



V. WALTER BRATIC

**EDUCATION** Masters of Business Administration Wharton Graduate School, University of Pennsylvania  
 B.A. University of Pennsylvania, Phi Beta Kappa, Summa Cum Laude

**PROFESSIONAL CERTIFICATIONS**

- Certified Public Accountant, State of Texas 1981
- Certified Fraud Examiner (CFE) 1991
- Certified Licensing Professional, 2008
- Certified in Financial Forensics, AICPA 2009

**PROFESSIONAL ORGANIZATIONS**

- American Institute of Certified Public Accountants
- Affiliations Texas Society of Certified Public Accountants
- Houston Chapter, Texas Society of Certified Public Accountants
- Chairperson, U.S. Licensing Executive Society International Committee
- Intellectual Property Organization, Patent Misuse Committee
- United Nations/Economic Commission for Europe, Group of Experts on Enforcing Intellectual Property Rights for the Commonwealth of Independent States
- Editorial Board of the Journal of Commercial Biotechnology, London, England
- Associate Editor of the Journal of Biotechnology Applications
- Editorial Board of Managing Intellectual Property
- Lecturer on trademarks/trade secrets/Lanham Act at University of Houston Law School 2001-Present
- Lecturer on financial reporting, cost accounting, and management accounting topics
- IAM Patent 1000 List of Leading Experts

**EXPERIENCE**

- Managing Director, Whitley Penn LLP (03/17-Present)
- Managing Director, OverMont Consulting LLC (10/08-02/17)
- Senior Consultant, Charles River Associates (09/08-03/10)
- Vice President, Charles River Associates (2004–08/30/08)
- Managing Director, InteCap, Inc. (1999-2004)
- Partner, Global Director/Partner – Intellectual Property, PricewaterhouseCoopers LLP (1998-1999)
- U.S./European Director—Intellectual Property Services for the Corporate Finance Reorganization and Disputes Practice, Price Waterhouse LLP (1996-1998)
- Partner, Price Waterhouse LLP (1989-1998)
- Senior Manager, Price Waterhouse LLP (1985-1989)
- Manager, Price Waterhouse LLP (1983-1985)
- Senior Consultant, Price Waterhouse LLP (1983)
- CFO and Treasurer, Advanced Energy Supply Company (1981-1983)
- Arthur Anderson (1980-1981)
- Ernst & Whinney (1978-1979)

**EXAMPLES OF INDUSTRY EXPERIENCE**

<ul style="list-style-type: none"> <li>• Aviation</li> <li>• Agriculture</li> <li>• Automotive</li> <li>• Biotechnology</li> <li>• Broadcasting/Media</li> <li>• Chemicals</li> <li>• Class Actions/ QuiTam</li> <li>• Computer Software and Hardware</li> <li>• Construction</li> <li>• Consumer and Pet Products</li> <li>• Consumer Credit</li> <li>• Electronic Commerce</li> <li>• Employment matters</li> <li>• Energy</li> </ul>	<ul style="list-style-type: none"> <li>• Entertainment, Gaming, Hospitality</li> <li>• Environmental</li> <li>• Film Production/Distribution</li> <li>• Financial Institutions</li> <li>• Consumer &amp; Commercial Financial Institutions</li> <li>• Health and Beauty Aids</li> <li>• Health Care and Life Sciences</li> <li>• High Technology</li> <li>• Insurance</li> <li>• Investments</li> <li>• Leasing</li> <li>• Manufacturing</li> <li>• Medical Devices</li> </ul>	<ul style="list-style-type: none"> <li>• Mining/Extraction</li> <li>• Oil &amp; Gas</li> <li>• Pharmaceuticals</li> <li>• Public Utilities</li> <li>• Publishing</li> <li>• Real Estate</li> <li>• Restaurant/Food Distribution</li> <li>• Retail</li> <li>• Software</li> <li>• Steel and Metal Manufacturing</li> <li>• Telecommunications</li> <li>• Transportation</li> <li>• Veterinary</li> <li>• Vitamins</li> </ul>
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## **EXAMPLES OF BUSINESS EXPERIENCE**

### **Energy Related Matters**

- Reviewed and prepared financial statements for oil and gas companies in conformity with SEC and COPAS standards and guidelines.
- Involved in numerous international and domestic energy disputes including arbitration, trials and mediations relating to upstream and downstream projects, joint ventures, development agreements, etc.
- Determined value of oil and gas concessions granted by government authorities in North and South America, Near East, West Africa, Asia and South Pacific.
- Conducted audits of exploration, production, and refining operations of independent and large integrated oil and gas companies.
- Analyzed commodity and fuel trading operations involving swaps and arbitrage agreements and production hedging requirements.
- Analyzed energy swap deals and offsets as required under relevant agreements.
- Analyzed development costs, participation agreements, partnership and co-development funding for oil and gas deals and related disputes.
- Analyzed infrastructure development costs to tie-in downstream distribution and refining operations.
- Analyzed energy swap deals and offsets as required under those agreements.
- Valued foreign electric utilities and distribution systems related to privately controlled and government controlled operations related to financing, expropriation.
- Served as a court appointed expert involving oil and gas matters.
- Involved in upstream and downstream petroleum industry projects including exploration, production, and distribution.
- Analyzed performance of refineries and chemical plants including analysis of construction, rehab, and maintenance activities and operations.
- Analyzed contracts relating to drilling rigs, supply, and utility boats. Involved in various projects relating to construction and business interruption delay claims involving on shore and offshore oil and gas production. Analysis has involved issues of extra cost, lost revenues, and consequential damages due to contractor and/or subcontractor alleged failure to perform or bad workmanship. Examples include analysis of loss of reservoir value due to permanent shut in as a result of severed subsea pipelines, extra mob, and de-mob costs and lost production due to construction or repair delays from offshore production in the U.S. and Mexico Gulf and offshore Asia and West Africa.
- Performed analyses of cost allocation under joint venture and production agreements pertaining to refinery and petrochemical operations.
- Analyzed operations of various retail gasoline operators— independent and affiliated stations. Analyses involved review of lease obligations, supply contracts, environmental contamination, and general profitability of retail operations. Analyzed retail gas distribution agreements.
- Traced royalty history relating to outward gas production to determine the extent, if any, of royalty payment shortfall in a large field in West Texas.
- Analyzed royalty obligations relating to foreign oil and gas properties. Valued foreign and oil and gas concessions.
- Analyzed the financial and economic aspects of energy development and energy recovery projects. Work performed included review and analysis of industry trends, capacity, regulatory factors, project economics, and energy pricing regarding co-generation and other power generation projects.

- Performed analyses of allocable costs for oil and gas projects under various joint development agreements and joint operating agreements. Applied financial and accounting guidelines set forth under COPAS as well as industry practice in order to determine allocation of costs to ownership interests in development and operating projects. These have included oil and gas projects in the Americas, Asia, and the Middle and Near East.
- Analyzed amounts owed under take or pay contracts to power plants.
- Performed analyses related to interstate gas pipeline delivery systems and contracts under FERC regulations. Analyzed volume and price differentials under gas pipeline swapping agreements, damages under take-or-pay contracts for gas deliveries, and business interruption claims relating to gas pipeline shutdowns.
- Analyzed numerous projects involving contamination clean up under SARA, CERCLA, and state environmental law and regulations. Work performed included the review and analysis of historical clean up costs as well as review analysis and estimation of prospective clean up cost. Performed numerous analyses involving application of the Gore Factors to determine remediation cost associated with PRPF. Performed studies and analysis of business interruption related claims associated with remediation. Performed valuation studies of assets and business operations that have been affected by contamination. Valued environmental remediation technologies.
- Evaluated accounting practices related to payments made to royalty holder based on production from oil and gas properties. Calculated overriding royalty interest due to royalty holders in various oil and gas properties.
- Analyzed proceeds of investments in multi-state gas development project, development history under turnkey contracts, and payments to working interest owners.
- Performed valuation of a privately held oil and gas exploration and development company. Work performed included review and analysis of reserves, reserve replacement history, finding costs, and success rate of drilling.
- Valued the stock of a closely held oil & gas exploration and production company. Analyses included review of price and production trends for certain properties, purchase and sale of mineral rights for similar type properties, and review of reserve reports.
- Analyzed lost profits associated with the market value of the stock of a closely held oil & gas exploration and production company. Analyses included valuation of mineral rights, joint venture development of various properties, royalties due on certain leasehold interests, and various leasehold interests.
- Performed numerous analyses related to the valuation of mineral rights, joint interest accounting, joint interest billings, overhead allocations, and tracing the disposition of oil & gas production income for various clients.
- Performed work relating to pipeline dispute involving gravity bank differentials and access to pipeline under FERC regulations.
- Analyzed certain financial events and transactions relating to the sale and subsequent repurchase of units of an oil and gas limited partnership by several defendant oil and gas operators. The work performed included an analysis of financial transactions between the partnership and a defendant company, which succeeded the original operator of the drilling program. Also analyzed the financial history of the original drilling program operator to determine whether this defendant fraudulently misrepresented its financial condition in the offering circular. Additional analysis was performed with respect to the subsequent repurchase of all units owned by the other investors in the program to determine whether the defendant company paid more or less proportionally for the units purchased from other investors than it offered to pay the plaintiff.
- Analyzed two competing proxies related to the assumption to the general partnership interest of certain publicly traded oil & gas limited partnerships. Analyses included the review of oil & gas industry economics, pricing, and production parameters and overhead allocation costs.
- Analyzed economics associated with refining maintenance and overhaul.

- Analyzed petrochemical refinery operations including construction and turnaround work involving contractors and sub-contractors.
- Performed analyses relating to marketing and distribution of petroleum products, including service station operations, supply contracts, leases, and profitability.
- Analyzed pipeline issues related to gathering and transportation of natural gas and issues relating to pipeline maintenance and construction.
- Determined business interruption claims related to destruction of offshore production platforms and business interruption claims related to severed offshore pipelines.
- Analyzed electric and water utility rates under PUC approved and contracted rate schedules. Analyzed cost structure and impact on rate setting to recover costs and invested capital. Analyzed power supply agreements for electric utilities in Texas and other states and in Latin America. Valued electric utility power plants.

#### **Personal Injury/Wrongful Death/Wrongful Termination**

- Performed numerous studies involving loss of wages and benefits relating to wrongful injury, wrongful death and wrongful termination claims. Analyses performed included as necessary review of work-life history, education and training, and vocational rehabilitation as well as past medical and future medical care expenses.

#### **Employment Matters**

- Analyzed executive compensation packages in various industries, including oil and gas.
- Analyzed value of employee provided benefits including employee welfare and benefit plans.
- Evaluated employment market for various industries.
- Evaluated economic environment and its impact on current and future employment.
- Performed analysis to support growth and discount factors used in the projection of future earnings and benefits.
- Evaluated impact of adverse events on executive compensation.
- Analyzed competition and trade secrets issues relating to employment agreements.

#### **Intellectual Property**

- Extensive experience in a variety of intellectual property issues involving patents, trademarks, trade dress, copyrights, trade secrets and know how. Have worked on assignments relating to strategic management, licensing, litigation and competition issues related to IP matters.
- Testified in federal and state court, ITC, AAA, IAA and ICC matters involving a broad range of IP topics including industry structure, licensing and practices. Also testified regarding damages related issues including lost profits, reasonable royalties, price erosion, competition and related topics. Subject matter has involved patents, trademarks and trade dress, copyrights and trade secrets. Testified regarding competition issues and the impact of the form and structure of patent license terms on technology innovation. Testified regarding product and geographical market definition related to patent and antitrust damages. Served as court appointed expert, examiner and consultant in federal and state court proceedings.
- Conducted extensive studies in strategic management of intellectual property for corporate clients including multinational, international, joint ventures, and start-up and development stage companies. Work performed included research and analysis regarding industry dynamics and IP management practices and evaluation of corporate IP strategies relating to invention/innovation cycles, license-in/license-out policies, buy/sell strategies, portfolio optimization, license enforcement and overall offensive and defensive IP strategies.

- Negotiated licenses and assisted clients in license negotiations and technology transfer projects. Determined appropriate compensation package, including royalty payments, based on the proposed structure and terms of the license agreement for the subject technology. Performed empirical studies associated with the subject technology's financial performance, industry practices and investment strategies. Reviewed and analyzed the terms and conditions of several thousand license agreements. Performed royalty compliance audits.
- Conducted auction process for sale of IP portfolios. Work included valuation of IP assets, identification of potential acquirers, preparation of IP offering circular and managing the auction process to completion. Involved in projects related to securitization of IP rights and related income streams.
- Analyzed and studied various industry standard setting bodies, practices and related license issues affecting standards adoption and innovation. Analyzed technology adoption and commercialization trends in the context of standard setting and patent pools.
- Performed studies of trademark licensing practices and valued trademarks (and portfolios) related to consumer marks including electronics, food, products, services and apparel and industrial products and financial services. Testified regarding various trademark and Lanham Act matters. Assisted clients in negotiating purchase/sale transactions related to trademark portfolios including conducting competitive and complimentary trademark licensing and positioning studies as well as valuation of comparable marks. Performed strategies assessment of trademark portfolio maintenance practices and licensing out strategies.
- Performed valuation of copyright portfolios involving software, data management, manuals, process and procedures.
- Analyzed and traced R&D spending and other contributions made by parties to the development of inventions in a variety of industries including biotech and pharma, semiconductors, and consumer and electronics.
- Analyzed production and distribution costs relating to educational and commercial film rights involving various media.
- Involved in and performed studies of IT systems including requirements definition studies, selection of data communication hardware and software specifications and system implementation and conversion. Also performed studies of the economics associated with the impact of IT systems on operational and financial performance of the subject company. Analyzed hardware and software requirements for multi-user configurations including WAN/LAN and internet connectivity.
- Engaged in various IP projects involving consumer products ranging from consumer electronics and food to pet and recreational products. Pet industry work has involved valuation and licensing of IP related to food additives, pet accessories, and hygienic products.
- Performed extensive studies in the computer hardware and peripheral sector, including components. Analyzed trends in prices, volume, and market share of PC manufacturers and related components including integrated circuits, chip sets, mother boards, etc.
- Involved in a variety of projects relating to the chemical industry including processes, formulation, and compounds. Work included evaluation of lost profits and reasonable royalties, and industry licensing practices. Negotiated licenses and performed valuations relating to chemical processes compounds and formulations.
- Performed numerous analyses regarding valuation and licensing of trade secrets technology, as well as impact on antitrust licensing guidelines.
- Industry focus has included, among others, energy, software and operating systems, semiconductors, life and health sciences (pharmaceutical, biotechnology, medical devices/procedures), semiconductors, high-end and consumer electronics, chemicals, computers, telecommunications and internet based services including various aspects of e-commerce, including retail, advertising, broadcast media, energy and mining, and surveillance and security.

## **Environmental**

- Involved in numerous environmental litigation matters including lost profits, business interruption, cost allocation, and apportionment matters associated with PRPs. Involved in estimating clean up and decommissioning costs for mining activities. Analyzed impairment of assets including real estate and business operations relating to contamination. Performed valuations and plan feasibility studies related to bankruptcy proceedings of various debtors as a result of environmental and toxic tort claims.
- Assisted interested parties with development and analysis of plans of reorganization. Work included analysis of economic and market conditions affecting potential rehabilitation.
- Consulted and testified in various bankruptcy proceedings involving issues relating to solvency, rehabilitation, liquidation, plan confirmation, equitable subordination, cash collateral, asset disposition and various adversary proceedings. Performed analyses relating to preferential payments and fraudulent conveyances made prior to filing for bankruptcy. Involved in alter ego and corporate veil issues relating to Debtor proceedings.
- Performed valuation of various assets, including IP, owed by DIPs under best creditor text based on orderly liquidation, fraud value, farm market value and distressed sale.
- Analyzed deepening insolvency and financial distress issues in various bankruptcy and related adversary proceedings. Work included review and analysis of Debtor performance, credit ratings, capital structure, revenue and cash flow generation, and market conditions which would have affected Debtor's ability to service existing and additional indebtedness.

## **Steel (and other metals) Industry**

- Worked on various matters involving metal manufacturing, distribution and fabrication. Analyzed productivity and yield relating to pipe, flat and structural steel products.
- Performed capital budget studies for plant additions such as smelters and rolling mills.
- Analyzed metal ore extraction economics and financing related to long term supply contracts.
- Analyzed bankruptcy and reorganization of integrated steel manufacturers to determine likelihood of successful debtor rehabilitation.
- Analyzed costs and productivity opportunities for recommissioning steel mill.
- Studied profitability of steel and metal distributors. Analyzed profitability and market opportunities related to metal fabricators.
- Analyzed metals manufacturing technologies such as smelter technology and alloy composition.

## **Cattle and Poultry**

- Analyzed profitability and logistics related to the cattle industry-ranging from grazing to starter, feedlot and slaughter operations.
- Analyzed patented technology for feedlot operations relating to improving cattle weight gain and feedlot logistical software systems to maximize cattle health to minimize feedlot to slaughter cycletime.
- Analyzed poultry production distribution channels and operations profitability.

## **Gaming/ Gambling**

- Analyzed and valued electronic gaming equipment and systems technology including analysis of market trends relating to manufacture, introduction and adoption and rates for subject gaming technology.
- Performed valuations, including minority interests, of established and greenfield gaming industry concessions in the US, Asia/Pacific region, and South America. Work performed included analyses of market trends, including demographic characteristics and alternative gaming venues in the relevant market. Valuation studies included land based and offshore casinos.

## **Real Estate**

- Performed feasibility studies and prepared financial projections for income producing properties, including multi-use commercial projects as well as office buildings, shopping centers, multifamily housing, hospitals, hotels and the hospitality industry. Also performed feasibility studies regarding planned residential communities.
- Performed studies regarding allocation and apportionment of operating costs, taxes, etc., among unit holders in commercial, residential, and industrial properties.
- Performed extensive market analyses relating to a variety of income producing properties in order to determine overall economic trends, submarket conditions, absorption and rental rates, operating expenses, capital expenditures and prevailing interest rates.
- Performed workouts and debt restructuring for various types of real estate projects. Also testified in various bankruptcy proceedings regarding plan confirmation, including performing underlying studies regarding market trends and conditions with request for the subject project and the ability to rehabilitate the Debtor.
- Involved in numerous lease transactions for commercial real property projects, including lease buy outs, market studies, including competitive rates for same class properties, adsorption rates, demand/supply trends in micro markets, demographic patterns affecting demand/supply/rates, etc.
- Performed studies for construction, acquisition and disposition of hotel properties for independent, regional and national hotel chains relating to economic performance of subject properties.
- Analyzed construction delay claims related to a variety of industrial, commercial, and residential real estate projects as a result of financing and/or construction issues.
- Performed analyses of business interruption and delay claims resulting from construction delays of commercial and other income producing property.
- Performed feasibility analysis of brown field sites for conversion to residential and commercial real estate use.
- Performed studies regarding conversion of commercial and industrial real estate to highest and best use and impact on same due to factors such as contaminated water supply, soil conditions, airborne contaminants, and noise, etc.
- See also environmental experience section.

## **Construction**

- Worked on numerous projects involving construction disputes. Analyses involved review of cost overruns, delay costs, various types of opportunity cost (including investment alternatives, lost profits, etc.), rework charges, betterment, extra expense, etc.
- Construction projects included: new build (and turnaround) refineries and petrochemical facilities, pipelines, various types of commercial and residential income producing properties, industrial sites, brownfield and hazardous waste sites, marine terminals and airports, etc.

## **Business Interruption/Insurance Coverage/ Subrogation**

- Involved in analyzing business interruption claims for a variety of commercial, retail and industrial operations including analysis of lost investment opportunity, lost profits, increased costs, etc.
- Performed numerous investigations and analyses related to insurance coverage issues including business interruption, extra expenses, fidelity and surety bond claims, directors and officers insurance and general liability coverage issues.
- Addressed issues relating to fidelity bond coverage including, among others, covered property, limits of coverage, deductible limits and exclusions such as inventory shrinkage.

## **EXAMPLES OF BUSINESS INTERRUPTION EXPERIENCE**

### **Energy**

- Retained by several international insurance carriers to investigate and evaluate the reasonableness of a multi-million business interruption claim submitted by one of the largest oil and gas producers in the world. A pump failure had resulted in an explosion that shut-down one of the gulf coast's largest refining operations for more than forty five days. The explosion occurred during a lucrative time in the oil and gas industry. As a result, the refinery was at full capacity.
- Work included investigation of pre and post explosion plant production, revenues, variable costs, fixed costs, inventory levels and product exchanges. We also analyzed economic conditions and plant operations across the company to determine mitigation possibilities. Prepared alternative claim analysis that considered mitigation from alternative production sources, inventory availability, saved costs and product seasonality.
- Involved in a breach of contract matter regarding a valuation of claimant's damages allegedly suffered as a result of being denied the right to fully participate in the co-development of a natural gas field in Ukraine.
- Involved in a Bilateral Investment Treaty Dispute regarding the valuation of oil & gas assets held in Ecuador and the impact of windfall tax legislation on the company. Specifically, we were asked to quantify the losses sustained by claimant due the passage of a law which significantly reduced the profitability of oil production activities in the Republic of Ecuador.
- Analyzed claims relating to lost offshore oil and gas production resulting from shut in well because of severed pipeline.
- Analyzed lost multiple well offshore reservoir production due to hurricane damage to equipment.
- Analyzed lost refining capacity due to delays in turnaround schedule.
- Analyzed gas pipeline lost profits due to delays installing and repairing pipeline leaks.

### **Industrial**

- Analyzed lost production from chemical plant explosion. Studied impact of market prices during the interruption on but for prices at lost volumes.
- Analyzed lost production and profits on industrial paint factory due to gas pipeline exploding.
- Analyzed delay claims related to construction delays impacting opening of mixed use commercial property.
- Investigated and evaluated multi-million dollar business interruption claims resulting from damages caused by Hurricane Ike. As part of our calculation of business interruption damages, we analyzed the company's sales, costs and profits pre and post Ike, inventory levels, product profitability, industry benchmarks, recent industry events, economic/industry conditions, trends, saved costs, and mitigation for a worldwide manufacturer and supplier of fertilizers which sustained damage to its manufacturing facility.
- Investigated and evaluated multi-million dollar business interruption claims resulting from damages caused by Hurricane Ike. As part of our calculation of business interruption damages, we analyzed the company's sales, costs and profits pre and post Ike, inventory levels, product profitability, industry benchmarks, recent industry events, economic/industry conditions, trends, saved costs, and mitigation for a multi-national manufacturer and retailer of chemicals and polymers which sustained damage to multiple refineries.
- Investigated and evaluated multi-million dollar business interruption claims resulting from damages caused by Hurricane Ike and subsequent flooding. As part of our calculation of business interruption damages, we analyzed the company's sales, costs and profits pre and post Ike, inventory levels, product profitability, industry benchmarks, recent industry events, economic/industry conditions, trends, saved costs, and mitigation for one of the largest suppliers of fluids management, waste disposal, and well site preparation products and services which sustained damage to several refineries and waste disposal facilities in Texas and Louisiana.

- Investigated and evaluated multi-million dollar business interruption claims resulting from damages caused by Hurricane Ike. As part of our calculation of business interruption damages, we analyzed the company's sales, costs and profits pre and post Ike, inventory levels, product profitability, industry benchmarks, recent industry events, economic/industry conditions, trends, saved costs, and mitigation for a major heating, ventilation, air condition and refrigeration wholesale distributor in Texas and Louisiana which sustained damage to several of its warehouse and retail facilities.
- Involved in a Bilateral Investment Treaty Dispute regarding the evaluation of the cost structure of a gold mining company and the impact of windfall tax legislation on the company. Specifically, we were asked to quantify the cost per ounce of gold mined, benchmark these cost measures with other gold mining operations and assess whether Mogolia's windfall tax would make it uneconomic for claimant to continue to mine gold. The windfall tax legislation resulted in the company's operations being seized.

### **Retail/Consumer**

- Investigated consumer product recalls and structured settlements for consumer class action cases. Prepared economic models to estimate costs to cure product defects/failures.
- Performed numerous damages analyses in consumer class actions cases. These included consumer electronics, automotive and financial services.
- Investigated and evaluated multi-million dollar business interruption claims resulting from damages caused by Hurricane Ike. As part of our calculation of business interruption damages, we analyzed the company's sales, costs and profits pre and post Ike, inventory levels, product profitability, industry benchmarks, recent industry events, economic/industry conditions, trends, saved costs, and mitigation for one of the nation's leading fast-food hamburger chains which sustained damage to over 20 locations.
- Analyzed lost profits relating to various retail operations due to mall fire causing multiple retail locations to cease operations during rebuilding of retail facilities.
- Analyzed lost profits of car dealership operations due to toxic chemical plume migrating from adjacent property to dealership causing shut down for remediation and monitoring.

### **Real Estate**

- Retained by the owner of an assisted living facility to determine the business interruption damages that resulted from the closure of the facility shortly after its opening due to construction issues that required the facility to be torn down and reconstructed. The issues included documentation and review of the reasonableness of the initial financial projections that were the basis for the construction for the facility updated to reflect actual economic events at the time of opening, the expected level and timing of move-ins, the associated rates that could be charged by the facilities, and the demographics of the population from which the facility could expect to draw its residents.
- Analyzed lost profits due hotel closing as a result of defective skin on exterior causing leakage and mold.
- Analyzed lost profits due of retirement home due to closing of high end nursing home due to construction defects resulting in mold throughout premises.
- Analyzed a medical facility that had been damaged by Hurricane Rita. The issues included review of the facility's ability to transfer a portion of its business to a near-by metropolitan area in substitution of the services previously rendered in the impacted metro area, decline in service population because of the loss of population due to hurricane damage.
- Analyzed a hospital that had been severely damaged by Hurricane Katrina. The issues included review of the business interruption claim that included damages due to increased losses stemming from the decline in jobs in the area and thus higher uninsured services rendered and losses stemming from population decline as a result of people moving out of the area due to the hurricane damage.

- Analyzed an assisted living and skilled nursing facility to determine the business interruption damages that resulted from the closure of a portion of the facility due to flood damage. The issues included the loss of the skilled nursing residents due to the closure of the beds and timing of when the beds could be expected to be filled again after the facility reopened.

### **Other**

- Analyzed lost profits relating to crop loss from herbicide usage.
- Analyzed crop losses relating to flooding.
- Analyzed lost profits of tank farm operations due to damage to port facilities.
- Analyzed lost profits due to equipment failure of cryogenic freezing systems on seafood packaging operations.

### **Additional Insurance Issues**

- Performed analyses relating to insurance agency operations, and profitability including industry benchmarking. Work performed also included valuations of multi-line, life and P & C insurance agencies.
- Performed studies regarding policy portfolios relating to life and P&C products. Analysis included review of authorized and unauthorized policy issuances by home office and premiums and commissions earned and paid.
- Analyzed workman's compensation claims.
- Have conducted fidelity bond coverage projects relating to banking, manufacturing, distribution, services and export industries.

### **Automotive/Trucking/Farm/Heavy Equipment Industries**

- Worked on numerous projects involving car and truck (light, medium, heavy) and off highway, farm and heavy equipment dealerships. Performed analysis of dealership profitability including new and used product sales, service, body shops, parts and aftermarket services. Also analyzed floor plan financing, leasing, distribution and advertising practices. Analyzed industry standards and criteria for dealership ownership, transfer and performance.
- Performed valuation of truck, automotive, farm equipment, and heavy construction dealerships.
- Studied dealer performance standards in demographic and geographic markets using manufacturer proprietary data and industry statistics. Analyzed industry criteria across manufacturers for dealer performance standards and manufactures practices for ownership, transfer, and termination to determine whether such standards are reasonable and consistent with industry practices.
- Analyzed trends in the retail/wholesale car dealership markets including rental fleet and auction house practices.
- Work on financing issues regarding sale of enhanced products such as credit life and extended warranties, floor plans, lease operations, loan origination, packaging and securitization of prime and sub prime paper sales as well as loan service portfolio operations and costs. Analyzed industry consolidation and profitability trends. Performed dealership valuations.
- Reviewed and analyzed licenses and valued technology relating to various automotive transportation technologies, including, ignition, safety, security, brake and engine components and systems and designs, micromotors, and designs and glass and battery technology, as well as breath alcohol detection and fleet logistics.

### **Financial Institutions**

- Performed analyses of expected income to be derived from financial instruments including and public issued bonds, mortgage instruments and private issued securities including preferred stock and bonds.
- Performed studies and valued various Intellectual Property rights relating to processing financial transactions and financial instruments.

- Performed valuations and conducted performance studies of various consumer credit products including sub-prime automobile loans, sub-prime mobile home and residential loan portfolios.
- Performed studies regarding domestic and international financial institutions. Analyses involved reviewing and studying investment and lending practices and strategies. Analyzed work out portfolios and OAO, project finance and loan syndications. Performed collateral reviews and benchmarking studies.
- Performed benchmark studies for various bank profit centers such as trusts and estates, commercial loan, foreign exchange consumer credit departments and cost centers such as clearing, IT and other support functions.
- Performed benchmark compensation studies for executives in various levels of responsibility within functional areas of the banks.
- Valued stand-alone, member banks and bank holding companies.
- Analyzed mortgage banking practices involving commercial and consumer portfolios, administration and secondary markets for mortgage portfolio trading.
- Performed various studies of credit card operations and charges involving institutional and retail accounts. Performed financial reviews, analyses and planning related to federal and state chartered banks and savings and loan associations. Examples of work performed include review of compliance with statutory regulations, peer group performance and loan portfolio performance. Also have been involved in bankruptcy and litigation related matters involving financial institutions. This included secured lender representation in bankruptcy and work out procedures as well as litigation involving lender liability and usury issues. Also performed valuation studies of financial institutions.
- Involved in numerous matters in the life and property, and health insurance industry. Work performed included assignments relating to software development for agency and home office policy administration and claims. Analyzed software and related operating systems for proprietary insurance product tracking. File administration systems reviewed included products such as split life, variable life, forced credit life, and automobile collision and default products. Analyzed E & O annual statements prepared and filed with state insurance commissions including surpluses and reserves. Analyze worker compensations, health insurance and other employee benefit claims
- Involved in various matters regarding lender liability issues, including fiduciary duty, usury, non-performance, and collateral/security issues, among others.
- Performed valuations of insurance companies and agencies. Analyzed impact of actuarial assumptions on insurance products and product lines reviewed and analyzed reinsurance policies.

#### **Financial Reporting/Accounting/Taxation**

- Addressed financial reporting and presentation of results of operations and financial condition based on authoritative professional standards and literature including GAAS and GAAP. Also performed tax research and compliance work for clients under the US tax code.

#### **Bankruptcy/Reorganization**

- Involved in numerous bankruptcy proceedings including debtor and creditor representation. Performed claims analysis, developed plan of reorganization and related financial projections and industry/market assessments, analyzed preference actions and other adversary proceedings. Valued DIP assets on going concern and liquidation basis. Negotiated workouts including restructuring of balance sheet to avoid chapter proceedings.

### **Medical and Health Care**

- Analyzed healthcare cost overpayments under federal and state statutes. Prepared economic models to quantify past losses/overpayments.
- Estimated medical monitoring costs related to exposure to various toxins. Work performed included analysis and extrapolation of frequency of recurring illness of subject population to estimate future claims.
- Conducted valuations of hospitals, nursing homes, ambulatory care facilities and professional medical practices. Analyzed financial performance including benchmarking. Reviewed and analyzed third party cost reimbursement policies and practices to maximize revenue generation. Performed studies of specialized practices within hospitals regarding revenue recovery. Performed studies of allowable reimbursement under state Medicaid programs.
- Audited and analyzed third party cost reimbursement for various types of medical facilities. Analyzed state Medicaid approved scripts and related overcharges.
- Valued full service and specialty hospitals. Analyzed department profitability including benchmarking against industry norms.

### **Fraud/White Collar Crime**

- Involved in Qui Tam litigation involving the healthcare, government contracting and environmental matters.
- Performed numerous investigations relating to white collar crime and criminal referral matters involving transactions relating to financial services, real estate and consumer and industrial products and services, and the oil and gas industry.
- Analyzed and traced transactions involving billions of dollars allegedly related to schemes under civil and criminal RICO statutes. Have been retained by private entities such as financial sector institutions and government agencies such as FNMAE, FSLIC, RTC and FDIC.
- Reconstructed transactions to determine the nature and scope of transactions under investigation. Also involved in asset tracing and asset recovery investigations. Performed studies of industry standards and practices involving transactions to determine whether they were in conformity with accepted industry practice.
- Performed numerous investigations of foreign bank operations, investment companies and related transactions in Asia, Europe, The Middle East, Central America and the Caribbean relating to investment programs and performance of and recovery of underlying assets.
- Investigated various real estate and joint venture transactions relating to savings and loan institutions. Analyzed and traced monies disbursed from several hundred commercial loans issued to their ultimate disposition.
- Analyzed offshore and blue-sky private placement offerings to determine whether and the extent to which material misrepresentations and omissions were made and their impact on investors.
- Traced monies through various accounts of a group of interrelated trusts to determine whether the trustee had violated any fiduciary duties and had engaged in self-dealing.
- Investigated counterfeit activity related to consumer and industrial products and the damage caused to client reputation and goodwill as well as lost profits.
- Assisted a consortium of U.S. banks with tracing of millions of dollars of loan proceeds used to finance purported export of U.S. merchandise to private industrial enterprises in an approved third world country under the F.C.I.A. loan insurance program.
- Involved in numerous projects to trace flow of funds from investors to fiduciaries and diversion of investor monies as well as locating hidden assets domestically and abroad.
- Retained by federal and state regulators to investigate fraud matters relating to financial services companies including commercial banks, savings banks, mortgage and insurance companies.

### **Security Matters**

- Analyzed disclosure issues relating to public and private offerings of securities in domestic and foreign markets. Analyzed stock price movement of publicly traded companies in various industries after the initial offering to determine the effect of certain events and their impact on stock prices. These analyses included event studies to identify peer groups of publicly traded companies in order to determine whether and to what degree the stock price movement was industry and company specific. Calculated Section 16(b) short swing profits. Performed appraisals of securities of closely held companies, including minority interests and control blocks.
- Also involved in numerous derivative shareholder matters involving disputes over pending acquisitions/divestitures and valuation of shares of majority controlling and minority blocks. Retained as an expert by courts to determine the value of minority shares in derivative shareholder actions.

### **Products Liability**

- Performed studies relating to product liability issues related to electronics components, consumer electronics products and consumer and industrial products. Analyzed economic impact of defective products on manufacturers, retailers, and consumers. Performed studies related to cost of settlements and design and implementation of such settlements.

### **Punitive Damages**

- Analyzed and testified regarding punitive damages in a variety of cases. Considered defendants' conduct, enrichment, industry practices, market capitalization and net assets as well as and financial benefits derived from conduct to determine levels of punitive damages, from a public policy perspective, which would meet statutory requirements.

### **SUBJECT AREA EXPERIENCE**

Have been engaged in numerous projects involving the subject areas listed below:

- Audit, Accounting and Financial Reporting  
across a variety of industries
- Alter Ego/Corporate Veil
- Antitrust
- Bankruptcy Proceedings/Workouts
- BOD Representation/Special Projects
- Business Interruption/Extra Expense/Betterment
- Compensation Studies
- Environmental and Natural Resources Damages
- Fiduciary Duty
- Fraud/White Collar Crime
- Personal Injury/Wrongful Termination/Wrongful  
Death
- Lender Liability
- Leasing
- Lost Profits
- Mergers and Acquisitions
- Securities Matters
- Whistleblower/QuiTam

## **ADDITIONAL SUBJECT AREA EXPERIENCE**

### **Valuations**

Performed valuations of various businesses including minority and control blocks of closely held businesses and marketability discounts. These valuations of businesses and assets include manufacturing, distribution, retail and services sectors, but not limited to, the following:

- Biotechnology/Life Sciences
- Car/Truck Dealerships
- Distributorships/Franchises
- Energy
- Entertainment
- Financial Institutions
- High-end and Consumer Electronics
- Holding Companies
- Hospitals/Nursing Homes/Medical Practices and Facilities
- Income Producing Properties
- Industrial Gases
- Insurance Agencies/Brokerages
- Maritime/Admiralty/Jones Act Matters
- Medical and Professional Practices
- Patents, Trademarks, Goodwill, and Copyrights
- Real Estate – Resorts/Recreational/Casino Properties/Commercial/Industrial
- Restaurants and Retail Establishments
- Software
- Transportation
- Telecommunications
- Waste Disposal

### **Speeches**

- “AIPLA Annual Meeting May 2019 Trade Secrets Damages Panel” May 2019.
- “LES Society- Houston Chapter Trade Secret Panel” August 2019.
- “Overview of Trade Secret Damages,” Reed Smith LLP, May 2, 2018.
- “Overview of Trade Secret Damages,” Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing PC, March 20, 2018.
- “Overview of Trade Secret Damages and Copyright Statutory Damages,” Norton Rose Fulbright US, LLP, February 21, 2018.
- “Disputed Issues in Awarding Unjust Enrichment Damages in Trade Secret Cases” The Sodona Conference, December 7, 2017.
- “Economic Damages in Trademark Litigation” University of Houston Law School, November 10, 2016.
- “Lanham Act Damages” University of Houston Law School, April 21, 2016.
- “Trade Secret Damages” University of Houston Law School, March 29, 2016.

- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 21, 2015.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 15, 2014.
- “Economic Damages in Trademark Litigation” University of Houston Law School, February 27, 2014.
- “Financial Statement Analysis – Accounting for Lawyers” Andrews Myers P.C., February 4, 2013.
- “Economic Damages in Trademark Litigation” University of Houston Law School, November 20, 2012.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 4, 2012.
- “Economic Damages in Trademark Litigation” University of Houston Law School, November 8, 2011.
- “Determination of Post Judgment Royalties and Damages Issues from Uniloc” co-presented CLE program at Locke Lord Bissell & Liddell, May 2011.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, March 29, 2011.
- “Economic Damages in Trademark Litigation” University of Houston Law School, November 18, 2010.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 7, 2010.
- “Economic Damages in Trademark Litigation” University of Houston Law School, November 17, 2009.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 23, 2009.
- “Economic Damages in Trademark Litigation” University of Houston Law School, October 27, 2008.
- “Managing Intellectual Assets Hypothetical” Licensing Executive Society Australia Annual Conference, April 19, 2008.
- "Patent Damages " George Mason/The University of Texas School of Law, 2008 Advanced Patent Law Institute, Alexandria, VA, January 11, 2008.
- “Economic Damages in Trademark Litigation” University of Houston Law School, October 16, 2007.
- “Taking a New Look at Patent Pools: Use and Abuse”, “The Subtleties and Complexities of Valuing Emerging Technology” and “Win/Win Strategies for Successful International Technology Collaboration and Exploitation” Institute of Intellectual Property Research and Development, India, August 6-8, 2007.
- “Strategic Litigation/Arbitration Considerations in Negotiating and Drafting Global License Agreements” Licensing Executive Society International Conference, June 18, 2007.
- “Economic Damages in Trade Secrets Litigation” University of Houston Law School, April 26, 2007.
- “Win/Win Strategies for Successful International Technology Collaboration and Exploitation” IPTEC-The International Marketplace and Conference for Technology Transfer Professionals, February 2007.
- “Economic Damages in Trademark Litigation.” University of Houston Law School, November 8, 2006.
- “The Subtleties and Complexities of Valuing Emerging Technology.” Licensing Executive Society Scandinavia Annual Conference, September 2006.
- “Determining Economic Damages in Trade Secret Litigation.” University of Houston Law School, April 13, 2006.
- “Emerging Valuation Techniques in Technology Transfer.” IPTEC-The International Marketplace and Conference for Technology Transfer Professionals, February 2006.
- “Taking a New Look at Patent Pools: Use and Abuse.” Licensing Executive Society Annual Conference, October 2005.
- “Win/Win Strategies for successful International Technology Joint/Ventures-Partnership.” Licensing Executive Society International Conference, June 2005.

- “Determining Economic Damages in Trade Secrets Litigation.” Continuing Legal Education Program sponsored by the State Bar of Texas, May 19–20, 2005.
- “Employing and Circumventing the New Business and Future Damages Rule: How Certain Does Certain Have to Be?” University of Texas School of Law The Damages Institute, October 2004.
- “Damages in Cases Involving Cutting Edge Technologies.” Law Seminars International-Calculating & Proving Patent Damages, Reston, Virginia June 14, 2004.
- “Economic Issues in Trademark Damages.” University of Houston Law School, April 13, 2004.
- “Treatment of IP Related to Standard.” Licensing Executive Society 2004 International Conference, Paris, France, March 31, 2004.
- “When Good Relationships Go Bad: Managing Default and Termination.” American Conference Institute, Advanced Forum on Licensing Intellectual Property, December 9, 2003.
- “Evolving Techniques in IP Portfolio Strategies: What Works?” The University of Texas School of Law, 8P Annual Advanced Patent Law Institute, Austin, Texas, October 31, 2003.
- “Current Topics in IP Licensing and Litigation.” Patent Lawyers Club of Washington & Northern Virginia, Reston, Virginia September 8, 2003.
- “Licensing and Competition: FTC/DOJ Views.” LES Washington, DC Chapter, Washington, DC, May 2003.
- “IP Valuation: Real World Transactions vs. Litigation.” General Electric Crotonville IP Practice Group Meeting, Ossining, NY, April 2003.
- “IP Valuation: Real World Transactions vs. Litigation.” Berkeley Center for Law & Technology and The University of Texas School of Law, 3rd Annual Advanced Patent Law Institute, San Jose, California, December 6, 2002.
- “Continuing Evolution of Patent Damages.” The University of Texas School of Law, 7th Annual Advanced Patent Law Institute, Austin, Texas, November 1, 2002.
- “IP Valuation: Real World Licenses v. The Hypothetical License in Litigation.” Patent Lawyers Club of Washington & Northern Virginia, Reston, Virginia October 28, 2002.
- “Monetizing IP Investments in Early Stage Companies and Start Ups in a Down Economy.” Berkeley Center for Law & Technology and The University of Texas School of Law, 2nd Annual Advanced Patent Law Institute, San Jose, California, December 7, 2001.
- “Complex IP Valuation and Securitization.” The University of Texas School of Law, 6<sup>th</sup> Annual Advanced Patent Law Institute, Austin, Texas November 2, 2001.
- “Intellectual Property Damages in U.S. Litigation.” Intellectual Property Forum 2001, London, June 18, 2001.
- “Valuing the Trade Secret, Proving the Damages and Getting the Best Award.” American Conference Institute, New York, New York, June 7, 2001.
- “Advanced IP Valuation Methodologies.” Licensing Executives Society 2001 Annual Conference, South Africa, April 30, 2001.
- “Evolution of Patent Damages after Rite-Hite and Royalties Under Standard Setting Organizations: What’s Fair, Reasonable and Non-Discriminatory?” Association of Corporate Patent Counsel (ACPC) Winter Meeting, Key Largo, Florida, February 6, 2001.
- “Do’s and Don’ts for Successful International Technology Exploitation.” Licensing Executives Society 2000 Annual Meeting, Toronto, Canada, September 11, 2000.
- “Convoyed Sales.” Patent Section-Bar Association of the City of New York, April 2000.

- “Patent Damages, Recent Developments & Emerging Trends.” Intellectual Property Owners’ Association 1999 Annual Meeting, San Francisco, California, November 15–16, 1999.
- “Trade Secret Exploitation Opportunities.” Licensing Executives Society 1999 Annual Meeting, San Antonio, Texas, October 27, 1999.
- “Strategic Management of Intellectual Property.” DuPont 1999 CLE Intellectual Property Law Seminar, Wilmington, Delaware, October 25, 1999.
- “Establishing Your Claim For Damages—Proving and Calculating Your Loss.” Multi-Jurisdictional Patent Litigation, London, England, September 23–24, 1999.
- “Intellectual Property Due Diligence in Business Transactions.” Association of the Bar, New York, New York, April 16, 1999.
- “Advantages and Economic and Financial Impact of Intangibles: The Importance of Valuation of Intellectual Property.” INDECOPI Seminario Internacional sobre Valorización de la Propiedad Intelectual, Lima, Peru, November 19–20, 1998.
- “The Real Cost of Counterfeiting.” International Anti-Counterfeiting Coalition Conference, Global Anti-Counterfeiting— Black and White and the Big Gray Zone in Between, Santa Monica, California, October 18–20, 1998.
- “Successful Licensing/Joint Ventures Strategies: Extending the Lifeline to Development Stage Biotech Companies.” Maximizing Genomic Growth Conference, New York, May 1998.
- “Value and License Drivers: From the Crossroads to the Monte Carlo Grand Prix.” Licensing Executives Society Winter Meeting, Newport Beach, California, February 1998.
- “Strategically Managing Your Intellectual Property Portfolio.” Intellectual Property Institute for Corporate Counsel Conference, San Francisco, California, January 1998.
- “Royalty Rates: What’s Reasonable.” DuPont Intellectual Property Conference, Wilmington, Delaware, October 1997.
- “Management Strategies for Handling IP Assets.” InfoNex Intellectual Property Conference, Toronto 1997.
- “Preparing for Software Licensing Negotiations.” Licensing Executives Society Mid-Winter Conference, 1997.
- “Preparing for License Negotiations.” Association of Corporate Patent Counsel Mid-Year Meeting, 1996.

### **Publications**

- “Valuation of Early-Stage Pharmaceutical Companies.” Thomson Reuters Valuation Strategies, May/June 2014.
- “Considerations for Start-Up Biotech Company Valuation.” Journal of Commercial Biotechnology, April 2014.
- “How Patent Pools Can Avoid Competition Concerns.” Managing Intellectual Property, May 2005.
- “Standards Setting Under the Microscope.” Managing Intellectual Property, October 2004.
- “Measuring Intellectual Property Portfolio Performance.” A chapter in the book, From Ideas to Assets, published by John Wiley & Sons, Inc., Copyright © 2002.
- “Emerging Issues in Research Tool Licensing.” Journal of Commercial Biotechnology, autumn 2001.
- “Trade Secrets and Patents: Comparison and Contrast in Royalty Determination.” les Nouvelles, September 2000.

- “Software Licensing Strategies.” Austin Software Counsel, 1996.
- “Biotech Valuations.” Biotechnology Conference BIO ’96, 1996.
- “Why Trade Secrets Can Be So Valuable.” *les Nouvelles*, December 1999.
- “The Value of Trade Secrets.” *Managing Intellectual Property*, October, 1999.
- “Potentially Devastating Events: How Three Companies Managed and Survived a Crisis.” *Corporate Reputation Review*, Henry Stewart Publications, summer 1999.
- “Identify and Convey IP to Reveal True Firm Value.” *Hidden Value Profiting from the Intellectual Property Economy*, Euromoney Publications, summer 1999.
- “US University Technology Transfer Trends—A Regional Analysis.” *Journal of Commercial Biotechnology*, autumn 1998.
- “What Makes a Biotech Company Valuable?” *Managing Intellectual Property*, November 1998.
- “Business Discovers the Value of Patents.” *Managing Intellectual Property*, September 1998.
- “Accounting for Change: Creating New Strategic Alliances.” *Law Governance Review*, summer 1998.
- “Monte Carlo Analyses Aid Negotiation.” *Les Nouvelles: Journal of the Licensing Executive Society*, June 1998.
- “It’s All in Your Head: The Promise of Intellectual Property.” *Texas Business Review*, Bureau of Business Research, University of Texas at Austin, June 1998.
- “Biotechnology and La Frontera Nueva: Business and Intellectual Property Issues in Latin America.” *Journal of Biotechnology in Healthcare: Research and Regulation*, spring 1998.
- “Navigating Through a Biotechnology Valuation.” *Journal of Biotechnology in Healthcare: Research and Regulation*.
- “Strategic Management of Intellectual Property.” *Law Governance Review*, winter 1998.
- “Showing Irreparable Harm During Preliminary Injunction Hearings.” *IP Litigator*, March/April 1997.
- “Thinking About Intellectual Property: Vast Potential, Management Required.” *PW Review*, June 1996.
- “Documents and Discovery in Intellectual Property Cases: The Law Works.” October 1995.
- “Computers and Electronic Spreadsheets.” *Legal Tech Newsletter*, 1986.