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A round table discussion for the benefit of the appraisal profession - by Roger Durkin

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Caption

The next Appraiser Expo should include a round table discussion with a group of multi-discipline appraisers, real property, machinery, personal property, assessment, business valuation especially in issues involving litigation, divorce, partner disputes, bankruptcy, IRS decedent estates, gift tax, non-cash charitable donation, environmental stigma, etc.

A major issue is USPAP which is statutory law for state licensed real estate appraisers. A violation of a USPAP Rule is a violation of the statute and therefore is relevant and admissible evidence of professional negligence. USPAP is interpreted and enforced by the state license board. The state license board sanctions licensed real estate appraisers based on violations of USPAP. Someone, usually a disgruntled party to the appraisal files a complaint with the Board. Despite the wording in the complaint, the Board will have the appraisal report "reviewed" for USPAP violations. Did you know that the under 264 CMR 12.03, the person chosen to critique your appraisal is not required to comply with USPAP. "Non-applicability of USPAP to Board-related appraisal reviews Appraisal reviews performed by licensed appraisers are exempt from the USPAP requirements regarding appraisal reviews when those reviews are conducted on behalf of the Board." Typically, the "reviewer" finds a dozen or more violations. The respondent will have difficulty overcoming the charges. In over 90% of the cases, the respondent accepts a plea bargain called a consent agreement. The respondent will face a term of probation or suspension, a fine starting at \$1,000, and will be required to take 20+ hours of non-credit continuing education. All you state licensed real estate appraisers should help fix especially the lack of due process and lack of the right to confront your review accuser.

Did you know that nearly all appraisal associations require USPAP compliance for appraisals of businesses, antiques, fine art, machinery, equipment, coins, horses, classic cars, artifacts, gems, jewelry, ad valorem taxation, monuments, boats, yachts, airplanes, sports memorabilia, books, musical instruments, furniture and firearms? Did you know that USPAP is not enforced by appraisal associations? Almost all require USPAP 15-hour course and update courses. But none enforce USPAP. This lack of enforcement is primarily because the associations fear the risk a lawsuit for their misinterpretation of USPAP's ambiguous rules.

Here are a series of subjects, issues, and general questions that would be most interesting subjects for a round table discussion.

Do you know what is meant by the requirement to identify the Intended Use and Intended Users?

Do you know the apposite type of value and the cite for the definition of value applicable in an appraisal involving a partnership or shareholder dispute, a divorce, a decedent estate IRS CFR § 20.2031-1(b), an IRS gift tax filing IRS CFR § 1.170A-1[c](3), or non-cash charitable donation appraisal, value definition in ad valorem tax assessment or the definition of value under the bankruptcy code, or in environmental damages, eminent domain, insurance replacement value, actual cash value, or the definition of fair value required for real and personal property allocation in a merger.?

Do you know that the USPAP Certification Statement is a set of warranties? Why do some appraisers continue to include the value opinion as part of the Certification Statement?

Do you know there is no law, regulation, authority/sovereign that has the power to enforce USPAP Standard other than a state real estate appraiser license board?

Why do real estate appraisers continually identify the “purpose” of the appraisal instead of a clear statement of the appraisal’s intended use?

Why do some real estate appraisers include a paragraph titled, “Competency Provision” and then write an affirmative statement that the appraiser is competent?

Did you ever ask yourself an honest question as to exactly where you divined the various comparable sales dollar or percentage adjustments?

Did you ever question why the appraisal profession insists there are three and only three approaches to value?

Did you know that the Fannie Mae Form appraisal report is systemically flawed easily open to criticism especially in the area of comparable dollar or percentage adjustments? Get ready, because sooner than you think Fannie Mae, the FDIC, Federal Reserve, and Office of the Comptroller of the Currency will successfully adopt AVMs, increase the de minimis appraisal threshold from \$400,000 to \$700,000, and do away with you and form appraisals.

We appraisers need to work together to help improve the appraisal profession. This is especially true of the long-held beliefs of how appraisal reports are written. The best defense against professional negligence is to write your appraisal report as a defensible argument and do away with unnecessary boilerplate and irrelevant dogma. If you are thinking about how to improve your appraisal business, then encourage seminars and courses that challenge the tradition in favor of more persuasive appraisal reports.

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