

2015 - Jewelry Appraising – A Litigational Mine Field

By La Shawn Bauer, G, G, GG, ASG/AGA, CGL/AGA, CDG/IJO, CGL/IJO, RMV, CSM/NAJA

Striving for Excellence – ALWAYS **“Excellence, is not an act, it is a Habit!!!!!!”**

Full Disclosure and Complete Transparency

Jewelry Appraising – A Litigational Mine Field

This is an Article I wrote and thought I had posted it on my site way back in 2015

This was right after the Posted and Published Article by Martin Rapaport in November of 2014

The 2014 - EGL Diamond Grading Scandal

So you can all read it now because it is just as relevant today as it was in 2015 or maybe even more so now.

Enjoy

Appraising Jewelry is a Litigational Mine Field and isn't for the Faint of Heart nor for the Uneducated.

The Mine Field starts at the point of Take-In and extends Five (5) to Seven (7) YEARS after the work is completed because of the Length of the Statute of Limitations within not only Your Jurisdiction, your place of business's location, but also the location and permanent residence of the Client's Jurisdiction as well.

The Appraiser can and could be sued by all parties involved, separately or even all at the same time,

- A. (The Seller) in most cases - The Jewelry Store
- B. (The Buyer) in most cases - The Consumer

and a number of Third Parties who might also be involved in the Appraisal, such as;

- C. The Insurance Company,
- D. The Courts,
- E. The Government (Mainly the IRS)
- F. A Bank
- G. Estate and/or Trust
- H. Wealth Management Professional / Financial Planner

The Smart and Savvy Jewelry Store and Jewelry Store Owner(s) and Manage(s) knows about **Risk Management and Risk Assessment** and those Smart Business People know it is in their best interest to totally divorce themselves and completely separate themselves from being associated with a Jewelry Appraisal because **all it takes is One (1) Bad Appraisal to instantly Ruin and Bankrupt their Store Financially and Damage their Business Image in a Split Second.**

The Risk Simply outweighs the benefit of being involved with any part of the Jewelry Appraisal Process.

However, Most Jewelry Stores and Most Jewelry Store Owners and Managers refuse to divorce themselves from the Appraisal process because they have somehow dodged the Lawsuit bullet all these years with no problem and they also want to control almost every aspect of the Appraisal to shine the best possible light on themselves and the item being appraised, especially if they were the ones who sold the item.

But at the same time, it should be said and pointed out that MOST "FEEL-GOOD" Jewelry Appraisals Originate from a Retail Jewelry Store who wants to take advantage of their Own Customers/Clients and shine them on by boasting how great of a deal they got because the "FEEL-GOOD" Jewelry Appraisal says so.

The vast majority of "FEEL-GOOD" Deceptive Jewelry Appraisals are done by totally incompetent, un-educated and un-credentialed people who don't know "CRAP from CRISCO" when it comes to jewelry appraising.
It's that simple and that direct.

However, New Developments have come to light recently.

The EGL-International Diamond Grading Scandal that has rocked the Diamond Grading Industry and the World-Wide Jewelry Industry. (2014)

Attorneys have now smelled Blood in the Water and we have already seen several cases come to the courts regarding EGL-International Diamond Grading Reports.

Remember the Jeweler has now sold a diamond and they have employed a Technique called, "Baiting and Enticement" using the Diamond Grading Report to entice and assure the Consumer (The Buyer) of what they are getting, by a So-Called, Honest, Ethical, Professional, Reputable, Recognized, Disinterested, Independent, 3rd Party, stating truthful facts and information

In EGL's case this couldn't be further from the truth.

Make No Mistake the Jewelry Store is Legally Liable and Accountable.

The REAL QUESTION is;

- A. Did the Jewelry Store do their Due Diligence and inform and educate The Consumer (The Buyer) that not all Diamond Grading Reports are Equal?
- B. Was this done verbally or in written form that was signed by the buyer before the transaction took place?

Probably not and therefore, the Jewelry store, is now legally liable for that report, even though they didn't write it.

They (The Jewelry Store), in fact, used it, as a Selling Point, hence "Baiting and Enticement" to make the sale,

It better be in written form because verbally in a court of Law will be seen as nothing more than Hearsay Evidence and will more than likely be thrown out and/or totally ignored by the courts especially if you have to go up against a well-trained Courtroom Attorney.

They will shred that verbal statement in a New York Second.

This Problem is now compounded when the appraisal report is written and documented and the reports then includes this diamond grading report into the document and is then valued by the appraiser, or So-Called Appraiser, whichever the case may be.

- A. Did the Appraiser make a Clear notation within the report about Diamond Grading Standards and that not all Diamond Grading Laboratories subscribe to the same Diamond Grading Standards?
- B. Did the Appraiser "BLINDLY ACCEPT" the Diamond Grading report in-toto (Complete with no disclaimers or disclosures?
- C. Did the Appraiser Double-Check the Grade the Diamond(s) themselves against their own set of "COLOR MASTER" Graded Comparison diamonds?
- D. Did the Appraiser even have a Set of "Color Master" Diamonds to compare the Subject diamond against?
- E. Does the Appraiser use C.Z. Comparison Stones instead of REAL Diamonds that are Documented as Master "Color Grade" Comparison Diamond Sets from a Reputable Diamond Grading Lab?
- F. Was that FACT even listed, Clearly and Notably in the Appraisal report that C.Z.'s and not "Color Master" Diamonds used?
- G. Did the Appraiser come to a Different Grading Conclusion?
- H. Is that Clearly and Boldly marked and notated within the Appraisal Report?
- J. Or is it hidden in small print in the Body of the Report?
- K. Or is it Clearly and Boldly Labeled within the Appraisal Report where the diamond in question is described, listing its CUT, COLOR, CLARITY and CARAT WEIGHT?

In My Honest Opinion, C.Z. Master Comparison Stones were the Worst things ever invented and sold to the jewelry Industry and jewelry appraising industry!!!

I have seen and tested and graded Dozens of C.Z. Master Sets and I have yet to see a set that passed against a REAL TRUE SET of Diamond "Color Grading" Master Comparison set.

I would personally use colored water in test-tubes before signing my name on the dotted line using C.Z. Comparison stones. Yes this is Highly Sarcastic, but very true! ! !

Using C.Z. Color Comparison stones to Color Grade Diamonds is equivalent to using Bananas to grade Apples or Oranges! ! ! !

(As of 2015 I personally don't remember or recall any Jewelry Appraising Books by any notable, recognized Professional Appraisers of Gems and Jewelry that claim in their Appraisal Books that C.Z. Comparison stones are Equal to and just as Accurate as REAL "Color Master" Diamond Sets that are Certified or stated as Color Master Diamonds from GIA or AGSL.)

Now let's look at the Appraisal;

- A. Does The Appraisal Carry or Highlight the Jewelry Stores Name and Address and looks like it was done by the Jewelry Store?

If so then the Jewelry Store is liable for everything inside the appraisal report, just as liable and maybe even more so, than the appraiser.

Remember Lawyers follow the Money! ! !

A Jewelry Store is a Bigger Target and a Bigger Fish than an Appraiser.

A Jewelry Store has more assets than a single jewelry appraiser therefore the lawyers is going where they can get the Best Return on their Lawsuit Dollar invested and that is the jewelry store.

- B. Does the Jewelry Store carry a separate Liability Insurance policy covering their In-House Jewelry Appraisals?
- C. Does the Jewelry Store Carry a Separate Insurance Policy covering E & O (Errors and Omissions) for their In-House Jewelry Appraisals?
- D. Does the Jewelry Store carry a separate Liability Insurance policy covering their Client's Jewelry while it is sent out or picked up by their So-Called "Independent Jewelry Appraiser"?

Remember, the jewelry was taken in, at the store.
Therefore they are legally liable if anything happens to it, especially if the store sent the jewelry out to a Third Party.

- E. Did the Jewelry Store do their "Due Diligence" to make sure their So-Called, "Independent Appraiser" has Liability Insurance to cover their Client's Jewelry while it is in their possession?
- F. Is the Liability Amount High Enough to cover your client's jewelry?

- G. Did the Jewelry Store do their "Due Diligence" and perform an Annually Check and Verify with their So-Called, "Independent Appraiser" that their Liability Insurance is paid for in full and they are covered for the calendar year?
- H. Did the Jewelry Store do their "Due Diligence" to make sure their So-Called, "Independent Appraiser" has E & O (Errors & Omission) Insurance?
- I. If the Appraisal is done by the store's, "Independent Appraiser"
Did the Store or Store Owner ever think about asking, Legal Council
Are they covered by their own liability Insurance to protect themselves and their store from Errors and Omissions done and caused by their So-Called "Independent Appraiser" if they have their Store Name Show Cased and Imprinted or Associated with the Appraisal in any way, shape or form?
- J. Does a Store's Liability Insurance Policy cover and protect the Store and Store Owner from Diamond Grading Reports that they sold along with the Diamond they sold to the End User, Their Client?

If those Diamonds and Diamond Grading Reports turn out to be False, Deceptive, Mis-Leading and down right Fraudulent?

Remember a Jewelry Appraisal and even a Jewelry Sale with a Diamond Grading Report has a Self-life of Five (5) to Seven (7) years depending on your jurisdiction.

The Smart and Savvy Jewelry Store Owner would want to consult with their Business Attorney and openly discuss this article and ask for Professional Legal Advice and Counsel on how best to protect their Jewelry Store and themselves (The Owners) from a possible lawsuit.

- A. If the Jewelry Store pays the Appraiser to do the appraisal for their client then the Appraiser is a "Straw Employee" of the Store and therefore part of the store.
- B. If the store gets a kick-back from the appraisers and shares in the profit or a percentage of the profit there is still a connection of the Store and Appraisers.

The question is, is the small amount of profit (usually peanuts) we're talking under \$100.00 and in most cases under \$50.00 if the store is taking a percentage of the profits from the total cost of the appraisal.

So once again, IS IT REALLY WORTH THE RISK, just for a few extra bucks?

Remember, if you share in any of the profits, no matter how small they are, YOU also SHARE IN THE RISK!!!! It will come back to bite you, Trust Me. Better Yet ask Your Business Attorney for their professional Legal Opinion.

- C. If they (The Jewelry Store) hired an Independent Appraiser Off-Site or has one come in part-time to service their clients and those reports have their Store Name / Business Name associated with it then it might be best to divorce themselves from having their name and business associated with the appraisal completely.

By removing their, (The Jewelry Store & Owners) name and association with the appraiser and their appraisals they greatly reduce the Threat and Risk of Legal Litigation now and in the future.

Protect Yourself and Your Business at all Costs because the Risks Outweigh the Benefits.
Something to Think about and something to talk to your Attorney about.

Now lets switch gears and talk a little bit about, "Independent Jewelry Appraisers"
some make the wild and audacious claims that "Independent Appraisers" are the way to go and they are the most Honest and Reputable people to ever walk the face of the earth.

Well I can personally attest to the fact I have met just as many BAD, Dis-Honest, Un-Ethical, "Independent Appraisers" as In-House Appraisers

But I must clarify that those BAD "Independent Appraisers" WERE NOT USPAP Compliant and none of them had any Professional Appraisal Credentials from any known Nationally or Internationally known and Respected Jewelry Appraisal Organization or Societies.

However, we all know there will be a few "BAD APPLES" in any Industry or Government Bureaucracy

I could write even more about "Independent Appraisers" but what it all really boils down to is;

- #1. Personal & Professional Morals
- #2. Professional Ethics
- #3. Professional Codes of Conduct
- #4. Honesty
- #5. Personal & Professional Integrity