

CASE STUDY

Estate Valuation for Visual Art Copyrights



THE ISSUE

Nevium's valuation analysis resolves copyright value dispute after death of a famous surrealist painter.

ISSUES ADDRESSED

Art Licensing	Art Royalty Rates
Minority Interest Discount	Copyright Valuation

THE CHALLENGE

No one enjoys serving as the executor of an estate when the beneficiaries disagree. After the passing of a well-known surrealist painter, the executrix of the artist's estate had an important decision to make. One of the beneficiaries of the Estate was interested in selling their minority interest claim to future royalty incomes to the Estate, but the issue was complicated due to a dispute over value. With emotions running high, Nevium was brought in to offer clarity and support negotiations by performing a royalty income valuation that would allow the parties to set a fair market price for the transfer of the rights.

The variables that accompany joint ownership of intangible assets can make forecasting future income challenging even under the best circumstances, and this case didn't skimp on the complications. In addition to being split among beneficiaries of the Estate, the copyrights were actually owned and managed by The Society of Authors in the Graphic and Plastic Arts (ADAGP), an international organization responsible for the licensing, enforcement, and distribution of royalties for visual artists' copyrights. This group retained full active control over all marketing and promotion activities, essentially rendering the Estate a passive partner with a non-controlling ownership interest and no ability to affect asset performance. As the Estate had many beneficiaries, the claim of one heir represented a minority interest in a passive claim to future royalty incomes.

NEVIUM'S SOLUTIONS

“... Nevium experts researched and analyzed relevant rates of return, relying upon on a benchmarking approach to select an appropriate discount rate for a discounted cash flow analysis ...”

In order to accurately forecast future royalties, Nevium first had to understand the factors influencing income generation when the Estate's hands were tied. A deeper look at the historical royalty income reports provided by the Estate and ADAGP showed an interesting trend—museum exhibitions meant business. While the majority of royalty income arose from use of the copyrights in print media, it was museum spotlights arranged by ADAGP that piqued interest from art patrons and publishers and drove sales. Payments received by the Estate consistently increased in the years during and following an exhibition, providing Nevium's analysts with real-world data to assist in predicting the impact of future exhibits.

While the Estate's historical income records provided valuable insight, factors arising from the nature of the transaction itself also had to be considered. If an individual were to purchase the copyright interests from the Estate, any income received in the future could be subject to federal and state income taxes. Additionally, the gross income received would need be adjusted to reflect the previously unaccounted for administrative costs of managing that income. Since the future legal form of ownership was still an unknown, Nevium provided valuation calculations for the expected future post-tax annual royalty income under several tax scenarios.

Nevium's final challenge was to calculate the present value of the expected future income. Sensitive to the fact that these interests differed significantly from a typical investment in a business enterprise, Nevium experts researched and analyzed relevant rates of return, relying upon on a benchmarking approach to select an appropriate discount rate for a discounted cash flow analysis. Further research was conducted to develop and support an appropriate discount for lack of control used to value the one beneficiary's minority interest.

OUTCOME

Nevium's analysis resolved a long-running dispute regarding value of the ownership interest, and the parties were able to use the analysis to set a price and complete the transaction shortly after receipt of Nevium's report.

CONTACT NEVIUM

For more information regarding Nevium Intellectual Property Solutions, please contact Nevium at -

Nevium Intellectual Property Solutions

858 255 4361 www.nevium.com

Doug Bania, CLP: dougbania@nevium.com