



United States Tax Court

Washington, DC 20217

VERIBEST VESTA, LLC, TRUE NORTH
RESOURCES, LLC, PARTNERSHIP
REPRESENTATIVE,

Petitioner

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent

Docket No. 9158-23.

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit with this order to petitioner and respondent a copy of the pages of the transcript of the trial in this case before Judge Ronald L. Buch at Atlanta, Georgia, containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, a decision will be entered under Rule 155.

(Signed) Ronald L. Buch
Judge

Served 07/17/25

1 Bench Opinion by Judge Ronald L. Buch

2 July 11, 2025

3 Veribest Vesta, LLC, True North Resources, LLC,

4 Partnership Representative v. Commissioner of Internal

5 Revenue

6 Docket No. 9158-23

7 THE COURT: The Court has decided to render oral
8 findings of fact and opinion in this case and the
9 following represents the oral findings of fact and
10 opinion. The oral findings of fact and opinion are made
11 pursuant to the authority granted by section 7459(b) of
12 the Internal Revenue Code and Tax Court Rule 152. Rule
13 references are to the Tax Court Rules of Practice and
14 Procedure, and section references are to the Internal
15 Revenue Code, as in effect at all relevant times.

16 INTRODUCTION

17 The old Grimes quarry sits on 55 acres of land
18 situated in Oglethorpe County, Georgia, which is near
19 Elberton, Georgia. The city of Elberton is known as the
20 Granite Capital of the World. That nickname is well-
21 earned because it is situated atop a granite belt that is
22 approximately 35 miles long, 6 miles wide, and 2 to 3
23 miles deep. Mining that granite can be lucrative. To
24 mine granite, one needs to have access to land where the
25 granite is located, an experienced crew and capable leader



1 to extract it, capital to acquire the necessary equipment
2 and to operate the business, and a market into which to
3 sell the granite. Veribest Vesta, LLC, had one piece of
4 that formula, it owned the land on which the old Grimes
5 quarry was situated. In 2018, Veribest Vesta donated a
6 conservation easement on that property.

7 In determining the amount of a charitable
8 contribution for the donation of a conservation easement,
9 one generally determines the value of the property before
10 donation of the easement and the value of the property
11 after donation. The difference between those two numbers
12 is the value of the charitable contribution.

13 To determine the value of its charitable
14 contribution, Veribest Vesta calculated the going concern
15 value of an operating granite mine. It used optimistic
16 projections of how much granite could successfully be
17 mined from the old Grimes quarry and sold. It then
18 discounted the cash flow that might be generated by those
19 optimistic projections to determine a before value in
20 excess of \$20 million. It determined an after value of
21 less than \$100,000. From these numbers, Veribest Vesta
22 claimed the value of its 2018 charitable contribution of
23 the conservation easement was \$20,310,000.

24 But the value of land in the area of the old
25 Grimes quarry was well known. While the precise value of

1 any particular parcel may vary, locals understood quarry
2 properties to be worth about \$2,000 per acre.
3 Contemporaneous sales records of properties in the
4 surrounding region generally reflect a value ranging from
5 \$1,999 to \$2,840 per acre. And the old Grimes quarry sold
6 just two years before the donation for \$1,818 per acre.

7 Evidence offered at trial showed that the old
8 Grimes quarry was worth less than the norm. It had been
9 abandoned decades earlier because it was not perceived as
10 a good mining property. It lacked infrastructure
11 necessary to reopen it as a mine or to get its products to
12 market. The Commissioner's expert nonetheless valued the
13 property at \$3,000 per acre at the time Veribest Vesta
14 donated the easement. We will regard that as a
15 concession. The Commissioner's expert likewise valued the
16 property after donation of the easement at \$54,000. We
17 will likewise regard that as a concession. These deemed
18 concessions result in a value of the donation of \$111,000.
19 As a result of the vast difference between the value
20 claimed by Veribest Vesta and the value found by the Court
21 as a result of the Commissioner's concessions, a gross
22 valuation misstatement penalty applies.

23 FINDINGS OF FACT

24 I. The Georgia Granite Industry

25 Northeastern Georgia, near the city of Elberton,



1 contains a large granite deposit formed over 300 million
2 years ago. The Elberton granite deposit is about 35 miles
3 long, 6 miles wide and 2-3 miles deep. The total amount
4 of granite in the Elberton granite deposit is
5 approximately six trillion tons. For this reason,
6 Elberton is known as the "Granite Capital of the World."
7 The first commercial granite quarry in the Elberton area
8 opened in 1889, and granite remains an important part of
9 the local economy. Largely because of the granite
10 produced in Elberton and the surrounding area, Georgia
11 leads the United States in production and use of granite
12 dimension stone.

13 Geologically, the Elberton granite deposit has
14 unique characteristics that make it preferable for
15 specific applications. While there are variations in the
16 color and quality of the granite, the Elberton granite
17 generally has a gray hue and goes by a variety of names,
18 mostly commonly Georgia Gray.

19 Georgia Gray's color comes from a speckled
20 pattern of small black and white flecks. Georgia Gray is
21 among the hardest types of granite available, making it
22 extraordinarily durable. Georgia Gray is used in a
23 variety of products because of its uniformity. Variation
24 in color will affect its value.

25 From a mining perspective, quarries can produce

1 either dimensional stone or aggregate stone. Aggregate is
2 broken or crushed stone such as gravel. It might be used,
3 for example, for a rail bed. Dimensional stone is natural
4 rock in the form of large blocks or slabs. The primary
5 types of dimensional stone include granite, marble,
6 limestone, sandstone, and slate. Once dimensional stone
7 is removed from a quarry, it may be used for any number of
8 things; buildings, monuments, pavers, furniture,
9 decorative objects, headstones, mausoleums, bridges,
10 countertops, curbing, retaining walls, landscaping, etc.
11 The size of the usable portion of dimensional stone will
12 affect its grade; cracks or veins resulting in smaller
13 useable blocks will result in a lower grade and value.

14 Stone is graded after it is removed, and
15 sometimes the grade isn't known until the stone is cut.
16 "Die stock" is the highest grade of granite and typically
17 must be free of imperfections. After die stock, in
18 descending order of quality, is "base stock" which has
19 mild waves and sporadic spots. It can be used in
20 horizontal bases for headstones. "Coping" has more
21 defects and may be used for other parts of a burial plot.
22 The last of the commonly recognized categories is
23 "curbing," which has significant patterns or waves and is
24 used to make street curbs where aesthetics are not as
25 important. Different mine operators may classify their

1 stone differently, with some using a numerical system and
2 others having additional categories such as "run of the
3 quarry," but die, base, coping, and curbing are commonly
4 recognized categories of the quality of dimensional
5 granite.

6 When selling dimensional stone, die stock is
7 where most of the profits are earned. Although prices
8 vary, people involved in the local mining industry recall
9 that, in 2018, die stock sold for \$12 to \$14 per cubic
10 foot, base sold for \$11 to \$12, coping sold for \$6 to \$10,
11 and curbing sold for \$1.50 to \$5. The cost to remove
12 dimensional stone also varies, but for most operators, die
13 stock and base stock is where most of the profit is made.
14 Coping generally breaks even or turns a small profit, and
15 curbing is sold at a loss to recover as much cost as
16 possible. Waste rock is given away if someone will take
17 it.

18 II. The Old Grimes Quarry

19 In 1969, Mrs. Tiller executed a Warranty Deed
20 conveying 30 acres of real property in Oglethorpe County,
21 Georgia in favor Grimes Brothers Granite Company, Inc. We
22 will simply refer to that ~~as~~ entity as "Grimes Brothers."
23 And in 1970, the Estate of Mrs. Tiller executed a Warranty
24 Deed conveying another 25 acres of real property in
25 Oglethorpe County in favor of Grimes Brothers. In 1977,

1 Grimes Brothers entered into a contract with Erwin Granite
2 Company by which it leased the rights to granite and other
3 mineral deposits in, on, and under the 30-acre tract.

4 In 1991, Grimes Brothers executed a Warranty
5 Deed conveying both tracts of land, totalling 55 acres, in
6 favor of Bobby Stevens. We will refer to that 55-acre
7 tract as the old Grimes quarry. The following year, Bobby
8 Stevens executed a Warranty Deed conveying three parcels
9 in Oglethorpe County to Georgia-Carolina Quarries, Inc.,
10 his family's business. The three parcels consisted of the
11 old Grimes quarry plus an additional 9.47 acres. Georgia-
12 Carolina Quarries also operated other quarries in the
13 area.

14 Sometime around 1998 or 1999, quarry operations
15 were abandoned at the old Grimes quarry. In 1998 or 1999,
16 Georgia-Carolina Quarries pulled two samples of granite
17 from the old Grimes quarry and discovered imperfections
18 that made it unsuitable for monument grade stone. Mark
19 Stevens, whose family business owned the quarry at the
20 time, understood that the granite in the old Grimes quarry
21 was coping grade.

22 Mark Stevens worked for the family business,
23 Georgia-Carolina Quarries. The family business included
24 both quarrying and also manufacturing products from
25 granite, and it had bought stone from the Blue Ribbon

1 Quarry. Larry Cook owns Blue Ribbon Quarry, which he
2 bought in 2006.

3 In 2016, Mark Stevens (through Georgia-Carolina
4 Quarries) sold the old Grimes quarry to Mr. Cook for
5 \$100,000 which amounts to \$1,818 per acre. The sale
6 included owner financing; Mr. Cook paid \$25,000 and
7 financed the \$75,000 balance with Georgia-Carolina
8 Quarries. On June 28, 2016, Georgia-Carolina Quarries
9 executed a Warranty Deed conveying the old Grimes quarry
10 to Mr. Cook, which was recorded along with a Security Deed
11 in connection with the owner-financing.

12 On October 3, 2016, Mr. Cook, with the
13 assistance of Jennifer Grayson, an attorney, organized
14 Veribest Vesta as a Georgia limited liability company. At
15 organization, Veribest Vesta was owned 75% by Mr. Cook and
16 25% Centrifuge Management, LLC. Centrifuge Management was
17 owned first by Ms. Grayson's then-husband, Mark Lytle,
18 until January 1, 2017, when Ms. Grayson became the sole
19 owner. On December 15, 2016, Mr. Cook executed a Warranty
20 Deed conveying the old Grimes quarry to Veribest Vesta.
21 That deed was recorded a few days later.

22 In the meantime, specifically, in October 2016,
23 Mr. Cook bought a second abandoned quarry for \$2,350 per
24 acre. He reopened that quarry in 2019 as the Briar Patch
25 Quarry.

1 Since 2016, Ms. Grayson and Mr. Cook helped put
2 together a number of conservation easements in Oglethorpe
3 County. In preparing for the Veribest Vesta conservation
4 easement, Ms. Grayson hired (1) Russ Patterson, who
5 prepared a dimension stone exploration and evaluation
6 report, (2) Criss Capps, who prepared a mineral resource
7 valuation report, and (3) Clayton Weibel and Lucus Von
8 Esh, who prepared a property appraisal.

9 In March 2017, a 162-foot core sample was
10 collected from the old Grimes quarry and sent for testing.
11 That testing confirmed the presence of Elberton granite.
12 Mr. Patterson then prepared a conceptual mine plan
13 involving a two-acre quarry pit that would produce, in his
14 opinion, "a minimum of 5.23 million cubic feet of
15 dimension stone." Relying on Mr. Patterson's estimate,
16 Dr. Capps estimated a total combined resource valuation of
17 \$22.3 million: \$15 million in monument-grade dimension
18 stone, \$6.2 million in countertop-grade dimension stone,
19 and \$1.1 million in recycled waste rock aggregate. This
20 exact resource valuation was used in reports Mr. Capps
21 prepared for at least eight other quarry properties, which
22 Messrs. Weibel and Von Esh also used to appraise the land
23 for conservation easements. Messrs. Weibel and Von Esh
24 reached these conclusions without reliance on comparable
25 sales involving a hypothetical willing buyer and willing



1 seller. Instead, Messrs. Weibel and Von Esh used a
2 discounted cashflow analysis to arrive at a net present
3 value of a hypothetical dimension stone business operating
4 on the old Grimes quarry over the course of twenty-five
5 years.

6 III. The Donation of a Conservation Easement

7 In 2018, Corey Ingram and George Agee of
8 Greensouth Land Strategies, LLC introduced Mr. Cook and
9 Ms. Grayson to True North Resources, LLC. True North
10 Resources is a partnership organized under the laws of
11 Florida. At all relevant times, True North Resources was
12 managed by two brothers, Pieter and Philip Van Staden, and
13 owned 50-50 by Andrew Miles and Philip Van Staden. Philip
14 Van Staden has owned multiple broker-dealers, one of which
15 is Green Vista Capital. Green Vista is co-owned by Philip
16 Van Staden and Mr. Miles. Mr. Miles is a Florida attorney
17 specializing in providing tax services for high-net-worth
18 clients. He operates a business called Tax Savings
19 Professionals.

20 On November 14, 2018, True North Resources
21 organized Millstone Creek, LLC. Shortly thereafter,
22 Millstone Creek entered into a purchase agreement to
23 acquire 97% of Veribest Vesta in exchange for \$2 million.
24 Mr. Cook and Centrifuge Management (in other words, Ms.
25 Grayson) each retained 1.5% interests. Philip Van Staden

1 and Mr. Miles, owners of True North Resources, contracted
2 with themselves as principals of Green Vista Capital, the
3 broker-dealer, to sell membership units of Millstone
4 Creek. "Investors," and we use that term loosely, would
5 receive a \$4.50 tax deduction for every \$1 they paid to
6 acquire their interests. Meanwhile, Veribest Vesta
7 appointed True North Resources as its manager through a
8 second amended and restated operating agreement.

9 Shortly thereafter, by deed recorded with the
10 Oglethorpe County Clerk on December 31, 2018, Veribest
11 Vesta granted a conservation easement on the old Grimes
12 quarry in favor of Oconee River Land Trust.

13 IV. The 2018 Form 1065 and Accompanying Appraisal

14 On March 18, 2019, the Internal Revenue Service
15 received Veribest Vesta's Form 1065, U.S. Return of
16 Partnership Income, for the year ending December 31, 2018.
17 We will refer to that as the original return. Veribest
18 Vesta attached to its original return a copy of an
19 appraisal dated September 28, 2018, and signed by Messrs.
20 Weibel and Von Esh. We will refer to that as the return
21 appraisal. Using a discounted cash flow analysis of an
22 operating dimensional stone granite mine, the return
23 appraisal valued the old Grimes quarry at \$20.4 million.
24 It determined a residual value after the granting of the
25 conservation easement of \$90,000. From these numbers, it



1 derived a value of the easement of \$20,310,000.

2 But in the interim, True North Resources engaged
3 at least one professional in addition to those hired by
4 Ms. Grayson. It hired Phillip McGinnis, a Georgia
5 appraiser, to conduct a review of the return appraisal.
6 Mr. McGinnis identified dozens of problems with the return
7 appraisal, ultimately concluding: "Due to the
8 inconsistencies in the Income Approach and the Sales
9 Comparison Approach, the value conclusions do not appear
10 credible." After Mr. McGinnis's review of the return
11 appraisal was completed, no changes were made to the
12 ultimate conclusion for the income approach or sales
13 comparison approach in the return appraisal.

14 V. The Amended Form 1065 and Accompanying Appraisal

15 On April 10, 2019, the Internal Revenue Service
16 received a Form 1065X, Amended Return or Administrative
17 Adjustment Request for Veribest Vesta for 2018. The
18 amended return stated that its only purpose was to replace
19 the return appraisal with a newer version. The appraisal
20 attached to the amended return was dated February 21,
21 2019. The differences between the appraisals attached to
22 the original and amended returns are largely insubstantial
23 with both versions concluding the value of the
24 conservation easement was \$20,310,000, and with both
25 relying on the same discounted cash flow analysis of an



1 operating granite mine.

2 VI. The Commissioner's Determinations and Veribest
3 Vesta's Petition

4 By Notice of Final Partnership Adjustment dated
5 March 22, 2023, the Commissioner determined a partnership-
6 level imputed underpayment of \$7,514,700 and penalty of
7 \$3,005,880. The imputed underpayment was predicated on a
8 complete disallowance of the \$20,310,000 charitable
9 contribution deduction. The penalty was predicated on the
10 Commissioner's determination that the adjustment resulted
11 from a gross valuation misstatement.

12 On June 8, 2023, True North Resources, as
13 partnership representative, filed a petition challenging
14 the Commissioner's determinations. When True North
15 Resources filed the petition, Veribest Vesta was a Georgia
16 limited liability company with its principal place of
17 business in Florida.

18 VII. Trial

19 Trial of this case was held over the span of
20 several weeks, with some witnesses appearing remotely.
21 The parties provided closing arguments on July 10, 2025.
22 The witnesses largely fell into three categories: fact
23 witnesses with information about the old Grimes quarry or
24 the granite industry in the surrounding region; fact
25 witnesses with information about the series of



1 transactions; and expert witnesses regarding the value of
2 the property or the quality of the appraisals. While
3 facts derived from the witnesses' testimony are included
4 above, we briefly highlight facts brought to light through
5 the testimony of each of the witnesses presented at trial.

6 A. Mining Fact Witnesses

7 Arnold Jaudon was the first of several fact
8 witnesses who testified about the hard work of mining
9 granite. He started mining granite as a teenager and has
10 been a foreman for 30 years. In his career in the mining
11 industry, he has also owned a quarry. He explained that,
12 to reopen an abandoned quarry, one needs hundreds of
13 thousands of dollars of equipment, a capable crew, and a
14 foreman. A foreman is particularly difficult to find.
15 Among the problems with finding a foreman is that mining
16 typically involves the use of explosives, and to be
17 licensed to use explosives, a foreman must pass a clean
18 background check.

19 Randy Rice was another witness with experience
20 in mining. He is the president of Blue Sky Quarry and has
21 been in the granite industry for 40 years. In addition to
22 testifying about his success in the mining industry, he
23 also explained the difficulties. He estimated the
24 equipment cost to open a new mine to be \$1.5 million.
25 Blue Sky Quarry has two parcels that total 147 acres and

1 that include a rail spur to connect to the CSX rail line.
2 Mr. Rice was once offered \$7.9 million for Blue Sky
3 Quarry, which was offered for the operating business, not
4 the merely for the land on which it was situated.

5 Mark Hill, like Mr. Rice, has been successful in
6 the granite industry. Mr. Hill runs a granite
7 manufacturing business, turning stone into granite
8 products. He also runs Quarries Inc., which has two
9 active quarries. He has tried to open six quarry sites,
10 but four of them failed. He explained that "the good Lord
11 can give you some good stone and he can give you some bad
12 stuff." He explained how one quarry site has been
13 amazingly good, but just 100 yards away, the stone is bad
14 to neutral. Perhaps most notably, he observed that
15 "everybody's quarry is going to be different. There's no
16 two alike." This was made particularly clear in his
17 discussion of royalty rates. Some quarry operators own
18 the land they quarry while others lease it and pay a
19 royalty to the landowner. But royalty rates vary widely,
20 and some landowners and quarry operators closely guard
21 their actual royalty rates.

22 Mr. Hill also testified about the purchase of
23 mining properties. He knows of at least three sales with
24 per acre prices ranging from \$2,100 to \$8,900 per acre.
25 The \$8,900 per acre outlier was his purchase of a property

1 he had been leasing and actively mining. He thought the
2 price was "awful high" but he wanted to continue to quarry
3 that specific property because of its track record. He
4 was already operating a mine on that site with all of his
5 equipment in place.

6 Tim Huguley is in the process of selling the
7 only quarry he's owned. When he purchased the quarry in
8 2013, it was an operating business with all of the
9 necessary equipment and an office building. He paid
10 something in the range of \$500,000 to \$600,000 for the
11 operating business. He quarried on that property for
12 three years, but he hit bad rock. He sold off a portion
13 of the land in 2018 for \$2,000 per acre because "that's
14 the price most of the property was going for." He is in
15 the process of selling the remainder of the property for
16 \$600,000, a price that includes the equipment and
17 improvements.

18 Willie Simmons retired from quarrying after 40
19 years of working in granite businesses owned by his
20 father. The family had a manufacturing business and a
21 quarry. One of the problems they encountered in running
22 the business was finding people who wanted to work. They
23 sold the quarry in 2016 for \$750,000. That sale included
24 the land, a finishing plant, and equipment. In contrast,
25 they sold another property in 2014 that was simply the



1 sale of land. That property sold for roughly \$2,500 per
2 acre.

3 Billy Bryant is the president and co-owner of
4 Gold Eagle Quarries. He's been in the mining industry for
5 nearly 40 years. In 2016, Mr. Bryant paid \$750,000 for a
6 24.5% interest in Gold Eagle Quarries, an operating mining
7 business that also held 150 acres of property for mining
8 granite.

9 David Giannoni has worked in granite mines for
10 over 50 years. His dad owned Central Granite Company, and
11 Mr. Giannoni began working there during high school.
12 After serving in the Marine Corps and some further
13 education, Mr. Giannoni returned to granite mining. Over
14 the years he owned three quarries and leased one.
15 Notably, he bought a quarry property in 2013 for \$1,707
16 per acre. He started quarrying on the property in late
17 2014. But in 2018 he stopped because he did not have a
18 good enough crew or foreman. He sold the property, but in
19 his view, if he had had the right people and the right
20 crew, he probably could have made it work.

21 Mark Stevens has worked in the granite industry
22 for 40 years. He was principally involved on the
23 manufacturing side of the business. His late brother was
24 involved on the mining side, but Mr. Stevens took over
25 mining operations when his brother passed. His family's



1 company, Georgia-Carolina Quarries, acquired the old
2 Grimes quarry from Mr. Grimes, who signed the property
3 over to settle a debt. When Mr. Stevens's family business
4 acquired the old Grimes quarry, it was already an
5 abandoned pit. In the late 1990s, Georgia-Carolina
6 Quarries drained the water from the old Grimes quarry,
7 pulled two samples of granite, and had them sawed and
8 polished. If those samples had indicated die stock, the
9 Stevenses would have reopened the pit. But they were
10 coping or curb grade. In 2016, a former employee
11 connected Mr. Stevens with Larry Cook. Mr. Stevens and
12 Mr. Cook agreed on what Mr. Stevens believed to be a "fair
13 price" for the old Grimes quarry of \$1,818 per acre.

14 B. Transactional Fact Witnesses

15 We begin the summary of the transactional fact
16 witnesses with Larry Cook, who acquired the old Grimes
17 quarry from Mr. Stevens. Mr. Cook had been a maintenance
18 engineer in an industrial plant. While working at that
19 full time, he bought an interest in an operating quarry,
20 Blue Ribbon Quarries. Initially, his main role was mostly
21 working evenings and weekends upgrading equipment while he
22 continued to work at his full-time job. In 2016, he
23 bought the property that would become the Briar Patch
24 Quarry, which consisted of 114 acres of land with several
25 abandoned pits, for roughly \$268,000, which translates to

1 \$2,350 per acre. He then spent several hundred thousand
2 dollars to acquire equipment and get the mine up and
3 running 2 to 3 years later. The same year he acquired the
4 Briar Patch Quarry, he acquired the old Grimes quarry for
5 \$100,000, or \$1,818 per acre. He contributed the old
6 Grimes quarry to Veribest Vesta, which he formed along
7 with Jennifer Grayson.

8 Jennifer Grayson is the lawyer who formed
9 Veribest Vesta in 2016. On original formation, Veribest
10 Vesta was co-owned by Larry Cook and Mark Lytle, Ms.
11 Grayson's then-husband. Mr. Lytle owned his interest
12 through Centrifuge Management, an entity wholly owned by
13 him. Ms. Grayson became the sole owner of Centrifuge in
14 2017. She both advised and owned (directly or indirectly)
15 interests in multiple entities that entered into
16 conservation easements.

17 Devlin Dwyer is a lawyer who was hired to
18 prepare much of the documentation underlying Veribest
19 Vesta's donation of a conservation easement. Although he
20 has worked in a variety of settings, his involvement in
21 conservation easements has been a common thread. He
22 prepared a second restated operating agreement and other
23 organizational documents, a subscription agreement, and at
24 least in theory, a private placement memorandum. We say
25 "in theory" because in his written communications with Ms.

1 Grayson and Peiter Van Staden, it appeared as though he
2 was looking to them to provide a draft private placement
3 memorandum.

4 Pieter Van Staden is the manager of True North
5 Resources, which in turn is the partnership representative
6 of Veribest Vesta. He made clear that the Veribest Vesta
7 conservation easement donation, along with many similar
8 conservation easement donations, involved the same close-
9 knit group of individuals. For example, True North
10 Resources is owned by Mr. Van Staden's brother, Philip Van
11 Staden and Andrew Miles. Mr. Miles is also an owner of a
12 business called Tax Savings Professionals. Tax Savings
13 Professionals would refer clients to Green Vista Capital,
14 a broker dealer. Green Vista, in turn, is owned by Mr.
15 Miles and Philip Van Staden.

16 Green Vista provided prospective investors with
17 a private placement memorandum that provided them the
18 opportunity to invest in Veribest Vesta. It purported
19 that three options would be available to the investors: to
20 hold and sell the property at a future date, to actively
21 mine the property, or to place a conservation easement on
22 the property. But the private placement memorandum was
23 not distributed to anyone with an interest or ability to
24 mine the property; it was distributed to "accredited
25 investors." Those are people with a high net worth or



1 high annual income and who would be able to take advantage
2 of tax savings.

3 Philip Van Staden is Pieter's brother and the
4 co-owner of Green Vista Capital and True North Resources
5 along with Mr. Miles. Most notably, Mr. Philip Van Staden
6 testified about the fees that True North Resources
7 received in connection with the Veribest Vesta series of
8 transactions. It received a termination fee of roughly
9 \$500,000, an arrangement fee of \$420,000, and two separate
10 annual management fees of \$15,000 and \$20,000. On top of
11 that, a 7% commission was paid to the registered
12 representative along with a 1.5% marketing fee and a 1.5%
13 due diligence fee to the broker dealer. The registered
14 representative was Mr. Miles, and the broker dealer was
15 Green Vista, which in turn is co-owned by Mr. Miles and
16 Philip Van Staden.

17 Andrew Miles owned or was otherwise involved in
18 several of the entities involved in the Veribest Vesta
19 transactions, including True North Resources. True North
20 Resources was involved in dozens of conservation easements
21 including the one entered into by Veribest Vesta. Mr.
22 Miles explained how, for each dollar invested, an investor
23 would receive a \$4.50 charitable deduction.

24 Alphonse Provinziano was one of the investors
25 who had hoped to mine a charitable contribution deduction



1 through Veribest Vesta. He and his wife first learned of
2 conservation easements from a video that appeared on
3 Facebook. Mr. Miles was providing a class to small
4 business owners on tax strategies and promoting his
5 business Tax Savings Professionals. Through this initial
6 contact, the Provinzianos bought into several conservation
7 easement transactions.

8 Clayton Weibel and Lucas Von Esh prepared the
9 return appraisal for the donation of the old Grimes
10 quarry. Mr. Weibel did not testify at trial. In a
11 stipulation of facts, the parties agreed as to what
12 questions the Commissioner intended to ask Mr. Weibel at
13 trial and that Mr. Weibel would refuse to answer by
14 invoking his Fifth Amendment privilege against self-
15 incrimination.

16 In contrast to Mr. Weibel, Lucas Von Esh
17 testified about his role in preparing the appraisal. He
18 explained that Mr. Weibel prepared the appraisal and that
19 he, Mr. Von Esh, merely filled in the data. Much of that
20 data came from reports of others. The appraisal that
21 bears Mr. Weibel and Mr. Von Esh's signatures, quotes the
22 14th edition of The Appraisal of Real Estate published by
23 the Appraisal Institute as stating,

24 Sales comparison is the most common technique
25 for valuing land and it is the preferred method

1 when comparable sales are available. To apply
2 this method, data on sales of similar parcels of
3 land is collected, analyzed, compared, and
4 adjusted to provide a value indication for the
5 land being appraised.

6 In contrast, Mr. Von Esh testified that comparable sales
7 could be used as a sanity check to see if it matches
8 another approach. He did not appear to apply this sanity
9 check to the value set forth in his and Mr. Weibel's
10 appraisal.

11 Joseph Davis prepared the Veribest Vesta return,
12 although he has a hard time keeping the various
13 conservation easement returns straight because "all of
14 them are somewhat of a jumble." He had prior experience
15 in preparing partnership returns, and his due diligence
16 typically involves reviewing a general ledger with
17 thousands of transactions. But with Veribest Vesta, there
18 were only eight transactions. Notwithstanding the scant
19 information, Mr. Davis did not verify information, such as
20 opening account balances, with the prior year's return.
21 This resulted in inconsistencies between the 2017 and 2018
22 returns of Veribest Vesta.

23 Justin Owens is a certified public accountant
24 who reviewed the Veribest Vesta return before it was
25 filed. He noticed some inconsistencies and called them to



1 Mr. Davis's attention. He did not receive a copy of the
2 filed return until shortly before trial.

3 Corey Ingram formed Greensouth Land Strategies
4 along with George Agee. Through that entity, they entered
5 into about half a dozen land transactions all of which
6 resulted in placing conservation easements on the
7 property.

8 Criss Capps is a geologist who prepared a
9 resource statement in which he estimated the quality and
10 quantity of granite at the old Grimes quarry to be valued
11 at \$22.3 million. He did this by relying on the
12 exploration and evaluation of other contractors. Although
13 he considers this property to be "unique," he also views
14 "every single location on planet Earth ... unique." He
15 valued at least nine other supposedly unique dimension
16 stone quarries to have the exact same resource value.

17 Kemuel Caldwell was not involved in the
18 transactions and is not directly involved in the mining
19 industry. He is the chief appraiser in the Oglethorpe
20 County Tax Assessor's Office. Mr. Caldwell authenticated
21 and explained tax assessment records for the county in
22 which the old Grimes quarry is located. Those records
23 show that most undeveloped properties that were sold in
24 Oglethorpe County in 2018 sold for less than \$3,000 per
25 acre. Regarding assessment records, the Oglethorpe County

1 Tax Assessor's Office places a higher value on properties
2 with operating quarries, but that value is not based on
3 the value of the operating business; it is based on the
4 value of the land on which the business is operating.

5 C. Expert Witnesses

6 1. Doug Kenny

7 Petitioner offered expert testimony from Doug
8 Kenny, a real estate appraiser and Certified General
9 Appraiser licensed in Georgia and twenty other states.
10 Mr. Kenny is no stranger to conservation easement
11 valuation and has previously testified as an expert
12 witness before this Court. Mr. Kenny was offered as an
13 expert witness in appraisals, mineral valuation, market
14 analysis, and appraisal review.

15 Mr. Kenny testified as to the value of the
16 conservation easement. Mr. Kenny opined on the fair
17 market value of the conservation easement by using the
18 income approach and a discounted cash flow analysis to
19 determine the before donation value. Mr. Kenny determined
20 the net present value based on "the projected income and
21 expenses over a 25-year mine schedule." He also testified
22 that the value of the subsurface materials must be
23 incorporated in the value of real property.

24 Mr. Kenny used a before and after method to
25 value the easement. He opined that before the easement,

1 the property's highest and best use was dimension stone
2 mining and that the property "has the potential to become
3 a dimension stone quarry." He calculated that the before
4 value of the property was \$15,460,000. He opined that
5 after granting the easement, the property's highest and
6 best use was agriculture, recreational use, and forestry.
7 He calculated that the after value of the easement was
8 **\$110,000** ~~\$111,000~~. Accordingly, he determined the fair market
9 value of the easement was \$15,350,000.

10 Mr. Kenny used the sales comparison method to
11 test the reasonableness of his discounted cash flow
12 analysis. Mr. Kenny offered testimony on the principle of
13 substitution, the idea that a buyer would not pay more for
14 one property than what they could pay for an equivalent
15 property. His search for potential substitutes for the
16 old Grimes quarry resulted in 11 potential sales in the
17 Oglethorpe County area with prices per acre ranging from
18 \$1,629 to \$8,934. He found that these sales did not
19 represent the fair market value of the property and
20 accordingly, were not substitute properties. Most of
21 these sales were private sales between locals in the
22 community. He testified that, because none of these
23 properties were listed for sale, they are not substitutes
24 because the concept of a fair market value presumes an
25 open market. Mr. Kenny conducted his own research of

1 comparable sales and concluded that "property with
2 subsurface minerals has been sold in Georgia [for sales
3 prices] between \$27,500,000 and \$99,310,000." Most of
4 these sales were in counties over 100 miles from
5 Oglethorpe County and occurred between 2006 and 2023. He
6 concluded that the before value of the conservation
7 easement using the sales comparison approach was
8 \$5,310,000 to \$21,640,000.

9 Mr. Kenny also utilized the royalty method as
10 support for his valuation conclusion. He considered
11 comparable royalty agreements and ranges detailed by
12 geologists, engineers and local dimension stone miners,
13 which gave him a range from 2% to 15%. He concluded that
14 a 10% royalty agreement is considered reasonable. He
15 determined a before value of \$12,170,000 using the royalty
16 method. Mr. Kenny testified that he looked at the
17 discounted cash flow, royalty rate, and sales comparison
18 methods to reconcile his valuation.

19 Perhaps unintentionally, Mr. Kenny explained the
20 difference between the going concern value of a business
21 and the fair market value of real property. He explained
22 that when valuing real property, the fair market value of
23 the property and the going concern value are different
24 concepts. He provided the example of valuing real estate
25 where an apartment complex is going to be built but is not

1 yet complete. If the appraiser is asked to determine the
2 property value upon completion of the apartment complex,
3 the discounted cash flow method might be used, but "that
4 discounted cash flow isn't going back to the value of the
5 land."

6 2. David Dye

7 Petitioner offered expert testimony from David
8 Dye, a boots on the ground quarryman. Mr. Dye has more
9 than three decades of experience working in, owning, and
10 operating domestic and international dimensional stone
11 quarries. Mr. Dye was offered as an expert in granite
12 quarry production, operations, and distribution.

13 Mr. Dye testified there are four things needed
14 to operate a successful dimensional stone mine: (1) a
15 permitted reserve of natural resources, (2) an experienced
16 crew and a capable leader, (3) a market for the stone, and
17 (4) capital to operate the mine. Perhaps unintentionally,
18 Mr. Dye provided an example to illustrate the importance
19 of the "experienced crew and a capable leader" element of
20 this formulation. He explained that if your grandmother
21 gave you a safe containing \$10 million without the
22 combination, and you don't have the money to pay someone
23 to open it, the safe would not be worth the \$10 million
24 inside it. In other words, it is the person who can
25 extract the asset that provides the value.

1 In 2011, Mr. Dye purchased Echols Mill quarry in
2 Oglethorpe County. Mr. Dye and his partner bought the
3 Echols Mill quarry for \$500,000, or roughly \$2,500 per
4 acre. Mr. Dye testified that the mineral value of the
5 Echols Mill quarry is close to \$20 million. When asked by
6 the Commissioner if he would have paid \$20 million for the
7 quarry, Mr. Dye said no. He clarified that if there were
8 \$20 million worth of mineral rights, and the seller did
9 not have one of the four things needed to operate a
10 dimensional stone mine to extract those minerals, then he
11 would "buy it at a discount."

12 Mr. Dye estimated the net present value of the
13 old Grimes quarry. More accurately, as he stated at
14 trial, "When I give you a number, and when I tell you what
15 something is worth, I'm talking about the mineral. I'm
16 not talking about the property." He used a discounted
17 cash flow analysis with different discount rates to
18 calculate the net present value that Veribest Vesta would
19 have expected to receive "had it opened a granite quarry"
20 on the property in 2018. Mr. Dye testified that he used
21 the discounted cash flow method because that is the only
22 way he could value the minerals located in the quarry. He
23 testified that beginning in 2018, Veribest Vesta could
24 have opened and operated a quarry that by year 5 could
25 extract 371,000 cubic feet of marketable stone annually.

1 He concluded that over the course of 25 years, "Veribest
2 could have expected to have generated between \$23 to \$33.5
3 million in net present value by operating a granite
4 quarry" on the property. Mr. Dye testified he had used
5 these exact numbers for another valuation he completed for
6 a different property in Oglethorpe County.

7 Mr. Dye considered numerous factors in
8 completing his discounted cash flow analyses. These
9 factors included the amount of granite Veribest Vesta
10 could have extracted from the property and the associated
11 costs it would have incurred to operate the quarry. Mr.
12 Dye does not remember the last time the old Grimes quarry
13 was in operation, so these factors were estimated based on
14 costs Mr. Dye had incurred in his own granite quarries.

15 Mr. Dye also expressed his frustration with the
16 outcomes of recent conservation easement cases. To Mr.
17 Dye and his community, the production of granite is a
18 lifestyle and "represents more than just a conservation
19 easement." He perceives the government as undervaluing the
20 granite he and so many others work hard to produce. In
21 expressing that frustration, Mr. Dye mentioned how a
22 capable leader such as himself, aided by an experienced
23 crew, could make \$800,000 per year.

24 3. Patrick Adamson

25 The Commissioner offered expert testimony of

1 Patrick Adamson, a real property appraiser and a Certified
2 General Appraiser in the state of Georgia. Mr. Adamson
3 was offered as an expert in real property valuation.

4 Mr. Adamson opined on the fair market value of
5 the conservation easement using a sales comparison
6 approach. His search for comparable sales for the old
7 Grimes quarry resulted in 29 potential sales, which were
8 found using the parameters of location, land size, and
9 date. He then reduced the potential sales to seven based
10 on land coverage, topography, potential long-term use, and
11 location. The price per acre for the seven sales ranged
12 from \$1,604 to \$3,665. Relying on those comparable sales,
13 he concluded that the before value of the old Grimes
14 quarry was \$165,000 or \$3,000 per acre. To value the
15 property after the easement, Mr. Adamson encountered a
16 limited pool of sales for properties with easements and
17 had to consider comparable sales in different markets and
18 sales occurring further back in time. The sales, adjusted
19 for appreciation, ranged between \$966 and \$991 per acre.
20 He concluded that the after-donation value of the old
21 Grimes quarry was \$54,000, a bit more than \$980 per acre.
22 Accordingly, he determined the fair market value of the
23 easement was \$111,000, the net of his before and after
24 donation values. He testified that the highest and best
25 use of the property before easement was agricultural or



1 recreational use with no limits on the ability to mine the
2 property. He determined that after the easement, "the
3 highest and best use of the property is generally
4 unchanged."

5 4. Raymond Krasinski

6 The Commissioner offered the expert testimony of
7 Raymond Krasinski, who has been employed by the IRS since
8 2019 as a Lead, Senior Review Appraiser. He has
9 experience in data analysis, market analysis, appraisal,
10 and valuation. Mr. Krasinski was offered as an expert in
11 the areas of appraisal, appraisal review, Uniform
12 Standards of Professional Appraisal Practice, and market
13 analysis.

14 Mr. Krasinski quibbles with the appraisals of
15 both of petitioner's experts. He opined that Mr. Dye
16 "relies on speculative assumptions, incomplete data, and
17 subjective judgment." He also opined that Mr. Kenny's
18 appraisal "analysis and assignment result is not credible
19 and should not be relied upon."

20 DISCUSSION

21 Shortly before trial, the parties filed a
22 stipulation of settled issues narrowing the issues for the
23 Court to decide. That stipulation provided that the only
24 issues remaining for trial were:

25 1. Whether the return appraisal is a "qualified



1 appraisal" under section 170(f)(11)(E). The
2 only particular sub-issues on the qualified
3 appraisal question are:

4 a. Whether the return appraisal was conducted
5 in accordance with generally accepted
6 appraisal standards; and

7 b. Whether the return appraisal was timely.

8 2. What is the fair market value of the
9 conservation easement under section 170(a)(1)
10 and Treas. Reg. § 1.170A-1(a) & (c).

11 3. And if the Commissioner prevails as to the tax
12 adjustments, whether petitioner is liable for
13 penalties.

14 We will address each of these issues in turn.

15 Rule 142(a)(1) provides that "[t]he burden of
16 proof shall be upon the petitioner, except as otherwise
17 provided by statute or determined by this Court."

18 Generally, the Commissioner's determinations are presumed
19 to be correct, and a party challenging those
20 determinations bears the burden of proof. *Welch v.*
21 *Helvering*, 290 U.S. 111, 115 (1933); *Crescent Holdings,*
22 *LLC v. Commissioner*, 141 T.C. 477, 485 (2013).

23 If the taxpayer puts forth credible evidence
24 with respect to any factual issue relevant to ascertaining
25 the liability of the taxpayer and meets certain other



1 requirements, the burden of proof shifts^{to} the Commissioner
2 as to that issue. I.R.C. § 7491(a). Credible evidence is
3 the quality of evidence which, after critical analysis, a
4 court would find sufficient on which to base a decision on
5 the issue if no contrary evidence were submitted. *Baker*
6 *v. Commissioner*, 122 T.C. 143, 168 (2004), *citing Higbee*
7 *v. Commissioner*, 116 T.C. 438, 442 (2001).

8 In its pretrial memorandum, petitioner asserted
9 that the Commissioner should bear the burden of proof (1)
10 because his determinations were erroneous, excessive, and
11 unreasonable, as well as arbitrary and capricious; and (2)
12 because petitioner has satisfied the requirements under
13 section 7491 to shift the burden to the Commissioner.
14 Petitioner has not established that the burden should
15 shift; the burden remains with petitioner.

16 VIII. Qualified Appraisal

17 Section 170(f)(11) disallows a deduction for
18 noncash charitable contributions unless specific
19 substantiation and documentation requirements are met. In
20 the case of a contribution of property valued in excess of
21 \$500,000, the taxpayer must obtain and attach to its
22 return "a qualified appraisal of such property." I.R.C. §
23 170(f)(11)(D). An appraisal is "qualified" if it is
24 "conducted by a qualified appraiser in accordance with
25 generally accepted appraisal standards" and meets

1 requirements set forth in "regulations or other guidance
2 prescribed by the Secretary." I.R.C. § 170(f)(11)(E)(i).
3 The Commissioner argues that Veribest Vesta's appraisal
4 satisfies neither requirement.

5 The Commissioner raises several issues with the
6 return appraisal, which the Commissioner characterizes as
7 failing to follow the Uniform Standards of Professional
8 Appraisal Practice. We have recently explained that an
9 appraiser's failure to strictly follow those guidelines
10 does not necessarily render the appraisal as
11 "nonqualified." Rather, it is simply a factor to be
12 considered in assessing the appraisal's persuasiveness.
13 *See Ranch Springs, LLC v. Commissioner*, 164 T.C., slip op.
14 at 31-33; *Seabrook Prop., LLC v. Commissioner*, T.C. Memo.
15 2025-6, at *31-32; *J L Mins., LLC v. Commissioner*, T.C.
16 Memo. 2024-93, at *36-37; *Buckelew Farm, LLC v.*
17 *Commissioner*, T.C. Memo. 2024-52, at *48-49. We reach the
18 same conclusion here. Although the return appraisal does
19 not fully conform to the Uniform Standards, it is not so
20 deficient that it must be disqualified.

21 The Commissioner also argues that the appraisal
22 is not qualified because the appraisers did not comply
23 with the applicable Treasury regulations. Specifically,
24 the Commissioner asserts that Messrs. Weibel and Von Esh
25 failed to comply with Treas. Reg. § 1.170A-13(c)(3)(i)(A),

1 a timing requirement for when an appraisal should be
2 completed in relation to contribution of property.
3 Petitioner argues that the appraisers substantially
4 complied with the regulations at issue. In *Bond v.*
5 *Commissioner*, 100 T.C. 32, 41 (1993), we held that some of
6 the requirements in Treas. Reg. § 1.170A-13 can be
7 satisfied by substantial rather than by strict compliance.
8 "The doctrine of substantial compliance is designed to
9 avoid hardship in cases where a taxpayer does all that is
10 reasonably possible, but nonetheless fails to comply with
11 the specific requirement of the provision." *Durden v.*
12 *Commissioner*, T.C. Memo. 2012-140. Substantial compliance
13 may be shown where the taxpayer "provided most of the
14 information required" or made omissions "solely through
15 inadvertence." *Hewitt v. Commissioner*, 109 T.C. 258, 265
16 & n.10 (1997), *aff'd without published opinion*, 166 F.3d
17 332 (4th Cir. 1998).

18 The appraisal strictly complies with twelve of
19 the fourteen criteria and substantially complies with the
20 remainder. We have previously held that an appraisal
21 report dated more than sixty days before the date of a
22 contribution can nonetheless substantially comply with the
23 regulations. In *Zarlengo*, the Commissioner asserted that
24 a taxpayer's appraisal was not qualified because (i) the
25 date of the appraisal report was more than 60 days before

1 the date of contribution and (ii) the appraisal report
2 failed to state the date, or expected date, of
3 contribution. T.C. Memo. 2014-161, at *39-40. In
4 *Zarlengo* we held that "the timeliness requirement of
5 [Treas. Reg. § 1.170A-13(c)(3)(i)(A)] does not relate to
6 the essence of section 170" and "that a taxpayer may
7 substantially comply with the substantiation requirements
8 notwithstanding the taxpayer's premature appraisal."
9 *Zarlengo* at *35 (citing *Bond*, 100 T.C. at 41; *Sperapani v.*
10 *Commissioner*, 42 T.C. 308, 331 (1964)). The appraisal's
11 failure to state the date, or anticipated date, of
12 contribution was similarly remedied because Commissioner
13 was "put on notice [of] the date (or expected date) of the
14 contribution" via the taxpayer's Form 8283 filed with its
15 tax return. *Id.* at *36. We concluded that the taxpayer
16 had "complied or substantially complied" with the
17 substantiation requirements. We reach the same conclusion
18 here.

19 IX. Valuation

20 Having concluded that Veribest Vesta
21 sufficiently complied with the reporting requirements, we
22 now consider the amount of the charitable contribution
23 deduction that is allowable. For the reasons that follow,
24 we conclude that the value of the old Grimes quarry before
25 donation of the conservation easement was no more than

1 \$3,000 per acre, or \$165,000, and that the value of the
2 charitable contribution was \$111,000.

3 A. General Principles

4 Generally, the amount of a charitable
5 contribution deduction under section 170(a) for a donation
6 of property other than money is the fair market value of
7 the property at the time of the donation. Treas. Reg.
8 § 1.170A-1(c)(1); see also *TOT Prop. Holdings, LLC v.*
9 *Commissioner*, 1 F.4th 1354, 1369 (11th Cir. 2021).
10 Treasury Regulation § 1.170A-1(c)(2) defines "fair market
11 value" to be "'the price at which the property would
12 change hands between a willing buyer and a willing seller,
13 neither being under any compulsion to buy or sell and both
14 having reasonable knowledge of relevant facts.'" See also
15 *Anselmo v. Commissioner*, 757 F.2d 1208, 1213 (11th Cir.
16 1985), *aff'g*, 80 T.C. 872 (1983).

17 The fair market value of a piece of property on
18 a given date is a question of fact to be resolved on the
19 basis of the entire record. *McGuire v. Commissioner*, 44
20 T.C. 801, 806-07 (1965); *Kaplan v. Commissioner*, 43 T.C.
21 663, 665 (1965); see also *TOT Prop. Holdings, LLC v.*
22 *Commissioner*, 1 F.4th at 1369 ("A determination of fair
23 market value is a mixed question of fact and law: the
24 factual premises are subject to a clearly erroneous
25 standard while the legal conclusions are subject to de

1 novo review."). We evaluate the opinions of the parties'
2 expert witnesses in the light of each expert's
3 qualifications and the evidence in the record, and we may
4 accept an "opinion in toto or accept aspects ... that we
5 find reliable." *Oconee Landing Invs., LLC v.*
6 *Commissioner*, T.C. Memo. 2024-25, at *58; see also
7 *Savannah Shoals, LLC v. Commissioner*, T.C. Memo. 2024-35,
8 at *35. We also "may determine fair market value on the
9 basis of our own examination of the evidence in the
10 record." *Savannah Shoals*, T.C. Memo. 2024-35, at *35.

11 Market prices typically do not exist for
12 conservation easements. See *Symington v. Commissioner*, 87
13 T.C. 892, 895 (1986); *Excelsior Aggregates, LLC v.*
14 *Commissioner*, T.C. Memo. 2024-60, at *30. Accordingly,
15 courts usually value such easements indirectly using a
16 "before and after" approach, seeking to determine the
17 reduction in property value attributable to the easement.
18 See Treas. Reg. § 1.170A-14(h)(3)(i) and (ii). Under this
19 approach, the value of the easement is deemed to be equal
20 to the fair market value of the property before the
21 easement was granted, less the fair market value of the
22 property as encumbered by the easement. In other words,
23 the before value minus the after value.

24 In determining the before value of the old
25 Grimes quarry, we must consider not only the actual use of



1 the property before conveyance of the easement in December
2 2018 but also its highest and best use. *See TOT Prop.*
3 *Holdings*, 1 F.4th at 1369-70; *Stanley Works & Subs. v.*
4 *Commissioner*, 87 T.C. 389, 400 (1986); Treas. Reg. §
5 1.170A-14(h)(3)(ii). Although this "concept 'is an
6 element in the determination of fair market value, . . .
7 it does not eliminate the requirement that a hypothetical
8 willing buyer would purchase the subject property for the
9 indicated value.'" *Excelsior Aggregates, LLC v.*
10 *Commissioner*, T.C. Memo. 2024-60, at *47 (quoting *Boltar,*
11 *L.L.C. v. Commissioner*, 136 T.C. 326, 336 (2011)).

12 B. Highest and Best Use

13 The Court has defined highest and best use as
14 "[t]he reasonably probable and legal use of vacant land or
15 an improved property that is physically possible,
16 appropriately supported, and financially feasible and that
17 results in the highest value." *Whitehouse Hotel Ltd.*
18 *P'ship v. Commissioner*, 139 T.C. 304, 331 (2012)
19 *supplementing* 131 T.C. 112 (2008), *aff'd in part, vacated*
20 *in part and remanded*, 755 F.3d 236 (5th Cir. 2014)
21 (quoting Appraisal Institute, *The Appraisal of Real Estate*
22 277-78 (13th ed. 2008)). In short, to be a property's
23 highest and best use, a proposed use must be (1) legally
24 permissible, (2) physically possible, (3) financially
25 feasible, and (4) maximally productive. *See Buckelew*

1 *Farm, LLC v. Commissioner*, T.C. Memo. 2024-52, at *52.

2 "While highest and best use can be any
3 realistic, objective potential use of the property, it is
4 presumed to be the use to which the land is currently
5 being put absent proof to the contrary." *Esgar Corp. v.*
6 *Commissioner*, T.C. Memo. 2012-35 at *7 *aff'd* 744 F.3d 648
7 (10th Cir. 2014). Where "an asserted highest and best use
8 differs from current use, the use must be reasonably
9 probable and have real market value." *Id.* (citing *United*
10 *States v. 69.1 Acres of Land*, 942 F.2d 290, 292 (4th Cir.
11 1991)). If different from the current use, a proposed
12 highest and best use requires both "closeness in time" and
13 "reasonable probability." *Hilborn v. Commissioner*, 85
14 T.C. 677, 689 (1985); see also *Savannah Shoals*, T.C. Memo.
15 2024-35, at *37.

16 "Where, as here, the parties proposed different
17 uses, we consider '[i]f there is too high a chance that
18 the property will not achieve the proposed use in the near
19 future,' in which case 'the use is too risky to qualify.'"
20 *TOT Prop. Holdings, LLC v. Commissioner*, 1 F.4th at 1369
21 (quoting *Palmer Ranch Holdings Ltd. v. Commissioner*, 812
22 F.3d at 1000). "The principle can also be articulated in
23 terms of willingness to pay. If a proposed use is too
24 risky for 'a hypothetical willing buyer [to] consider [the
25 use] in deciding how much to pay for the property,' then

1 the use should not be deemed the highest and best
2 available.'" *Palmer Ranch Holdings Ltd. v. Commissioner*,
3 812 F.3d at 1000 n.14 (quoting *Whitehouse Hotel Ltd.*
4 *P'ship v. Commissioner*, 615 F.3d 321, 335 (5th Cir. 2010),
5 *vacating* 131 T.C. 112 (2008)).

6 It is unclear what the highest and best use of
7 the old Grimes quarry was before the conveyance of the
8 easement in December 2018. The Commissioner argues that
9 the highest and best use was "agricultural or recreational
10 use with no limitations on long term use as a rock quarry
11 site." Petitioner argues that the highest and best use
12 was dimension stone mining. But Mr. Stevens testified
13 that in the late 1990s he would have reopened the old
14 Grimes quarry if it had stone worth quarrying. Instead,
15 the samples he pulled were coping or curb stock. That is
16 why the old Grimes quarry remained abandoned and was not
17 used for dimension stone mining. It is also a likely
18 reason Mr. Cook was able to purchase the old Grimes quarry
19 for \$1,818 per acre around the same time he bought what
20 would become the Briar Patch Quarry for \$2,350 per acre;
21 because he could turn that other property into an active
22 quarry, it was worth more. It is unlikely that the
23 highest and best use of the old Grimes quarry was
24 dimensional stone mining.

25 Even if the old Grimes quarry's highest and best

1 use was dimension stone mining, it would not change the
2 outcome. Testimony from people contemporaneously involved
3 in buying or selling mining properties, and real property
4 tax records described by Mr. Caldwell, all show that
5 vacant land in Oglethorpe ~~country~~ **County** did not sell for more
6 than \$3,000 per acre in 2018. The highest and best use
7 analysis "is an element in the determination of fair
8 market value, but it does not eliminate the requirement
9 that a hypothetical willing buyer would purchase the
10 subject property for the indicated value." *Boltar,*
11 *L.L.C.*, 136 T.C. at 336. Accordingly, whether we find the
12 highest and best use is dimensional stone mining or
13 agriculture or recreational use, our before valuation
14 would not exceed \$3,000 per acre.

15 We need not determine the highest and best use
16 of the old Grimes quarry after the conveyance of the
17 easement because the parties are in agreement. The
18 parties agree that the highest and best use after the
19 conveyance of the easement is agricultural or
20 recreational.

21 C. Fair Market Value of the Easement

22 As discussed above, we determine the fair market
23 value of an easement by subtracting the after value of the
24 easement property from the before value of the easement
25 property. Because the Commissioner conceded that the



1 after value of the old Grimes quarry was \$54,000, our
2 discussion focuses solely on the before value of the
3 easement property. We refer to the Commissioner's after
4 value as a concession because petitioner argued for a
5 higher after donation value. A higher after donation
6 value results in a lower value for the easement. Thus, by
7 accepting the Commissioner's lower after donation value,
8 we increase the amount of the potential charitable
9 contribution deduction.

10 We typically draw on one or more of three common
11 approaches to determine the fair market value of real
12 property: (1) the market or comparable sales approach; (2)
13 the income approach; or (3) the cost or asset-based
14 approach. See *Excelsior Aggregates*, T.C. Memo. 2024-60,
15 at *32. Our decision on which approach (or approaches) to
16 use is a question of law. See *Chapman Glen Ltd. v.*
17 *Commissioner*, 140 T.C. 294, 325-26 (2013); see also
18 *Corning Place*, T.C. Memo. 2024-72, at *31-32. Regarding
19 the various approaches, the Eleventh Circuit has stated
20 that fair market value "calculation requires reviewing
21 comparable sales of similar easements or, if no
22 substantial record of such sales exist, gauging the
23 difference between the fair market value of the property
24 pre- and post-encumbrance." *Pine Mt. Pres, LLLP v.*
25 *Commissioner*, 978 F.3d 1200, 1211 (11th Cir. 2020) *aff'g*



1 *in part, rev'g in part, vacating and remanding* 151 T.C.
2 247 (2018).

3 The Commissioner claimed that the before value
4 of the old Grimes quarry was \$165,000 or \$3,000 per acre,
5 as valued by Mr. Adamson. Petitioner argues that the
6 before value of the old Grimes quarry was between \$23 and
7 \$33.5 million, as valued by Mr. Dye, or \$15,350,000, as
8 valued by Mr. Kenny. For the reasons stated below, we
9 adopt the Commissioner's value.

10 1. *The Comparable Sales Approach*

11 The Commissioner argues that we should use the
12 comparable sales method to determine the before value of
13 the old Grimes quarry. Pointing to the sales data in Mr.
14 Adamson's report, the Commissioner concluded that the
15 before value of the old Grimes quarry was \$3,000 per acre.
16 The Commissioner also points to the 2016 sale of the old
17 Grimes quarry for \$100,000, or \$1,818 per acre, as support
18 for his position.

19 In the case of vacant, unimproved property, the
20 market approach—often called the "comparable sales" or
21 "sales comparison" method—is "generally the most reliable
22 method of valuation." *Estate of Spruill*, 88 T.C. 1197,
23 1229 n.24 (1987) (quoting *Estate of Rabe v. Commissioner*,
24 T.C. Memo. 1975-26, 119, *aff'd*, 566 F.2d 1183 (9th Cir.
25 1977)). The comparable sales approach "values property by

1 comparing it to similar properties sold in arm's-length
2 transactions around the valuation date." *Savannah Shoals*,
3 T.C. Memo. 2024-35, at *36. Because no two properties are
4 ever identical, the appraiser must adjust the sale prices
5 of the comparable properties to account for differences
6 between them (for example, parcel size, location, and
7 physical features) and the terms of the sales (for
8 example, proximity to valuation date and conditions of the
9 sale). *Wolfesen Land & Cattle Co. v. Commissioner*, 72 T.C.
10 1, 19 (1979).

11 "The best evidence of a property's ^{fair market value}~~FMV~~ is the
12 price at which it changed hands in an arm's-length
13 transaction reasonably close in time to the valuation
14 date." *Excelsior Aggregates*, T.C. Memo. 2024-60, at *31.
15 For example, in *Corning Place Ohio, LLC v. Commissioner*,
16 T.C. Memo. 2024-72, at *28-29, we found that the most
17 persuasive evidence of a property's fair market value was
18 its actual sale price 15 months before the contribution.
19 See also *Wortmann v. Commissioner*, T.C. Memo. 2005-227
20 (finding that the most persuasive evidence of the
21 property's fair market value was its actual sale price 17
22 months before the contribution).

23 Mr. Adamson's report contains reasonable
24 comparable sales. His initial search parameters were
25 limited by location, acreage, and timeframe, and that

1 search resulted in 29 sales. He further reduced the sales
2 based on similarities of the land, including land
3 coverage, topography, potential long-term use, and
4 location. Mr. Adamson's remaining seven sales had a price
5 per acre ranging from \$1,604 to \$3,665. The
6 Commissioner's before value of \$3,000 per acre is at the
7 higher end of that range.

8 The record in this case shows that the
9 comparable sales are lower than the Commissioner's \$3,000
10 per acre valuation. Mr. Cook purchased the old Grimes
11 quarry in 2016 for \$100,000 or \$1,818 per acre. There is
12 no evidence of a material change in the old Grimes quarry
13 between the valuation date and the date of purchase. In
14 the same year he bought the old Grimes quarry, Mr. Cook
15 also purchased a second abandoned quarry for \$2,350 per
16 acre. Testimony from other quarrymen in the Oglethorpe
17 County shows the industry followed this same pattern.
18 From 2016 through 2018, quarrymen Huguley, Simmons, and
19 Giannoni all sold quarry properties ranging from \$1,707
20 per acre to \$2,500 per acre. Mr. Caldwell, the chief
21 appraiser in the Oglethorpe County Tax Assessor's Office,
22 provided records that showed that most properties sold in
23 2018 sold for less than \$3,000 per acre.

24 Mr. Kenny also utilized the comparable sales
25 approach to support his valuation. His initial search for

1 potential substitutes for the old Grimes quarry resulted
2 in 11 potential sales in the Oglethorpe ~~Country~~ ^{County} area with
3 a price per acre ranging from \$1,999 to \$8,934. Mr. Kenny
4 found reasons to disregard these sales between the local
5 community members, and as a result, he looked elsewhere.
6 He found sales from 2006 to 2023 in counties over 100
7 miles away from Oglethorpe County and concluded a before
8 valuation range of \$5,310,000 to \$21,640,000 or \$96,545 to
9 \$393,455 per acre. These sales do not align with the
10 price at which property would change hands between a
11 willing buyer and a willing seller in Oglethorpe County
12 and are not comparable.

13 We conclude that the comparable sales approach
14 provides the most reliable method for determining the
15 before value of the old Grimes quarry. Mr. Adamson chose
16 sales of reasonably comparable properties and determined a
17 before value of \$3,000 per acre. The before value
18 determined by Mr. Adamson exceeds the price—\$1,818 per
19 acre—that Mr. Cook paid to acquire the 55-acre tract in
20 2016. Additionally, the before value exceeds the price
21 paid by most buyers of property in Oglethorpe County in
22 2018. As a result, we conclude that the value of the old
23 Grimes quarry before the granting of the easement was no
24 more than \$165,000, and we regard that figure as a
25 concession by the Commissioner.

2. Income Method

Messrs. Dye and Kenny employed the income approach—often called the "income capitalization" method—to determine the before value of the old Grimes quarry. The income method determines fair market value by discounting to present value the expected future cashflows from the property. See *Chapman Glen Ltd.*, 140 T.C. at 327; *Marine v. Commissioner*, 92 T.C. 958, 983 (1989), *aff'd*, 921 F.2d 280 (9th Cir. 1991). The income method is a speculative valuation method most often used to value the projected cashflows of a business. See *J L Mins.*, T.C. Memo. 2024-93, at *63 (stating that the income "method is not valuing the property at all, but what a speculative business could do with the property"). The theory behind this approach is that an investor would be willing to pay no more than the present value of a property's anticipated future net income. See *Trout Ranch, LLC v. Commissioner*, T.C. Memo. 2010-283, *aff'd*, 493 F. App'x 944 (10th Cir. 2012).

Messrs. Dye and Kenny estimate the net present value as the going concern of a hypothetical granite quarry rather than the value of the raw land. Mr. Dye constructed a discounted cash flow to estimate the net present value of operating a dimension stone mine at the old Grimes quarry for 25 years. Equating the assumed

1 value of the land with the going concern of a mining
2 business conducted on the land, he asserted the property
3 had a net present value of \$23 to \$33.5 million or
4 \$418,182 to \$609,091 per acre. Mr. Kenny used a before
5 and after method to value the easement with the assumption
6 that the old Grimes quarry had the potential to become a
7 dimension stone quarry. He calculated the before value of
8 the property as \$15,460,000 or \$281,091 per acre.

9 In a recent conservation easement case, we held
10 that use of a discounted cash flow analysis to value
11 property was erroneous because it equated the value of
12 land with the net present value of a hypothetical business
13 conducted on the land. *Ranch Springs LLC v. Commissioner*,
14 164 T.C., slip op. at 56-57 (Mar. 31, 2025) (noting that
15 taxpayer's experts "both equated the value of the land
16 with the going concern value of a limestone mining
17 business conducted on the land. That equation defies
18 economic logic and common sense"). We have also stated,
19 "the discounted cash flow method is not valuing the
20 property at all, but what a speculative business could do
21 with the property. But a discounted cashflow method
22 geared to what a business could earn is of limited utility
23 in determining what a property is worth." *J L Mins.*, T.C.
24 Memo. 2024-93, at *63. These statements apply with
25 respect to Veribest Vesta's reliance on discounted cash

1 flow analyses.

2 Mr. Dye's discounted cash flow analysis values
3 the easement property by assuming the success of a
4 hypothetical dimensional granite quarry operation. But as
5 Mr. Dye testified, there are four requirements to operate
6 a successful dimensional stone mine: (1) a permitted
7 reserve of natural resources, (2) an experienced crew and
8 a capable leader, (3) a market for the stone, and (4)
9 capital to operate the mine. The old Grimes quarry is
10 only one of those four elements, but his discounted cash
11 flow analysis values the combination of all four.

12 Mr. Dye illustrated this point when testifying
13 on rebuttal. He provided the example of a person
14 receiving a safe from their grandmother with \$10 million
15 dollars inside but being unable to access it. Following
16 his own example, the old Grimes quarry is the
17 grandmother's safe. What is underground or in the safe
18 only matters if you can extract it. And for that, as Mr.
19 Dye testified, you need an experienced crew and a capable
20 leader, or a safe cracker in the case of the grandmother's
21 safe. The true value lies in the ability to access the
22 asset.

23 Similarly, we have stated that "no rational
24 businessperson would pay the net present value of a
25 business simply to buy the property." *J L Mins.*, T.C.

1 Memo. 2024-93, at *62; see also *Ranch Springs*, 164 T.C.,
2 slip op. at 58 (explaining that no rational mine operator
3 would pay the entire net present value of a prospective
4 mining business merely to acquire the land); *Savannah*
5 *Shoals*, T.C. Memo. 2024-35, at *45 (stating that an
6 operator would not pay a mineral production net present
7 value "for the land as there would be no means for a
8 profit"). Mr. Dye himself testified that he bought a
9 quarry with \$20 million worth of mineral rights for
10 \$500,000 because the seller did not have one of the four
11 things needed to operate a dimensional stone mine to
12 extract those minerals.

13 The same logic applies to another valuation
14 method suggested by Mr. Kenny, the royalty income method.
15 This method posits that the landowner would lease the land
16 to a quarry operator. With that assumption, one values
17 the land by calculating the discounted present value of
18 the royalty income the landowner might receive from an
19 operator over time. Royalties are typically paid as a
20 percentage of gross sales or alternatively as a percentage
21 of net profits.

22 Mr. Kenny utilized the royalty method as support
23 for his valuation conclusion. He concluded that a 10%
24 royalty agreement would be reasonable. He determined the
25 before value of \$12,170,000 using the royalty method. Mr.

1 Kenny testified that he looked at the discounted cash
2 flow, royalty rate, and sales comparison methods to
3 reconcile his valuation.

4 But the royalty method utilized by Mr. Kenny
5 suffers from several flaws. First, as testimony of people
6 directly involved in the mining industry revealed, royalty
7 rates vary widely, starting well below the 5% starting
8 point suggested by Mr. Kenny.

9 Even if we were to accept his suggested 10%
10 rate, Mr. Kenny's royalty method suffers from the same
11 inherent flaw as his other income approach. First, it
12 assumes both the presence of quality granite and the
13 availability of an experienced crew and capable leader to
14 extract it. And with the multitude of mining properties
15 in the area, the evidence does not support that someone
16 would reopen the old Grimes quarry with its reserve of
17 granite of questionable quality. Moreover, our bottom-
18 line focus is to determine what a willing buyer would pay
19 a willing seller for the land; the income approaches can
20 aid in determining that amount. But no rational land
21 purchaser would pay the entire net present value of a
22 leasing revenue stream merely to acquire the land. Mr.
23 Kenny's before value of \$12,170,000 using the royalty
24 method is inherently flawed.

25 During closing arguments, petitioner's counsel

1 argued that valuing the old Grimes quarry on the basis of
2 a projected mining revenue stream is supported by *Whitney*
3 *Benefits, Inc. v. United States*, 18 Cl. Ct. 394 (1989),
4 *aff'd*, 926 F.2d 1169 (1991). In *Whitney Benefits*, the
5 Court of Claims determined that a method for valuing real
6 property containing a coal deposit could be a discounted
7 cash flow analysis when no comparable properties existed.
8 *Id.* at 408. Petitioner's reliance on *Whitney Benefits* is
9 misplaced because, unlike the property at issue in *Whitney*
10 *Benefits*, the record in this case includes many comparable
11 sales from which we can discern the value of the old
12 Grimes quarry.

13 3. Valuation Conclusion

14 The most appropriate before value of the old
15 Grimes quarry was no more than \$165,000. The Commissioner
16 has conceded that the after value of the easement property
17 was \$54,000. Subtracting \$54,000 from \$165,000, we find
18 that the fair market value of the easement was \$111,000.
19 Accordingly, we hold that the amount of petitioner's
20 allowable 2018 noncash charitable contribution deduction
21 is \$111,000.

22 X. Penalties

23 The Code imposes a 20% penalty on any portion of
24 an underpayment of tax that is attributable to a
25 substantial valuation misstatement. I.R.C. § 6662(a),



1 (b)(3). A misstatement is substantial if the value of the
2 property claimed on a return is 150% or more what is
3 determined to be the correct amount. I.R.C. §
4 6662(e)(1)(A). The penalty is increased to 40% in the
5 case of a gross valuation misstatement. I.R.C. §
6 6662(h)(1). A misstatement is "gross" if the value of
7 property claimed on the return exceeds 200% of what is
8 determined to be the correct amount. I.R.C. §
9 6662(h)(2)(A)(i).

10 Veribest Vesta claimed that the value of the
11 conservation easement on the old Grimes quarry that it
12 donated was \$20,310,000. We have determined that the
13 correct value of the easement was \$111,000. The value of
14 the property claimed on Veribest Vesta's return exceeds
15 200% of the correct amount. The valuation misstatement
16 was "gross" per section 6662(h)(2)(A)(i).

17 Generally, an accuracy-related penalty is not
18 imposed if the taxpayer demonstrates reasonable cause and
19 shows that it acted in good faith. I.R.C. § 6664(c)(1).
20 But this defense is not available where there is a gross
21 valuation misstatement. See I.R.C. § 6664(c)(3); see also
22 *Chandler v. Commissioner*, 142 T.C. 279, 293 (2014) ("The
23 [Pension Protection Act of 2006, Pub. L. No. 109-280, 120
24 Stat. at 1083] . . . eliminated the reasonable cause
25 exception for gross valuation misstatements of charitable

1 contribution property."). Accordingly, the 40% penalty
2 applies.

3 XI. Section 6673 Sanctions

4 Section 6673 authorizes the Court to impose
5 sanctions and costs. Section 6673(a)(1) provides in part
6 that, whenever it appears to the Tax Court that
7 proceedings before it have been instituted or maintained
8 by the taxpayer primarily for delay, or that the
9 taxpayer's position in such proceeding is frivolous or
10 groundless, the Court may require the taxpayer to pay a
11 penalty not in excess of \$25,000. Section 6673(a)(2) is
12 less familiar to many. It provides that whenever it
13 appears that any attorney admitted to practice before the
14 Tax Court has multiplied the proceedings in any case
15 unreasonably and vexatiously, the Court may require the
16 attorney to pay personally the excess costs, expenses, and
17 attorneys' fees reasonably incurred because of such
18 conduct.

19 In this case, petitioner, through counsel,
20 argued for a value of its donation in excess of one
21 hundred times the value determined by the Court.
22 Petitioner reached this value not by valuing the property,
23 but by valuing an operating business—specifically, a
24 granite quarry—hypothetically situated on that property.
25 Petitioner's own expert testified that he was not valuing



1 the property itself, yet petitioner and its counsel relied
2 on and advocated for that value.

3 Arguing that a piece of property worth \$165,000
4 is worth in excess of \$20 million is patently frivolous.
5 We have previously written, "It is not credible to posit
6 that a buyer would pay —for the easement property alone—
7 the entire NPV of a hypothetical business on the
8 property." *Beaverdam*, T.C. Memo. 2025-53 at *36. We have
9 previously written that valuing land based on the going
10 concern value of a business operating on that land "defies
11 economic logic and common sense." *Ranch Springs*, 164
12 T.C., slip op. at 57. And we have observed that a
13 prospective buyer of a mineral property would not pay the
14 net present value of the quarry operation merely for the
15 land because at that price, there would be no means for
16 profit. *Savannah Shoals*, T.C. Memo. 2024-35 at *45.

17 Although these cases represent recent trial
18 court opinions, appellate courts have likewise concluded
19 that it is inappropriate to use the going concern value of
20 a hypothetical business to value the underlying property.
21 The Seventh Circuit has explained that valuing land based
22 on a hypothetical use is inappropriate. It characterized
23 such an appraisal as "nonsense on its own terms." *Van*
24 *Zelst v. Commissioner*, 100 F.3d 1259, 1262 (7th Cir.
25 1996). Much like mining properties in Oglethorpe County,

1 the Seventh Circuit observed, "land is not a scarce
2 resource in these mountains; financing and
3 entrepreneurship are the scarce ingredients, so they will
4 capture the economic return of resort development." *Van*
5 *Zelst*, 100 F.3d at 1263. The Fourth Circuit, when faced
6 with a situation in which taxpayers attempted to claim a
7 deduction for eight times what they paid for the property
8 just a year earlier observed, "Such a claim simply does
9 not pass any reasonable smell test, much less the tax
10 law's requirements." *Brooks v. Commissioner*, 109 F.4th
11 205 (4th Cir. 2024). Yet here, petitioners claim a
12 deduction for the donation of a conservation easement of
13 more than 200 times what was paid for the fee simple
14 interest only two years earlier. If eight times does not
15 pass the smell test, 200 times certainly does not.

16 Trial took place over the course of two weeks in
17 Atlanta, Georgia, with further remote testimony and
18 closing arguments earlier this week. The Court heard from
19 more than two dozen witnesses. Some of those witnesses
20 were experts hired by the parties. Some of those
21 witnesses were people involved in the donation or tax
22 reporting of the conservation easement. More importantly,
23 many of those witnesses were the good people of the City
24 of Elberton and Oglethorpe County who had nothing to do
25 with this case, other than they happen to be involved in



1 the mining industry in the vicinity of the old Grimes
2 quarry.

3 Many of the people who sat through this two-week
4 trial were not harmed by doing so. The Court, the
5 attorneys, and the expert witnesses are all paid for being
6 there. Petitioner was there by its own choosing.

7 But both the unrelated fact witnesses and the
8 tax system in general were harmed by this trial. The
9 witnesses were inconvenienced. They were not involved in
10 the transactions in any way. They missed days of work and
11 had to travel into Atlanta for trial so that petitioner
12 could pursue an argument deemed by courts to be "not
13 credible" and "nonsense." More broadly, taxpayers footed
14 the bill for the resources necessary to conduct this
15 trial.

16 Mr. Dye, petitioner's paid expert, expressed his
17 misplaced frustration with this process. Holding a
18 cylinder of Georgia Gray granite in his hand, Mr. Dye
19 passionately explained his frustration, saying:

20 So somebody's got to decide whether this has a
21 value . . . because I'm going to get up from the
22 table today, and I'm going to go home. And I'm
23 going to go back to work. And my 81-year-old
24 father is out there right now today pulling this
25 stone out of the ground for his 62nd summer.

1 the land. Instead of \$20.4 million dollars for the 55
2 acre tract, the value of the land before the easement was
3 no more than \$165,000, the amount determined by the
4 Commissioner's valuation expert and that we will deem to
5 be a concession by the Commissioner. The result is a
6 charitable contribution deduction of \$111,000. Of course,
7 these determinations constitute a gross valuation
8 misstatement and result in a gross valuation misstatement
9 penalty. Because the Commissioner's notice disallowed the
10 deduction in full but we are finding a deduction of
11 \$111,000, decision will be entered under Rule 155.

12 This concludes the Court's oral findings of fact
13 and opinion in this case.

14 (Whereupon, at 11:36 a.m., the above-entitled
15 matter was concluded.)

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