged by a client (including an attorney or another expert) to provide forensic valuation services. Forensic valuation reports result from the combined use of procedures, analytics and terminology typically applied by valuation analysts and are produced in anticipation of litigation, or for use in the resolution of litigated or disputed matters.

When are Forensic Valuation Practitioners Engaged?

Valuation-related disputes often arise in the context of transactions, and may include purchase price disputes, tax controversies, bankruptcy and solvency analyses involving potentially fraudulent transfers, and marital disputes. Multiple valuations often exist for a single disputed matter. Forensic valuation practitioners may be asked to review valuations that were performed around the time of the past event leading to the disputed valuation, also known as “contemporaneous valuations”. The forensic valuation practitioner may be asked to review and comment on multiple other experts’ valuations in a single disputed matter. In certain situations the forensic valuation practitioner will be asked to draft questions regarding the other valuation expert’s work, to be used in depositions or during testimony.

Forensic valuation analysis, especially in the context of past events, can include challenges, such as: the use of information available at the time of the valuation date; multiple measurement dates; differing data providers used by multiple experts involved; conflicting data and terminology; and navigating legal discovery and strategies.

How are Forensic Valuation Practitioners Engaged?

According to the AICPA, the forensic valuation practitioner must establish two fundamental factors at the outset of any forensic service engagement:

- The manner in which the practitioner is retained, and
 - The subject nature of the matter (specialized area for analysis.)
- The practitioner may be retained as a consultant, an expert witness, or both. In many instances, the practitioner is initially engaged as a consultant, and then later designated as an expert witness. Although the retaining party is often an attorney, there are many other parties that may engage a forensics professional.

A forensic valuation engagement often involves gathering and producing sufficient relevant data and opinions to help the client or attorney reach a conclusion on the merits of the valuations involved. Forensic valuation practitioners will seek to identify the valuation methods used, and identify the extent of any differences between different valuation opinions, produced contemporaneously or at a later time, as a result of the dispute in question. This involves reaching a general opinion on the previous or opposing side’s valuations, as well as an assessment of the factual information underlying potential or known differences in values.

Every valuation analysis is unique, and not every valuation method may be applicable under certain conditions.

When Can a Forensic Valuation Practitioner Serve as an Expert Witness?

A forensic valuation practitioner may be asked to serve as an expert witness in a court proceeding. A practitioner who is qualified to serve in the capacity as an expert witness must possess specialized valuation skills, and the knowledge, education, experience, and training to be able to present conclusions, judgments, or opinions with integrity and objectivity. Example valuation credentials include the ABV, ASA, CVA, and CFA designations. Credentials help to demonstrate valuation qualifications and the capacity to serve as a forensic valuation expert.

A forensic valuation practitioner can aspire to become an FVA (Forensic Valuation Analyst) or to hold the AFV credential (Accredited in Forensic Valuation).

Once a forensic valuation practitioner has been identified as an expert witness in a court proceeding, opposing counsel is likely to scrutinize her or his reputation, published work, prior testimony, and opinions, in an effort to challenge her or his qualifications or to discredit or limit the expert testimony. The forensic valuation practitioner must be an unbiased fact-finder for the court, and not an advocate for a particular party.

FGMK provides forensic valuation services to our clients. Some of the services we have performed, and the benefits derived by our clients, include:

- FGMK valuation practitioners testified before a three-judge panel in an arbitration case involving a contract dispute over the sale of a business. The case required both forensic valuation and a "lost profits" analysis, resulting in a \$1 million favorable decision for the client;
- FGMK served as a mutually selected, neutral, third valuation firm in a contested buyout of an estate. Two other valuations had already been submitted. Our valuation resulted in the successful resolution of the dispute, and an orderly ownership transition for the business;
- FGMK professionals served as forensic experts in a solvency analysis, including the historical valuation of a trucking company involved in a dispute over the payment of a \$750,000 workers compensation claim. Our valuation resulted in the trucking company paying the disputed claim,
- FGMK professionals consulted as valuation experts for a transportation company involved in a federal built-in gains tax controversy. Our valuation services were used to support a Big Four accounting firm's contemporaneous valuation and contributed to a \$99 million reduction in the asserted tax liability.

Jordan Donsky is a Senior Manager in the Transaction Advisory Services practice at FGMK, LLC. Jordan has nearly 20 years of experience in valuation, forensic accounting and litigation support, as well as the management of complicated financial consulting assignments. He has extensive knowledge of financial forensics and has provided expert witness testimony in matters requiring valuation and forensic accounting expertise.

If you have any questions about the role of forensic valuation experts, and how they might help you, please contact Jordan Donsky, at jdonsky@fgmk.com or 312.818.4325.

Upcoming Events

ASA Announces Personal Property 2017 Spring Conference

Registration is now open for ASA's annual spring Personal Property conference, which will be held in Boston beginning with a pre-conference reception the evening of May 3rd and continuing May 4 through 6, 2017. Conference chair, Ned Clayton, FASA, has titled the 2017 conference, "The Eye of the Beholder—A Revolution in Materials and Methods." Designed for appraisers specializing both in fine and decorative arts, the conference will include a forum on authentication and provenance and sessions on ceramics and Boston silver. In addition, there will be an excursion to neighboring Essex along with Boston museum and gallery tours, including the Isabella Stewart Gardner Museum, The Museum of Fine Arts, and Vose Galleries.

Conference registration is now available at a cost of \$650 for ASA members. There is also a special hotel rate of \$239/night at the Hilton Boston Back Bay. See the ASA website under Education/ Conferences for detailed schedule and registration information.

Capital Markets Event Planned

Mark your calendars for the Annual Capital Markets Panel & Luncheon sponsored by the ASA and the BVA! This informative meeting will be held on January 19, 2017 at The Standard Club at 320 S. Plymouth Court. Our speakers will be Rick Mattoon, a Senior Economist and Economic Advisor with the Federal Reserve Bank, and Elliot Farkas, a Managing Director with William Blair & Company. Rick will discuss the economic outlook in light of recent developments and Elliot will talk about activity and expectations in the capital markets. The discussion should be enlightening and of interest to many of our members, so we hope you can attend. Watch your e-mail for a full announcement with a link to sign up. There will also be information on our web site.

Chicago to Host 7-Hour USPAP in 2017

A USPAP 7-Hour Course is being planned for early 2017. Details will be sent to members when available.



Chicago Appraisal Times



Chicago Appraisal Times is an online newsletter published 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.

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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.