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## SEEKING GUIDANCE?



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For IR managers, having to “do more with less” can be an opportunity.

Investment recovery (IR) departments are historically understaffed, and today's economic downturn has exacerbated the issue. The corporate mantra of “do more with less” has made it difficult for many programs to provide the level of service to which their customers and clients are accustomed. This scenario does, however, provide an opportunity in many cases. The IR manager can add to his or her resource base through the contracting of a professional consultant to make up for a lack of in-house staff. ► Page 4

What you don't know can cost you.

### FEATURE STORY

## TRUST US...things to know about ANTITRUST

Trade associations, which, by their very nature involve interaction among competitors, are subject to close scrutiny for antitrust violations. Criminal sanctions for inappropriate behavior have increased substantially over the past decade (up to \$10 million for corporations and \$350,000 and three years in jail for individuals!), so members must be very careful to keep their activities within the prescribed bounds. ► Page 6





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## ARE YOU AN ADVOCATE?



We are living in times that may well give us the biggest changes of our lives. How we advocate our positions and react to change will no doubt impact our futures—globally, nationally and within the Investment Recovery Association.

### **Global Sustainability.**

International organizations and most advanced countries are embarking on programs designed to help reduce carbon emissions and create more sustainable lifestyles for present and future generations. Some would have the world go back to ways of life that we haven't seen for centuries. Others take a more reasoned approach, yet want the world to reduce carbon emissions to pre-1990s levels. Whatever the outcome, the world and business as we know it today will most certainly change over the next decades.

Sustainability is not just an issue for this business cycle, but will be an important part of business decisions for a decade or more. Most likely, you have already seen sustainability playing an increased role in your organization. The most progressive companies have produced at least one corporate sustainability report. But if your company is not embracing sustainability, it's not too late. The earlier policies are adopted around sustainability, the better your company will be positioned to prosper as a result.

So, how are you advocating for sustainability, and how will you react to the changes? As an Investment Recovery professional, you are part of a business segment that has been actively implementing sustainable activities longer than any other. Promote what you do as an integral part of a sustainable future...for the good of your company and your career!

### **National Health Care.**

The furor surrounding the nation's health care system has advocates coming from every conceivable angle. Yet no matter one's position, it's important that an open debate occur about such a significant part of our way of

life. Isn't it amazing that almost daily, there are news accounts of how a position is advanced by email, or the media or some other spin mechanism? So my question to you is, how are you advocating, and how will you react to the changes?

Whether a massive overhaul of the current health care system occurs or whether it stays essentially status quo, your company will be affected, as will your family and obviously yourself. So, whether you want lots of change or little, you should advocate!

### **Your Association.**

Finally, you have seen a number of changes in the last several months for the Investment Recovery Association. And I can assure you, there have been advocates for all positions. I embrace the advocacy. I want to thank all of you who have taken the time to weigh in on the changes the Board of Directors has been wrestling with. I also want to say, "Thank you!" to the board members and the committee chairs for taking time to wade through all of those potential changes and positions. We have made tough decisions, but you have addressed them with an open mind and open dialogue, and the decisions you have made will last for quite some time.

### **Are You an Advocate?**

If you have an interest in serving the association, watch for a notice from Jane Male, our executive director, with nominating forms for expiring positions on the Board of Directors. This is an opportunity to nominate someone to advocate and to engage in dialogue with other dedicated IR professionals in running your association. Maybe even you!

Dave Rupert, President, CMIR, JD, LLM  
derupert@aep.com  
614-883-7149

► Continued from cover

## This solution allows the IR manager to take advantage of professional expertise while not adding the cost of a permanent staff member.

Following are some keys to making the relationship between IR manager and outside professional contractors work smoothly.

### Defining the Role

As an IR manager, you need to make a decision on what roles contractors will play in your program. Will they be employed for an ongoing role or for a single project? What duties and responsibilities will they have; asset inventory, appraisals, contractor selection and management, marketing, sales, collection of sales proceeds, records retention or any of the other duties that are inherent in the day-to-day activities of an IR professional?

It is essential that both the manager and contractor understand what is expected and what limits there will be on the scope of work. These should be detailed in the professional services agreement. However, the agreement should also allow some flexibility to remove the need to micromanage the work. After all, the purpose of the hiring is to reduce the workload of the manager. This doesn't mean that the contractor is alone on an island with no supervision—it is also essential that he/she is managed as a member of the IR team with specific goals and periodic performance reviews.

### Selection

It's been said that those that can't do, consult. When it comes to selecting a professional contractor, be sure that this isn't true and that he/she has a track record of accomplishments. Contractors are an extension of your program and need to understand your corporate culture, company policies and client needs. They should have experience in your industry and have the necessary contacts to hit the ground running. Another key factor is personality. Think of all the stakeholders in the project and how your contractor will fit. Consultants that will be managing other contractors need to be strong enough to enforce your policies; if working in an operating plant, they need to be able to build the relationships necessary to be effective with the other employees; they must also be able to address the concerns of supervisors and managers in a professional manner. Contractors you hire must be good communica-

tors, and must be willing to give you updates, even if there is "bad news" to report. It is essential that they understand that there can be no surprises to come back and bite you.

In some cases, you may need several contractors with differing skill sets on a single project (i.e., project management, environmental, safety, etc.). A good practice is to have a small cadre of contractors that you have trained and used in the past. In some cases, former company employees will have a strong background that can be advantageous. Keep files and notes on their performance, rates and types of work they have done. Identify those who have demonstrated an ability to take on added responsibilities.

A consultant is going to be an extension of your program and needs to understand your corporate culture, company policies and client needs.

Finally, ensure that the contractor is available for the duration of the project. This may sound basic, but if the project entails a plant closure or

major demolition project that could take months to complete, there may be external time constraints, especially if the project requires the contractor to be away from home for an extended period. If so, have a backup in place to take over if necessary.

### Implementation

For the purpose of this article, I am going to limit this to a single project scenario. For an ongoing project, such as an extensive stores (MRO) reduction or some other semi-permanent position, there may be some additional issues that are not discussed.

Once you have made your selection and the contractor understands the project scope, you need to negotiate cost. Most contractors have a rate sheet that details charges for various services. Keep in mind that in some cases, there may be additional charges for travel, living expenses or other non-standard charges. When you have agreed on the compensation, ensure that the project budget reflects the cost.

In order to ensure that everyone is on the same page, it is important to get the contractor involved as early as possible.

Accompany the contractor to the project site and introduce him/her around to the



stakeholders. Include the contractor in all meetings, tours and other activities associated with the project. Be sure to introduce him/her as your representative and discuss your expectations and the level of authority that the contractor will enjoy. You will also need to make sure that the contractor will have the resources needed. This will include office space, computer and phone with access to your corporate network, office supplies and clerical support if necessary. Be sure that the accounts payable group has the contractor set up as a vendor and is prepared to pay the invoices. One note: if there is a way to streamline the payment process so that invoices are paid upon receipt, it is always appreciated by the contractor.

Reporting is another key function of the contractor. Make sure everyone understands that you expect detailed records of project activities, correspondence, permits and other documents associated with the project. Schedule a periodic report process (weekly is suggested) and develop a template



for the report to ensure that all pertinent information is included. You should also provide regular performance feedback to the contractor to keep him/her apprised of any issue that may affect the project. Conduct

site visits and communicate often.

Finally, remember that the contractor is your representative and needs your backing. If you have chosen well, your consultant will strive to represent you professionally, and in turn, you should feel comfortable providing your support in situations where conflicts may arise. You, or your designee, must be a single point of contact for these issues. Take care of them and they will take care of you. ■



*by Ron Brooks,  
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▶ *Continued from cover*

# THINGS TO KNOW ABOUT ANTITRUST

*By Jim Cavanagh,  
Warner Norcross & Judd,  
Association Legal Counsel*

The Investment Recovery Association strongly believes in competition and fair trade practices. Obviously, interactions among competitors cannot be avoided in an association atmosphere, so we have instituted a vigorous antitrust policy to help protect both the association and our individual members. That policy includes making member and associate member representatives aware of what is or is not acceptable behavior. This article should not to be construed or relied upon as legal advice. However, it is meant to provide some broad guidance when conducting meetings or interacting with fellow members of the association.



**ANTITRUST CHECKLIST.** At any meeting or social gathering, even incidental to the Investment Recovery Association's activities, whether seriously or in jest, members and associate members **SHOULD NOT** discuss or exchange any information—even indirectly—regarding such things as price, proprietary information, bidding, market division or anything that could be construed as restricting trade.

- **PRICE:** This is the biggest potential area for concern. Present or future prices, incentives, pricing patterns, pricing policies, discounts, markups, credit terms or any such similar topic **MUST** be completely avoided. Past price, once of historical record, holds somewhat lower risk, but still should be avoided.
  - **PROPRIETARY INFORMATION:** Also to be avoided are topics that could be construed as unique to an entity or proprietary, such as a company's costs, output capacity, markets, inventory, sales, territories, distribution, marketing and the like.
  - **BIDDING:** Anything that relates to a company's bidding procedures or response to bid invitations are off limits for discussion.
  - **MARKET DIVISION:** Matters relating to territorial restrictions, customer allocations, and restrictions on types of products or services must be avoided.
  - **RESTRAINT OF TRADE:** Anything that would appear to have the effect of excluding a customer or supplier from a market, including pressuring anyone to bring market dissidents in line or penalizing non-participants, are also completely off limits.
- Importantly, any specific questions regarding proper communication among or between members and associates should be directed toward legal counsel **PRIOR TO** engaging in such communications at any meeting or social gathering. A more complete checklist is posted on the website at [www.InvRecovery.org/Antitrust](http://www.InvRecovery.org/Antitrust).
- **CONCLUSION:** Err on the side of caution when entering into any discussions of our business with fellow members. It is urged that member and associate member representatives—at a minimum—adhere to all of these guidelines in order to avoid even the appearance of impropriety.



# Member Mail

Send your feedback to,  
[editor@invrecovery.org](mailto:editor@invrecovery.org)

Dear Editor,

We are excited to see that IR is looking at the 40% average savings that Like-Kind Exchange (LKE) provides. I would like to add an important technical note that I believe would provide additional insight about LKE.

On assets that have been fully depreciated (at the time of sale have zero book value, such as transformers, wire and cable, etc.), the recapture aspect of LKE does not apply.

When the sales proceeds are applied to the purchase of new replacement assets, the only tax consequence of the LKE transaction is that the basis of the new asset is reduced by the LKE savings. That's it! There is no tax recapture or any type of tax exposure in the future. It's as if the LKE savings were used to negotiate an amazing price on the purchase of the new asset!

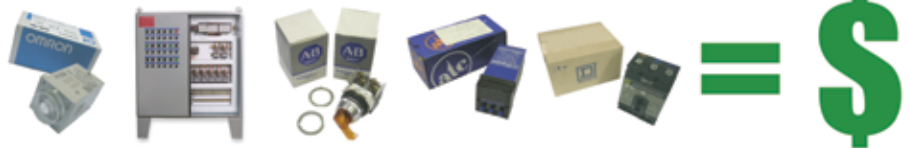
On the other hand, for assets that are subject to IRS code sections 1245 and 1250 (in a nutshell, assets where tax savings are realized and LKE savings are subsequently applied, and then the asset is disposed of), recapture rules will be applied upon the disposition of those assets.

The bottom line is that recapture only applies to a minor percentage of LKE transactions, and proper planning can help eliminate the recapture consequences entirely.

I thought members would like clarification about that aspect of LKE. If anyone has any questions about Like-Kind Exchanges, please give me a call...and I'll see everyone in New Orleans!

*Jim Brittain, Pacific Exchange*  
[800.399.4577](tel:800.399.4577) [Jim@PacificExchange.org](mailto:Jim@PacificExchange.org)

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## Member News

### Gordie Chennell takes scrap wire sales from zero to \$750,000, wins Bell Aliant Achievement Award.



Late in 2007, it was identified that Bell Aliant had not recovered any salvage dollars for scrap wire or wire pulled from service from large tear-down projects. Gordon Chennell, operations manager-materials, started on a fact-finding mission that led to the development of a new business process to ensure Bell Aliant received reasonable returns on the sale of this scrap wire. Through his investigation he found that there was actually no process to determine how much wire was being sold or what the fair market return of that material should yield.

Gordon has since revamped the entire process, which now involves issuing RFPs for each sale to ensure the organization receives a fair market return on the material.

In the past 12 months, this has created nearly \$750,000 on sales and has brought bidders from across Canada to the table. Prior to this process improvement, Bell Aliant had

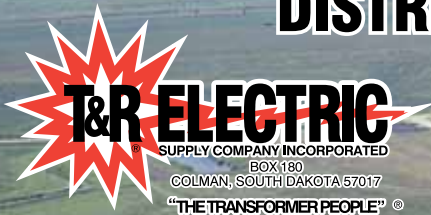
recovered zero dollars from scrap wire in a 12-month period.

This initiative has created real bottom line value for Bell Aliant and has built a solid business process that has been extended to other areas. It has most recently been used to complete a sale of batteries on the base metal market. This is a shining example of operational efficiency and value creation for Bell Aliant, for which Gordon was recognized with the Bell Aliant Achievement Award, a significant personal and professional achievement for the new IR program he started in his company.

Congratulations, Gordie!

*Do you know of a member who is making news?  
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# THE INVESTMENT RECOVERY ASSOCIATION LAUNCHES A NEW WEBSITE

[www.InvRecovery.org](http://www.InvRecovery.org)

## The benefits of membership in the Investment Recovery Association just got greater.

Using web 2.0 technology, members now have a better platform for communication between fellow members, the association and outside resources. In addition, the larger community of non-members can register to get a small taste of some of this premium content. Here are just some of the benefits of the new website.

### REGISTERED SITE USERS:

- Access to the full text of past articles that have appeared in *Asset 2.0*, the premier source for Investment Recovery information (currently 65 articles, searchable by category)

- Limited access to premium content, such as "The 7 R's Every IR Professional Should Know"
- A complimentary online subscription to *Asset 2.0* (a \$25 value)
- Updates and news from the Investment Recovery Association

### ASSOCIATION MEMBERS:

You'll get all the benefits of a registered site user, plus all of the following.

- Access to all member information with search feature to help make finding members and associate member resources fast and easy



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## CMIRs TAKE ETHICS PLEDGE

### AS A CMIR, I PLEDGE TO:

Ethical and professional conduct are the hallmarks of those achieving Certified Manager of Investment Recovery status. At right, is the pledge that almost 200 CMIRs have taken upon completing their coursework and passing the required examinations. The courses, study guide and examinations are all in the process of being reviewed and updated by the Education Committee, chaired by Ron Brooks, CMIR.

### Certified Manager of Investment Recovery CODE OF ETHICS

In order to promote and maintain the highest levels of personal standards and conduct, the Investment Recovery Association has adopted a Code of Ethics for persons attaining the CMIR (Certified Manager of Investment Recovery) certification.

Adherence to these standards is required for certification, and serves to assure public confidence in the integrity and professionalism of investment recovery department personnel. ■

### DON'T BE CONFLICTED! Association Conflict of Interest Policy

It is the policy of the Investment Recovery Association that its Board of Directors and association committee members must act at all times in the best interest of the association and shall not derive any personal profit or gain, directly or indirectly, by reason of their participation in the leadership of the Association. The purpose of this policy is to help inform the directors and association committee members about what constitutes a conflict of interest, assist in identifying and disclosing actual and potential conflicts, and help ensure the avoidance of conflicts where necessary.

The full text of the conflict of interest policy can be found on the association website at [www.InvRecovery.org/Conflict\\_Policy](http://www.InvRecovery.org/Conflict_Policy).

1. Maintain the highest standard of personal conduct
2. Promote and encourage the highest level of ethics within the industry or profession my company represents
3. Maintain loyalty to the company that employs me, and pursue its objectives in ways that are consistent with the public interest
4. Recognize and discharge my responsibility to uphold the laws and regulations relating to my company's policies and activities
5. Strive for excellence in all aspects of investment recovery management
6. Use only legal and ethical means in all investment recovery activities
7. Serve all members of my company impartially, provide no special privilege to any individual and accept no personal compensation from a supplier of services
8. Maintain the confidentiality of privileged information entrusted or known to me by virtue of my position
9. Refuse to engage in or countenance, activities for personal gain at the expense of my company, our industry or my profession
10. Always communicate internal and external statements in a truthful and accurate manner
11. Cooperate in every reasonable and proper way with other investment recovery professionals and work with them in the advancement of the profession of investment recovery
12. Use every opportunity to improve public understanding of the role of investment recovery



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Jane Male, CAE,  
Executive Director

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