

Ethical Dilemmas Posed During a Mineral Project Appraisal

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Drop Everything Assignment

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- 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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