

AMERICAN INSTITUTE OF MINERALS APPRAISERS

NEWSLETTER

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THE AUSTRALIAN VALMIN CODE FOR MINERAL APPRAISALS

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In June 1995, the Australasian Institute of Mining and Metallurgy (AusIMM) issued its "Code and Guidelines for Assessment and Valuation of Mineral Assets and Mineral Securities for Independent Expert Reports (The Valmin Code)." The Code applies to reports commencing 1 July 1995 and has already gained wide acceptance.

The Code is binding on members of The AusIMM when preparing public independent expert reports concerning mineral assets and mineral securities. It has been accepted by the Australian Institute of Geoscientists (AIG) and endorsed by The Australian Mining Industry Council (AMIC). The Australian Stock Exchange (ASX) supports the Code and is deciding whether to issue it as a guideline or to adopt it as an appendix to ASX Listing Rules. The Australian Securities Commission will also use it as a standard when reviewing mineral documents.

The AusIMM, AIG and AMIC lead the world in providing codes and guidelines for their members' activities in the minerals industry. Their Australasian Code for Reporting of Identified Mineral Resources and Ore Reserves, first adopted in 1989, has been incorporated in the ASX Listing Rules and is held in high regard throughout the world's mining industry.

The driving force behind these initiatives has been a large number of practices in the industry over the years which have ranged from dubious or unethical to outright scams.

The Valmin Code is a detailed, 19-page document, containing a code section of "musts" and a guidelines section of "shoulds." Application of the Code is mandatory for mineral valuations

presented in the public domain. This includes: in any prospectus; compensation for compulsory acquisitions; public valuation reports likely to affect the market price of securities; and for a variety of transactions likely to affect the value of shareholder interests. It is not mandatory to follow the Code for appraisals not covered by Corporation Law, such as for tax assessments and estate settlements.

The Code specifies a level of research detail and "maximum disclosure," which I expect will lead to many weighty appraisal reports.

The report must be signed by an individual independent expert who has ten years of general minerals industry experience. Specialists preparing reports included within the main report, must have at least five years of experience in their specialty. The expert and specialists must be members of a "relevant, recognized" professional association, but there is no requirement for membership in an appraisal association.

Valuation methodologies are not specified. However, the Code requires that the reasons for selecting each methodology must be stated. The commissioning entity may not influence the choice of methodology.

The Code places substantial obligations on the commissioning entity. The commissioning entity is apparently assumed to hold the mineral interests. The obligations include requirements for:

"complete, accurate and true disclosure" to the expert and specialists; reasonable access to the commissioning entity's personnel and records; respect for the independence of the appraising team; and a requirement to state in writing that full disclosure has been made. A draft copy of the report must be given to the commissioning entity for review to assure accuracy of the facts and non-objection to the assumptions used.

The valuation report must state clearly the nature of the value determined and its valuation date, which may differ from the date of report preparation. Although the report may contain technical language, it must be written in "plain English," and contain "a balanced, objective and concise statement of the Expert's review and conclusions so that an informed layman can have a clear understanding of the Mineral Assets or Mineral Securities concerned, their Value and the attendant risks." The report must also contain all information which investors and their professional advisers would reasonably require and expect.

The decision on whether or not to inspect the mineral asset or tenement must be made by the appraiser and not by the commissioning entity. When a decision is made not to inspect, the reasons why there is satisfactory and sufficient current information must be stated in the report.

All mineralization of material importance, and its attendant risk, must be reported in accordance with the Australasian Code for Reporting of Identified Mineral Resources and Ore Reserves. Sufficient maps, plans and other graphic information must be included to illustrate the geology, location of tenements and other pertinent features. Other sections of the Code impose requirements for reporting on categories of information such as services and infrastructure, environmental and land access matters, employee relations, capital and operating costs, and product markets.

When the extent of the data permits, the conclusions on value by the expert must include a range (high, low and most likely) to reflect the uncertainties in the data. The report must also include a sensitivity analysis showing the effects of changing the most significant assumptions. Rules for out-of-date data, and assets with no value or negative value, are included.

The guidelines section of the Code places substantial additional obligations on the appraiser. The range of guidelines provided extend from record keeping, to reconciliation of prior and proposed production performance. Included are factors which should be taken into account in selection of the appropriate appraisal method, and guidelines on handling high and low commodity prices or stockmarket conditions. Notable in their absence in the Code are any requirements to include comparable values and to have the report peer reviewed.

Overall, the Valmin Code is a strong document which will impose a high standard on mineral appraisals used in the public domain in Australia. It also sets a standard to judge private appraisals against. Revisions in future years can be expected to further strengthen the Code.

The substantial burdens imposed on both the appraiser and the commissioning entity, I expect will multiply the costs of many appraisals. The higher costs could mean that many properties that would have been appraised, now will go unappraised. However, any negatives will hopefully be outweighed by improved confidence of the financial sector in the reliability of Australian minerals industry reports.

Copies of the Valmin Code are available for A\$10 each (postage included) from The AusIMM, P.O. Box 660, Carlton South, Victoria 3053, Australia.

[†]Trevor Ellis is a Member of The Australasian Institute of Mining and Metallurgy.

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CRITERIA FOR APPRAISAL SPONSORSHIP IN THE APPRAISAL FOUNDATION

1. The business form of the organization must be non-profit, Federal Internal Revenue Service tax exempt as of the date of its application.
2. A new sponsor would be required to pay an initial fee of \$18,800 and a *pro rata* share of the current dues assessed. Payment is required before admission to sponsorship. Therefore, an organization must demonstrate financial ability to pay on an ongoing basis. (I think this answers our questions about joining.)
3. Adoption of the *Uniform Standards of Professional Appraisal Practice*, including the "Ethics Provision," prior to application for admission.
4. Existence of an educational mechanism for teaching the *Uniform Standards of Professional Appraisal Practice*, including the "Ethics Provision," to an organization's members and a disciplinary mechanism for enforcing them. A minimum five-year history of standards, ethics, education and enforcement is preferred.
5. Organization must require all its appraisal-designated members and persons seeking appraisal designations to complete at least 15 hours of course work on the *Uniform Standards of Professional Appraisal Practice*, including the "Ethics Provision" every five years.
6. Organization or organization's appraisal subdivision must award appraisal designation(s), but not all members must be designated.

7. Organization must require its appraisal-designated members to achieve, in the areas of education, experience and continuing education, the minimum criteria adopted by the Appraiser Qualifications Board for the corresponding Uniform Standards, and must require its applicants for an appraisal designation to pass an examination. Where no minimum qualification criteria has been adopted by the Appraiser Qualifications Board, the organization will demonstrate meaningful requirements for education, experience, continuing education, and examination for its designated members.

* * *

AIMA CODE OF ETHICS

PREAMBLE

The American Institute of Minerals Appraisers (The Institute), founded in 1991, is an assemblage of professionals specializing in the appraisal of mineral properties of all types.

All Members of The Institute are required under Bylaws Article 2.5.2 to comply with the Code of Ethics in the professional practice of appraisal and to encourage others to maintain similarly high standards. Compliance with the Code of Ethics is mandatory and its violation will be grounds for disciplinary action by the Institute. Under the Bylaws, the Institute may also impose discipline for legal violations. Suspension or revocation of registration or licensure, among other grounds, may also be the basis of disciplinary action by the Institute. Disciplinary action may take the form of private admonition, public reprimand, suspension of membership, or termination. The Code of Ethics applies to all professional activities of Members wherever and whenever they occur. A Member shall not be relieved of an ethical responsibility by virtue of his or her employment, because the Member has delegated an assignment to a subordinate, or because the Member was not involved in performing services for compensation.

CODE OF ETHICS

1. The responsibility of Members for the welfare of the community shall at all times come before their responsibility to the profession, to The Institute or private interests, or to other Members.
2. Members shall act so as to uphold and enhance the honor, integrity and dignity of the profession of minerals appraisal.
3. Members shall perform work only in their areas of competence.
4. Members shall build their professional reputation on merit and shall not compete unfairly.

5. Members shall apply their skill and knowledge to develop objective mineral valuations unbiased by the desires, wishes, or needs of their client, employer or a third party.
6. Members shall work in the interests of their client or employer for whom they shall act in professional matters as faithful contractors or employees.
7. Members shall give evidence, express opinions or make statements in an objective and truthful manner and on the basis of adequate knowledge, and communicate with the available data.
8. Members shall continue their professional development throughout their careers and shall actively assist and encourage those under their direction to advance their knowledge and experience.
9. Members shall have a working knowledge of, and comply with, all laws and government regulations pertaining to the location and activity in which they are practicing.

INTERPRETATIONS

RULE 1:

The responsibility of Members for the welfare of the community shall at all time come before their responsibility to the profession, to The Institute or private interests, or to other Members.

- a. Members shall avoid even the appearance of impropriety.
- b. Members who find that obligations to an employer or client conflict with professional or ethical standards shall have such objectionable conditions corrected or resign from that employment.
- c. A Member shall avoid making sensational, exaggerated, and or unwarranted statements that may mislead or deceive members of the public or any public body.
- d. A Member shall not knowingly permit his work to be used for illegitimate or unsound undertakings.

RULE 2:

Members shall act so as to uphold and enhance the honor, integrity and dignity of the profession of minerals appraisal.

- a. Members shall be guided by the highest standards of personal integrity and professional conduct.
- b. By applying for or by continuing Membership in the Institute, a Member agrees to comply with and uphold this Code of Ethics.

- c. Members shall aid in preventing the election to membership of those who are unqualified or do not meet the standards set forth in this Code of Ethics.
- d. Members having knowledge of a violation of this Code of Ethics by another Member should bring substantiated evidence of such violation to the attention of the Institute.
- e. A Member shall not involve himself with any business or professional practice which he knows to be of fraudulent or dishonest nature.
- f. A Member shall not continue in partnership with, nor act in professional matters with any person who has been removed from membership of The Institute because of unprofessional conduct.

RULE 3:

Members shall perform work only in their areas of competence.

- a. A Member shall perform professional services or issue professional opinions which are only within the scope of the education and experience of the Member and the Member's professional associates, consultants, or employees, and shall advise the employer or client if any professional requirements are outside of the Member's personal expertise.
- b. A Member shall not give a professional opinion nor submit a report without being as thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.
- c. A Member shall inform his employer or client, and make appropriate recommendations on obtaining further advice, if an assignment requires qualifications and experience outside his field of competence.

RULE 4:

Members shall build their professional reputation on merit and shall not compete unfairly.

- a. A Member shall neither falsify nor misrepresent his or his associate's qualifications, experience and prior responsibility.
- b. A Member shall neither maliciously nor carelessly do anything to injure, directly or indirectly, the reputation, prospects or business of others.
- c. A Member shall not use the advantages of a privileged position to compete unfairly with others.

- d. Members should respect the rights, interests, and contributions of their professional colleagues, and shall refrain from unfair criticism of the work of another.
- e. Members shall respect and acknowledge the professional status and contributions of their colleagues.
- f. A Member shall give due credit for work done by others in the course of a professional assignment, and shall not knowingly accept credit due another.
- g. A Member shall not plagiarize another in oral and written communications, or use materials prepared by others without appropriate attribution.

RULE 5:

Members shall apply their skill and knowledge to develop objective mineral valuations unbiased by the desires, wishes, or needs of their client, employer or a third party..

- a. While realizing that Members are contracted to perform appraisals with many differing purposes or characteristics, Members shall perform their appraisal work with independence from influence or bias from their client's, employer's, or any other party's desires, needs or wishes as to the outcome of their valuation.

RULE 6:

Members shall work in the interests of their client or employer for whom they shall act in professional matters as faithful contractors or employees.

- a. Members shall disclose any actual or potential conflicts of interest which may affect their ability to serve an employer or client faithfully, including disclosure of any existing or contemplated financial interests related to the project.
- b. A Member shall not accept referral fees from any person to whom an employer or client is referred; however, nothing herein shall prohibit a Member from being compensated by the employer or client for consultation, or for other services actually performed.
- c. A Member shall not offer or pay referral fees to any person who refers an employer or client to the Member; however, nothing herein shall prohibit a Member from compensating the person giving the referral for consultation, or for other services actually performed.
- d. A Member shall not use, directly or indirectly, any confidential information obtained from or in the course of performing services for an employer or client in any way which is adverse or detrimental to the interests of the employer or client, except with the prior consent of the employer or client or when disclosure is required by law.

- e. The engagement of a Member to perform an appraisal should be kept confidential in order to protect the client's proposed enterprise or transaction, unless the client approves disclosure or clearly has no interest in keeping the fact of the engagement confidential, or unless the Member is required by due process of law to disclose the engagement.
- f. A Member shall not provide services to more than one party on the same property, project, asset, or legal action, unless the circumstances are fully disclosed and agreed to by all interested parties.

RULE 7:

Members shall give evidence, express opinions or make statements in an objective and truthful manner and on the basis of adequate knowledge, and communicate with the available data.

- a. A Member's professional reports, statements or testimony shall be objective and accurate. The Member shall express an opinion only on the basis of adequate knowledge and technical competence in the area, but this shall not preclude a considered speculation based intuitively on experience and wide relevant knowledge.

RULE 8:

Members shall continue their professional development throughout their careers and shall actively assist and encourage those under their direction to advance their knowledge and experience.

- a. Members shall strive to widen their knowledge and improve their skills in order to achieve a continuing improvement of the profession.
- b. Members shall cooperate with others in the profession and encourage the dissemination of technical knowledge and understanding.
- c. Members shall encourage their professional employees and subordinates to further their education.
- d. A Member shall take a positive interest in, and actively encourage others in the profession to support The Institute and other professional organizations which further general interests of the profession.

RULE 9:

Members shall have a working knowledge of, and comply with, all laws and government regulations pertaining to the location and activity in which they are practicing.

- a. A Member shall observe and comply with the requirements and intent of all applicable laws, codes, and regulations where he is engaged.
- b. A Member shall not knowingly participate in any illegal activities, or knowingly permit the publication of his or her reports, maps, or other documents for illegal activities.
- c. A Member shall neither offer nor make any illegal payment, gift, or other valuable consideration to a public official for the purpose of influencing a decision by such official; nor shall a Member accept any payment, gift, or other valuable consideration which would appear to influence a decision made on behalf of the public by the Member acting in a position of public trust.
- d. If a Member becomes aware of a decision or action by an employer, client, or colleague which violates any law or regulation, the Member shall advise against such action, and when such violation appears to materially affect the public health, safety, or welfare, shall advise the appropriate public officials responsible for the enforcement of such law or regulation.

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**A SITUATION WHERE MEMBERSHIP IN
THE AIMA PROVED HELPFUL
Submitted by Trevor R. Ellis**

In 1993 I was contracted as an expert witness by a law firm. It was defending a landowner who owns property being mined for specialty silica sand. The mining company was suing the landowner for a few million dollars in damages.

The law firm for the mining company spared no expense. They hired for their prime expert witness the head of a substantial consulting firm. His hourly rate was 3.5 times mine. Even before I was contracted, he had billed more to the case than I ever did.

In preparing for my deposition I took an appraisal approach in valuing the damages to the mining company. Advice I received from our President, John Gustavson, proved important in this preparation. During my deposition, the deposing lawyer seemed quite impressed by my credentials, in particular my AIMA Certification.

Two days after my deposition, the case was settled at no cost to the landowner. In fact, the settlement included a new mining contract providing a much increased royalty rate to the landowner. I received a letter of thanks from the defending law firm stating that my deposition proved critical in reaching the settlement.

* * *

NEW MEMBERS

We extend a warm welcome to the following new members,
recently certified by the Institute:

Bernard J. Guarnera
President and COO
Behre Dolbear & Company, Inc.
1601 Blake Street, Suite 301
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Mitchell E. Albert, Ph.D.
President
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