

# Ethical Dilemmas Posed During a Mineral Project Appraisal

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# Drop Everything Assignment

## Spring 1998

- Industrial minerals property in western US
- Assignment - Determine the appraised value
- Financial Institution loan of several million
- To fund a processing plant

# Property Status

- Independent geological report done
  - Proven Reserves - hundreds of thousands of tons
- Consulting metallurgist's feasibility study done - \$2/lb processing cost
- Market study done
  - Product sells internationally at \$6/lb
  - 3 letters of intent to purchase - all production

# Participants

- Apex Exploration
  - Mr. Apex – Owner
  - Holds option to purchase property
  - Dubious history
- Rising Sun Investments
  - Mr. Rising Sun – Owner
  - My contact
  - Sparkling credit history
  - Falling out with Mr. Apex

Should I take the Assignment?

Would you?

Was I Competent to  
Perform this Assignment?

# My Competency?

Only perform services within scope of ones education and experience (AIPG 3.3.1)

- Had no experience on this mineral previously
- Adequate qualifications for the assignment
  - Certified Minerals Appraiser
- Experienced in doing appraisals under the Uniform Standards of Professional Appraisal Practice (USPAP)
- Know what I need know and how to obtain it

Is this adequate to be  
considered Competent?



# Contract Received

- Approved by lender
- Signed by both Apex and Rising Sun
- 2 appraisals
  - Value of entire reserve
  - Net processed value of 2 years production
- Retainer in bank

# Metallurgy Inadequate

- Consultant working for a share of the action
- Metallurgy not tested
- The feasibility study in only a couple of worn sheets of paper
- No process = zero net processed value
- Respected professor of metallurgy takes over

# Independence and Due Diligence Obligations

- Nosey Mr. Rising Sun
- Attempts to limit my due diligence investigations
  - Property history
  - Product market
- Appraiser's Independence from client influence
  - required by AIMA Rule 5a
- Appraiser's adequate due diligence required
  - USPAP Standard Rule 1-1(b), AIMA Rule 4b

# Obligation to Resign?

- Professor's test results poor
- Suspicious about letters of interest
  - Can't locate US wholesaler
- Mr. Rising Sun's instructions place me in conflict. Instructs:
  - rely on his market data
  - Don't talk to Mr. Apex

# AIPG Code of Ethics

## Standard 3.5

*Members who find that obligations to an employer or client conflict with professional or ethical standards should have such objectionable conditions corrected or resign.*

Also AIMA Code of Ethics Rule 1b

Should I Resign?

Would you?

# Reasons for Not Resigning

- Maintaining my professional and ethical standards – despite directives
  - My major client is the lending institution
- Substantial personal financial losses
  - Laboratory bills for professor
- Professor's opinion
  - Sleazy Mr. Apex
  - Mr. Rising Sun is fine

# Toll Processing Facility Located

- An operating facility
- Long trucking distance – not too long
- Familiar with the reserve
- Site chemist's initial testing is positive



# Toll Processing Facility Test

- Lender gives extension
- Our payments are wired
- Our contracts are expanded and extended
- We take secured large sample to facility
- Professor monitors
- I do due diligence research

# Results and more conflict

- Professor reports recovery and processing costs to be satisfactory
- I decide that the 3 letters of interest are a sham
  - I suspect Mr. Apex's doing.
- Mr. Rising Sun orders me to use small product lot (retail) prices that he provides
  - I become suspicious of Mr. Rising Sun and partner's intend use of loan funds

What should I do now?

# X-Ray Diffraction Test

- Despite instructions, I continued market research
- Petrography tested product crystallography
- Wrong crystal form for premium market
  - Only suitable for intermediate market
  - Selling price can't cover direct operating cost

# Payment First or Report Delivery First?

- I give zero appraised value in both reports
- Bind and sign the copies
- Request payment of outstanding invoice before delivery of reports
- Mr. Rising Sun insists on reviewing a draft before paying
- I refuse - He refuses to pay
- I still have the reports

# Review of Draft Appraisal Report by Commissioning Entity

- AusIMM VALMIN Code item 36 requires that a draft be provided
- Reduces appraisers Independence
- Potential to cause report bias
- Lender could view as impropriety
- AIMA Code of Ethics Rule 1a states
  - *Members shall avoid even the appearance of impropriety*

# Postmortem

- Mr. Rising Sun won the mineral title but lost his family investment business
- Mr. Apex headed for the Bahamas with Mr. Rising Sun's initial investment
- I got my education on the project paid
- Professor a little better off

# Conclusions

- Considerable pressure placed on me to accept false and misleading information
- I maintained my independence
- I conducted vital due diligence in breach of instructions, but not in breach of contract
- My resigning at mid-point could have led to a large financial loss for my colleague and lawsuit for damages from client companies against me.



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