



## Why Hire an ASA?

### **“Herbert V. Kohler, Jr., ET AL., Petitioners v. Commissioner of Internal Revenue, Respondent”**

In T.C. Memo. 2006-152 United States Tax Court “Herbert V. Kohler, Jr., ET AL., Petitioners v. Commissioner of Internal Revenue, Respondent,” the Court ruled in favor of the Petitioners citing that the Commissioner’s expert did not prepare his (business valuation) report in accordance with USPAP Standards.

Overview: Respondent determined deficiencies in petitioners’ Federal estate and gift taxes for 1998 and accuracy-related penalties under section 6662(a). The Court is asked to decide the fair market value of stock of the Kohler Co. (Kohler or the company) owned by the estate of Frederic C. Kohler (the estate) on the alternate valuation date. Kohler is a well-known international manufacturer of plumbing products, cabinetry, tile, home furnishings, generators, engines, transfer switches, and switchgear, and also owns and operates hospitality and real estate businesses.

The expert for the Respondent was Dr. Scott Hakala. The Court stated, *“Although Dr. Hakala has a doctorate from the University of Minnesota and is a chartered financial analyst, he is not a member of the American Society of Appraisers (ASA) nor the Appraisal Foundation. Dr. Hakala’s report also was not submitted in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). Dr. Hakala did not provide the customary USPAP certification, which assures readers that the appraiser has no bias regarding the parties, no other persons besides those listed provided professional assistance, and that the conclusions in the report were developed in conformity with USPAP.”*

Further stating, *“We have several significant concerns about the reliability of Dr. Hakala’s report. These concerns lead us to place no weight on Dr. Hakala’s report as evidence of the value of the Kohler stock the estate held. We have previously discussed the lack of customary certification of Dr. Hakala’s report and that his report was not prepared in accordance with all USPAP standards.”*

The Court concluded: *“We therefore give no weight to respondent’s expert’s conclusions.”*

The Estate’s expert witnesses were Mr. Robert Schweih and Mr. Roger Grabowski. The Court cited, *“Mr. Schweih is a managing director of WMA, has been accredited as a senior appraiser in business valuation by the ASA, ...”* and *“Mr. Grabowski was another expert who prepared an appraisal report and testified for the estate. He is a member of the ASA and is an accredited senior appraiser with the ASA in business valuation.”*

The Court’s Opinion: *“We find that the estate’s experts have provided thoughtful, credible valuations strongly supporting the value the estate reported on its tax return. We also find that the estate’s experts’ appraisals are more thorough and consistent with traditional appraisal methodologies for closely held companies like Kohler. We accordingly give significant weight to their valuations.”*

**The bottom line:** This is why it is important to hire an Accredited Senior Appraiser who prepares reports in accordance with USPAP, has met the rigorous requirements of education, and has the experience to defend the valuation opinion. **That is the ASA difference!**

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