From: Donald Swenson [mailto:phase4tennis@gmail.com]
Sent: Tuesday, January 25, 2011 12:37 PM
To: EBSA, E-ORI - EBSA
Subject: Definition of 'fiduciary'...proposed rule

Attn: As an appraiser and consultant with 40 years experience in the valuation profession, I would like you to include my vote for the proposed 'fiduciary' rule...which I am convinced would help to address numerous ethical issues within our profession. Personally, I have viewed my role as a 'fiduciary' (even though this concept has not been part of the education system for valuation professionals) when working with my clients. Why do we need this rule for the valuation profession?

First of all, the entire process of valuation is a subjective process with no objective right/wrong answers to enforce. Both 'value' and 'price' should be viewed as subjective results in today's marketplace. Value is derived by each person within their own psychological framework and within each person's set of assumptions. This means that 'value' is a psychological concept which is subjective at the core for each person. The concept of 'value' is much like the concept of 'beauty'...it's within the mind of each person to decide what is meant by the concept. There is no objective reality to this concept independent of the psychology of each person. And people do think differently about this concept.

Secondly, the valuation of all assets is mostly denominated in our currency unit, called the 'dollar'. What is our 'dollar'? Our currency unit, the 'dollar', is subjectively created mostly by our Central banking system. We call our 'dollar' a fiat currency unit...which means that it is not a standard of value that is independent of people (like say silver or gold). Our 'dollar' is created by the decisions of central bankers via a subjective process called open market operations. Currently, the members of the Federal Open Market Committee are mostly responsible for administering our 'dollar' policy which then affects the valuation of all asset classes within our marketplace.

Since the concept of 'value' is subjectively derived and since we now derive (not measure) values with a subjective currency unit (the dollar), it seems very relevant for valuation consultants and appraisers to work with their clients within a 'fiduciary' relationship. The purpose of valuation is to assist the client with their decision making issues. If part of a decision involves the valuation of an asset, then this valuation should be done from the client's point of view. This means that there should be a close 'fiduciary' relationship between the appraiser/consultant and the client (say a lender and/or any financial decision-maker).

I might add that the this type of relationship would not be necessary if our currency unit (the dollar) were an objective thing which had an objective value. To some extent, we did have an objective 'dollar' prior to 1971. Why? Because our 'dollar' was defined in terms of an objective commodity (gold). Since 1971, however, our 'dollar' is no thing (a fiat unit) and has no definition in terms of an objective commodity that could be viewed as a 'standard'. This means that the 'price' we attach to an asset is subjective today. The concept of 'value' has always been subjective, but today the 'price' of assets is also subjective since we derive 'prices' in terms of merely an imaginary number. Just observe the stock and commodity markets and the fluctuations which happen on a moment by moment basis to witness this subjectivity in operation.

Your proposed 'fiduciary' rule is a definite step in the right direction. All valuation of assets should now be viewed as a subjective process and the clients viewpoint needs to be a priority when valuing any asset class (tangible or intangible). I hope this statement is helpful when you evaluate your proposed new rule.

Sincerely,

Donald Brynolf Swenson, MAI, SRPA (retired)
Economist/Philosopher/Teacher
Marana, Arizona 85653