

# Has the Appraisal Industry Failed at Understanding the Public Trust?

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The Public Trust is in the opening paragraph of USPAP. An appraiser friend once wrote that appraisal regulations/guidelines included Intentional Ambiguity. That was back in the 1990's. Not much has changed regarding regulations, ambiguity continues to exist. Well, USPAP changed from 89 pages to 360 pages in an effort to explain and clarify the appraisers responsibilities. The appraisal industry still does not understand and is generally not mindful of the Public Trust, and is most mindful of the clients that hire them.

USPAP has changed, first every year, now every two years. Unlike the Uniform Standards of Appraisal Practice for Federal Land Acquisitions, which has changed only twice, and then about 16 years apart.

What was lost on the appraisal industry, almost from the beginning of the first Exposure Draft of USPAP in 1987 was the concept of the Public Trust. Our industry simply did not understand what that meant, still does not understand, for the most part.

The Public Trust statement and the Ethics Rule are largely ignored as loan production appraiser's work is guided to meet client assignment demands. Expert Witnesses routinely provide favorable reports for the side that hires them. Neither the residential or commercial side of the industry is immune.

It is interesting that the Appraisal Foundation and its committees did not require an Ethics Course be taken back in the beginning. Instead, a silent assumption was made that anyone who becomes licensed is Ethical. The majority of all licensees have never had an ethics course. Where would they take it? Only a few professional associations even offer it, and only those with BS degrees were required to take it in college. Most appraisers do not have a BS degree.

The states may have taken at least a little step in preventing too many unethical persons from coming into the industry, by doing criminal background checks, keeping most felons out, not all, but most. Many white collar criminals have never been charged or convicted and work within the

industries that employ appraisers. Few appraisers have ever been convicted of inflating values or writing misleading reports.

Sadly, licensing attracted a criminal mind, some of whom work for the largest organizations that provide appraisal services. Some of these lost their license along the way, but, that did not stop them from owning or being employed by an AMC.

This morning I read for the first time, a statement that we as an industry have failed at keeping the Public Trust. The Appraisal Foundation Committee's failed, the Regulatory systems failed, the License Boards failed. Licensed appraisers failed as a whole. Whether it be appraisers doing fast and cheap lender work, or expensive expert witnesses; the history of appraisal since licensing, has not improved and made the appraisers more Objective or Unbiased.

Let us not forget that the Congressional Hearings into the banking crisis included testimony from almost every lender that all their bad loans were because of the appraisals, and that Congress needed to do something about them. Quite a different story than told by the appraisal associations who recounted that sometimes it was the bank president himself that had pressured their members, that economic coercion had been inflicted on the appraisers.

It is unfortunate that the law that mandated licensing, FIRREA {1989} had poorly worded language regarding Appraisal Fraud. It told the regulated lenders that if they spot Appraisal Fraud, they should turn in a Suspicious Activity Report. The world would be so different, if it had said to the lenders Do Not Pressure Appraisers into Inflating Values or writing Misleading Reports. Almost the same number of words, but such a different outcome would have resulted.

What can an individual appraiser do to ensure that they are keeping the Public Good in mind before they even start an assignment, during the assignment and in any communication about the assignment results? For that matter, the same applies to the Ethics, Competency and Scope of Work Rule.

For me, the answer has been in **Appraising the Client** and **Appraising the Assignment**. There are some Clients and Assignments that simply need to be avoided because of the wants, needs, desires of the client on assignment results.

Example, I first began avoiding doing work for loan brokers, unless paid in advance. Next, I stopped doing appraisals for high loan to value loans which were the most likely to default. When contacted for litigation work, I inform the attorney that I am merely a Neutral, regardless of which side of the case they are on. Half of them simply cannot use me. I have been happy with both decisions. I find it easy to face withering cross examination for hours when I have not slanted the value.

Thankfully, along my path, in my Master's program, there was a class on Litigation Issues in Valuation, which was mostly about Eminent Domain. The lead attorney said something on the morning of the first day. He said "Your job is not to help me row the boat to win the case, but to do your work objectively without bias and then if needed, provide testimony, and then leave". That stuck with me all these years and has served me well. I hope this helps at least one appraiser

find clarity to stake out their position in this industry. It all starts with a decision on how we want to be. Mine was clear. Where do you stand?

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