



REALITY CHECK



Volume 00-01, Issue 4

Delaware Chapter ASPE

JANUARY 2001

ASPE Mission Statement

The American Society of Professional Estimators serves construction estimators by providing education, fellowship, and opportunity for professional development.

Officers & Committees 2000-2001

President	Ed Alexander, CPE	Planning
1st V P	Mike Gioffre, CPE	Publicity
2 nd V P	Jim Connell, CPE	Membership
3rd V P	Bruce Gollicker	Newsletter
Secretary	Jerry Doherty, CPE	Legal/Archive
Treasurer	Jeff Coopersmith, CPE	Finance
1 st Director	Ed Lupinek, CPE	Certification
2 nd Director	Wayne Shannon	Program
3 rd Director	Buzz" Kingsley	Faxing
4 th Director	Rich Murphy	Education
5 th Director	Anne Jacobi	Awards

REALITY CHECK is published by the American Society of Professional Estimators Delaware Chapter, Inc. which is solely responsible for its content.

President's Message

January brings "New Years Resolutions".

New Years Resolutions often come in a burst of energy and fade just about as quickly. That is why the athletic clubs sell so many memberships in January and profit so handsomely when people cease to use the facilities.

To work effectively, a New Year Resolution should have a clear goal and include action plan with specific steps.

Last year's resolution, for me, was "To collect all of the letters, forms, publicity pieces and paperwork

that we here in the Delaware Chapter have created; and send electronic copies to the ASPE National Office so that new chapters would have them available instead of having to reinvent the wheel". Simple as it sounds, the resolution took almost a year and a lot of prodding from national to accomplish this. It had an end goal, but no action plan with specific steps.

My APSE resolution is: to call each of the 70 chapter members, learn their areas of interest and get each one involved in one of the chapter committees. The specific steps will be: to call at least one member a day and recruit them to help on one committee; to e-mail/fax that member an explanation of committee duties; to e-mail, weekly, each committee head a list of members who will join their committees.

With the help each member we will have a strong Chapter. The committees will have members who will be asked to perform only limited specific tasks. No one will be overloaded and "burnout" will be avoided.

My request for each committee chairman is to organize their committee so that each member can be assigned a specific task, which has specific work description, a start point an end and a time frame to complete.

My request for each member is accept and embrace a limited amount of ASPE committee involvement. With your help ASPE Delaware can grow and help improve the society and the world.

Happy New Year.

Ed Alexander, President

ASPE Delaware Chapter #75

ASPE Code of Ethics

Canon #9: Professional Estimators and those in training to be estimators shall not participate in acts, such as the giving or receiving of gifts, that are intended to be or may be construed as being unlawful acts of bribery.

1. Professional estimators should not offer cash, securities, intangible property rights or any personal items in order to influence or that give the appearance of influencing the judgment or conduct of others that would place them in the position of violating existing laws or leave them with the feeling of obligation or indebtedness.
2. Professional estimators should not accept gifts, gratuities or entertainment that would place them in a position of breaking existing laws (municipal, state, or federal) or that give the appearance of creating an inducement which would affect the estimator's professional credibility by placing them in a position of obligation.

PROFESSIONAL PRACTICES

The Guide That Wasn't

By Charles P. Lickson, *Construction Business Review*-Volume 8 November 3, 2000

Gina's grandfather had started the company two generations ago. Since that time, ownership of real estate by the company had quadrupled. Grandfather Maso (a fictional name) had the Golden Touch. His first property was a retail store he bought to house the fruit business he wanted to start. Above the shop were two apartments. He lived in one apartment with Gina's grandmother and five children, including the child who was to become Gina's dad. The other apartment was to become the first income producing property for Maso Properties. Grandfather prided himself on the directness of his communications and the fact that everyone (fruit customers, the telephone company and tenants) knew where they stood with him.

Mr. Maso also began his first written guide for contracting when he entered into the lease with the first paying tenants above the store. The first lease was oral; however, Grandfather wrote down the terms of growing business. On page one of the "guide" appeared the words "The tenant is right" and "Get it in writing". Unfortunately, Mr. Maso senior did not always live up to his own admonition, so when his son, Caesar (Gina's Dad) took over the business, he created a detailed contracting guide. By this time, there was no longer a fruit business. The old fruit store

had become a European coffee shop, the two large apartments had become six studio apartments and Maso Properties owned 250 apartment units and 16 retail units. One hundred of the apartment units had been built for Maso Properties to specification detailed by both Caesar and his aging father, who was phasing out of operations. As Caesar was negotiating with the builders, architects, and engineers, he was also adding pages to the written contracting guide started by his father.

By the time Gina got out of architecture school, the family company owned or managed close to 1,000 units including apartments, condos, offices and stores. At least half of the units were built for Maso Properties. The company even had an attorney employed part-time to review contracts, draft leases and assist in administering the property management. Gina was young enough to be familiar with the proposed language in standard AIA construction contracts, which provided for, among other things, mediation in the event of an allegation of breach contract. Gina suggested to her father who runs the company, and to the attorney, that Maso Properties place an alternative dispute resolution clause in all of its contracts including construction, leasing and property management. The attorney said it was a "waste of time" and gave the other side "too many chances to delay." Gina's Dad, in referring to the existing contracting guide, said: "If it ain't broke, don't fix it." Against her better wishes, Gina did not press the point.

Last year, Caesar had a partial stroke and was forced to retire from the business. Since Grandfather had passed away several years before, Gina was the logical choice to move up to president of Maso Properties. Up until that time, she was involved in several aspects of the business and was Manager of Construction. When Gina was asked by the Board of Directors to take control of all operations, the company had two major construction projects under way. A 200-room hotel was being built to become the company's first hotel project and a 60-unit older apartment building was being renovated for conversion to condominiums. One construction company was doing both jobs. Maso's "in-house" lawyer had drafted the contracts, and they had been reviewed and modified by the construction company counsel. Although Gina had added standard mediation clause to the company's contracts guide, there was no provision for

mediation in either construction agreement. They both had arbitration clauses.

When Gina alleged to the construction company that they were using bathroom fixtures in the hotel, which did not meet contract specifications, the construction company denied the accusation. Gina felt very strongly that the Maso quality standards were not being met by the bathroom fixtures being installed, so she ordered payments to cease until the problem was corrected. The construction company ordered all crews off both sites. Construction stopped. Maso Properties faced major financing interest payments without prospect of future revenue on these projects until they could be completed. Gina confronted the worst situation of her short leadership period of the company.

When Gina asked the Maso lawyer if the parties might consider coming to the mediation table to sort things out, the lawyer said: "That would be showing weakness." Gina said she didn't care. The lawyer said Gina was right about the fixtures being deficient and they should fight to win. Gina pointed out the carrying charges on the project financing and how it might risk the company's whole credit picture, "Besides," said Gina, "don't we have a mediation clause in our contracts Guide?" Her attorney admitted they did, but that he felt in dealing with this construction company they had to take "a tough line."

While both sides prepared for arbitration, the project lay idle. After seven months, and thousands of dollars of legal fees on both sides, against her attorney's directions, Gina picked up the phone to call the president of the construction company. It became clear after a few minutes on the phone between the two corporate presidents that both sides were unhappy with the preparation for arbitration and that both were anxious to get back to work. Gina and the other president tried to work it out themselves, but could not. Rather than slam down the phones and go all out to win, both decided to see if professional mediation could help. The other president was not familiar with how it worked. Gina explained that it was merely a negotiation facilitated by an impartial third party.

Within two weeks the case was scheduled for mediation. Gina and her counterpart showed up together with senior project managers for both sides. Attorneys were placed "on call" but were

not present. After a full day of discussion during which each side listened to the other with a view toward reconciliation, the case settled. Gina agreed that the fixtures already installed could stay in the "standard" hotel rooms and the contractor agreed to purchase new fixtures for the deluxe rooms and suites. Both decided that a new moderately priced set of fixtures would be purchased for the renovated apartments. In less than one day, the nightmare of adversarial process was removed, and construction began again the next day. Both sides agreed to operate on good faith according to a brief memo each initialed in mediation while their attorneys drafted a formal settlement agreement. On the third day after the mediated agreement had been reached, Gina sent a memo to all senior managers and to their attorney: "From now on, the contracts Guide will be followed, especially provisions about resolving disputes under the agreement."

In this case, the Guide was in place and had evolved from simple notes of the first Maso to a comprehensive resource for contract language. Guides are of no value unless they are followed. Gina, her staff and the other company found this out the hard way. Another option was open to Gina and the construction company. This option would probably have pre-empted the need for arbitration and may even have prevented the dispute in the first place. Partnering is a pre-construction, team-building, dispute prevention mechanism developed by the U. S. Army Corps of Engineers and now used widely in construction. Had Gina and her colleagues "partnered" these projects in the first place, the projects would have probably come in on time and at or under budget, with no litigation. Soon, Gina added a clause to the Contracts Guide recommending partnering for all projects over \$500,000 in cost.

The lesson is clear: *Have a Contraction Guide*. Make sure it deals not only with what is expected by way of performance, but also what happens with allegations of non-performance. Alternatives to arbitration and litigation are highly desirable and a commitment to partner a project may be the best way to collaborate for mutual success!

Author's Note: A new book on construction partnering has been recently published by the American Bar Association Forum on Construction. The new book, *Partnering: A Strategic Plan for Total Project Success* was written by Frank Carr, Chief Trial Attorney for the U. S. Army Corps of

Engineers and Charles Market and Charles Lancaster, both facilitators with MTI Global Group. The book was released in August 1999 and appears to have the latest information about partnering in a concise format. It is available from the American Bar Association or at www.resolutionbookshop.com.

Charles P. Lickson J.D., Ph.D. is a former practicing attorney and Virginia Supreme Court Certified Mediator. He is founder of Mediate-Tech, Inc. and President of both MTI-Global Group and Mediate-Tech, Inc., Front Royal, Virginia

(This column is based on real cases. Names are changed. You are invited to send in real case situations where resolution was reached using alternative dispute resolution methods to CBR for consideration.)



SCAMS AFFECTING CONSTRUCTION CORPORATIONS

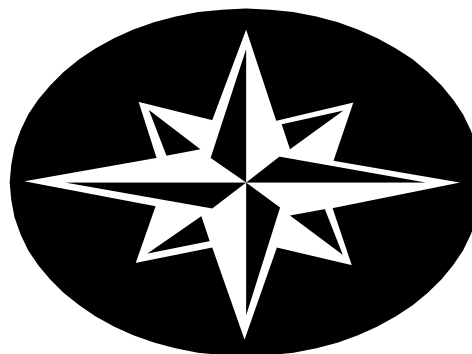
Today, a members company's estimating department received a fax from "Senator Abu Mohamed" offering us 30% of \$23,000,000 for the privilege of "parking the money in the account of a legitimate construction company". This particular scam enables the perpetrators to locate legitimate bank accounts, gain access to them and to drain them.

Previously we had received an offer from "Gulf International Investments, Ltd" to bid on a \$7,000,000 new building to be built near our city. To receive plans and specifications, we were to send \$1,200 "fully refundable deposit" to an overseas office.

According to Mr. Tom Freesmeier of the U. S. Secret Service, Financial Fraud Division, 202-406-5342, Americans loose over \$100,000,000 per year in fraud.

The U. S. Secret Service, Financial Fraud Division, would appreciate all persons receiving any mailed, faxed or e-mailed scams to fax copies of the scams to:

U.S.SecretService Financial Fraud Division
202-406-6930



GENERAL MEETING MINUTES

The December meeting for the general membership of ASPE Delaware Chapter 75 was called to order at 6:30 pm, on December 13, 2000. A quorum was recognized.

Opening remarks were made by Chapter President Ed Alexander who commented that ASPE really is a unique opportunity for those in our industry who want to advance their careers though continuing education, networking with others, fellowship and service to our industry. Ed also stressed the need for all members to participate in the organization by volunteering time on the various committees.

ASPE Chapter Business

ASPE Chapter president, Ed Alexander, stated that the next ASPE general membership meeting will be held at 5:30 pm on January 17, 2001, at the Christiana Hilton. The program will include skits by Rich Murphy, Bruce Gollicker, and Jim Connell. The program should be fun and members are encouraged to attend and support their efforts.

Ed also reported that since our group was "bumped" from our normal meeting date, The Hilton would be donating the cost of the meals to the association. All proceeds will be deposited into the ASPE Scholarship Fund.

Jim Connell, Membership Chair, presented a membership certificate to the following new member: Earl Pearce. Jim also stated that Rob Anderson, CPE, has joined the membership committee.

The winner of the 50-50 raffle was Wilson Davis (again!?), \$24.00. We will forward the receipt to the IRS for tax reporting.

PROGRAM

Wayne Shannon, Program Chair, introduced Bill Brightbill and Steve Daniels, of Ritter Brothers, Inc. Their program was a skit on "Project Closeout, also known as How To Get Paid".

The general meeting was adjourned at 8:20 pm.

CALL FOR

NOMINATIONS for NATIONAL TRUSTEES

ASPE's Nominations Committee calls your attention to your duty as a member in good standing of the association to nominate those people who are qualified, willing to serve and are capable of being an officer of the Society and a trustee to establish policy and conduct national business.

Positions to be filled for 2001-2002 (for a term of one year) are:

- National President (Trustee)
- National First Vice President (Trustee)
- National Second Vice President (Trustee)
- National Third Vice President (Trustee)

Positions to be filled for the 2001-2002 and 2002-2003 (for a two year term) are:

- West Governor
- Central Governor

A form is found at the end of this newsletter to be used to submit nominations. This form must be completed in full, certified by the nominator's chapter Nominations Committee Chairman or the

Chapter President. If the nomination is a MAL, the form must be certified by the Governor of the nominator's region. The nomination must also be accepted by the person being nominated and the associated fact sheet filled out by him/her. The form must be in the mail, addressed and directed thereon, and postmarked no later than midnight, February 1, 2001.

EAST: Reginald D. McLaughlin E

Megquier & Jones Inc.

P.O. Box 2649

South Portland, ME 04106



ASPE December BOARD MEETING

The December meeting of the Board of Directors of the American Society of Professional Estimators, Delaware Chapter 75, was called to order at 6 p.m. on Monday, December 18, 2000.

Meeting Attendees:

Ed Alexander	Ed Lupinek
Jim Connell	Wayne Shannon
Buzz Kingsley	Rich Murphy
Bruce Gollicker	Jerry Doherty

Other attendees: Fred Gschweng

Location: Bancroft Construction Office, Wilmington, Delaware
Chair: Ed Alexander

Review of Previous Meeting Minutes

1. Motion to accept the previous meeting minutes was made, and accepted by attendees. The minutes were accepted without exception.

General Business

1. Ed Alexander suggested that the next Board Meeting immediately follow the general meeting scheduled for January 17, 2001. All members approved. The following dates were also set for future Board meetings: Dec 18th, Jan 15th, Feb 19th, Mar 19th, Apr 16th, May 21st, Jun 18th.
2. Fred Gschweg, Internet planning committee member, presented a second review of options for ASPE Delaware web site and the layout of the home page. Fred reviewed a sample home page and recommended the use of a site map to enable the user to move around different locations on the site. Possible site locations were discussed: membership roster, advertising section and corporate membership listing (among others). The Board commended Fred for a very well thought out presentation and requested that a draft copy of an ASPE Delaware home page now be prepared. Fred will complete the draft and forward via e-mail to all Board members for review and comment. Mike Gioffre volunteered to prepare a mission statement that will be posted on the web site.
3. Rich Murphy chaired a discussion to review two proposed ethics skits for the January membership meeting. The proposals were reviewed and generally approved by the Board. Jim Connell has graciously volunteered to assist Rich.
4. Ed Alexander chaired a discussion on future programs. Possibility of advertising ASPE Delaware in Philadelphia Construction News in hopes of attracting new members. While the Board believes the idea has merit, they were reluctant to approve a funding for such advertisement. Ed to confirm if PCN still offers free space for advertising.
5. Ed Alexander reported that the Estimating Academy proposal previously presented (refer to November meeting minutes) has been tabled. The program has merit, but may conflict with already established seminars (DCA) and seems to be too large an undertaking at this time.

Committee Updates:

Public Relations Committee

No Report

Certification/Recertification Committee

Ed Lupinek, Certification Chair, reported that the re-test for certification was held in November and (3) members for certification and (1) member for re-certification participated. He also reported that (4) new candidates for the 2001 cycle have registered.

Program Committee

No report submitted

Golf Outing Committee

No report submitted

Newsletter Committee

Newsletters being produced on schedule

Membership Chair

Jim Connell, Membership Chair, reported the following appointments to sub committees: Rob Anderson-Research sub-committee; Lou Liberti-Retention sub-committee; Dr. Dave Brown-New Member sub-committee.

Finance Committee

Jeff Coopersmith submitted a report that our account currently has a balance of \$5,115.21, including receipts of \$24.00 from November's raffle. Jeff also requests that all members try to provide additional raffle prizes.

Education Committee

No report submitted.

Planning Committee

With regard to the strategic plan for our Chapter, Mike Gioffre requested that each committee chair complete their "To Do" list and prepare a plan on how each committee can help reach our goals. The lists should be a follow up to the plan presented at the October meeting. **This is a repeat request!**

Archives/Legal Committee

Jerry Doherty reminded Finance that State Franchise Taxes are due by March 1, 2001. A payment request form was forwarded to finance.

Awards Committee

No report submitted.

By-Laws Committee

No By-Laws under discussion.

Ethics Committee

Rich Murphy submitted planned skits on Ethics, for January general meeting.

Faxing Committee

Faxing Committee faxing out to about 1,000 companies per month.

Nominations Committee

No report submitted.

Planning Committee

Mike Gioffre requests all committee chairs follow up to Octobers' meeting regarding strategic planning.

Standards Committee

Awaiting information from national standards board to start helping them.

Student Committee

No report submitted.

Web Site Committee

Refer to general meeting discussion.

The meeting was adjourned at 8:15 pm.

Wanted: Additional raffle prizes. Wouldn't it be nice if we had 2nd, 3rd, etc. prizes for our monthly raffle? Some suggested items are sports tickets, shirts, and hats, booze, discount certificates, etc.



Happy New Year!!!

ASPE Delaware Chapter Advertising Rates

Size	(1) Month	(3) Mths	(6) Mths	(9) Mths	(1) Yr
Business Card	\$7	\$20	\$38	\$54	\$70
(2) Bus. Card	\$13	\$38	\$68	\$95	\$120
1/3 Page	\$20	\$60	\$105	\$150	\$190
1/2 Page	\$26	\$80	\$140	\$195	\$240

Newsletter Reminder Notes:

Copy must be submitted in Windows 95, Word 6.0 or earlier format, by e-mail, hand delivered on disk or is ready to scan.

All submissions must be received on or before the first of the month.

Got Something to Say? We want to hear your editorials, comments, and stories. If you run across an interesting article that would benefit the membership, please submit it to Bruce Gollicker, Pyro-Tech, fax (410) 392-8113. Deadline for submission is the last Friday of the month.

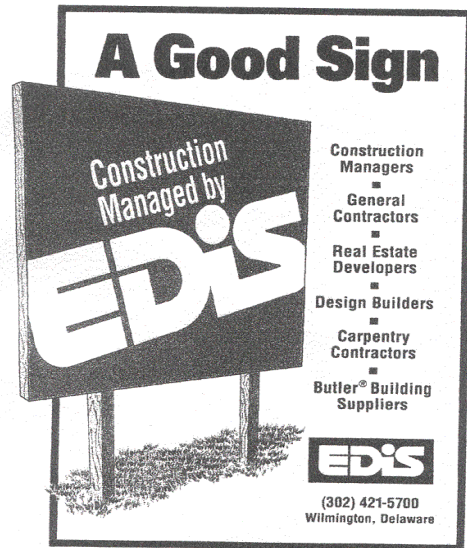
**We Know your are busy,
So as a reminder.....**

Unless otherwise noted, **Chapter meetings** are the **Second Wednesday** of each month. **Board Meetings** are the **Second Wednesday** of each month. Deadline for submission to the Newsletter is the last **Friday** of each month.

**Have Your Product/Service Recognized
by 76 Estimators in
50 Delaware Market Companies**



Established general contracting firm needs a motivated, take charge Estimator/Project Manager. Min. 5 years experience in the commercial construction field. You will be responsible for the entire project - bid to close. Competitive salary and benefits. Fax resume with cover letter to: 302/858-2360 or mail to Ventresca Bros., Inc., 2300 N. DuPont Highway, New Castle, De. 19720.



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