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VALUATION ISSUES™

KLARIS, THOMSON & SCHROEDER, INC.

2014-1

United States Tax Court Case Summary
T.C. Memo 2013-263, Docket NO. 26176-10
Estate of Dianne Tanenblatt, Deceased
Roy L. Greenbaum, Personal Representative, Petitioner
Versus
Commissioner of Internal Revenue, Respondent Judge Halpern
Filed: November 18, 2013

By: Christine Lee, ASA

Background

This is an estate tax valuation case. Decedent died with a 16.67% “Membership” Interest in a Limited Liability Company holding real estate described as a 10-story mezzanine, cellar and subcellar, concrete/steel, masonry, semi-fireproof-class C, elevator, loft-building with office and grade level retail in the Midtown South/Ladies sector of Manhattan. The gross building area is approximately 67,050 SF above grade and gross rentable area of 77,725 SF.

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Issues involving case:

1. **Following Rules and Procedures:** Rule 702 of Federal Rules of Evidence, Petitioner failed to qualify Dr. Tindall as an expert witness and (Rule 143 (g)(i) Procedural Rules), Petitioner failed to meet preconditions prior to trial date. As a result, the appraisal report prepared by Dr. Tindall, or her direct testimony, was excluded from trial. T.C. Memo reads, “in response to Court’s question as to whether petitioner was just relying on his own motions (with respect to stipulating the Tindall appraisal into evidence)...”
2. **Appraiser Fee Dispute:** “...petitioner’s counsel candidly responded: ‘Probably, Your Honor, because right now my client’s in a fee dispute with the appraiser, so right now I cannot get the appraiser to come and testify.’”
3. **Membership or Assignee Interest:** The Court determined that the Decedent died with her Trust owning a Membership Interest; prior to death, the Decedent was a member and enjoyed all the benefits and was ‘saddled with all the burdens’ of the

Membership Interest; there is no evidence that on or before the valuation date the trust distributed, sold, exchanged, or otherwise disposed of the subject interest, so that possibly, it could more accurately be described as an assignee’s interest.

4. **Which Report To Use:** Petitioner filed his Form 706 with one appraisal (MPI Appraisal); this same appraisal, Petitioner said that the appraiser erred. Then, Petitioner tried to submit, as testimony, a new appraisal (Dr. Tindall report), in which Petitioner had a fee dispute with appraiser (Dr. Tindall), see #1 above. Relative to the MPI appraisal, the Court states, “The MPI appraisal is offered by neither party solely as expert testimony so that we do not exclude it, as we do the Tindall Appraisal.”
5. **Which Valuation Method to Use:** With respect to the valuation of investment or holding companies, Revenue Ruling 59-60 states the following:

(continued on page 2)

“Earnings may be the most important criterion of value in some cases whereas asset value will receive primary consideration in others. In general, the appraiser will accord primary consideration to earnings when valuing stocks of companies which sell products or services to the public; conversely, in the investment or holding type of company, the appraiser may accord the greatest weight to the assets underlying the security to be valued.

Overall, the Court decided the Respondent and its expert, Mr. John A. Thomson, ASA, MAI, of Klaris, Thomson & Schroeder, Inc., did not err in using the net asset value approach; and, did not err in identifying the interest as a Membership Interest. The net asset value was accepted by both the Respondent and the Petitioner. Therefore, no issue. Lastly, the Court agreed on the discounts applied by Mr. John A. Thomson. The decision resulted in a deficiency of taxes paid for the Petitioner. A summary of the values in the case were as follows:

MPI APPRAISAL	IRS- ORIGINAL VALUE	DR. TINDALL APPRAISAL	KLARIS, THOMSON & SCHROEDER, INC. APPRAISAL	COURT DETERMINATION
\$1,788,000 *	\$2,475,882	\$1,037,796**	\$2,303,000	\$2,303,000

FOOTNOTES:

* Not used as expert testimony
 **Not admitted

Klaris, Thomson & Schroeder, Inc. Teams up for a Great Cause

On Friday, May 9, 2014, Klaris, Thomson & Schroeder, Inc. was a proud corporate sponsor and sponsored two teams for the 4th Annual American Red Cross St. Louis Area Chapter Golf Tournament held at Annbriar Golf Course in Waterloo, Illinois. □



Left to Right: Gary Schroeder, Marie Schroeder, Dan Outman and Zeke Jabusch



Left to Right: Mark Hoeft, Brian Blase, Luke Waller and Sean Costello

Klaris, Thomson & Schroeder, Inc. Teams Up for a Another Great Cause SWAB FOR JACK

Pictures: Left to Right; Jack Espinoza; Christine T. Lee, Anita Thomson & Becky Macaranas Swabbed for Jack!



Swab for Jack
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* ▼

Jack is a 19-month old baby boy who is currently battling Mixed Lineage Leukemia (MLL). Jack was recently transferred from Miller Children's Hospital in Long Beach, California to St. Jude Children's Research Hospital in Memphis, Tennessee.

Klaris, Thomson & Schroeder, Inc. joined the cause to help Jack, whose father works out of the Los Angeles office of Klaris, Thomson & Schroeder, Inc.

Team members of our Los Angeles office swabbed for Jack in May at the Marina Farmers Market, one of many of their drives in Southern California.

If you would like to help Jack and his family and learn more about his story please visit, <http://join.marrow.org/Swab4Jack>, #SwabforJack, swabforjack - YouTube or youcare.com/swabforjack. ☐

ASA LA Installation Dinner

On June 19th, the Los Angeles ASA chapter welcomed the newly elected 2014-2015 Executive Board.



President - Christine Lee, ASA with Klaris, Thomson & Schroeder, Inc.; First VP - Steve Hjelmstrom, ASA; Second VP - Brooks Rice, ASA; Secretary - Jennifer Hsu; and Treasurer - Martin O'Donnell (not in attendance) at its annual Installation reception, held at the 555 Steakhouse restaurant in Long Beach, California.



Christine Lee, ASA and Former President of the Los Angeles ASA Chapter Analee K. McClellan, ASA.



Left side: Katherine Thomson Centanni with Molina Healthcare and special guest Bob Gordon, Sr. Vice President & Chief of Staff to the CFO John Molina with Molina Healthcare; Kiko Moscal, ASA, Principal with Capital Assets Valuations; Right Side; Christine Lee, ASA with Klaris, Thomson & Schroeder, Inc.; John Thomson, ASA, MAI with his wife Rebeca Thomson and Anita Thomson, with Klaris, Thomson & Schroeder, Inc.



**KLARIS,
THOMSON &
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is a national full service valuation and consulting company specializing in business valuations, intangible asset valuations, financial consulting, expert testimony and litigation support. In addition, we also perform real estate valuations, machinery and equipment valuations, and international transfer pricing analyses.

For more information or a free valuation seminar for your firm or professional group, please call Anita Thomson at (877) 587-7008, or e-mail your request to ktsinc@verizon.net.

— Thomas Edison
*“Many of life's failures are people who
 did not realize how close they were
 to success when they gave up.”*

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